SENATE—*Tuesday, March 5, 1991*

(Legislative day of Wednesday, February 6, 1991)

The Senate met at 2:30 p.m., on the expiration of the recess, and was called to order by the Honorable DANIEL K. AKAKA, a Senator from the State of Hawaii.

PRAYER

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

Let us pray:

The Earth is the Lord's, and the fulness thereof; the world, and they that dwell therein.—Psalm 24:1.

Almighty God, true and just and righteous in all Thy ways, we commend to Your will those who are laboring to establish peace in the Middle East. Grant to them the light of Your wisdom that truth and justice may prevail. Grant to the whole Earth and all the people on it Your blessing as it recovers from the trauma of such a technologically efficient war. Remind us, O Lord, of our responsibility for the Earth over which Thou hast given us stewardship. Forgive us for the carnage we have wrought, for the way we have ravaged and polluted and corrupted the beautiful environment and the gracious provision Thou hast made. Help us, patient God, to find our way, to turn to Thee in humility and repentance and to seek Thy divine overrule in our lives. And, Father, we are very thankful to see Senator CRANSTON on the floor this afternoon.

Grant this, Lord, in the name of Him who is the Lord of Lords and the Prince of Peace. 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 assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 5, 1991.

To the Senate:

Under the provisions of Rule I, Section 3 of the Standing Rules of the Senate, I hereby appoint the Honorable DANIEL K. AKAKA, a Senator from the State of Hawaii, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

THE JOURNAL

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

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

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that following the time reserved for the two leaders there be a period for morning business not to extend beyond 3:30 p.m., with Senators permitted to speak therein for up to 5 minutes each.

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

SCHEDULE

Mr. MITCHELL. Mr. President, at 3:30, following the period for morning business, it is my intention to exercise the authority which I have under a previous unanimous-consent agreement to resume consideration of S. 419, the Resolution Trust Corporation bill. It is my understanding that there are several amendments which Senators intend to offer. I expect amendments to be offered to the bill this afternoon. It is not possible at this time to predict whether there will be votes or how many, but Senators should be aware of that possibility once the amendments are before the Senate.

SENATOR ALAN CRANSTON—WELCOME BACK

Mr. MITCHELL. Mr. President, it is a pleasure to welcome Senator CRANSTON back to the Senate after an absence of several months. We were all saddened by the announcement last year that Senator CRANSTON had been diagnosed with prostate cancer and would retire from his leadership role and not seek reelection to the Senate. There can be few events as devastating as learning of a potentially life-threatening condition. All the plans of a lifetime can be suddenly disrupted, all the work one hoped to do, all of the aspirations for the future must be put on hold in the face of such news.

Senator CRANSTON reacted strongly to the news of his cancer. His treatment has been successful, and he returns today to take up his Senate work again. Despite the difficult and painful time he has had in the past several months, he has returned, ready as ever to get back to work. Neither I nor any of his colleagues doubt that Senator CRANSTON will play an active role in the Senate for the remainder of his term of office. He has our affection and our good wishes for his complete recovery. We are pleased to welcome him back to the Senate.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mr. CRANSTON. I thank the leader for his warm and generous words. I simply want to assure him and all Senators that I am back and on full active duty in the Senate.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time. I understand the acting Republican leader will use the leader time of the Republican leader.

RECOGNITION OF THE ACTING REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the acting Republican leader is recognized.

EXTENDING A WARM WELCOME TO SENATOR CRANSTON

Mr. COCHRAN. Mr. President, let me take this opportunity to join with the majority leader to extend a warm welcome to our distinguished colleague from California. We do wish him a full and complete recovery, and say to him it is good to see him back in the Chamber.

Mr. CRANSTON. I thank my colleague very much. It is very generous of him.

STUDENT-ATHLETE REFORMS ADOPTED BY THE NCAA

Mr. COCHRAN. Mr. President, during the past several months, considerable attention has been focused in the Nation's press on various issues related to the proper role of intercollegiate athletics at our colleges and universities. Critics have suggested that those insti-

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

tutions are incapable, either themselves or in concert through the National Collegiate Athletic Association, of taking any serious steps to limit alleged exploitation of athletically talented students, to curb abuses involved in the recruiting of those students, to assure that they are properly integrated into university life and provided with a meaningful opportunity to pursue a serious academic program to graduation, and in general to bring intercollegiate athletics more closely under institutional control.

Concerns such as these were, in fact, expressed by some of my colleagues in the Congress during development last session of the student right-to-know legislation, pursuant to which institutions awarding athletically related financial aid are required beginning in 1993 annually to publish graduation rates for the student body, broken down by race and gender, and for student-athletes, broken down by race, sport, and gender. The NCAA leadership expressed its support early on for the concept of this legislation and asked for an opportunity to persuade its members to adopt such regulations in early 1990, but the Congress in its wisdom nonetheless went ahead and passed the right-to-know law late in the session.

I think it is important to note that the NCAA at its recent convention—its very first opportunity to react to final terms of the new law—amended its internal regulations to bring them into conformity with the law as passed, and, perhaps of even greater interest, will begin publishing institutional graduation rates for its largest member institutions a full 2 years before that step is required by the law. Without question, Mr. President, the NCAA's actions speak of a willingness by its members to bring into the open possible institutional variances in graduation rate performance, notwithstanding differing institutional admissions practices and notwithstanding the fact that available historical data indicates that athletes graduate at the same rate as or a slightly better rate than the student body as a whole.

But in truth the NCAA's actions on graduation rate disclosure at its recent convention were of modest significance when compared with the package of reforms that were adopted by its membership in a variety of other areas. These included placing limits on playing and practice time for student-athletes, elimination of athletic dormitories, cutting back of training tables for athletes, requiring that athletes complete at least half the credits needed for graduation by the end of the third year, cutting the sizes of coaching staffs and the number of permissible scholarships, and placing substantially more stringent limits on recruiting activities.

Dick Schultz, the NCAA's executive director, characterized these reforms as important first steps on the road to creating a new model for intercollegiate athletics, but he regards the means by which they were accomplished as more important still. In this respect, he is referring to the fact that the reforms were put into place through the leadership and hard work of the NCAA's president's commission—a semiautonomous group of 44 institutional chief executive officers which enjoys substantial power in the NCAA governance structure.

I am told that this was the NCAA convention "at which the presidents took charge," developing the principles of reform over a period of several months, mandating the NCAA staff and institutional athletics representatives to draft practically based reform legislation consistent with those principles, and then lobbying their chief executive peers throughout the association either to attend the convention themselves—over 230 football-playing schools—or cause their institutional votes to be cast in favor of the reform package. The strategy worked, and the reform package was overwhelmingly adopted.

I am further advised, Mr. President, that the president's commission fully intends to press on with the reform effort this coming year, and that it will next be focusing on proposals to tighten admissions and academic progress standards requisite for intercollegiate athletics participation eligibility. The issues inherent in these proposals go to the heart of the perception of exploitation of student-athletes and lack of integration of athletes into the mainstream of academic life. I am particularly pleased to note in this regard that the chairman of the president's commission this coming year will be Dr. R. Gerald Turner, chancellor of the University of Mississippi—a man I personally know to be an experienced, able, and dedicated educator.

Perhaps the important message here, Mr. President, is that the education community and its leadership have taken some important steps in the past few weeks to reevaluate and restructure the role of intercollegiate athletics, and are moving forward to analyze and advance additional proposals in the months ahead. I firmly believe that the university presidents, in close consultation with intercollegiate athletics administrators, are far better suited than the Congress or other governmental instrumentality to deal with these issues and to define a proper model for intercollegiate athletics in the 1990's and the next century. I congratulate the president's commission and the NCAA membership on the substantial progress they have already achieved, and wish for them much success in their continuing efforts.

I should finally note that the 1991 NCAA convention was noteworthy in another respect, in that the membership elected Judith M. Sweet, director of athletics at the University of California, San Diego, as the association's president for the next 2 years. Ms. Sweet is the first woman to have been elected to this office, coincidentally on the 10th anniversary of the institution of women's championships by the NCAA, and her election is surely an important further indication of the growing role of women in intercollegiate athletics across the country.

Mr. President, the image that some have formed of the NCAA as a cadre of coaches and athletics administrators either engaged in the creation of incomprehensible rules or seeking new ways to exploit student-athletes is very wrong. In fact, the NCAA is an association of more than 820 4-year educational institutions, the voting power of which rests and always has rested in the hands of the institutional chief executives. This past month, those CEO's decided to exercise that voting power as never before, and we may all hope that they continue in their resolve to participate directly in the process of deciding the course of intercollegiate athletics in the years ahead.

PARENTS AS TEACHERS ACT

Mr. COCHRAN. Mr. President, parents are a child's first teacher. Research shows that fundamental, lifelong learning skills are established from infancy. It is reported that self-esteem is established by the age of 4. Beyond that age intervention and possibly treatment, not prevention, occur. The parent-child relationship is a critical factor in a child's success in the early school years and throughout his life. Parents, however, do not just instinctively know how best to help their children build a foundation for learning and health care. They need tools and guidance to improve their parenting skills.

I am pleased to be an original cosponsor of the Parents as Teachers Act, which authorizes the Secretary of Education to make grants, on a competitive basis, to establish community programs for children and their families designed to help parents provide the best possible beginning for a life of learning and growing for their children and to make the transition between infancy and independence.

The bill is authorized at $20 million, which would allow approximately 1,000 school districts to participate at the average cost of $20,000 yearly. Once established, States and local communities will eventually pick up the cost of the program. The legislation phases out Federal funds through a declining match from 100 percent to 25 percent over the 5-year authorization.

The purpose is to provide parents with the tools to strengthen language skills, intellectual development, social

skills, and health care of their children from infancy on. The program also has an adult literacy component. It is open to parents with children aged 3 and under, whatever their socioeconomic status. A parents as teachers national center is also established to provide information, training, and technical assistance to participants.

Key components include:

Home visits by parent educators to give research-based information to parents about language skills, psychological, and physical development;

Periodic health screening to ensure that disabilities or developmental problems are detected before a child enters school; and

Group visits for parents to give them an opportunity to meet other parents with children of the same age and establish a support group to discuss problems.

Mississippi's Center for Family Education in Jackson, which is patterned after the successful Missouri Parents as Teachers model, is supported by a cooperative partnership between the Junior League of Jackson, Central Presbyterian Church in Jackson, the Field Cooperative Association, the Child Care Food Program of the U.S. Department of Agriculture, the Mississippi Department of Human Services, and Frito Lay, Inc. The Jackson program utilizes part time paid staff and a wealth of volunteers in a public/private effort that has resulted in a dramatic and positive change in the quality of life for the families it has served. This program provides the missing link in the mosiac of Federal and State services to children and families and it works because it recognizes that positive parental involvement is the key to a child's successful development.

The first of the six education goals established by the President and the Nation's Governors is: "By the year 2000, all children in America will start school ready to learn."

Nothing could be more important in achieving this goal than helping parents establish a home environment for their children that celebrates learning and good health care. This is a prevention program whose long term benefits should result in better educated and employable youth, fewer dropouts, reduced teen pregnancy, less need for remedial education programs, and less dependency on drugs and alcohol.

The Parents as Teachers Act calls for a modest investment in Federal funding, which will in return generate immeasurable individual and community rewards. I thank Senator BOND for asking me to join him as a sponsor of this bill and applaud him for bringing this exemplary model program to our attention.

Mr. President, I urge the swift adoption of this legislaton by the Senate.

RESERVATION OF LEADER TIME

Mr. COCHRAN. Mr. President, I reserve the remainder of the leader time.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 3:30 p.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

Several Senators addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Washington is recognized.

Mr. ADAMS. I thank the Chair.

(The remarks of Mr. ADAMS pertaining to the submission of Senate Concurrent Resolution 14 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I thank the Chair.

THE FAST TRACK

Mr. BAUCUS. Mr. President, last week, the administration formally requested an extension of the fast track negotiating authority provided by the 1988 Trade Act.

The fast track process has been harshly criticized by a number of my colleagues and various outside groups. They claim that the fast track chokes off debate and denies Congress a voice in the consideration of trade agreements. I understand a resolution will shortly be introduced to disapprove the administration's request for fast track negotiating authority.

Mr. President, the criticisms of the fast track are unfounded and the resolution very unwise. The fast track is essential if we are to negotiate trade agreements and it has worked quite well.

THE FAST TRACK

The fast track is an arrangement under which the Congress agrees to vote up or down on a trade agreement negotiated by the administration without offering amendments within 90 days after the agreement is formally submitted to Congress. In return for the guarantee of a vote, the administration agrees to consult closely with the Congress on objectives and strategy in the negotiations. The administration also agrees to allow the congressional committees of jurisdiction to draft the implementing legislation for the agreement.

The fast track is a necessity under our Constitution because power on trade matters is divided between the President and the Congress. The arrangement is a thoughtfully crafted balance that allows the administration to negotiate trade agreements while preserving the rights of Congress.

THE RECORD OF THE FAST TRACK

With the fast track in place, the United States has negotiated a number of important trade agreements: The Tokyo Round GATT Agreement, the United States-Israeli Free-Trade Agreement, and the United States-Canada Free-Trade Agreement. Those agreements have served the national interest very well. The Israeli and Canada FTA's have expanded United States exports by a total of $21 billion and created at least 210,000 new jobs.

The Tokyo round lowered tariffs worldwide by 33 percent, increased protection against subsidies and predatory pricing, and cleared away many nontariff trade barriers. Since the Tokyo round has been in place, United States exports have expanded by 73 percent.

Each of these agreements could have gone further, but each did contribute significantly to U.S. economic welfare.

RATIONALE FOR THE FAST TRACK

Those trade agreements would not have been approved or even negotiated were it not for the fast track. The fast track procedure is unique because the problems confronted in trade agreement negotiations are unique. Unlike arms control treaties or other treaties, trade agreements require literally thousands of concessions in return for thousands of benefits. Though the overall balance of concessions and benefits will presumably be very much in the U.S. interest, particular concessions may well adversely impact discrete economic sectors. No other type of international treaty or agreement is likely to effect such a wide array of special interests.

If amendments were possible, Members would doubtlessly feel pressure to offer amendments to protect these special interests. Some of the amendments may well pass. If they do pass, other nations would certainly follow suit and protect their special interests leading to further steps in the United States. Soon the entire trade agreement would be pulled apart by special interest concerns.

We don't have to look far into history to see this pattern being played out. When the U.S. Congress piled special interest tariff upon special interest tariff in the Smoot-Hawley Act, our trading partners quickly followed suit. As a result, the world trading system was nearly destroyed.

The purpose of the fast track is not to exclude these special interest concerns from congressional consideration. But it does force the Congress to recognize that catering to special interest concerns will unravel a trade agreement. The cases of special interests are still considered, but the Congress is forced to balance them against the national interest.

Trade negotiator after trade negotiator in both Democratic and Republican administrations have argued that without the fast track it would be impossible to even negotiate trade agreements. In the words of our current chief trade negotiator, Ambassador Carla Hills: "The fast track is crucial to my credibility as a negotiator." Other nations would have no reason to even negotiate with the United States unless there was a reasonable chance that such an agreement would be approved by Congress.

The argument that the fast track chokes off debate unnecessarily and denies Congress a voice in the negotiations is simply untrue. In all cases, congressional consideration of the impact of a trade agreement takes place over a period of years. It begins when the concept for the negotiations is floated by the administration. It continues during the negotiations. The final 90 days of debate that are conducted under the fast track is merely the final round of a debate that has taken place over the preceding years.

Take the Uruguay round of GATT negotiations for example. Congressional hearings on the round began 4 years ago. Even if a Uruguay round agreement were concluded tomorrow, Congress would have had more than 5 years to consider the round before it was asked to vote on it.

I held hearings on the proposed United States-Canada-Mexico agreement—known as the North American Free-Trade Agreement or NAFTA—11 years ago. Obviously, Congress has more than enough time to consider the merits of a possible trade agreement.

But without the guarantee that Congress would at least vote on an agreement that is negotiated, U.S. trade negotiations would be seriously compromised. Certainly, the prospect of a Senate filibuster or congressional amendments to the implementing legislation, would be enough to raise doubts in our trading partners' minds as to whether U.S. commitments would ever be implemented.

In sum, Senators should be under no illusion: Passage of this resolution would terminate the Uruguay round and all other major international trade negotiations.

CONCLUSION

Of course, Senators have every right to reserve judgment on the outcome of the Uruguay round or the NAFTA negotiations until those negotiations are completed. Every Senator has the right to expect that the administration will consult with him during the negotiations to resolve his particular concerns. Further, Senators should expect that the eventual implementing legislation for the Uruguay round will be written by the congressional committees of jurisdiction, not the administration.

And if Senators feel that the eventual agreement is not in the best interest of the Nation, they can vote against it. And if the majority of his colleagues follow suit, the United States will not enter into that agreement. Under the fast track, the Congress still makes the final decision.

I have spoken previously to the merits of the Uruguay round and the NAFTA negotiations and will do so further in coming weeks. But the sponsors of the disapproval resolution will doubtlessly point out that there are difficult issues to be resolved in these negotiations. And it is certainly possible to imagine an agreement emerging from these trade negotiations—particularly the NAFTA negotiations—that is not in the United States best interest.

But that is not the issue before us in the next few weeks. The issue is whether or not we allow the administration to carry out those negotiations.

If a poor agreement is negotiated, I will be the first to demand changes and vote against it if the changes are not forthcoming. Three years ago, I withheld my support of the United States-Canada FTA until some critical issues were addressed by the administration. But we cannot assume that any trade agreement that is negotiated will be a bad one. In fact, history would argue for quite the opposite conclusion.

We should not be hasty. We should allow the administration to complete the Uruguay round and the NAFTA and then judge their merits. It is ridiculous to try to judge those agreements before they are even negotiated.

Next week, I will address the merits of the NAFTA.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina is recognized.

RESTORING PUBLIC CONFIDENCE

Mr. SANFORD. Mr. President, I submitted on Thursday what I believe is one of the most important legislative initiatives I have ever brought to the floor of the U.S. Senate. This resolution is crucial if we are to restore the public confidence in the U.S. Senate and the Members who serve here.

Certainly one of the most difficult and painful assignments any Senator could have had during the last few years is service on the Select Committee on Ethics. I have had the responsibility of serving on that committee throughout the proceedings related to the members accused of improper dealings in connection with Lincoln Savings & Loan and its chairman, Charles Keating.

The horrible spectacle of these hearings has made clear to me, and I hope to all of my colleagues, the pressing need to adopt campaign financing reforms. In its findings, the Ethics Committee urged the leadership and Congress to work together in a bipartisan manner to address the urgent need for comprehensive campaign finance reform. I think it is safe to say that I speak for every member of the Ethics Committee when I say that a new direction is needed for campaign finance, a direction that restores the reputation of this institution. Not everyone will agree with my particular approach, but I believe it is a viable one. The botton line is that we have come to a point where we simply spend too much money on campaigns.

We simply cannot constantly put all Members in the bind of needing to raise tremendous sums of money on the one hand, and on the other hand wanting to avoid any appearance of impropriety in the casting of votes or rendering of service to constituents. The Ethics Committee's deliberations have made it clear that many of the conflicts and tensions are created by the overwhelming amounts of money that must be raised to wage a campaign in today's modern era of television-based campaigning. The public is confused and bothered by the vast amounts of money in elections. Recognizing this, my resolution speaks to the most fundamental piece of campaign finance reform, establishing a limit on campaign expenditures.

The approach I have taken in this resolution is somewhat different than that taken in the bill introduced by my colleague from Oklahoma, Mr. BOREN, which the Senate passed last year. While I continue to support that bill and support a variety of additional measures, I have tried to get around many of the difficult legal issues presented by that approach and the objections some have to public financing.

The basic thrust of this resolution is that the Senate can make and enforce its own rules, its own code of conduct for the dignified election of its members. My resolution would set overall campaign limits, to be enforced not by the promise of public financing for compliance, but by sanctions ranging from loss of seniority advantages to censure and even expulsion for failure to abide by a code of conduct to be established by the Rules Committee and enforced by the Ethics Committee.

The resolution makes it a matter of honor and Senate code of conduct to abide by limits set for total expenditures during a campaign, which are set along the lines of S. 137 passed during the last Congress, based on the lesser of a flat minimum or a formula based on the population of each State. As such, because the resolution does not prohibit by statute any campaign expenditures, it should not run afoul of the first amendment rights protected by the Supreme Court in Buckley versus Valeo.

By adopting the language of S. 294, introduced by my colleague Senator BUMPERS, this resolution also includes

important provisions that would tighten the definition of independent expenditures. Additionally, there are provisions for the speedy disclosures of all true independent expenditures.

This resolution, while identifying and addressing important components of reform, is not a panacea. It is not sufficient by itself. We must also, as a body, adopt important provisions of comprehensive campaign reform included in S. 3, sponsored by Senator MITCHELL and Senator BOREN. I am cosponsor of this measure. Because of the conclusion of the hearings by the Ethics Committee, there is a unique window of opportunity for the Congress to enact meaningful campaign finance reform. I believe that establishing a code of conduct, giving this body the power to police its own Members, and restoring the honor and dignity of this institution is an important step in the right direction.

Granted, this is a unique approach, but I would point out to my colleagues that there is precedent from earlier times for such an approach. Indeed, in 1922, the Senate, while finding that Senator Truman Newberry was duly elected, was presented with resolutions condemning Mr. Newberry for excessive campaign expenditures. The resolution stated:

The expenditure of such excessive sums ($195,000) in behalf of a candidate, either with or without his knowledge and consent, being contrary to the sound public policy, harmful to the honor and dignity of the Senate and dangerous to the perpetuity of a free government, such excessive expenditures are hereby condemned and disapproved.

Following the Senate vote, Mr. Newberry, realizing that his position could never be other than uncomfortable, tendered his resignation.

Similarly, in the matter of the case of Frank Smith, in 1928, the Senate passed a resolution refusing to seat Mr. Smith, in part because of exorbitant sums of money spent during his campaign. About the same time, the Senate passed a resolution denying a seat to Senator-elect William Vare, condemning again the excessive use of money in a campaign.

The approach I am suggesting would put the Senate in the position of reclaiming for itself the power provided in article 1, section 5 of the Constitution to judge the qualifications of members.

I have submitted this resolution because I believe that we must be willing to take some new approaches to the issue of campaign reform. We must act now to restore public respect for this institution. I know of nothing that is more damaging to the image of the Senate and its Members than the constant need to beg for money for campaigns. We must bring this degrading practice to an end before it totally disrupts our system of democracy.

I know that Members of the U.S. Senate are honorable people. They do not sell their votes or their influence. But the public has the impression that because a contribution is made, a Senator is going to vote the way that contributor wants the vote cast. It is not true, but the public perception is that it is and as such, the honor of the Senate is diminished. The reason we need to set a ceiling of what can be spent in a campaign is not because anybody has been corrupted, but because it gives the impression that undue influence is being exercised on the Congress of the United States.

I think the time has come for us to say that we not only are honorable people, but we do not want to give an impression that we can be unduly influenced by a contribution. Moreover, I think the time has come to say that we will police ourselves. I am proud of the thorough and honest job that the Ethics Committee performed in the recent extended hearings regardless of what is being written by the editorial writers who were not on the firing line. This is additional evidence that we can "clean up our act." We can take matters into our own hands and act for the good of all Members. It is our honor and our dignity that is at stake, as well as that of the Senate as a body. We can and we must take this important step to enacting standards for all those who wish to be honorable Members of this body.

I urge my colleagues to support this legislation and to take seriously the need to establish standards of conduct for us all.

I ask unanimous consent that the full text of this resolution be printed in the RECORD.

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

A resolution (S. Res. 70) limiting expenditures in campaigns for election to the Senate, setting Senate standards of conduct for those seeking election or re-election to the United States Senate, and providing sanctions against those elected who bring discredit to the United States Senate by violating the established standards of conduct.

Resolved, That for the purposes of this resolution—

(1) the term "authorized committee" means, with respect to a candidate for election to the office of the United States Senator, a political committee that is authorized in writing by the candidate to accept contributions or make expenditures on behalf of the candidate to further the election of the candidate;

(2) the term "candidate" means an individual who is seeking nomination for election, or election, to the office of United States Senator, and such an individual shall be deemed to be seeking nomination for election, or election, if the individual meets the criteria stated in subparagraph (A) or (B) of section 301(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(2));

(3) the term "election cycle" means, with respect to an election to any Senate seat—

(A) in the case of a candidate or the authorized committee of a candidate, the term beginning on the day after the date of the last previous general election for such office or seat that the candidate seeks and ending on the date of the next election; or

(B) for all other persons, the term beginning on the first day following the date of the last general election and ending on the date of the next election;

(4) the term "general election" means an election that will directly result in the election of a person to the office of United States Senator, but does not include an open primary election;

(5) the term "immediate family" means a candidate's spouse, and any child, stepchild, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouse of any such person, and any child, stepchild, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate's spouse and the spouse of any such person;

(6) the term "primary election", with respect to an election to any Senate seat means an election that may result in the selection of a candidate for the Senate on the ballot in a general election;

(7) the term "primary election period", with respect to an election to any Senate seat, means the period beginning on the day following the date of the last Senate election for that seat and ending on the first of—

(A) the date of the first primary election for that seat following the last Senate election for that seat; or

(B) the date on which the candidate withdraws from the election or otherwise ceases actively to seek election;

(8) the term "runoff election", with respect to an election to any Senate seat, means an election held after a primary election for that seat, prescribed by State law as the means for deciding which candidate shall be certified as nominee for the Senate;

(9) the term "runoff election period", with respect to an election to any Senate seat, means the period beginning on the day following the date of the last primary election for that seat and ending on the date of the runoff election for that seat;

(10) the term "voting age population" means the resident population, 18 years of age or older, as certified pursuant to section 315(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(e)); and

(11) unless otherwise defined in this section, terms used in this resolution that are defined in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) have the meanings stated in section 301 of the Federal Election Campaign Act of 1971.

SEC. 2. LIMITATIONS ON EXPENDITURES.

(a) PERSONAL FUNDS.—No candidate shall—

(1) make expenditures from the personal funds of the candidate or the funds of a member of the immediate family of the candidate; or

(2) incur personal debt,

in excess of $50,000 in connection with the candidate's campaign for the Senate during an election cycle.

(b) GENERAL ELECTIONS.—(1) Subject to paragraph (2), no candidate may make expenditures for a general election in excess of the lesser of—

(A) $5,500,000; or

(B) the greater of—

(i) $950,000; or

(ii) $400,000 plus 40 cents multiplied by the voting age population of 4,000,000 or less, plus 25 cents multiplied by the voting age population over 4,000,000.

(2) In a State with only 1 transmitter for a commercial Very High Frequency television

station licensed to operate in that State, a candidate may make expenditures for a general election in the amount of the lesser of—

(A) $5,500,000; or

(B) the greater of—

(i) $950,000; or

(ii) $400,000 plus 55 cents multiplied by the voting age population of 4,000,000 or less, plus 40 cents multiplied by the voting age population over 4,000,000.

(c) PRIMARY ELECTIONS.—No candidate may make expenditures for a primary election in excess of 67 percent of the limitation on expenditures for the general election determined under subsection (b).

(d) RUNOFF ELECTIONS.—No candidate may make expenditures for a runoff election in excess of amount equal to 20 percent of the limitation on expenditures for the general election determined under subsection (b).

(e) INCREASES IN LIMITATIONS BASED ON INCREASES IN PRICE INDEX.—(1) At the beginning of each calendar year, the Committee on Rules and Administration shall compute increases in the amounts stated in subsection (b) based on the increase in the price index determined under section 315(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(c)), except that for purposes of determining such increases, the base period shall be the calendar year of the first election after the date of adoption of this resolution, and on publication of such increases by the Committee on Rules and Administration, the amounts stated in subsections (b), (c), and (d) shall be deemed to be increased accordingly.

(f) COMPLIANCE FUNDS.—(1) The limitation stated in subsection (b) shall not apply to expenditures by a candidate or a candidate's authorized committees from a compliance fund established to defray the costs of legal and accounting services provided solely to insure compliance with of the Federal Election Campaign Act of 1971, if—

(A) the compliance fund contains only contributions (including contributions received in excess of any amount necessary to defray qualified campaign expenditures pursuant to section 313 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439a)) received in accordance with the limitations, prohibitions, and reporting requirements of the Federal Election Campaign Act of 1971 and this resolution;

(B) the amount of contributions to and expenditures from the compliance fund do not exceed 10 percent of the limitation on expenditures for the general election determined under subsection (b); and

(C) no transfers are made from the compliance fund to any other accounts of the candidate's authorized committees.

(2) If, after a general election, a candidate determines that the costs of necessary and continuing legal and accounting services require contributions to and expenditures from a compliance fund in excess of the limitation stated in paragraph (1), the candidate may petition the Committee on Rules and Administration for a waiver of such limitation up to any additional amount that the Committee may authorize.

(3) Any money remaining in a compliance fund when a candidate decides to terminate or dissolve the compliance fund shall be—

(A) contributed to the United States Treasury to reduce the budget deficit; or

(B) transferred to a compliance fund of a subsequent campaign of that candidate.

(g) INCREASES IN LIMITATIONS TO MATCH INDEPENDENT EXPENDITURES IN ELECTIONS.—(1) If, during a primary election period, runoff election period, or a general election, independent expenditures aggregating more than $10,000 are made or obligated to be made in opposition to a candidate or for the opponent of a candidate, the limitations stated in subsections (b), (c), and (d), as they apply to such candidate, shall be deemed to be increased for that primary, runoff, or general election in an amount equal to twice the amount of such independent expenditures made in excess of $10,000 during the primary election period, the runoff election period, or the general election.

(2) Not later than 24 hours after a person makes, obligates to make, or authorizes independent expenditures in excess of $500 (without regard to previously reported expenditures), such person shall submit a report with respect to such expenditures to the Federal Election Commission and the campaign committee of the opposing candidate.

SEC. 3. EXPENDITURES BY PERSONS OTHER THAN A CANDIDATE.

A candidate who, directly or through an authorized committee, cooperates or consults with any person in the making of an expenditure toward the advocacy of the election of the candidate or the defeat of the candidate's opponent, shall, before providing such cooperation or consultation—

(1) obtain the agreement of such person to report the amount of the expenditure to the candidate's principal campaign committee; and

(2) instruct the treasurer of the principal campaign committee to report such expenditure, on reports required to be filed under the Federal Election Campaign Act of 1971, as a contribution to and an expenditure against the prescribed limits by the candidate.

SEC. 4. CODE OF CAMPAIGN CONDUCT.

(a) PROPOSAL.—The Committee on Rules and Administration shall study and, not later than 120 days after the date of adoption of this resolution, introduce a resolution proposing the adoption of a Code of Campaign Conduct.

(b) TOPICS TO BE ADDRESSED.—In addition to other topics that the Committee considers to be appropriate, the Code of Campaign Conduct proposed by the Committee shall address—

(1) prohibition of the use of a negative advertisement that is essentially untrue; and

(2) prohibitions on the use of statements or advertising that is reasonably calculated to exacerbate racial strife or to appeal to negative prejudices related to racial differences.

(c) AMENDMENT OF CODE OF CAMPAIGN CONDUCT.—After a Code of Campaign Conduct is adopted by the Senate, the Senate Committee on Rules and Administration may propose, by introduction of a resolution, additional standards of ethical conduct which, if adopted by the Senate, shall apply to Senate elections following the date of adoption of the resolution.

SEC. 5. ENFORCEMENT.

(a) IN GENERAL.—An allegation of violation of section 2, 3, or 4 shall be referred to the Senate Select Committee on Ethics for investigation and finding, which finding shall stand unless overruled or amended by a vote of the Senate not less than 30 calendar days after the making of the finding, and which finding shall include at least one of the following recommendations:

(1) That, as a minimum, the appropriate party conference be required to deny the Senator recognition of seniority for seat assignment, and to place, for the duration of the term, the Senator in last place in seniority on any Senate committee to which the Senator is assigned.

(2) That a Senator be placed last on the seniority list for office space assignment and be declared ineligible for appointment to preside over the Senate or participate on ceremonial or representative committees.

(3) That a Senator be censured.

(4) That an incumbent Senator be expelled or a Senator-elect not be seated.

(b) NONINCUMBENT CANDIDATES.—(1) This resolution is intended to govern the election campaigns of nonincumbents as well as those of incumbents in the Senate, and shall be enforced against a nonincumbent upon the nonincumbent's election to the Senate.

(2) The Secretary of the Senate shall send a copy of this resolution to a nonincumbent candidate not later than 5 days after receipt of any filing by the candidate made with the Secretary under 302(g)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(g)(2)).

Mr. SANFORD. Thank you, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

Mr. SPECTER. I thank the Chair.

(The remarks of Mr. SPECTER pertaining to the submission of Senate Resolution 71 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

Mr. BURNS. I thank the Chair.

(The remarks of Mr. BURNS pertaining to the introduction of S. 540 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

MONTANA EDUCATION

Mr. BURNS. Mr. President, the people of Montana have something to be very proud of, and I take a moment to share their accomplishment with my colleagues.

USA Today recently announced the newspaper's All-USA College Academic Team, and Montana students showed up in disproportionate number. Out of 20 college students named to this year's first team, three grew up in Montana. Another Montana resident was named to the academic third team.

The people of Montana are doing something right. Our high school seniors rank third in the country on ACT scores and first on armed services vocational aptitude tests. Additionally, more than 87 percent of our high school students graduate, which is 16 percent above the national average. And we have reached these achievements even though Montana ranks 21st in expenditures per student.

I have always been a strong supporter of our educational system. Some of my colleagues may know that the National School Boards Association gave me a perfect rating on educational issues during the 101st session of Congress. While I sure didn't try to score 100 percent on the NSBA scorecard, I did try to cast each vote and do

my best for the education of all Americans.

The citizens of Montana deserve special recognition for their commitment to educational excellence. I ask unanimous consent that the USA Today article, "Sprawling Montana is an Academic Success Story," be printed in the RECORD.

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

[From USA Today, Feb. 26, 1991]

SPRAWLING MONTANA IS AN ACADEMIC SUCCESS STORY

(By Jeff Kleinhuizen)

Maybe it's the Rocky Mountain water, as Bozeman (Mont.) High School English teacher Mike Durney put it.

"How about the big Montana sky?" says Jim Turner, Helena school superintendent.

Take your pick.

But USA today decided to look for answers when students from the Big Sky state showed up in seemingly disproportionate numbers on the newspaper's All-USA College Academic Team, announced Friday

Consider:

Three of the 20 college students named to this year's first team grew up in Montana. Two—Jennifer DeVoe, 19, and Jefferson Kommers, 20—attend Montana State University in Bozeman. A third, Elizabeth Hughes, 21, attends Harvard University.

Another Montana native at MSU, Jan Wright, 19, made the academic third team.

Montana resident Allene Whitney, 19, an All-USA Academic First Team high school selection in 1989, is now an MSU sophomore.

All this, of course, may be coincidence. But it appears something is working in students' favor. Montana ranks 21st in average per-pupil expenditures, and yet:

Its high school seniors rank third in the nation on ACT scores used for college admissions, and first on Armed Services Vocational Aptitude tests.

More than 87% of its high school students graduate, compared to 71% nationwide.

Among possible reasons: small, nurturing, communities that enable children to develop socially and intellectually.

"Because of the rural nature of the state,, schools become the focal point of the community," says Nancy Keenan, superintendent of public instruction.

Says Jay Nelson, 18, a Helena High School senior: "This isn't like hanging around downtown L.A. We just don't have that much to do besides school."

That rural atmosphere contributes to some well-intentioned self-depreciation.

Physics professor Gerry Wheeler of MSU says some new freshmen get jittery when assigned dormitory rooms above the third floor.

"For some of them, that's the highest they've been in their life," he says.

More than half of Montana's 160 high schools have fewer than 100 students. Small wonder many students enter MSU braced for the big-city life of Bozeman. Population: 26,000, including 10,000 MSU students.

"It's a major recruiting problem," says computer science professor Denbigh Starkey. "Sometimes we have to keep ourselves from laughing."

But no one laughs at the academic successes, which some attribute to hardy, hard-working students.

"They have a can-do attitude," says Pat Callbeck Harper, gender equity specialist, Office of Public Instruction. "Here, you're always aware of the power of nature to do you in. We have to be self-sufficient.

Rocky Mountain ranges cradle this university town. Towering Douglas fir and Norway spruce stud the campus.

Covering more than 147,000 square miles, Montana could fit the six New England states and more inside its borders.

Says Dwight Moose, principal, Capital High School, Helena: "The students aren't whiners. That goes back to the pioneer stock who settled here: All these were individualistic people who were used to doing for themselves."

Still, a struggling economy may threaten the future.

Speaker of the House Hal Harper, D-Helena, says Montana no longer ranks among the leaders in state spending on education because of a property tax freeze in 1986.

"The freeze could push us into a second-class, or even a third-class, state," he says.

Another concern: University faculty salaries here lag behind those at comparable universities by about 25%, says MSU acting President Michael Malone.

Despite tough times, Keenan says the state will keep developing its most precious resource: children's minds.

"We can't compete with access to marketplaces or transportation," she says. "We can compete with brainpower, with ingenuity."

STATE STRUGGLES TO KEEP GRADUATES CLOSE TO HOME

Montana educators and legislators worry that they're losing many of their best students because graduates can't find professional jobs at home.

"I'd love to live here, but it's not going to be possible," says one top student, Jefferson Kommers, 20, of Bozeman, a physics major at Montana State University and an All USA-Academic Team selection.

"There's not much going on in physics and scientific research."

The staples of Montana industry are agriculture, mining and lumber.

At MSU, about 80% of graduating engineers leave the State. But the state now is fighting back.

Gov. Stan Stephens appointed the Science and Technology Advisory Council last fall, partly to advise business people and legislators about expanding new high-tech industries, such as bio-technology.

"We're looking to create companies and research here that will keep more of our good students in the state," says Carl Russell of the Science and Technology Alliance, Department of Commerce.

Mr. BURNS. Mr. President, today a very important education bill will be introduced by my good friend Senator BOND of Missouri. I am pleased to be an original cosponsor of this legislation, the Parents as Teachers: The Family Involvement in Education Act of 1991.

This bill is designed to assist State and local school districts begin or build upon early childhood education programs called Parents as Teachers [PAT] by providing Federal startup funds.

The PAT Program is an all-in-one early intervention, parent education, childhood development program. Simply put, the program's goal is better students.

PAT helps parents give their children the best possible start in life by providing them with tools to help lay a good foundation for their child's later learning. The PAT curriculum starts early—when the child is under 3 years of age—so that parents can guide their child's development during these formative years.

Education experts tend to agree that the best way to turn out smarter kids is to get parents and teachers to work together. The people of Montana have long recognized this fact. This is one reason for the success of the students in our State.

About 3 weeks ago, I had the opportunity to read to the children involved in an Even Start Program in Billings, MT. This Even Start Program encourages the Parents as Teachers philosophy, and I tell you, those youngsters were well on their way to being the leaders of tomorrow.

We simply cannot afford to short-change our kids. They deserve the best we can give, and the Parents as Teachers Act is one way to help ensure that our youngsters get their feet firmly on the ground. I strongly encourage my colleagues to add their support for this bill when it is introduced today.

OPERATION HOMEFRONT

Mr. BURNS. Mr. President, on February 14, we kicked off Operation Homefront in Montana with a rally on the steps of the State capitol. Operation Homefront is a grassroots effort to support our troops, and now to begin planning a "hero's welcome" home for each and every one of them. The initiative has been endorsed by the U.S. Senate through the unanimous approval of Senate Resolution 17.

I would like to insert in the RECORD today a statement by a woman, Michelle Simpson, who has both a son and a daughter in the gulf. She knows intimately what it means to support our troops, and her words are an inspiration to us all. Ms. Simpson made her comments at a companion rally to our February 14 kickoff which was held in Miles City, MT

I ask unanimous consent that her comments be printed in the RECORD.

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

I am Michelle Simpson, President of the Miles City area Chamber of Commerce: manager of Custers Inn, and mother of a son and a daughter serving in the Persian Gulf in Operation Desert Storm.

Maybe you're asking yourself just what you can do—here in Miles City—that could be of any possible aid, comfort, or support to the men and women serving our country half way around the world.

You can help. If I may, I would like to offer these few things you can do.

Include them in your prayers.

Write to them often, but do not burden their minds with negativism, gloom, and problems at home, be a messenger of good news, of happy future events you'll be sharing with them soon.

Thank them every day in you heart and mind for the sacrifices they are making for us all.

Be available to help their loved ones through troubling times here at home.

Do some little thing each and every day that reminds you of the blessings of the freedom and liberty you possess that they are there to fight for and preserve.

Think of them often and softly wish them well. Be proud of them always.

Fix in your mind the best possible way to welcome them home when their job is done.

And finally—love them as if they were your own children.

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

The PRESIDING OFFICER (Mr. LIEBERMAN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KASTEN. 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 Senator from Wisconsin is recognized.

Mr. KASTEN. I thank the Chair.

(The remarks of Mr. KASTEN pertaining to the submission of S. Res. 72 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

SENIOR CITIZENS CHILD CARE ACT, S. 519

Mr. REID. Mr. President, last week I introduced legislation known as the Senior Citizens Child Care Act, S. 519.

Two years ago we recognized the desperate need for child care legislation. And this need for affordable, available, quality child care has not disappeared. The challenge is still not being met. We have a long way to go until our Nation's parents can leave their houses during the day and know that their children are in good hands.

At the same time so many parents are struggling with the daily nightmare of searching for good, reliable day care, many of our Nation's seniors are struggling, within the restrictions of their fixed incomes, to make ends meet. You see, current law provides that Social Security beneficiaries can earn only a limited amount of money every year before their Social Security benefits are reduced. These dollar limits, also known as the Social Security earnings test, are under $10,000. Now, I do not know anyone making under $10,000 who is well off, and who does not need to make more money. Our older Americans are being discouraged from improving their lifestyles. Our older Americans are being discouraged from improving their economic and mental well-being.

Today I am offering a proposal that will address both our shortages of child care and the well-being of our older Americans. My Senior Citizens Child Care Act would drop the Social Security earnings test for older Americans who provide child care services. This means a senior man or woman can provide day care, be it in his or her home or a center, and will not have to worry about having his or her Social Security check reduced. In doing this, our seniors can make some extra money, and our children will be better cared for.

What parent would not want his child looked after by men and women who had raised their own children? What parent would not prefer an experienced parent as a babysitter to someone who never had kids? Given the choice, I know I would feel more comfortable leaving my children with a retired senior citizen.

I wonder how many senior citizens would like to make some extra money to supplement their Social Security checks? How many senior citizens are discouraged from doing so because they fear their Social Security check will be reduced? My legislation will enable seniors to keep working while improving our pool of child care providers.

We need to better utilize our rapidly growing population, particularly in the area of child care. Older Americans can make significant contributions to the education and care of our children. And we must provide more incentives for senior citizens to remain active in our Nation's work force.

Let us empower our older Americans by letting them work. Let us empower our children by giving them decent day care. In doing so, our entire society will be empowered, and will benefit.

TRIBUTE TO MAYOR BOB HEMBREE

Mr. SHELBY. Mr. President, I rise today to honor the life and legacy of one of Alabama's great leaders, Mayor Robert L. "Bob" Hembree. Mayor Hembree, the four-term mayor of Guntersville, died February 16 in Birmingham.

Mayor Hembree's nearly 15 years in office were characterized by remarkable accomplishments. Among other projects, he directed the development of the new senior center, started a child day care program and established a community achievement center for the retarded. Bob also began a program to acquire minibuses to transport the elderly around town. He initiated a retirement program for city employees, and secured Federal grant money to repair hundreds of low-income homes. Bob turned the job of mayor into a full-time profession. But for Bob, working to make Guntersville a better place was always a labor of love.

Beyond his political talents, Bob was also a business leader in the community. His automobile dealership, which continues to be owned and operated by the Hembree family, is a Guntersville landmark.

Mayor Hembree was a man who dedicated his adult life to the city of Guntersville. He was a persuasive leader who used his immense popularity to achieve positive results for the city. He was loved and respected by all who knew him. I will miss Bob dearly. I am proud to have called him my friend.

Mr. President, it is an honor to share some of Mayor Hembree's immense accomplishments with my colleagues in the U.S. Senate. My thoughts and prayers are with his wife, Giselle, and their family in this time of grief.

THE PASSING OF GUILLERMO UNGO

Mr. PELL. Mr. President, it is with deep sympathy that I note the passing of Guillermo Ungo, a leader of the democratic left in El Salvador. Dr. Ungo dedicated his life to bringing true democracy to the people of El Salvador. Sadly, despite his courageous and determined efforts, he died in Mexico City last Thursday of a brain tumor before his goals could be achieved.

Dr. Ungo sought to bring peaceful change to his war-ravaged country. In the 1970's he was secretary general of the National Revolutionary Movement and was a member of the junta formed by young military officers in October 1979 who overthrew the military government allied with the traditional oligarchy. He resigned only 2 months later when he and other liberals saw that the military high command would not permit the promised reforms.

For his efforts, Mr. Ungo was forced to live in exile for his own well-being for much of the 1980's, but bravely returned to El Salvador in late 1987 to assert the democratic left into the political process. He was a candidate of the Democratic Convergence, a coalition of leftist parties, in the Presidential election of 1989. His candidacy was an effort to demonstrate that the democratic left, unlike some elements within the FMLN guerrilla forces, could work for social and political change through the political process.

His spirit, dedication, and fierce determination will be missed by all those who believe that peace and democracy can be achieved in El Salvador.

SUPPORT FOR OUR ARMED FORCES

Mr. HEFLIN. Mr. President, recently I received a letter from Mr. Taze Shepard, an attorney in Huntsville, AL, and a member of the Alabama State board of education. Mr. Shepard, also, is the grandson of former Senator John Sparkman. The letter related to support for our Armed Forces in the Persian Gulf. I rise today to congratulate Mr. Shepard for his efforts to bring about the adoption of a resolution by the Alabama State board of education expressing support for our men and

women stationed in the Persian Gulf, and extend concern and compassion to their families and request academic discussion of the Persian Gulf crisis in all public schools in the State of Alabama.

I commend Mr. Shepard for his leadership in this important area, and I wish to share with my colleagues the letter I received from Mr. Shepard, as well as a news release from the State of Alabama Department of Education relating to the subject and the resolution adopted by the board of education. I will ask that these items be placed in the RECORD following my comments.

Mr. President, our country's most valued assets are our dedicated young men and women who so selflessly gave of themselves so that we may maintain our freedom. I believe that it is important that our public schools fully participate in the discussion of the situation in the Persian Gulf in order that they may understand our country's position and place it in a historical and social context so that those ideals and values for which we are fighting may be understood by the students in our schools.

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

BELL, RICHARDSON & SPARKMAN, P.A.,
Huntsville, AL, January 25, 1991.

Re support for our Armed Forces.

Hon. HOWELL HEFLIN,
228 Hart Senate Office Bldg., Washington, DC.

DEAR SENATOR HEFLIN: I thought that you would be interested to learn that I recently introduced a resolution calling on the State Board of Education to express its support for the men and women of our Armed Forces in the Persian Gulf, extend concern and compassion to their families and request academic discussion of the Persian Gulf crisis in all public schools in the State of Alabama.

We both realize how important it is to teach patriotism and American values in our public schools. I am pleased to tell you that the resolution was unanimously adopted by the State Board in Montgomery and will be sent to local school systems next week.

A copy of the resolution and a press release are enclosed for your information. I hope that you will consider mentioning in the Congressional Record that Alabama is setting an example in this regard for public schools throughout the country.

Sincerely,

TAZE SHEPARD,
Member, State Board of Education.

STATE OF ALABAMA,
DEPARTMENT OF EDUCATION
Montgomery, AL, January 24, 1991.

MONTGOMERY, AL.—The Alabama State Board of Education today called on local boards of education to officially support the United States efforts in the Persian Gulf. By resolution the board asks local school boards to adopt a similar statement supporting the U.S. and allied armed forces in the Persian Gulf and extend concern and compassion to their families. It also requests schools' instructional staff to incorporate information about the Persian Gulf crisis in their program of instruction.

The board also requested support for the civilian support staff and extended concern and compassion for their families, especially their children and prisoners of war as well as school personnel serving in the Persian Gulf.

Local boards of education are asked to recommend that their instructional staff initiate class discussion of the historical and social aspects and implications of the Persian Gulf conflict, including structured discussion of democracy and democratic values, patriotism and good citizenship as well as the heroism and sacrifices of those who are serving in the Persian Gulf, especially those held as prisoners of war.

"It is our hope that these discussions show our concern about the allied military campaign in the Persian Gulf and that our students will hopefully understand the historical significance of the conflict and its intended result," said state board member Tazewell Shepard. The board recommends these discussions continue each week during the remainder of the 1990-91 school year until the international crisis has passed and the president of the United States has declared the successful completion of Operation Desert Storm.

RESOLUTION REQUESTING EACH LOCAL PUBLIC BOARD OF EDUCATION TO ADOPT A RESOLUTION SUPPORTING THE UNITED STATES AND ALLIED ARMED FORCES IN THE PERSIAN GULF, EXTENDING CONCERN AND COMPASSION TO THEIR FAMILIES, AND REQUESTING ACADEMIC DISCUSSION ON THE PERSIAN GULF CRISIS

Whereas, the State Board of Education feels that the men and women of the United States Armed Forces and our civilian support staff are defending freedom and democracy and opposing tyranny, terrorism and oppression in the Persian Gulf; and

Whereas, the Board has great concern and compassion for the difficult and stressful circumstances of the families and in particular the children of our military and civilian personnel during this time of personal danger to their loved ones;

Now, therefore, be it resolved, that the Alabama State Board of Education hereby requests that each local public board of education consider and adopt a resolution supporting the efforts of the United States and allied armed forces in the Persian Gulf and their civilian support staff and extending concern and compassion for their families, especially their children, and prisoners of war as well as school personnel serving in the Persian Gulf;

Be it further resolved, that the Board requests and recommends that each local public board of education recommend that their instructional staff incorporate in the program of instruction in an appropriate and educationally sound manner, discussion of the various historical and social aspects and implications of the Persian Gulf conflict, including appropriately structured discussion about democracy and democratic values, patriotism, and good citizenship as well as the heroism and sacrifices of those who are serving in the Persian Gulf, especially those held as prisoners of war in the most difficult of circumstances, including a consideration of the difficult circumstances thrust upon the families of the United States military and civilian personnel during this time of personal danger to their loved ones;

Be it further resolved, that the Board requests this discussion be directed with the prospect that the allied military campaign in the Persian Gulf successfully implements the United Nations' resolutions to end the illegal and brutal Iraqi occupation of the nation of Kuwait with minimum loss of life to all concerned; and

Be it further resolved, that the Alabama State Board of Education recommends that such discussion be continued each week during the remainder of the 1990-91 school year until the international crisis has passed and the President of the United States has declared the successful completion of Operation Desert Storm.

Mr. RIEGLE. Mr. President, morning business is due to expire. I ask unanimous consent to make a statement that will probably take me 5 minutes, and I ask the period for routine morning business be extended through the time it takes me to deliver this statement.

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

The Senator from Michigan is recognized.

Mr. RIEGLE. I thank the Chair.

(The remarks of Mr. RIEGLE pertaining to the introduction of S. 543 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

A TRIBUTE TO OTTO BACH

Mr. WIRTH. Mr. President, I would like to use this occasion to pay tribute to a very good friend and a great Coloradan, Otto Karl Bach.

Otto passed away last year, but his legacy continues to inspire people throughout Colorado and the Nation. The Bach family arrived in Denver, CO, in 1944 when Otto took over as the director of the Denver Art Museum. His stated goal was to endow the Denver Art Museum with a world-class collection of art covering all major periods and geographical areas. In short, Otto Bach's vision was to make Denver a prime location for the appreciation and enjoyment of art.

In 1944 there was little reason to think that Otto's goal would ever become reality. From a suite of dingy rooms at the top of the city and county building to a long residence in Chappell House at 1300 Logan, Otto continued to build and trade. The Denver collection took form, and its first real gallery opened at the present site in the 1950's. In 1971, the new Denver Art Museum, designed by James Sudler, opened to great acclaim. The degree to which Otto and the museum's major supporters were successful is astonishing, given the fact that during most of Otto's tenure there were no funds for acquisitions—and the growth of Denver's collection was largely dependent on the public-spirited generosity he inspired, and his shrewd and compelling trading.

Otto was tireless in his dedication to expanding Denver's collection, and the magnitude of his achievement is vividly illustrated by the museum's Indian and European collections. Those who visit these collections convey something of the importance of Otto's

legacy to our community and the Rocky Mountain Region. He made a profound difference in the quality of life for the people of Colorado, and is largely responsible for building the Denver Art Museum into an institution of world-class significance.

In addition to his public achievements, Otto was also a close personal friend. For 20 years I shared evenings and overnights in "The Barn," the Bach residence in the carriage house behind Chappell House. His wife, Cile, and their son, Dirk, continue to be dear friends—and I hope I may be indulged to close my remarks by letting them both know how much my family has valued their friendship over the years.

Mr. President, at this time I ask that the following tribute to Otto which appeared in the Denver Post be printed in the RECORD:

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

[From the Denver Post, June 26, 1990]

A FINE ART MUSEUM DIDN'T JUST HAPPEN

(By Bill Hornby)

Many generations of Coloradans have made our fine art museum possible—donors, trustees, staff professionals, city officials, builders, and the thousands of citizens who have supported it over the years with time, money and friendship.

As the museum approaches its centennial, we should appreciate their efforts—the institutions that make Denver liveable don't just happen.

In 1893, in the midst of a financial recession reminiscent of recent times, Mrs. Emma Richardson Cherry organized our fledgling town's few avid artists into "The Artists' Club."

They exhibited art and eventually took in public members to grow into the Denver Art Association in 1917 and the Denver Art Museum in 1922.

Two years later, Mayor Ben Stapleton asked the museum to locate at the then-new Civic Center. He provided the first public funds—$3,000!—to aid the private efforts, and installed the tiny complex in a corner of the present City and County Building. Since 1932 the museum has been Denver's official art agency, operating as a private, non-profit educational corporation under contract with the city.

The man who really put our Art Museum on the world cultural map was Dr. Otto Karl Bach, its director and guiding spirit from 1944 to 1974.

Whether it was in acquiring renowned collections, buying land for expansion, insisting on developing the museum education program for all the people, or instilling the tradition that Denver was going to have a world-class art collection, Otto Bach and his wife Cile were the first driving spirits of the modern Denver Art Museum.

Bach, a formidable artist in his own right, is still going strong; a delightful show of his work hangs through July at the Guaranty Bank, 17th and Market streets, He stayed with the museum long enough to supervise erection of the current building, the world-recognized achievement of the late Denver architect James Sudler and his Italian partner, Gio Ponti.

The building opened in 1971 after $1 million was obtained from the city and $6 million raised privately in an exceptional effort spearheaded by Bob Silber and the late Tom Knowles.

The museum soon will undergo a renovation and reinstallation of the Sudler-Ponti building, paid for largely by a 1982 bond issue, and has plans for a major expansion with a new five-floor (two below ground) addition on Acoma Street directly across from the new library. The museum has built outstanding national collections in Native American, Pre-Columbian, Spanish Colonial, contemporary and Asian art, and has recently recommitted itself to the collecting of American and regional Western art.

One of the Denver Art Museum's outstanding recent acquisitions is its new director, Lewis I. Sharp. A former director of the American Art Wing of New York's Metropolitan Museum of Art, Sharp has already set in place an urbane and friendly, professional administration, a breath of fresh air after a forgettable series of predecessors since Bach. He is aided by the indefatigable Lewis Story, who as first mate has guided Denver's art ship through the reefs during these changes of command.

The Denver Art Museum has been lucky to have exceptional trustees like Fred Mayer and Fred Hamilton, who have held it to high standards and kept it financially afloat.

As more Denver institutions get to be 100 years old, it is time to reflect on the human effort it takes to build the civic assets we take for granted.

In the case of the Art Museum, Emma Cherry, Ben Stapleton, Otto and Cile Bach, Jim Sudler and Gio Ponti, Bob Silber and Tom Knowles, Lew Story, the Freds (Mayer and Hamilton) and now Lewis I. Sharp are only names to most of us.

But they represent the hundreds of other civic leaders to whom we are indebted for a quality city.

COMMENDING GEN. COLIN POWELL, CHAIRMAN, JOINT CHIEFS OF STAFF

Mr. DOLE. Mr. President, over the past months, Americans have come to realize how fortunate we are to have Gen. Colin Powell serving as Chairman of the Joint Chiefs of Staff.

Yesterday, General Powell addressed the annual Washington Conference of the Veterans of Foreign Wars. General Powell's remarks offer a clear insight into the many factors which led to success of Operation Desert Storm.

I recommend the General's remarks to my colleagues, and ask that they be printed in the RECORD.

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

REMARKS OF GEN. COLIN POWELL

Thank you, Commander Kimery for that very, very kind introduction.

And thank you, thank you my fellow veterans for your very, very warm reception. It's great to have a clean win, isn't it!

When I spoke to your National Convention last August, Operation Desert Shield had been underway for just two weeks. Those of you who were there may remember that I told you that our young volunteers in the Persian Gulf were just like you were—patriotic, caring, and wanting to do the very best job possible. I said they were the kind of Americans who have always been there when they were needed. I said that our men and women in the Gulf were your worthy successors. Today, let me ask you—was I right?

Last August at that Convention, I also told you that I had heard a statement from the Iraqi Foreign Minister earlier that day, warning us that we'd better be careful. He said our operations in Grenada and Panama were a vacation compared to what we might be confronting in the Middle East. He warned us about rivers of blood and how the American Army and its coalition friends would be defeated if war were to come. And some of you may remember that I responded by saying: Don't try to scare us or threaten us. It won't work, it never has. Americans can't be scared—especially not by the likes of Mr. Saddam Hussein. Let me ask you again, was that right?

I know that VFW members and all Americans feel the same fierce pride I feel in the professionalism and courage of the men and women of our Armed Forces now wrapping up the war in the Gulf. It's not arrogance. It's not gloating. It's just a feeling you get when you've done something just, when you've done something right, when you've joined the rest of the Free World in defeating tyranny. And you've achieved a victory in doing it.

And America, once again, led the way in this historic effort. The mail that has poured into my office every day since the war began shows me one reason why America led the way and why that way led to victory.

A young girl from the Mississippi School for the Blind wrote me a letter. The letter was in Braille. She told me that she sees the yellow ribbon on the flag pole outside her window, she told me that she sees it stand up to strong winds and driving rain, that she sees it hold its place among the rough elements because it symbolizes our brave men and women in the Gulf—one of whom is the young girl's teacher, a reservist who answered the call to arms. The mind of this fourteen year-old American is so powerful that it overcomes her blindness—overcomes it to give her a clarity of vision that most of us will never have.

In the past few weeks, you could drive around any part of this great country and see the yellow ribbons—on light posts, on doorways, on car antennas. And American flags flying from garages, from rooftops, in stadiums, in front yards and back yards.

This steady and resolute support of America for her men and women in the Gulf was a primary reason for our overwhelming success.

President Bush began gathering that support early in the crisis. He made sure that the American people understood what the stakes were in this crisis. He made sure they understood what the risks were, and why it was necessary for us to pursue the course we were on. He gave us clear, unmistakable policy direction. He deployed military forces to defend our friends, to protect our interests, and to insure eventually a peaceful future.

And he also knew that in war there is no substitute for victory.

Having been at war himself, and understanding the controversies surrounding every war and every crisis since World War II, he knew that once a President decides to send American men and women into harm's way, then he must trust to his military leaders the task of leading those men and women to victory.

We are also very fortunate that over the last decade our national leaders made sure that our Armed Forces would carry to any future war the very best equipment that

American industry could provide. The solid support of the VFW helped make that happen.

We also made sure that our GIs received the very best training that creative minds could devise. Tough, hard, fast-paced and demanding, this training made sure that when real battles took place they would be won and they would be won with minimum casualties.

What are the results of this superb equipment and training? In Operation Desert Storm, for example, we lost not a single aircraft to air-to-air combat. We destroyed over 3,300 Iraqi tanks and lost only a handful of our own. We dropped bombs that took down entire bridge spans in a single stroke, bridge spans that in previous wars had taken thousands of bombs to destroy.

Such a performance is a result of the best equipment, the best training, the best readiness—and, above all, the very best American troops in the very finest Army, Navy, Air Force, Marine Corps and Coast Guard in the world.

The thunder and lightning of Operation Desert Storm came from another place as well. Training, equipment, readiness, people—all of these things only combine to produce victory under leaders who understand how to use them.

General Norm Schwarzkopf has laid to rest the ghost of Vietnam. Norm is the kind of general President Lincoln searched for through most of the Civil War. President Bush was fortunate to have Stormin' Norman in charge from the very beginning of this crisis.

General Schwarzkopf did not do it alone. Lieutenant General Chuck Horner, his Air Force Commander and the man who orchestrated the air campaign, was a key warrior in Operation Desert Storm. His brilliant and decisive use of air power to shape the battlefield will be studied for many, many years to come.

At the head of the Army ground forces was Lieutenant General John Yeosock. John is also the commander of the United States Third Army—the same Army that General George Patton hurled against Hitler's legions in France in 1944 and 45.

I think old George would be pretty proud of what he saw Army forces doing, going across the deserts of Iraq if he could look down and see them.

Let me tell you a little bit about John Yeosock—he's a war college classmate of mine, as is General Chuck Horner—but 8 days ago General Yeosock had pneumonia and he needed emergency surgery. And the past Sunday—the Sunday before yesterday—he was evacuated to Germany, he was operated on the next day, and on Wednesday I was looking for him—he was back in Saudi Arabia and with surgical stitches still in his side, he controlled the two Army corps that slashed into Iraq and encircled and destroyed the Iraqi Army before they knew what hit them.

And in command of the Marines and soldiers who charged right into Kuwait was Lieutenant General Walt Boomer. General Boomer's own Marines, standing in a just-liberated Kuwait City, summed it up best. They said that they had attacked 11 Iraqi divisions with two Marine divisions—so the odds were just about right.

And at sea, controlling an historic maritime operation and at the same time supporting land operations, was Vice Admiral Stan Arthur. Overseeing more than 120 warships—the largest and most powerful naval armada since World War II—Admiral Arthur conducted a series of feints that tied up a large number of Iraqi divisions waiting for an amphibious operation that we now all know did not come.

Admiral Arthur had another force under his command that very often gets overlooked when it comes to time to hand out praise for performance in battle. The United States Coast Guard contingent operating under the United States Navy did—and is still doing—a superb job in the Gulf.

Let's hear it for the Coast Guard!

And supporting all of these components were Special Forces operating deep behind enemy lines under Colonel Jesse Johnson and a number of others and a magnificent—magnificent—logistics command under LTG Gus Pagonis who made sure our troops going into battle had everything they needed and they wanted—for nothing.

I can't tell you how many other commands and commanders were involved in this entire operation—it would take all day. Let me just say it was a textbook joint operation. No service parochialism. No logrolling. Each service doing what it does best to insure victory. It was a great team effort.

As I tell you about the great leaders who have helped bring about this victory, I have to tell you about one other leader as well. And since I've arrived at the highest point in the military and the highest point in my career—I can't go any higher in the military—I'm allowed at this time to praise my boss.

Secretary of Defense Dick Cheney's calm, deliberate leadership for the past seven months has been indispensable and a key to our success. The American people got their money's worth out of Dick Cheney. you should all be very proud of your Secretary of Defense as we are in the Department.

Our thanks also go to the families of our GIs—separated from them, worried about them, paying a terrible price in anxiety. Their support was another key to our success.

I grieve with those families who have lost loved ones. I wish that we could have fought this war without a single casualty. I wish that not a single soldier had been in that barracks in Dhahran, Saudi Arabia when the SCUD missile struck last Monday night. But all my wishing won't change the reality of war.

To those families who have lost loved ones, their soldier, sailor, airman, or Marine made the supreme sacrifice. To those families, who will stand at cemetery sites, hear a mournful Taps, and receive folded flags amidst tears and great pain, I can only say God bless you and keep you and make your pain gradually subside and let your pride never die.

To the wives and husbands, mothers and fathers, children and all loved ones who kept watch, you have the undying gratitude of your Armed Forces.

For those American families who still anxiously await word of a loved one missing in action or held prisoner, I make this pledge: In this war it won't be over until we get a full and immediate accounting for all our POWs and MIAs.

Our troops in the Gulf may have had the finest strategy—and they did; they may have had the finest equipment and training—and they did; their leaders may have been the very best—and they were; but when boil it all down to the essence of what victory really takes, you come out with people.

You come out with the people in a GI's family. And the people in families who knew GIs and supported them.

You come out with the people who designed and made Patriot missiles, and M-1 tanks, and F-16 aircraft, Aegis cruisers, Apache helicopters, and light armored vehicles for our Marines, and all the thousands of other pieces of equipment that gave our troops the decisive edge.

You come out with the people who wear a military uniform but who never got to the war in the Gulf, yet they stand watch for freedom around the world from Korea to Panama to Germany.

You come out with reservists willing to drop everything to respond to the call of duty.

You come out with the 900,000 Department of Defense civilians who work tirelessly to support our troops.

And the people of state and city legislatures who passed resolutions in support of our men and women.

But ultimately success in war belongs to those on the line who, in a cockpit or a tank or a foxhole, put their lives on the line to win. To each and every one of those brave young Desert Storm troopers goes our heartfelt thanks and undying gratitude. All credit ultimately goes to them.

Over the past several months many people wrote letters to the President, and to Secretary Cheney, and to me and to all of our troops in the Gulf.

Many of the letters to me were from young people throughout America. They asked me to please bring home safely as many of the men and women in the Gulf as we could. These young Americans said they didn't like killing. But they said they knew this war had a purpose and they believed in that purpose, and they trusted America's leaders to fulfill that purpose and then to bring the troops home.

With the war now over, we will show those young people and all Americans that we will use our victory to build a stable peace in that troubled region. We were never at war with the Iraqi people. We hope a regime will emerge in Baghdad that is committed—finally—to living in peace with its neighbors.

And as we work toward that enduring peace, what will happen to America's Armed Forces?

I believe in the years ahead America must continue to field the very best Armed Forces in the world. And they must continue to have the best equipment, the best training, the highest readiness, and—most important—they must attract and keep high-caliber GIs such as those who fill the ranks today. Secretary Cheney and I will make this goal our first and most important priority in the years ahead.

Over the years, the VFW has always kept the faith. As veterans, your courage has never been questioned. But since the Vietnam War you've had some troubled times—as I have had and as the rest of America's Armed Forces have had.

You kept the faith with us and now those troubled times are over. You helped both the Armed Forces and the nation through some desperate years to keep our honor and our dignity intact. You prodded us through the good budget years of the past decade to use our money wisely and for the right things.

We did. And our efforts have paid off. Seven months ago we had the finest Armed Forces America had ever fielded in time of peace. That all-volunteer force has now proven itself in time of war.

In August at your Convention in Baltimore, I told you I believed that a new era of hope was dawning—an era created out of your sacrifice and out of the values and strength of the Free World. I went on to say that there were striking differences between the new era and the old one it's replacing.

In the old era, NATO stood as the bulwark against Soviet invasion of Western Europe. In this new era, many of our NATO allies answered the call to arms of Operation Desert Storm.

Today, we owe a large vote of thanks to those allies—and to all the members of the Gulf war coalition. There is no historical precedent for the incredible degree of cooperation and teamwork achieved by the coalition members. Victory is theirs to celebrate as well as America's. Kuwait's liberation is now part of all our histories.

And written into these histories will be an enduring tribute to thousands of brave, dedicated Americans. They will now be known as veterans of foreign wars. Their names may fade from memory. Their individual deeds may be obscured by time. But what they did for freedom will never, never be forgotten.

Thank you all for asking me to be with you today.

TRIBUTE TO MAYOR HERMAN COSTELLO

Mr. LAUTENBERG. Mr. President, I rise to pay tribute to Herman Costello, mayor of the city of Burlington, NJ. On April 13, he will be honored at the 10th annual Humanitarian Award Banquet of the Burlington County Chapter of the Knights of Columbus.

Herman is most deserving of this tribute. A distinguished public servant, since 1967 he has served as the city of Burlington's mayor. During that time he has been instrumental in the revitalization and restoration of historic areas of the city. He served 7 years in the New Jersey State Assembly and State Senate and 6 years on the city of Burlington Council.

A lifelong resident of the city of Burlington, Herman served during World War II in the aviation units of the U.S. Navy. He went on to attend Temple University and graduated in 1950 with a bachelor of arts degree in industrial management.

Upon graduation, he was employed by the R.D. Wood Co. of Florence, NJ, until 1964. Appointed comptroller for the Burlington County Bridge Commission, he went on to become its personnel director, and in 1984 retired from the commission.

In addition to his political service, Mayor Costello has long been active in public service organizations. A member of the city of Burlington Historical Society and the Burlington County Historical Society, he has served in many volunteer and fraternal organizations. These include chairman of the Burlington County Heart Fund, the Cancer Drive, the March of Dimes Walkathon, and the Boy Scouts Outdoor Program. He is a member of the Knights of Columbus, Elks, Moose, Roma Club, VFW, and the American Legion.

Recently reelected to his ninth term as mayor of the city of Burlington, he is a director of the New Jersey State Conference of Mayors. Over the years Herman has served the city he loves with dedication and commitment.

Loved and admired by family, friends, and colleagues, it is an honor to recognize this outstanding individual. I join in extending to Herman my heartiest congratulations as he is honored, and my warmest wishes for continued good health and happiness in the future.

REVOKE MFN FOR CHINA

Mr. MOYNIHAN. Mr. President, many in the Congress remain much concerned, indeed outraged, at the continuing repression in China. A day hardly passes that we don't read of some new dissident tried and imprisoned.

It is my view that we have no choice within the meaning of the Jackson-Vanik law, but to revoke most-favored-nation treatment for China. To not do so would continue the grossest form of double standard. One that favors unreconstructed totalitarianism. We will not, and correctly so, accord MFN to the Soviet Union until the Baltics are resolved. Indeed, Latvia and Estonia have once again inspirited the world by voting in referenda for the independenced that is their right.

Could we imagine Bejing permitting such a referendum in Tibet. There we see a policy of genocide. It is no small coincidence that China and Burma were the first nations to congratulate the military on its coup in Thailand. Erasing democracy is an activity they much admire.

How can we continue to favor the regime in China? Indeed, we learn that even as we continue our open market for China, they continue to violate our laws.

In an article in the New York Times yesterday by Nicholas Kristof, we are reminded of China's persistent behavior of violating its textile agreement with us. They have falsely labeled and shipped large quantities of textiles. More, they steal U.S. intellectual property. Pirated copyrights and software impose a huge cost on U.S. business. All of this when the United States trade deficit with China exceeded $10 billion in 1990. A record, even as the Tiananmen trials continued. The largest deficit we have with any country, save Japan and Taiwan. According to Mr. Kristof, some estimates suggest the deficit with China could be $15 billion this year, making it the second largest.

Mr. President, against this backdrop I renew my call to my colleagues to revoke MFN status for China. To this end, I introduced S. 38 on the first day of this Congress. We ought end our double standard in favor of unmitigated repression, and we ought stop the one-sided trade relationship that we now see.

I ask unanimous consent that the article from the New York Times by Nicholas D. Kristof 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, Mar. 4, 1991]

NEW TENSION OVER TRADE WITH CHINA

(By Nicholas D. Kristof)

BEIJING, March 2.—As China's trade surplus with the United States rises sharply, diplomats and business executives say relations between the two countries could worsen because of China's import restrictions, software piracy and other issues.

"The tremendous growth in the trade deficit, and the proliferation of Chinese measures to restrict access to the market for imports, taken together, constitute a meaningful, significant trade problem," Joseph A. Massey, assistant United States trade representative, said at a news conference Friday night after two days of talks with Chinese officials on intellectual-property issues.

China's trials of pro-democracy demonstrators seem to be largely completed, and so the human rights issue is expected to subside after two years in which it was the focal point of contention between the two countries. But since the Tiananmen crack-down in 1989, China has enjoyed a souring trade surplus with the United States.

Kenneth G. Lieberthal, a China scholar at the University of Michigan who is visiting Beijing, said, "There is good reason to be concerned about the potential deterioration in Sino-American relations in the coming months."

DEFICIT UP SHARPLY

While Beijing and Washington have differences on a range of issues, as well as in their ideologies and vision of the emerging international order, most people believe that trade disputes will be crucial in determining relations in coming months.

The United States trade deficit with China reached $10.4 billion in 1990, up from $6.2. billion in 1989. The only larger United States deficits are with Japan and Taiwan. By some estimates, the deficit with China will soar to more than $15 billion this year.

American imports from China include clothing, toys and shoes, with the value of the footwear more than double the level in 1989, according to figures for the first nine months of 1990. But while American imports were increasing sharply, American sales to China dropped sharply, from $5.8 billion in 1989 to $4.8 billion in 1990.

This trade imbalance, coupled with continuing indignation in the United States at the Chinese human rights situation, is expected to lead to another effort on Capitol Hill this year to withdraw China's "most favored nation" trade status. The effort failed last year, after the Bush Administration moved to quash it, but some experts say that Congress will try harder this year and that the Administration may devote less energy to the issue.

"Most favored nation" status is the key issue likely to emerge in coming months, executives say, and in the end most think it will be preserved after a fight. But they do not rule out the possibility that it will be revoked. That could cause a sharp drop in Chinese exports to the United States, retaliation by China and a significant chill between Washington and Beijing.

PROPERTY RIGHTS AT ISSUE

Another trade issue under negotiation concerns intellectual-property rights, which were the focus of Mr. Massey's talks with the

Chinese. China has always ignored copyrights, to the point that pirated copies of President Bush's autobiography are available from a number of Chinese publishers.

American software manufacturers are particularly concerned and estimate that pirated software in China may cost them $400 million a year in lost sales. Mr. Massey said the piracy problem in China was one of the most serious in the world.

To address the criticism, China has adopted its first copyright law, to take effect in June. But its effectiveness will depend on carrying out regulations that have still not been published or completed.

If the United States is dissatisfied with Chinese progress on the issue, the Office of the Trade Representative could initiate an action under section 301 of the Omnibus Trade and Competitiveness Act of 1988. After an investigation, that could lead to imposition of retaliatory tariffs against Chinese exports to the United States.

DUMPING CHARGED

There are also disputes about Chinese garment exports, and allegations that China breached its quotas limiting such exports to the United States. China is also accused of "dumping" certain products, at unfairly low prices in the United States market.

John Frisbie, director of China operations for the United States-China Business Council, said that in the last few months China had begun to increase its imports and that this may help ease trade frictions.

Underlying the disagreements, Washington and Beijing seem to have fundamentally different perspectives on where the fault lies. In the United States, China is often viewed as recalcitrant, deceptive and repressive, as well as determined to adopt a mercantilist policy of bolstering exports and curtailing imports.

In China, officials complain that the United States is trying to subvert the Chinese Government and has ignored positive steps Beijing has taken, like the release of many dissidents from prison and the adoption of a copyright law.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,180th day that Terry Anderson has been held captive in Lebanon.

S. 200—AMENDING THE INTERNAL REVENUE CODE OF 1986

Mr. PRYOR. Mr. President, I stand today to introduce legislation to provide regulatory relief to thousands of small businesses across the country. This bill will clarify the reporting requirements for mom-and-pop coin and bullion dealers, who have been unfairly treated by the IRS in the regulatory process.

The 1982 Tax Equity and Fiscal Responsible Act [TEFRA] changed Internal Revenue Code section 6045 to broaden the authority of the Internal Revenue Service in regard to the mandatory filing of reports by securities brokers and others.

In March 1983, the IRS promulgated its first regulations which became effective for transactions made on or after July 1 of that year. On March 5, 1984, the IRS issued proposed regulations to modify the March 1983 regulations. The proposed regulations conflict directly with the promulgated regulations, and the IRS has failed to take any action to clarify which set of regulations are binding. As a result, taxpayers find themselves in the impossible situation of having to conform to both sets of regulations at the same time.

There also seems to be confusion within the IRS as to the proper enforcement of these regulations. Some IRS agents require taxpayers to file 1099(b) reports on all transactions. Some agents ignore the regulations altogether, while other agents have suggested an arbitrary de minimis limit, such as 1 ounce of gold or one silver coin. All the while, these business people around the country do not know when the other shoe will fall, and the IRS will come in and decide retroactively whether or not their businesses are in compliance with the regulations.

Mr. President, this is no way to do business. If the Federal Government is going to require taxpayers to comply with costly, and time-consuming reporting requirements, the least we can do is clarify the law so that people know whether or not they are in compliance with those laws.

This bill will clarify the definition of "broker." It provides that collectibles are not brokered property. Finally, it exempts small transactions from the reporting requirements.

I believe this is a fair resolution to the problem, and I urge Senators to join with me as cosponors. Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD at the appropriate point.

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

S. 200

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

SECTION 1. CLARIFICATION OF DEFINITION OF BROKER.

Paragraph (1) of section 6045(c) of the Internal Revenue Code of 1986 (relating to definition of broker) is amended to read as follows:

"(1) BROKER.—

"(A) IN GENERAL.—The term 'broker' includes—

"(i) a dealer,

"(ii) a barter exchange, and

"(iii) any other person,

Who (for a consideration) regularly acts as a middleman with respect to property or services.

"(B) EXCEPTION.—A person shall not be treated as a broker with respect to activities consisting of managing a farm on behalf of another person."

SEC. 2. EXCLUSION OF CERTAIN ASSETS FROM REPORTED BROKERED PROPERTY.

Subsection (c) of section 6045 of the Internal Revenue Code of 1986 (relating to definitions) is amended by adding at the end the following new paragraph:

"(5) PROPERTY OR SERVICES.—The term 'property or services' does not include any metal or coin, other than any gold, silver, platinum or palladium coin or bar which is—

"(A) the subject of a regulated futures contract traded on a contract market designated by the Commodities Futures Trading Commission pursuant to the Commodity Exchange Act (7 U.S.C. 1 et seq.), and

"(B) in a size, and of a fineness and quantity, equal to or exceeding the minimum required for delivery in satisfaction of the regulated futures contract to which the coin or bar is subject."

SEC. 3. RELIEF FROM REPORTING REQUIREMENTS FOR SMALL TRANSACTIONS.

Section 6045 of the Internal Revenue Code of 1986 (relating to returns of brokers) is amended by adding at the end the following new subsection:

"(f) EXCEPTION FROM FILING FOR SMALL TRANSACTIONS.—

"(1) IN GENERAL.—Except in the case of stocks, bonds, commodity futures contracts, securities, and other intangible personal property, subsection (a) shall apply only to a transaction the gross proceeds of which are more than $5,000.

"(2) TREATMENT OF MULTIPLE TRANSACTIONS.—For purposes of paragraph (1)—

"(A) multiple transactions occurring on a single business day shall be treated as a single transaction, and

"(B) transactions occurring at night or over a weekend or holiday shall be treated as having occurred on the next busines day following the transaction."

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall apply to transactions occurring after December 31, 1989.

GOLDEN ANNIVERSARY OF THE WESTINGHOUSE SCIENCE TALENT SEARCH

Mr. MOYNIHAN. Mr. President, this week 40 of our Nation's finest young scientists visited our Capital to display their highly creative labors, to meet their future colleagues and mentors, and to compete for $240,000 in scholarships to help them take the next step in their scientific careers. I am, of course, referring to this year's finalists in the Westinghouse Science Talent Search, which celebrates its golden anniversary this year.

This contest was the brainchild of Watson Davis and G. Edward Pendray, who met at the New York World's Fair in 1939. They devised a plan to encourage high school students to become familiar with science by designing and performing their own scientific experiments. Pendray, a former science editor for the New York Herald Tribune, persuaded the Westinghouse Foundation to provide cash awards for the most deserving efforts, a sum which has totaled $2.8 million over the past five decades. In a half-century, the Westinghouse Science Talent Search has produced five Nobel laureates, two winners of the prestigious Fields Medal in mathematics, and eight winners of MacArthur Foundation Fellowships,

and 28 members of the National Academy of Sciences. Not a bad record.

I am particularly proud of the role that New York high schools have played in this unique program. Marina Prajmovsky of Farmingdale, NY, was one of the first winners in 1942. Roald Hoffmann, a refugee from the Nazis who immigrated with his mother from Poland to New York City in 1949, studied cosmic rays at Stuyvesant High School in New York City and won the Science Talent Search in 1955. Professor Hoffmann, now at Cornell University, went on to win a Nobel Prize in chemistry in 1981. Sheldon L. Glashow and Leon N. Cooper were Science Talent Search winners from the Bronx High School of Science who went on to win Nobel prizes in physics. Dr. Cooper credited his acceptance into Columbia University to winning the Science Talent Search in 1948.

These two New York City high schools, Stuyvesant High School and the Bronx High School of Science, have contributed nearly 10 percent of the Nation's Science Talent Search finalists over the past 50 years. Fourteen of the 40 finalists in town this week are from New York. The fact that 9 of the 10 top sources of winners in the Nation are New York City high schools testifies to a long-standing and enviable commitment to excellence at these institutions.

Truly, programs like Westinghouse Science Talent Search are of profound value to all of us. And, we must not forget the teachers who encourage and enable our brightest students to enter careers in scientific research. I ask my colleagues to join me in congratulating the Westinghouse Science Talent Search on the occasion of its golden anniversary and the young people selected as this year's winners. Mr. President, I ask unanimous consent that a copy of an article describing the Westinghouse Science Talent Search which appeared in Science News, as well as a list of the forty young scientists here in Washington to receive their awards, be printed in the RECORD.

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

THE 50th ANNUAL WESTINGHOUSE SCIENCE TALENT SEARCH FINALISTS

Mehul Vipul Mankad, Mobile, Alabama.
Weily Soong, Vestavia Hills, Alabama.
Rageshree Ramachandran, Fair Oaks, California.
Wei-Jen Jerry Shan, Riverside, California.
Tessa Lorrell Walters, San Dimas, California.
Mark Allen Larson, Thornton, Colorado.
Don H. Kim, Greenwich, Connecticut.
Clifford Lee Wang, Vero Beach, Florida.
Joseph Izak Seeger, Evanston, Illinois.
Irwin Lee, Naperville, Illinois.
Nuper Ghoshal, Ames, Iowa.
Joel Ellis Moore, Chevy Chase, Maryland.
Lori Ann Stec, Tory, Michigan.
Kimberly Ann Chapman, Omaha, Nebraska.
Stanley Lu, Bridgewater, New Jersey.
Denis Alexandrovich Lazarev, Fair Lawn, New Jersey.
Dean Ramsey Chung, Mountain Lakes, New Jersey.
Cameron Rea Haight, Santa Fe, New Mexico.
Cheryl Lynn Pederson, Armonk, New York.
Ciamac Moallemi, Bayside, New York.
Nuri Mehmet Kodaman, Douglason, New York.
Debby Ann Lin, Elmhurst, New York.
Linda Tae-Ryung Kang, Flushing, New York.
Jim Way Cheung, Jackson Heights, New York.
Tara Sophia Bahna-James, New York, New York.
William Ching, New York, New York.
Petal Pearl Haynes, New York, New York.
Tien-An Yang, New York, New York.
Yves Jude Jeanty, Ozone Park, New York.
Michael John Lopez, Stony Brook, New York.
Ani Jean-Mee Fleisig, Woodhaven, New York.
Sunmee Louise Kim, Woodside, New York.
Ashley Melia Reiter, Charlotte, North Carolina.
Jeremy Randall Riddell, Bellbrook, Ohio.
Susan Elaine Criss, Pittsburgh, Pennsylvania.
Wade William Butin, Spring, Texas.
Tatiana Tamara Schnur, Burke, Virginia.
Judson Lawrence Berkey, Manassas, Virginia.
Venkataraman Kuntimaddi Sadananda, Springfield, Virginia.
Daniel Moshe Skovronsky, Vienna, Virginia.

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"GO FOR IT, KID" LOOKING BACK ON FIVE DECADES OF THE SCIENCE TALENT SEARCH

(By Ron Cowen)

Clifford Lee Wang loves tennis and plays the piano with polish. Jeremy Randall Riddell toots the trumpet, backpacks and raises chickens. Susan Elaine Criss has earned seven varsity letters in track and soccer and has twice captained her high school soccer team.

Not exactly your description of bookworms.

These students and their fellow finalists in the 50th Westinghouse Science Talent Search form an eclectic group of teenagers: They're as exuberant about DNA as dancing, as likely to talk about betacarotene as baseball.

Next week, the 40 finalists will follow in the footsteps of 1,960 previous Westinghouse award winners since the 1940s, traveling to Washington, D.C., to exhibit their work to the public and compete for scholarships awarded at a black tie, grand finale banquet.

And if they engage in a few youthful pranks on the side, such as a late-night climb into the lap of the Lincoln Memorial statue, they'll only be echoing some of the antics of their predecessors.

The talent search (minus the visits to Lincoln's lap) originated with two ex-reporters who, in the late 1930s, sought to identify and encourage budding science talent among high school students. One was Watson Davis, the first radio reporter to specialize in science, who in 1933 became director of Science Service, Inc.—a nonprofit foundation dedicated to improving pubic understanding of science and which publishes SCIENCE NEWS.

The other was G. Edward Pendray, a former science editor for the New York Herald Tribune, who joined the Westinghouse Electric Corp. in 1936 as special assistant to its president. He and Davis met in New York City at the 1939 World's Fair, where, thanks to Pendray's efforts, Westinghouse displayed the winning entries of a science fair open to New York City high school students.

The World's Fair of '39, boasting such marvels as the first television sets and a shimmering fountain of dancing water plumes, reflected the new optimism of a nation recovering from the Great Depression. It was there that Pendray and Davis decided science education in the high schools could no longer be left to languish.

At the time, fewer than 1,000 of the nation's 25,000 high schools employed trained science teachers or even offered rudimentary science courses. Often, a meager curriculum labeled as "science" was relegated to the athletic coach.

"Watson and I agreed that science was too important for the nation and the coming generation to be neglected in the high schools," Pendray later recalled. So they devised a plan to publicize the importance of science education by encouraging teenagers to design and perform their own experiments. The promise of college scholarship money would provide a financial incentive for the students, they reasoned, and science teachers could earn recognition through their students' awards.

"Having the competition gives the teachers a tangible target for students to shoot for," says G. Reynolds Clark, president of the Westinghouse Foundation. Westinghouse has provided more than $2.8 million in scholarships and cash awards to talent search winners over the past 50 years.

"Watson Davis always said, 'Kids should get their hands dirty and their minds disturbed,'" Says Dorothy Reynolds Schriver, who became Davis' personal secretary in 1941 and who directed the talent search from 1958 to 1986. Since 1986, Carol Luszcz of Science Service has administered the program.

The first Westinghouse Science Talent Search began early in 1942, just months after the attack on Pearl Harbor drew the nation into World War II. The program's organizers contacted every U.S. high school directly while also spreading the word through a national organization of high school science clubs, headquartered at Science Service. That year's competition drew some 3,000 applications but did not involve student research projects. Instead, all candidates took a special exam and wrote essays on a timely topic: how science could help win the war.

"I believe that, because their ingenuity has always had unlimited exercise in the field of free thought, the scientific men of the United Nations and particularly of America will ultimately outstrip the regimented researchers of the Axis powers in the development of those processes and inventions that will enable the fighters for freedom to emerge victorious!" wrote 18-year-old Paul Erhard Teschan in an essay outlining "five avenues of [scientific] attack." Submissions from other students echoed his sentiment.

Evaluating boys and girls spearately (a practice that would continue until 1948), the three judges whittled down the list of applicants to 300 semifinalists and then selected the top 40 to come to Washington in June to compete for scholarship money. (That basic selection process continues today. From a field of about 1,500 entries, eight judges select the 300 semifinalists and 40 finalists. Based on interviews with each finalist, the judges then award scholarship prizes. This year to top 10 winners will share a total of $175,000; the remaining 30 finalists will each receive a $1,000 scholarship.)

Eleanor Roosevelt greeted the 1942 finalists at the White House, serving them tea on the South Portico. The two top winners that year were Marina Prajmovsky, of Farmingdale, N.Y., and Teschan, of Shorewood, Wis.

"It came as a total surprise, really, that I even should have been among the 40 finalists," Teschan recalls. "At the banquet, when they awarded me one of the two top scholarships, I was floored." For Teschan, the scholarship meant attending Carleton College without taking on a full-time job to pay for tuition. But there was a more fundamental benefit, he says: "It affirmed that I had some of the ingredients necessary for success in science."

"It was fine to get high marks and do well in high school," he adds, "but the idea that I could compete successfully in a field of top students from all over the United States provided an assurance that I was on the right track. It told me: 'Go for it, kid!'"

Teschan went on to medical school and a 21-year research career in the Army. He now studies kidney disease at the Vanderbilt University School of Medicine in Nashville.

By the 1950s, science-minded teenagers had begun to associate "top 40" with something other than pop tunes. A generation of young Jewish Americans—the children of refugees from Europe—captured many of the top talent search scholarships during that era. Many studied at one of two New York City schools that continue to specialize in science education today: Stuyvesant High School and the Bronx High School of Science.

Among those students was Roald Hoffmann, a young immigrant from Poland. When Hoffmann was 6, his father smuggled him and his mother out of a Nazi labor camp. Mother and child hid in the attic of a Polish schoolhouse; the Nazis killed Hoffmann's father. After the war, Hoffmann and his mother lived in refugee camps, where he read biographies of Marie Curie and George Washington Carver.

He and his mother emigrated to the United States in 1949, where the 11-year old learned English—his sixth language. And in 1955, Hoffmann—then a senior at Stuyvesant—entered the talent search with a project analyzing the tracks of cosmic rays. His winning study earned him his first trip to Washington, where he posed for a photograph with President Eisenhower along with other boys sporting crewcuts and girls in crinolines.

But perhaps the most significant event of that trip, he says, was the chance to meet with a scientist from the National Bureau of Standards. The researcher encouraged Hoffmann to apply for a summer job at the bureau, and he got the position. That summer's experience—rare for a high school student—sparked a lifelong interest in chemistry.

"I came into chemistry through a sequence of events that began with the Westinghouse Science Talent Search," he says. Now a professor of chemistry at Cornell University, Hoffmann has also written two books of poetry. In 1981, he won the Nobel prize in chemistry for applying the laws of quantum mechanics to chemical reactions and structure.

Four other Westinghouse winners have gone on to become Nobel laureates: chemist Walter Gilbert and physicists Sheldon L. Glashow; Leon N. Cooper and Ben R. Mottelson. Cooper credits the student competition with his acceptance into Columbia University in 1948—a time, he says, when the university took few applicants from New York. Two talent search alumni have been honored with the Fields Medal—known informally as the Nobel prize of mathematics—and eight have received McArthur Foundation fellowships, nicknamed "the genius awards."

The search has undergone several changes over the years. Beginning in 1948, the judges evaluated males and females as a single group, and in 1972, Nina Tabachnik Schor became the first female to capture first place among finalists of both sexes—an event noted in newspapers around the country.

In the early 1960's the judges dropped the written examinations, which had been part of the competition since its inception. That move, notes Science Service President E.G. Sherburne, Jr., reaffirmed a fundamental precept of the talent search: that the creativity embodied in a research project may serve as the best predictor of future success in science.

In the decades that followed, the research projects became increasingly complex and sophisticated. Whereas earlier students made do with simple laboratory equipment or homemade devices and tackled topics such as the chemistry of making vingar, the 1970s and '80s brought new challenges such as quantum field theory, DNA cloning and computers. More and more applicants began conducting research in the laboratories of professional scientists, using such resources as electron microscopes and cyclotrons. And a new wave of immigrants came to the fore: Asian Americans.

As the talent search evolves, at least one fundamental ingredient remains constant: the support and encouragement students receive from their science teachers.

Consider, for instance, the efforts of biology instructor Richard Plass. In the 1970s, he set out to create an honors science program at New York City's Grover Cleveland High that would challenge the school's brightest students—and make them and their parents think twice before opting for a better-known school such as Stuyvesant or Bronx Science.

Working with a committee of science teachers and students, Plass developed a research program based on the study of primitive critters such as euglena, paramecia and simple bacteria. The school's program, dubbed Creature Features, attracted students as early as the ninth grade. Twenty of these youths became talent search semifinalists, and in 1981, a Grover Cleveland senior was a top-40 winner, drawing national recognition to a school not widely known for its academic excellence.

Plass himself was lured to Stuyvesant in 1982 for the position of assistant principal of biology. Today, he and a team of Stuyvesant teachers oversee a series of courses known as Research for Westinghouse. The program, inspired by Creature Features, encourages freshmen and sophomores with an appetite for research to take double periods of biology or physics. Students give presentations on classroom research and critique each other's work.

"They're doing library work, making a hypothesis, as if it were a regular [talent search] project," says Plass. "But they're doing it in a ninth grade class, using the biology they're learning." By the time they enter their junior year, he says, some talented students are "ready to take on the big one—the real contest."

Often, that means knocking on the door of a professional research laboratory. And often, an older Stuyvesant student is already working there, willing to help train the newcomer. "We have kids teaching kids," says Arnold Belush, a physics teacher who helps run the Stuyvesant program.

While teacher teamwork proved successful at Stuyvesant and Grover Cleveland, in other cases a school's success may trace to a single instructor. In the mid-1950s, for example, a small school in a semirural region began producing talent search winners. Students from Columbus High School in Marshfield, Wis., reached the top 40 in seven of the eight years from 1955 to 1962.

"The judges were completely flabbergasted that this little town had so many kids who could perform this way," says Schriver.

She and the judges soon found the key that had unlocked so much talent: a physics and chemistry teacher named Sister Mary Lauretta Bishop.

Before Sister Mary Lauretta joined Columbus High in 1952, becoming its first science teacher, she had taught in a Milwaukee school and had tried, without success, to produce a talent search winner.

"But when I got to Marshfield," she says, "I tried again. And I certainly was blessed with some wonderful students." One was Ronald E. Gates, who decided to study the chemistry of making vinegar, using some 20 natural products as different sources for the acidic compound.

The school had limited laboratory resources, and Gates collected his materials as best he could. He picked dandelions from the school's front lawn; for cattails, he visited the pond of a local farm. His teacher went with him to gather apples from a nearby orchard. Sister Mary Lauretta remembers the vivid rouge of Gates' cranberry vinegar, "as beautiful as a red wine."

Just before Christmas in 1958, Gates told her he would have to abandon the project because he wanted to earn some extra money for the holidays. A few weeks later, prodded by his father, he went back and announced he would like to continue after all. He recalls her response: "'I want you to know, I've fed your cultures, they're still going,' she told me."

"I would have had to start all over again if she hadn't done that," he says.

The project earned Gates a place in the winner's circle. "I can remember riding up on the train to Washington—all that pomp and circumstance, the telegram saying you won, the whole senior class seeing you off at the train depot. You begin to feel 'I really am special, I really am something.' Then you get there and you meet the other students, and you feel very humble."

In 1959, Sister Mary Lauretta supervised another student, Virginia Perner Fischer, who worked steadily after school for three months on a research project with which she seemed to need little help. "Then one day," says Sister Mary Lauretta, "she came in with all her paraphernalia, dumped it on the floor in front of me and said, 'I'm through.' 'Why?' I asked. 'Because you're never around,' Virginia replied. 'Is that what you need?' I asked. 'Yes,' said Virginia."

"From then on," says Sister Mary Lauretta, "I made it a point to show my face every day. And that's what she needed." Fischer became a Westinghouse winner in 1960.

"Virginia taught me a lesson that I revered because it came so spontaneously, so compellingly from the heart: If you're not there with the students, guiding them in some way, even if it's only the wink of an eye, you might as well close the book. The teacher is the vital point; the teacher's presence alone is enough to stimulate," Sister Mary Lauretta says.

Last year, Ronald Gates sent a letter to his high school helper, now 90 and a resident of Notre Dame Infirmary in Elm Grove, Wis. He wrote that he had decided to give up his ca-

reer as a biochemist and become a high school science teacher.

"If I can be a teacher half as good as she is, it will be terrific," he told Science News.

The talent search has its critics, notes Science Service's Sherburne. "We're often accused of being elitist," he says.

That's the view taken by Bill G. Aldridge, executive director of the National Science Teacher's Association. "I feel that [the search] simply provides advantage to the advantaged," he says. "The last time I went to one of the Westinghouse award dinners . . . I sat there with a young woman who won her award in chemistry. Her mother has a Ph.D. in chemistry; her father has a Ph.D. in chemistry; her uncle got a Nobel prize in the field in which she did her work. I come away from something like that saying, 'Oh, come on.'"

He adds: "Some of them are going to become outstanding scientists—that doesn't surprise me, they probably would anyway. But you're not even touching the science education in this country."

Sherburne disagrees. While many people believe that a "genius" will thrive without any special encouragement, studies tell a different story, he argues. He cites a 1982 report by Benjamin S. Bloom, an education specialist now retired from the University of Chicago and Northwestern University. Bloom examined the processes by which 25 individuals reached the highest levels of accomplishment in their field, including mathematics, neurology, swimming and tennis.

Bloom writes in Developing Talent in Young People (1985, Ballantine Books): "No matter what the initial characteristics (or gifts) of the individuals, unless there is a long and intensive process of encouragement, nurturance, education, and training, the individuals will not attain extreme levels of capability in these particular fields."

For student scientists, Sherburne maintains, the talent search has become an essential part of such nurturance and encouragement. Nina Schor, who won first place in the 1972 competition and who now studies the biology of children's cancer at the University of Pittsburgh, agrees: "At that stage of the game, at that level, the approval and go-ahead of senior scientists was very encouraging. It gave me a sense of 'Yes, I could do it; yes, I could measure up to their standards.' It fueled the fire already inside me."

"The contest may not make people who have no initial interest in science suddenly think about it as a career," Schor says. "But for people who have an interest but who have some doubt in the back of their mind as to whether they are good enough, this program says, 'Go ahead.'"

Adds Nobelist Hoffmann: "I think it encourages kids—like any competition—to do things well, to do the things they would not have thought themselves capable of doing. I think that was how it was for me. . . . Kids in high school are so keyed in on courses, on performance, on examination—but by focusing on a research project, you turn toward more of the reality of what science is about."

Aldridge suggests modifying the talent search, using a rating system that takes into account the socioeconomic hurdles a student may have had to endure or overcome in doing the project. "Right now, it's as if you have a race, and you're taking some kids and putting them up 20 yards from the finish line, and you're putting the other kids back 200 yards behind them. Then you have the race and you congratulate the people who only ran 20 yards."

All students should have access to the same resources, Aldridge says. He suggests, for instance, that giving everyone the same electromagnetic or mechanical kit with instructions to build a creative device in a given amount of time might provide a fairer "hands-on" research project.

Sherburne calls such a kit "contrived," arguing that it has little to do with the way real research is conducted.

While the debate continues, student scientists keep striving. In the end, the talent search is about the young and their drive to create, discover and achieve. It's about teenagers like Julie Yui Tu, who decided four years ago that her father's New Jersey junkyard was the perfect place to test an archaeological theory about the Incas. These ancient Peruvians moved massive stones in order to build their famed masonry walls. Noting that her dad's crushed junkyard cars were about the same size and weight as those stones, the 17-year-old Tu lugged the wrecks up crude, homemade ramps and built rough sledges, wooden rollers, pulleys and other tools resembling those the Incas might have used. The experiment led her to conclude that the Incas might have used beds of mud, leaves or other lubricants to ease the stone-dragging chore.

In 1987, Tu won a talent search award for her labors. At the moment, she's in China on an anthropological expedition, but she says she'll be back in Washington for the gala awards dinner on March 4.

"At the banquets, you can just see their minds dancing, and the sparkle in their eyes," says Clark of the Westinghouse Foundation. "It's fun to be part of that, to sense that kinetic energy flying around the room."

This year, hundreds of talent search alumni will share in that exuberance as they return to Washington to celebrate the competition's 50th year.

REFUGEES IN THE 1990'S

Mr. KENNEDY. Mr. President, the international community is faced today with the challenge of an unprecedented movement of refugees—from Indochina to the Soviet Union to Liberia. In fact, the number of refugees around the world has doubled in recent years, while the resources which we contribute to their care has diminished.

This is a time which invites vision and insight, and a debate is now occurring within the international community as to how to respond to existing demands and future trends.

In that connection, I commend to my colleagues a recent speech by Ambassador Princeton Lyman, Director of the State Department's Bureau for Refugee Programs.

He provides an extraordinarily thoughtful review of the refugee challenges we face at the beginning of this decade.

Unfortunately, the need to assist refugees and other migrants has not diminished along with the cold war. As Ambassador Lyman states, "the sources of persecution, and the nuances of the problems around them, will, however, change and challenge us all." And he goes on to outline some of the refugee and migration issues which lie ahead.

And speaking before a conference of Church World Service, chaired by its director, Dale de Haan, Ambassador Lyman also acknowledged the important role of America's voluntary agencies in our national program to assist and resettle refugees.

In addressing his audience of voluntary agency representatives, he notes that

Those of us in government have an important role to play. We must develop proposals, ceilings, and budgets which determine just how many and from what countries refugees can come to the United States. But it is you and your affiliates—your volunteers and many families which become involved—which make the program concrete and make it successful. We deal with numbers and abstractions, you deal with the people involved. You make each refugee welcome; you give them their start, their first real taste of America. You give the program its heart.

Mr. President, I ask that Ambassador Lyman's thoughtful comments be placed in the RECORD.

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

ADDRESS BY PRINCETON N. LYMAN, DIRECTOR, BUREAU FOR REFUGEE PROGRAMS, DEPARTMENT OF STATE TO THE OPERATIONAL STAFF CONFERENCE OF CHURCH WORLD SERVICE, FEBRUARY 12, 1991

INTRODUCTION

I appreciate your invitation to make the keynote address for your annual meeting in 1991. We are at the beginning of the final decade of the twentieth century and the question hangs over us whether this is the transition to a new century of world peace and cooperation or the beginning of a new era of unceratinty and instability. Certainly the prospects for this decade have changed dramatically in just the past few months.

Before addressing the future as concerns refugees, let me take this opportunity to express the appreciation of all of us in the government who work on refugee affairs for the extraordinary dedication and conscientiousness which each of you and your local organizations devote to refugees coming to the U.S. Those of us in government have an important role to play. We must develop proposals, ceilings, and budgets which determine just how many and from what countries refugees can come to the U.S. But it is you and your affiliates—your volunteers and many families which become involved—which make the program concrete and make it successful. We deal with numbers and abstractions, you deal with the people involved. You make each refugee welcome; you give them their start, their first real taste of America. You give the program its heart.

THE ISSUES OF THE 1990S

When Dale de Haan asked me to make this talk, and talk about the issues we will face in the 1990s, I thought of it as a speculative look into the future. Then it occurred to me that we are in the 1990s. The issues we will face are already largely defined for us. We will be fortunate to solve those already on our plate.

But there are also trends and problems on the horizon rapidly coming to the fore. We must prepare for these, lest they overwhelm us.

PRESENT SITUATION

The situation today, and which will define much of our task in the years ahead, is one

that is not encouraging. There are some 15 million refugees in the world today, twice the number of a decade ago. Thirteen million of these are under U.N. care. Many of these, it is important to note, are the result of long-standing conflicts, conflicts which today may have even lost some of their original meaning, but which linger nevertheless. They are a lesson that the legacies of one era stay with us for years, indeed decades thereafter.

Look at the major sources of refugees today. One third of the world's refugees are Afghans. The conflict in Afghanistan was triggered by the Soviet invasion in 1979, an invasion from which the Soviet Union has long since withdrawn its troops, but the struggle continues. Or look at the conflict in Mozambique, one which has its origins in a relationship between Mozambique and the Soviet Union that no longer pertains and from a South African policy that is rapidly changing; the internal sources of the conflict are also disappearing with the transition to a multi-party system of government and an open economy. Still the conflict continues, easier to begin than to end. Mozambique accounts for one million refugees. And there is Cambodia, whose internal wars hark back to the Vietnam war, the Cold War and the rivalry between China and Vietnam—all of which contributed to tearing Cambodian society apart. Even with most of the external powers now agreed on the desirability and indeed the outlines of a settlement, it remains out of reach. Bringing just these three conflicts to an end would allow half the world's refugees under U.N. care to return home.

The positive side to this is that, as the origins of these conflicts are mitigated, active efforts to resolve them are under way. In all of the conflicts I have mentioned, intensive negotiation processes are in train, offering the hope that in the 1990s, these three major refugee problems can be finally resolved.

If that does happen, we can rejoice. But the challenge then will be to pay for these settlements. In each of the cases I have mentioned, the countries in question have been devastated, mined, people dispossessed while others have taken their land, infrastructure destroyed, education and training virtually brought to a standstill. The bill for each of these settlements—for peacekeeping forces, for repatriation of the refugees, and for redevelopment of the countries—thus runs in the billions. Are the resources there? After the tremendous efforts to finance not only the war in the Gulf but the economic damage for front line and other vulnerable states affected by it, after major efforts to assist the new democracies in Eastern Europe and to stave off disaster in the Soviet Union, will the will and resources be there to pay for these solutions? This indeed is one of the great challenges of the 1990s: to pay both for the "sins" of the past and the new problems of the 1990s.

The Gulf war may also exacerbate another old problem, one which has been with us for forty years: the Palestinian refugees. There are presently some 2 million Palestinian refugees living in Jordan, the Occupied Territories, Syria and Lebanon. U.N. assistance to them has been able in recent years to focus on education and health, because basic food and shelter did not have to be provided; many refugees were working, in the Occupied Territories, in the Gulf and sending back remittances, in Israel. But the future of Palestinian workers in the Gulf is uncertain. Already the invasion and occupation of Kuwait has deprived tens of thousands of them of their income and life savings; they are returning not as providers but as people needing assistance themselves. The current situation has also led Israel to impose strict curfews on the refugee camps and other Palestinian living areas in the Occupied Territories, thus depriving many of their livelihood. Already, the U.N.—through UNRWA—has had to begin extending emergency food assistance to both refugees and non-refugees in the Occupied Territories. And Jordan has asked how it can be expected to accommodate the perhaps hundreds of thousands of Palestinians with Jordanian travel documents who might return from the Gulf if they are no longer welcome there after the war. Jordan already claims to have received 200,000 Palestinians since the invasion of Kuwait. Thus an old problem may become even worse in the 1990s.

NEW ISSUES OF THE 1990S

Even as these legacies of past decades carry into the 1990s, new issues are arising. None has perhaps begun to grab the attention of our friends in Europe—and in a different way in Asia—as the spectre of mass migration.

It is seemingly the changes in Eastern Europe that have brought this issue to the forefront. As societies in Eastern Europe—and one hopes in the Soviet Union—become more open, the movement of people takes on a different meaning. When Eastern Europe was under Communist control, we and our European allies treated people fleeing those regimes as refugees for the most part, even when as in some cases their individual experiences did not meet the test of persecution. But with democratic regimes in place, the presence of Poles, Romanians, and prospectively Russians take on new meaning. All over Europe, in more conferences and seminars that we can keep up with, the issue of migration is being discussed, new mechanisms of both cooperation and control are being fashioned and debated, and old systems are being reevaluated.

The source of this concern in Europe is easy to see. In the 1970s, the average annual number of asylum requests for all of Europe and North America was 25,000. In 1980, it jumped to 160,000 but then dropped to 70,000 by 1983. However, in 1990 the number went up to an extraordinary 550,000. Many are from Eastern Europe but at least half are from the Third World. So while much of the recent attention has focused on the Soviet Union and Eastern Europe, the roots of the problem are also in the Third World. Asylum systems in Europe and Canada (and indeed in the U.S.) have been overwhelmed by this rise in numbers. And as the systems have proved incapable of handling these large numbers, the problem has been addressed by inaction rather than action. What I mean is this: some 80% of asylum applications in Western Europe are rejected, yet 85% of the applicants never go back home. At the same time, Europe and North America spend—are you ready?—at least $5 billion a year on the processing and care of asylum applicants. That is ten times the UNHCR budget for the 13 million refugees under its care. These are some of the factors creating concern.

The other cause for concern is that it is assumed that most of these applicants today are coming more for economic than political reasons. Europe has less of a clear immigration system than Canada, Australia or the U.S., so asylum application becomes in most cases the means of entry. But clearly this will not be adequate or appropriate for the 1990s.

There are many challenges for the 1990s that arise from this concern over migration.

One is protecting the principle of asylum for refugees—people fleeing persecution—as nations institute new means of control over their borders. In the backlash against rising numbers of migrants, countries sometime lean toward actions which threaten that principle. We have seen a most disturbing example of that type of action when Yugoslavia recently forced more than 300 Albanians back across the border.

Because of our concern over this issue, the U.S. has entered actively into the debate in Europe. One of our objectives is to protect the right to asylum. For example, we have encouraged and will help fund training in Eastern Europe so that those countries can manage any large influx of people and know how to obtain international help. We have urged the inclusion of the principle of asylum in the various documents coming out of these many fora.

A second challenge, however, is to define ways to protect those who are fleeing oppressive regimes for a complex set of reasons that do not fit within our traditional definition of refugees, but which also is not simply the desire for a better job. We are on tricky ground here. If the definition of refugee, i.e., someone with a well-founded fear of persecution, is broadened too far, we risk losing the sympathy and cooperation of potential first asylum countries in the face of large-scale or even moderate movement of people.

We face this problem already in Southeast Asia with the Vietnamese boat people. By 1989, neither first asylum nor many of the other resettlement countries were prepared any longer to accept all Vietnamese boat people as refugees. For our part, we could not countenance any of them being forced back to Vietnam, even if they were not individual victims of persecution. An international agreement known as the Comprehensive Plan of Action sought to mediate this conflict of views. The CPA provides for screening the asylum seekers to determine those who meet the refugee definition, but also provides a safe means of return for those who do not. But even this effort to extend, if you will, a modicum of international protection to the non-refugees, has been difficult. The UNHCR, by extending its activities to the process of encouraging repatriation of the screened out, has been criticized by some for abandoning its concern for refugees and asylum. On the other hand, first asylum countries continue to balk at the special protection given to the screened-out, wanting to assure that they will return. We may see in the CPA, even with its special circumstances, a microcosm of the problems we will face in Europe in the 1990's.

The third challenge arising from this concern over migration is that of international responsibility. How should we share the tasks? At a conference I attended recently on the prospects of Soviet migration, the representatives of the newly democratic countries of East Europe said they would gladly fulfill their responsibilities of providing first asylum—assuming of course that the West would quickly aid them by letting the refugees pass on through to the western countries, an assumption that did not necessarily sit well with the West Europeans. And what of our responsibilities: how much of European migration should be seen as a European problem, to be addressed at least in the first instance by Europe, or how much an international problem to be shared out equally? How does one find the right balance that does indeed represent equity? In the

CPA, while a shared set of responsibilities, we have agreed to resettle at least half the Vietnamese and Lao found to be refugees. Does that entitle us to ask European nations to do more for migrants coming to Europe? Will we be able to exercise sufficient influence in protection issues if we take that stand?

I began the discussion of the issues of the 1990s with old conflicts. Let me conclude this discussion of new challenges on the international front with that of new conflicts, conflicts which do not have their roots in the Cold War or other previous international rivalries, but which are arising from deep internal rifts: ethnic conflict in Liberia, ethnic and sub-regional conflict affecting Rwanda, and perhaps the same phenomena in Eastern Europe. Will we be able to mobilize the international attention and assistance to these new sources of refugees? Or will they, less directly related to our international positions, be far from our attention and therefore our input? We have so far addressed the Liberian crisis with minimally acceptable responses, but as we see trouble in Rwanda, and growing problems in southern Senegal, and continuing civil war in Sri Lanka, our humanitarian and political impulses will be tested.

ADMISSION IN THE 1990S

The challenges of the 1990s will also raise new issues with regard to our admissions problem. As in other refugee matters, the refugee admissions program today still addresses in large part legacies of past decades. Some 45% of our admissions come from Southeast Asia. We continue to focus on Vietnamese and Lao as a by-product of the war, the dislocations, and the continuing oppression in that region, matters in which we were so heavily involved in the past. It is a responsibility that continues and which we cannot ignore.

Another one-third of our admissions come from the Soviet Union, with special efforts in regard to religious minorities. The roots of that program go back not just to the Cold War but indeed to World War II and the Holocaust. This too is a responsibility from which we cannot turn away.

But in a few years, these clear cases of "special humanitarian concern"—as the 1980 Refugee Act defines those refugees we would admit into the U.S.—will gradually decline or move gradually into the stream of regular immigration. Already our ODP in Vietnam will bring in twice as many regular immigrants as refugees in FY 91. If the present trend of migration to Israel and the U.S. continues, nearly all the Jews in the Soviet Union will have departed by the end of 1995. What will be the people of "special humanitarian concern" after these? How will we define our interests? Or will we reduce our admissions back to those of an earlier period?

CONCLUSION

Clearly the 1990s will not be dull, nor lacking in challenges. We will be in transition, from addressing several old problems, on which we cannot turn back, while beginning to see new ones emerging. We need to keep up. And we need to remember the basic purposes of our refugee program: to help those who are victims of persecution. That need unfortunately, will continue to be with us in the 1990s. The sources of persecution, and the nuances of the problems around them, will, however, change and challenge us all.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is concluded.

RESOLUTION TRUST CORPORATION FUNDING ACT

Mr. RIEGLE. I now ask unanimous consent that the Senate proceed to the consideration of calendar No. 22, which is S. 419, the Resolution Trust Corporation funding measure. I do so on behalf of the majority leader who has the authority to proceed to this measure.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 419) to amend the Federal Home Loan Bank Act to enable the Resolution Trust Corporation to meet its obligations to depositors and others by the least expensive means.

The Senate resumed consideration of the bill.

Pending:

D'Amato Amendment No. 13, to protect tenants from unnecessary eviction by the Resolution Trust Corporation.

Mr. RIEGLE. Mr. President, we are now returning to consideration of the Resolution Trust Corporation Funding Act of 1991. I cannot emphasize strongly enough my conviction that we must pass this legislation quickly.

I appreciate the fact no Senator wants to vote for legislation to increase spending on thrift deposit insurance losses by $30 billion, which is the sum contained in this bill, or, for that matter, any near approximation of that number.

It was just 19 months ago the administration told us the $50 billion we provided at that time in the FIRREA law would be sufficient, even though we repeatedly questioned that judgment. Time and again they indicated that would do the job, and therefore that was the amount provided at the outset.

Today's assessment has the administration now telling us they need this additional $30 billion rather urgently because they have failed institutions they want to close and the losses on those institutions are mounting while they remain open. In addition to that—and everyone is on notice—beyond this $30 billion they anticipate needing another $50 billion down the line to finish the job of closing failed thrifts they see on the horizon.

The total then of the money we are anticipating the administration will require is the original $50 billion plus today's $30 billion, contained in this legislation, and, by administration estimate, an additional $50 billion down the line to finish the job for a total roughly of $130 billion.

Mr. METZENBAUM. Will the manager of the bill yield for a question?

Mr. RIEGLE. I do. I am going to make an opening statement, but I am happy to yield to my colleague.

Mr. METZENBAUM. It is my understanding we have not put in $107 billion. Is the Senator from Ohio mistaken about that? Is it $50 billion or $107 billion?

Mr. RIEGLE. Is the Senator referring to the use of working capital or is he referring to losses prior to the enactment of FIRREA?

Mr. METZENBAUM. I am talking about what it has cost the American taxpayers so far for the savings and loan debacle.

Mr. RIEGLE. In terms of net costs related to losses incurred in that industry the figures I have just cited—the $50 billion authorized by the FIRREA legislation, which will very shortly be expended, the additional $30 billion that is being sought today, and the future $50 billion that is anticipated—add up to a total of $130 billion.

In addition to that, there were losses incurred prior to the enactment of FIRREA. There were losses at an earlier stage in time, some of those associated with the 1988 deals, for example, which the Senator has been very much involved in endeavoring to have reopened. And then there were additional losses prior to that time.

Mr. METZENBAUM. As I see it, I think we owe the American people the responsibility of telling them how much the savings and loan bailout has cost to date, and then talk about what the future costs would be. So I am trying to get a figure as to what has been expended by the RTC for FIRREA so we know the total cost of the previous agency, the FSLIC.

Mr. RIEGLE. If you take the $130 billion figure I have just cited two or three times without going back and indicating how that is constructed, to that would have to be added approximately $57 billion that was expended prior to the enactment of the FIRREA legislation. So if you add that to it, that would take it up essentially to $187 billion.

Now, there are two ways to do this calculation. These are big numbers no matter how you do it. But $187 billion would be the actual amount of checks that need to be written for direct losses as we have both experienced them and as we anticipate them.

However, some of these expenses are financed, as the Senator well knows, out over 30 years, and in some instances 40 years. If one were to include the interest costs due to long-term securities used to finance part of this spending, that would increase the dollar costs, considerably.

If, for example, that borrowing and the paying of interest had been avoided and foregone, then the costs would have all occurred right now and been paid right now. The kind of figures I have given you are what is called present value calculations. They total $187 billion from 1985 on. But if one tacks on the financing costs over 30 or

40 years, then it builds up the cost of the resolution of this problem. It would take the figure up into the hundreds of billions of dollars.

Mr. METZENBAUM. Up to maybe the $500 figure.

Mr. RIEGLE. It could conceivably be a figure that high. That is right.

Mr. METZENBAUM. Is it a fact that if this $30 billion is appropriated, it is contemplated the RTC would borrow an additional $48 billion?

Mr. RIEGLE. That is correct. Although it needs to be noted that that money is borrowed to finance, to provide working capital for assets that are to be taken into the RTC, that are presumed to have a value equal, or nearly equal, to that amount of borrowing.

So while that money is to be borrowed from the Federal Financing Bank, over on a separate track——

Mr. METZENBAUM. The Federal Government.

Mr. RIEGLE. Yes, through the Federal Government—it is to finance the accumulation of an inventory of assets which over time will be sold off.

So that money will be returned to replace that borrowing. That money is, one presumes, a temporary use of funds in the form of working capital until these assets of failed thrifts are worked out over some period of time.

That is exactly right. There is that additional borrowing authority that takes place, although it is matched by collateral in the form of these assets.

Mr. METZENBAUM. Will the Senator from Michigan be good enough to advise why they do not go out and borrow the $40 billion now, and not need this $30 billion, and not come to us until they have expended that $48 billion?

Mr. RIEGLE. The RTC has a large number of failed thrifts that are awaiting resolution.

The difference between the insured liabilities and value the RTC expects to receive for the assets has to be covered by an amount which represents, really, a loss. In order to get to the point of resolving that particular institution you have to be able to pay off the depositors in that institution or pay another institution to accept those deposits.

In order to do that, you have to have enough money to cover the loss on the front end, and in turn have some working capital over, on a separate track, to finance the handling of the assets that you have taken back that you cannot sell on the first day. So you need funds to cover the loss, which come only from appropriations and working capital which can be borrowed because when the assets are sold, there will be money to pay it back.

Mr. METZENBAUM. Is it not the fact that the RTC actually now has $150 billion in assets, securities, mortgages, and various other kinds of assets that could be used to raise that money? Why does the Federal Government then have to come in with $30 billion? Why do they not borrow against what they have now?

Mr. RIEGLE. They cannot use money borrowed from the Federal Financing Bank to cover losses. That money is already pledged. That money has been borrowed only temporarily for the sake of working capital, to hold these assets until they can be turned over, after titles have been cleaned up in many cases. There is a lot of problems in getting some of these assets to the point where they can be sold. Some are very hard to sell.

Mr. METZENBAUM. Is there not about $28 billion in actual securities that are marketable?

Mr. RIEGLE. We are told by the RTC that securities that they acquire that are easily marketable, are being marketed in an orderly fashion. Some securities, including junk bonds are not very marketable, so those take a longer time.

We have had oversight hearings on the asset disposition issue. We have been concerned about whether these assets have been managed efficiently and sold for full value, sold on a timely basis, and so forth. The problem has been there has been such a huge volume of institutions that have to be closed, and with a huge volume of assets it is a very complicated task.

I do not make any excuses for the conduct of the organization because I am sure there are plenty of examples of slips and starts in terms of them getting tooled up to do this job.

But the fact of the matter is that over whatever time period they sell these assets, all of the money from the Federal Bank Financing is temporary working capital that has been borrowed to finance inventory of assets.

So that money is not available for use to cover losses on new institutions because that money will have to be paid back. When the assets it is financing are sold and the proceeds are received, that money has to go back. It is not available to be used for a second purpose, which would be to pay off new losses from new institutions.

Mr. METZENBAUM. If I may inquire further, as I understand it, $150 billion could be used if we change the law. That $150 billion is not actually pledged in its entirety for loans that have been made by the RTC. And if it is just a simple change of the law, that is what we do here. That is our business. We make laws; we change laws. I understood in a meeting that was held the other day, if we change the law that $150 billion in assets could be used for the very purpose for which we are appropriating this $30 billion.

Mr. RIEGLE. I must say to the Senator that it may seem attractive on the surface to reach across into these other categories of activity to find money and bring it across to solve another problem. But I urge very strong caution about doing that. That is part of what led to this multiplication of problems in this industry in the past. I think we have to keep these accounts separate and discrete.

I think the financing of the assets, the failed thrifts and working those off, is an enormously difficult and complicated and time-consuming process. Frankly, the RTC got off, I think, to a very slow start. The criticism, I think, is warranted in that area, although I must say at the same time that the General Accounting Office has now come forward to say they feel they have gotten through a lot of their organizational growing pains, and they seem to be doing a better job. Time will tell.

But let me just say that as assets are disposed of, the money received should go toward repayment to the Government of the working capital that has been borrowed, I do not think it ought to be commingled or confused or taken over into the loss category and used in an expedient fashion to try to cover new losses.

I do not think that would help our situation. I think it would compound the situtation, and I think probably work in an adverse way.

I say that respectfully. You asked my opinion. That is my opinion.

Mr. METZENBAUM. I do not want to tie up the chairman of the committee from making his opening statement, but I have some questions and reservations, and perhaps some disagreements as to the manner in which the RTC conducts its business, and also as to whether the GAO did or did not think they are doing a fine job.

I will be prepared to address myself to what the GAO said at a subsequent point. I do not wish to interrupt the opening statement.

But this Senator believes, and the thrust of my concern is, that we have to provide them with some money, notwithstanding the fact that Mr. Seidman, in a meeting the other day, said we actually could get along with no money.

But I think he makes it very clear that he needs the money, but they actually could get along with none, which was his statement.

Mr. RIEGLE. Was there not another part to that? There was a consequence, in other words. If that would be done, there would be a consequence, also; an adverse consequence?

Mr. METZENBAUM. He claims that it would have greater financial cost, and I am prepared to agree in part with that. I think we also gloss it over.

When some around the Halls of Congress and some people, part of the RTC, are very anxious to tell us how much this is costing each day, somehow they slide through the fact that the cost of $8 billion is a cost that has to be borne by the taxpayers of this country. And, as the chairman has pointed out, not

only today, but for the next 30 or 40 or 50 years that the money is paid back.

Zero coupon bonds will continue to accumulate. They will compound, and our children and grandchildren and great grandchildren and great, great grandchildren will be paying that, which may be this $500 billion fiasco. So I think that provides all the more reason why we ought to hold the feet of the RTC to the fire. They have not done what they can and should be doing. They have done almost nothing for 18 months since we gave them the $22 billion; they have done nothing of a concrete nature to move the problem forward. When the chairman of the committee concludes, I think I would like to address myself to that further. I will not interrupt him further. He has been very gracious in permitting me to interject my views at this point.

Mr. RIEGLE. I thank the Senator from Ohio, for whom I have great regard. The questions he raises are very important questions. They are questions I myself have raised in the course of our committee hearings. There is a deep concern about the problem itself, and the best way to resolve it, and the least costly way to resolve it. I suppose, as well, there are lessons we need to draw from it in terms of the proposed revisions to the banking system that are before us. We want to avoid mistakes there in the future.

In any case, I think that it is clear that whether one finds a high degree of fault, or a medium degree of fault, or a low degree of fault with what RTC has done to date since it has been established by law, the fact is that their best assessment and the certification to us from the Treasury Secretary is that they need $30 billion to cover additional losses through the remainder of this fiscal year.

In cross-checking with the General Accounting Office, which is an independent arm of Government, their view of both the operating conduct of the RTC and the validity of that request for $30 billion, they have certified to us that they think that that amount of funding request is appropriate to the circumstances. They think it ought to be made available in that amount so that they can plan resolution of failed thrifts through the remainder of the fiscal year and not continue to have a stop-and-start and stop-and-start policy. They've stated that that amount is needed, and to provide it will afford us the maximum degree of efficiency in getting this problem worked through. Therefore, in the end, it will cost the Government less than it otherwise would. If we continue either not to provide the funding for additional losses and additional closures and resolution, or if we provide too small an amount so that they just get started and then have to stop, we will end up incurring a premium cost along the way.

I am not managing the RTC, so I am not here making that argument and certification as the person with the line responsibility. When the people who have the line responsibility come in and make that certification to us, and then we ask the GAO over here as an independent agency to do a cross-check and they say, yes, we think that is the right amount, the right time period, and that the agency is performing better than it has, as they told us in a meeting here last week, then I think that provides a sufficient basis for us to move at this time to give them the financial wherewithal that they need to get this particular job done.

I want to say again—and I do not want to be misunderstood on this point—that, like the Senator from Ohio and many others, I have serious doubts about the structure and the policies of the oversight board, and the RTC, and whether in fact they are the most efficient and the least costly ones available. On that issue, the Banking Committee has held extensive hearings, and a wide range of recommendations have been suggested to us. Many Senators have indicated an interest in offering amendments, at some appropriate point, that would affect the RTC's management or operations. And while some of those proposals, at least on the surface, would appear to have attractive features, these issues are extraordinarily complex, and there are drawbacks that attack virtually every recommendation that we see. Sometimes those drawbacks are not obvious on the surface, until one gets down into a very elaborate and detailed analysis.

I will say this: The RTC is now up and running, has had a period of time to get itself organized and to get on top of the enormous dimension of this problem. RTC is an organization that is bigger than Citicorp, which is the largest private commercial bank in this country. Just the sheer magnitude of an organization that size is something that is hard for us to fathom or contemplate.

I am not sure, to my knowledge, that we have had an equivalent experience in modern governmental history in the financial area. So, unfortunately, we are plowing new ground in terms of having to craft something of that almost unfathomable dimension. But in order to try to see what structural changes and what policy changes or other things we might look at to reengineer the way that organization is put together and functions, I have scheduled a hearing in the Banking Committee on the 11th of April. That is a little over a month away. I am inviting, and have invited, all colleagues in the Senate who have ideas they want to put forward for consideration. I know Senator WIRTH from Colorado has ideas in that area; Senator SANFORD from North Carolina has ideas of that sort; Senator KERREY from Nebraska does, and there are others. I think the Senator from Ohio has made some suggestions along that line. In any event, I invite anyone who wants to come in with a formal presentation, or set of suggestions, about restructuring the RTC, to do so on April 11. We will take it up, and we will see if there is something open to us that we might do in that area to collect a consensus of opinion within the committee that we can later bring to the floor.

But it is going to take, at a minimum, that degree of time to do that. So while we are doing that in an orderly fashion, in the meantime, institutions that need to be closed where losses are mounting, I think, have to be dealt with. I do not think we can sidestep that issue. That is why we are here on the floor today, and why we are going to have to stay here until we solve this matter in one way or the other.

This bill, then, that is before us now is a temporary measure. It is not permanent. In fact, the administration asked for what they consider to be a permanent solution by asking us to authorize, in effect, a blank check, and not putting numbers in it; to simply authorize whatever sums may be needed to complete the resolution of this problem over the next several years. But because we do not know how much that is, and because I am not prepared to support an open-ended authorization of that kind, we have said no to that. We have said, look, we will give you a sum of money that will carry you only through a reasonable period of time, based on an analysis that would seem to indicate that that is the appropriate amount of money that you need through that time period. That is where the $30 billion for the remainder of this fiscal year comes from. So we have said no to the blank check.

This bill does not provide a blank check, although some would prefer that. There are some who would say, look, let us handle this now once and for all, and let us provide an open-ended authority; let us let them draw what funds they need to get this job done and not bring the issue of incremental funding requests back to the floor time and time again. Well, my view is that that was not the right course of action.

On the other hand, some have said, well, let us do it very often; instead of giving them $30 billion that will take them down through the end of this fiscal year, let us give them $10 billion, which would only take them a couple of months.

They can be back here in 60 days to go through this again, or give them $15 billion, may take them out 3 months or 4 months, and then bring the issue back at that time. I know there are some who hold that view.

I do not think that is the best answer at this time. I think $30 billion is. GAO agrees the $30 billion is the right amount of money. It will take us down through September 30, and between then and now while we are dealing with financial restructuring in the banking system and deposit insurance reform, I think we will have enough time to look at other reengineering for the RTC. We will have several months of experience in observing how well they are performing in the assignment they have been given by law to do. Then we can make a judgment if we want to undertake more fundamental structural changes at that time.

Madam President, I shall read two letters into the RECORD that clearly explain the urgent need for this legislation.

The first of these is a letter that I have received from Chairman L. William Seidman, of the Resolution Trust Corporation, who also happens, of course, to be Chairman of the FDIC. His letter, dated February 28, 1991, read as follows:

DEAR MR. CHAIRMAN: The Resolution Trust Corporation is in need of additional funding to cover losses at failed savings and loans. If additional funding is not provided, the resolutions process will come to a halt by the middle of March. This means that insolvent and unprofitable thrifts that would be shut down if funds were available to close them will continue to operate, piling up losses that will eventually have to be borne by the American taxpayer.

The RTC will need approximately $30 billion of additional loss funds in order to continue operating for the remainder of the fiscal year without incurring costly delays. It takes 60 to 120 days to market an institution—toward the upper end of the range for larger institutions and toward the lower end of the range for smaller ones. Thus, the funds are needed as soon as possible. Approximately $14 billion of the $30 billion would be used for resolutions that the RTC plans to begin marketing immediately for closing during the third quarter of fiscal year 1991 while the remainder would be used to resolve institutions the RTC plans to begin marketing in May. If it were to receive only $5 billion in additional funding, the RTC would be able to resolve far fewer institutions than it intended and there would still be significant costly delay.

Insolvent thrifts have been running up operating losses of $800 million to $900 million per quarter. While some of these losses continue even after resolution, resolution immediately cuts losses by approximately 40 percent. The primary reason for this is that including the non-interest expenses of gathering deposits, the government can raise funds to finance the losses and bad assets of insolvent thrifts for about 130 to 140 basis points less than the troubled thrifts themselves. Resolution replaces relatively expensive implicit government borrowing in the form of insured deposits with much cheaper explicit government borrowing.

We estimate that delay costs the taxpayer $250 million to $300 million for the first quarter. An additional quarter's delay would raise the cost by an estimated $750 to $850 million or to at least $1 billion in the aggregate. The reason that each quarter's delay is more expensive than the last is that the longer the delay the longer it takes to catch up.

Our estimates do not include three factors that add even further to the cost of delay: asset deterioration or other losses that occur in situations where key personnel responsible for the management of the infrastructure leave institutions awaiting resolution; deterioration of franchise value; and the effect that competing with insolvent institutions has on the cost of funds of marginally solvent institutions possibly causing additional failures. While these factors are difficult to quantify, it is not unreasonable to assume that these factors would increase the cost delay by at least 10 percent.

We urge you to provide the RTC funding as requested.

With best wishes.

Sincerely,

L. WILLIAM SEIDMAN,
Chairman.

I shall next read a letter we received from the Secretary of the Treasury, Nicholas F. Brady. This letter is dated February 26, 1991, and it is sent under his operating responsibilities as Chairman of the Oversight Board of the RTC. This particular letter is addressed to GEORGE MITCHELL, our majority leader, to which I have been copied, and it reads as follows:

DEAR MR. LEADER: As Chairman of the Oversight Board of the Resolution Trust Corporation (RTC), I am writing to emphasize that unless Congress promptly provides adequate funding to the RTC, the RTC will be forced to further curtail its efforts to close bankrupt savings and loans. Already, the delay in authorizing additional funds has slowed case activity and cost the American taxpayer at least $250 to $300 million.

The Oversight Board has testified that full funding to permit the RTC to complete the thrift clean-up would be preferable to interim funding. However, the $30 billion of loss funds that is provided by the Senate bill will permit the RTC to continue operating through the remainder of the fiscal year.

I am afraid that if any less than $30 billion is provided, the result will be a start and stop cleanup process that produces further delays, substantial additional costs to taxpayers, and confusion and fear in the minds of depositors.

Accordingly, I repeat the Administration's urgent request that the Senate provide adequate funds to the RTC without controversial amendments that would delay the provision of funds and add to taxpayers' costs.

Sincerely,

NICHOLAS F. BRADY.

What these two individuals are asserting to us here in this formal manner is that if we do not give the RTC the money it needs to close insolvent thrifts, we are going to end up incurring premium costs or extra costs which in the end have to be paid for by taxpayers, among whom we all are numbered.

One quarter's delay it is indicated would cost $250 to $300 million. Because of funding uncertainties last fall, such a delay is already taking place. Right now we are told that the RTC has 95 individual thrift institutions ready to be put up for bids, in other words, to acquirers, moved on into new hands, cleaned up, and put on a solid footing. But of those 95 individual thrifts across the country that are waiting to be handled in that fashion the RTC cannot take bids; they cannot initiate the formal bid process to resolve these because they do not have the money available to them to complete the deals.

They still have a few billion left to complete deals that they are currently working on that would stretch out over the next week or two, as they indicate to us. But the 95 thrifts that are waiting in line and need resolution is where the costs are mounting. The costs of resolving that group is currently estimated to be $14 billion, roughly half of the total of $30 billion that is sought here. That $14 billion is for the 95 that are in line, but while resolving those, they will be getting the next batch in line. That batch will need the remainder of the $30 billion as those thrifts are resolved over the remainder of this fiscal year.

I know there are some of my colleagues who wonder aloud whether $30 billion is not too much money, and whether we should provide less than that and keep the RTC on a tighter leash. There is part of me that has sympathy with that viewpoint, and with so much money at stake I think it is absolutely appropriate for the Congress to insist that the RTC be held to a very high standard of accountability. But we need to make sure that the RTC does not waste money one way or the other, either by going too slowly or by delays forced upon it by lack of funds.

In my own judgment, reducing the funding level that we have brought to the floor would be counterproductive to the goal of cleaning up this problem. And, after all, that has to be done, whether we like it or not. I think every stop and start that we have adds months to the process and inescapably adds to losses. And the GAO agrees.

Two weeks ago, Comptroller General Bowsher testified:

> Such slowdowns simply add to the eventual cost of resolution by allowing failed institutions to continue operating and incurring losses. We believe that short-term funding bills covering less than 1 year will prove inefficient and costly.

That is Charles Bowsher, the Comptroller General of the United States.

Madam President, as we debate this, the cost, we are told, is rising at an estimated level of some $8 to $9 million a day. And that is a lot of money even when it is put in the context of billions and multiples of billions.

I think we have to act quickly on this temporary legislation. It only carries us forward for 7 months. I think that is a sufficient planning horizon to allow the RTC to operate in an efficient manner.

I think they have made an appropriate presentation of the need for funds in that amount. The GAO agrees with that. I think we ought to appro-

priate it. I think we ought to keep the bill as clean as we can to get this done, take it into conference with the House and see if we cannot get on with the job of resolving this issue.

Madam President, I yield the floor.

Mr. METZENBAUM. Madam President, I would like to comment to the manager of the bill as to where I think we ought to be going because I do not think we ought to delay this bill's passage. On the other hand, I do not think we ought to pass it in its present form. My feeling is that if we provided some of the money, it would take off the immediate pressure the RTC claims to be having and perhaps we could get some response from them, some action from them more than response, as to some of the responsibilities which Congress has given them.

There is no secret about the fact that they have not done all that they might have done. And although my friend and colleague from Michigan talks about how great they have done and what the GAO says, the GAO did report in the report they gave to the House Banking Committee 2 weeks ago that the RTC is plagued with internal control problems and mismanagement, and among those problems that have to be included is that the RTC headquarters lacks sufficient oversight of its employees to manage the thrifts. There is not sufficient control of those who are managing the thrifts. They put people in and they are not being managed that well. Managing agents complain that they have little, if any, instruction on how to manage the thrifts that are in the conservatorship. That is not me speaking; that is the GAO speaking.

They also said the RTC lacks a comprehensive system for managing its portfolio of securities and that there is a lack of information for interested buyers, which discourages sales of assets at a fair price.

Furthermore, they say that the RTC contracting system lacks oversight. Contractors are not evaluated in the quality of delivered service and are paid for partial or poor performance.

I point out the Southwest and southeastern regions, according to GAO are especially negligent in failing to provide supervision.

They go on to say that the right hand does not know what they left hand is doing, that regional sales offices selling assets often duplicate the efforts of another RTC program which hires outside consultants to manage large real estate portfolios. They also say that buyers of property encounter difficulties in securing accurate appraisals. They also must wait months while the RTC processes their paperwork, which often does not comply with the requirements of most lenders. And then they say that the RTC has not fully complied with the low-income housing provision in FIRREA, that they have failed to give low-income home buyers the first right of refusal on many homes. In addition, they have sold homes for which low-income home buyers have submitted a bid and instead have sold them to speculative real estate investors.

The fact is that the RTC was faced with a very difficult job. They came in without any special background, although Mr. Seidman had previously headed up FSLIC, and they were given this responsibility to take over the saving and loans and then to dispose of them. That is not something that can be done on short notice, and it is not something that can be done overnight.

They were told by Congress to look at these 1988 deals that had been negotiated that will cost taxpayers something like $70 billion. And I have addressed myself to this issue earlier about the fact that many of those deals very probably could have been restructured, which is what the FIRREA Act ordered them to do, or renegotiated based upon whether or not the contract in its inception had any elements of impropriety in being negotiated.

The RTC did have two studies made of the contracts, but neither of the studies looked at the question of whether there was any fraud or any improprieties in the making of the contracts. The first study merely looked to see whether the t's were crossed and the i's were dotted, and the second study looked at more of the details of the contract but did not look behind, how the contracts were entered into. And one of the law firms that had been hired in order to make the study said they were not told to do that.

Now, my standing here speaking to this bill is not to indicate that we should not be doing something. We are in a position where we probably have to do something or else, indeed, it will cost the taxpayers more money. But the fact is we should not overlook the fact that whatever we put into this arrangement, whether it is $15 billion or $30 billion—and they are going to go out and borrow another $48 billion—the taxpayers are going to wind up paying the interest cost of that $30 billion and of the $48 billion. Although there may be some hope of not paying all of that, they are going to have to wind up having to pay that. Although it costs money to delay, it also costs money to put $30 billion into it. It is going to cost something like $210 million a year just in interest alone for that $30 billion, assuming a rate somewhere around 7 percent, whatever it might be, 6.5 or 7.25, whatever.

The RTC was told to do certain things, and Mr. Seidman, in a meeting we had the other day, indicated he was now prepared to do some of those things that we had instructed him to do by legislative fiat, by legislative order. He has never been willing to attempt to renegotiate the 1988 deals. He has only talked of restructuring them, which is what Congress ordered him to do 18 months ago. Not one of those deals has been restructured now, and he says we are moving toward doing that, and, if my recollection serves me right, sometime in June we hope to do that, 4 months from now. So they have not done what Congress instructed them to do. They did not.

There was a point where the cost of renegotiating or restructuring the deals became effective in itself. So I suggested in the RTC that they use lawyers on a contingent-fee basis. I learned the other day that did not do that with respect to any of the 1988 deals. But according to Mr. Seidman, they have hired one law firm now to handle, on a contingent-fee basis, whatever claims the RTC may have against Mr. Milken, and I do not know how many other associates of Mr. Milken. Well, if they can hire somebody for that purpose on a contingent-fee basis, I cannot understand why they have resisted so strenuously this effort that some of us feel should have been made to renegotiate those 1988 deals.

We conducted extensive hearings in our committee having to do with the Blue Bonnet deal, and in the Blue Bonnet deal there was obviously at least some opening to go in and renegotiate that deal and claim it had been entered into in an inappropriate manner. No, they have not acted.

Then there was also responsibility on the part of the RTC to act with respect to directors' and officers' liability. Directors' and officers' liability is one of those areas where, if the director or the officer committed some impropriety, then that director or officer becomes liable. In many instances there is insurance to cover it.

For some reason I do not understand, they adopted a policy—which Mr. Seidman now says, yes, it is the policy but it is not exactly the policy—that unless the directors had a net worth of $5 million, they would not sue, they would not go after the directors or the officers.

I have difficulty in comprehending that. The American taxpayer who does not pay his or her taxes winds up being sued promptly by the Federal Government if they owe $120 or $311. But here they say unless you have $5 million in net worth, the Government will not follow through against the directors and officers. They say that has to be the cumulative total. But if one of the directors has a new worth of $4 million and the others have a net worth of $700,000, then nobody is going to be followed up, noboby is going to be asked to pay back the money or to pay the money for the directors' and officers' misdeeds.

We conducted a hearing which received much attention in connection with one little detail of the hearing that had to do with the Southwest Federal Savings & Loan. In that case there

was an unusual situation. One of the main owners of the bank, Daniel Ludwig, is reputed to be one of the richest men in America—certainly he is purported to be a billionaire by Forbe's magazine—and he had agreed to indemnify all of the officers and directors if they were held liable on officers' and directors' liability.

In that case there appeared to be sufficient basis to move forward.

As a matter of fact, in our hearing we found that one investigator, a FDIC/RTC investigator, testified he had examined into the facts and he was told to sit on the investigation. Then a man by the name of Scalzi, an official of the RTC, told the investigator not to conduct interviews and that Scalzi had said do not go forward, do not conduct any interviews.

Mr. Scalzi is now in charge of selling 250 failed thrifts.

I have difficulty understanding why Mr. Seidman, who knows this, and the others at the RTC, accept this fact. The evidence was incontrovertible. It was not denied. There was corroberating evidence by another employee of the Government. Both witnesses testified they had been told not to go forward. The main man winds up being in a position of being responsible to sell 250 failed thrifts.

I do not know what happened. I do not know why it happened. I know there is a memo in the records that an RTC lawyer warned, "Ludwig is politically influential. Sit on the investigation."

I do not know whether that is true or not. But I know this: the RTC that is asking us now for $30 billion certainly knew of the testimony, knew of their obligation to go dig into the facts. To the best of my knowledge they have still done nothing with respect to that savings and loan and there is certainly collectibility since Mr. Ludwig has agreed to indemnify all of the officers.

After 2 years, what has occurred with respect to that investigation—which was 2 years ago—is there still has not been any lawsuit filed against anyone. Anyone who practices in this area at all knows evidence can easily be lost or destroyed and memories easily fail.

So I may address myself further to some other aspects of this matter, and I probably will before this debate is concluded. But I think if we want to get the kind of action the American people are deserving of, then we ought to give the RTC a modest amount of money.

According to Mr. Seidman's own letter, $14 billion would tide them over for the deals that are presently ready to be made. So, instead of giving them $14 billion, let us give them $15 billion. He says the other deals we are talking about are not going to be made until sometime in May or thereafter. We can come back and see what kind of action we are getting out of the RTC between now and then.

My view is we should not just say no money. I think that would be irresponsible. But I think we ought to say we will give you some money, but we want you to understand you have not been living up to that which you have been ordered to do by Congress. If you will do what we ordered you to do and do the other things that should be done in accordance with your responsibilities as public officials, then we are willing to give you additional funding.

But just to keep pouring billions of dollars out because they asked for it just does not make sense to me.

Nick Brady writes a letter as the Secretary of the Treasury and he says they need the money. Let me point out, as I did last week, Nick Brady is the same Nick Brady who was unwilling to put a lid on the closing down of the making of the 1988 deals.

When the Senator who was the chairman of the committee and I called him, he refused to do anything about it. He said he did not think he had the authority.

If the Secretary of the Treasury had taken the position to slam down the door on those deals, they would not have all been made, and 25 of them were made in the last 2 days of 1988. The door could have been closed at least on that group of deals.

I do not know how many hundreds of millions, or billions were involved in those deals, but the total is something around $70 billion for the 1988 deals.

If we had closed the lid or closed the door on one-fourth of them—25 is about one-fourth of them—we might have been able to save 25 percent of $70 billion. Maybe we would not have saved it all, but we would not be in the fiasco we are in right now.

So I say, yes, I think we have the responsibility to provide them with some money, but I do not think our responsibility is to provide them with $30 billion knowing full well thereafter they are going to go out and borrow another $48 billion.

The best way to hold their feet to the fire is to provide them with a portion of the money. Not all the money.

Madam President, I yield the floor.

The PRESIDING OFFICER. The junior Senator from Nebraska.

Mr. KERREY. Madam President, I want to thank the distinguished Senator from Ohio. I know it is rather difficult for the Senate to examine this in detail, but I must again suggest I think the people themselves have lost trust in the Resolution Trust Corporation. It is not comparable to 1986 when in fact several key Members of this body called our attention to the need to make an expenditure but the body did not believe there was a real problem so the money was not appropriated.

In this particular situation no one doubts there is a problem. No one is arguing that. No one is suggesting that in fact a problem does not exist. The problem here, it seems to me, Madam President, is we have a body that has been charged with the responsibility of carrying out the policy and they have not done a very good job of it.

The President asked for the Secretary of the Treasury as chairman of the Policy Committee, and the President asked can we designate the FDIC as the manager, as the Chairman of the RTC itself.

I must say with all due respect, and I have a considerable amount of respect for both of the individuals in charge of these responsibilities, they have lots of other work to do. What we are missing is an active policy board that will listen to what the public concerns are, particularly a policy board with a strong chairman that is able to sort through and then come not only to the Congress but to the American people and say here are the tough things that have to be done.

That has not been happening. That has not occurred. As a consequence, we are left with what appears to be a micromanaging process on the part of Members of Congress who have had mistakes identified, things that have not been accomplished, and now find themselves in a position of trying to amend the legislation that is providing $30 billion of tax dollars. We have been told do not micromanage.

The reason we are micromanaging, Madam President, is because the RTC oversight board has not done its job, not through any personal fault of the individuals but because we asked them to do something, that is to exert policy oversight, that I believe is impossible for them to carry out given all the other things they have to do.

The Banking Committee has on its desk right after we dispose of this a recommendation coming from the Secretary of the Treasury to reform our banking system. It is a very large and substantial piece of legislation and he has put a lot of time into it.

The Secretary was involved last year in the budget negotiations and worked very hard—so hard, Madam President, he was unable to come before the Senate Banking Committee and provide the details about how this money was to be used.

He was too busy, as I understand it, to come up here; too busy to do much more than to just provide a letter. If that is the case, if you are too busy to do that sort of thing, it seems to me logical that we look for some replacement, some alternative.

As I say, with all due respect, and I have a great deal of respect for both the chairman and the ranking member of the committee, to matter what we do—$30 billion today, if you get it approved—I will not vote for it under the current arrangement.

But if we manage to get a majority and get $30 billion of taxpayers' money approved for this venture, without any change in the way we have oversight, without any change in the Policy Oversight Board that has scheduled now a meeting every 2 months, half of which are closed to the public—that is the nature of the oversight—over the next year that they are planning, if we get it approved, we are going to continue to have these problems.

And we can cite the General Accounting Office's evaluations, "Oh, the RTC is doing a terrific job," but the GAO study is replete with examples that the RTC is not doing its job. They have not secured a single mortgage. They have not sold off a whole institution for the past 6 months. They have refused to make a sale of branches, even though everyone is saying they will increase the value of the assets if they do that. They scheduled an auction last fall and backed out, and we are threatened with a lawsuit by the auctioneers as a result.

They are struggling to make decisions, and I understand it, because the political environment is such that they are afraid to make mistakes. My observation of the RTC and the organization is that it tends to be risk averse.

And what we need, and what I am suggesting that will solve that problem, is not some massive, complicated restructuring, not a whole series of amendments that will deal with every single nut and bolt in the problem we have with the RTC. We need a different Board of Directors, because this board simply has not gotten the job done. They have not exerted the kind of oversight and developed the kind of policy options, nor have they maintained the trust of the people. The people have lost trust.

As a consequence, we find ourselves in a position of having to try to do, on the floor of the Senate—which I do not think is the right environment—the work of this RTC oversight board, that I think, through no fault of their own, simply finds themselves unable to get the job done.

Madam President, I will very soon offer an amendment to this piece of legislation that very simply provides a new board, and does not interfere with the authority of the President. It gives the President the authority to make these appointments and the power to confer. It does not require a massive restructuring.

It simply says, if we have a strong chair, go out and engage the American people, and say: Here are the tough things we can do. We have a policy board meeting on a full-time basis; not once every 2 months, but a board that is meeting on a full-time basis and trying to consider what ought to be done. And we are going to be able to sort through all this policy nightmare that sits before us, and not find ourselves on the floor of the Senate with a whole series of amendments where we try to, indeed, micromanage and second-guess the people down at the RTC.

Madam President, I am prepared to yield the floor. If there is no one wishing to speak, 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. GARN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. GARN. Madam President, I say to my colleagues this is certainly not a new debate. It has gone on for some of us rather endlessly; not just for 3 or 4 days on the floor at this time but over and over again. It started back in 1985 and 1986.

While I can agree with some of the criticisms of the RTC by my distinguished colleague from Ohio, I certainly cannot agree with all of them. Certainly there is no mention made of the part of Congress in this. You would think the whole problem has to do with RTC, which has only been in existence for 1½ years.

It does not seem to matter how many times some of us get out on the floor, Congress does not like self-criticism. It certainly does not want the American people to know who is responsible for most of this problem. That happens to be the Congress of the United States. But in the legislative body it is so easy to pass the buck. You are one of 100 in the Senate; you are one of 435 in the House. You have no responsibility to run anything like the executive branch of Government. Running the city, when I was mayor of Salt Lake City, was more difficult because here you can hide in the massses and say I voted against this and I voted against that, with no real responsibility for our individual actions.

In this case the heart of the scandal lies in the Congress of the United States and the delays.

I get a little bit sick of the argument, frankly, because I have said it so many times on the floor. I remember pleading in October 1986 for $15 billion to be funded by the S&L's, not one dime of taxpayer money involved, not a single dime, all paid for by the people who were creating the problem, but Congress refused to do that.

I do not know how many times I have been on the floor seeking to provide adequate authority and money so that the problem would not reach the proportions that it has. But over and over again the record is clear; Congress has not been willing to own up to its responsibilities because it is so much easier to find a scapegoat.

Again, I agree with many of the criticisms. If I could rewrite the RTC law, I would do some things differently. In fact, there are many things I tried to do differently at the time we wrote the RTC bill, wrote FIRREA. I was not able to get my way. That is part of the process around here. We do not get our way. Each one of us would like to draft things in our own image, I suppose, and have great pride of authorship.

So there are some changes we could make that would not only improve the operation of the RTC but give them some tools to work with so they could do a better job. Some of the restrictions we placed on it in the FIRREA legislation are the very reasons some costs are growing. We are responsible for that as well.

But, without going back over that ad nauseum, the fact is we are in this dilemma and it is a shared responsibility. There is certainly enough blame to cover several administrations and several Congresses. But when you face the reality that we are where we are, every day we delay costs about $7 million to the taxpayers.

Chairman RIEGLE and I tried to pass something in the Senate last fall before we left session, and we did. The House turned it down once again. So we have cost the taxpayers $250 to $300 million. Maybe that is not a lot of money in Washington. It is still a lot of money in Utah. So here we are again doing it once more.

My colleagues from Ohio and Nebraska are certainly entitled to their opinions. But I suggest, that, rather than continuing to talk and finding a scapegoat to blame all of this on, the people who are interested in changing the RTC get to the floor and offer their amendments. Let us vote. All we have done on the floor for 3 or 4 days is talk. It has been a week now. Seven times seven is $49 million. This Senator does not like to cost the taxpayers an additional $49 million because we do not do our job.

I suggest my colleagues come to the floor, offer the amendments, and let us vote. Let us stop the rhetoric. Let us stop the debate. We know what the issues are. We are not solving anything, except we are seen on C-SPAN, which is not important to this Senator. But I suggest we stop the hemorrhage.

If we want to make changes to the RTC, there is a way to do that. Where are the amendments? Criticism goes on for 1½ years. Where are the bills to come before the Banking Committee so we can hold hearings, so we can discuss them, so we can have the witnesses, so we can make some informed decisions on how we can improve the operation of the RTC.

Rhetoric will not improve the operation of the RTC. It will not change it one bit. We can stand out here with the hot air from all of us on both sides of the issue day after day, costing the taxpayers $7 million every day, probably more by the time this finishes.

The next estimates are $700 to $900 million per quarter. It is like running up your charge account, your Master charge or your VISA and then saying well, I made some foolish purchases but now I am going to refuse to pay because I made some mistakes.

Plenty of mistakes are made around here. Do we continue to make them or do we learn from those mistakes and stop the hemorrhage? This Senator, as a taxpayer, resents it. I resent the fact that the Senate and House are once again performing the way they have for the last 5 years in denying the necessary working capital to reduce the costs to the taxpayers. I should say that every day: $7 million or so more each and every day. So if we do not finish this bill today, there is another $7 million the taxpayers are paying by tomorrow afternoon at this time.

I do not know what the House of Representatives is going to do. Normally, the Senate over these 5 years has acted responsibily. We have done our part in every one of the major funding bills and the restructuring bills have died in the House of Representatives. But at least we ought to act responsibly on this side of the Capitol. If they want to kill it again, let the costs be on their necks, not on ours.

So I suggest that those who want to try to change this beyond the issue of funding, it might be wise to offer your amendments and let the Senate speak. Let us debate the amendments and have a vote. Let the Senate decide. That is what I was told the legislative process was 17 years ago when I got here. I am not sure I would have come if I had known it was primarily endless talk and very little action. It gets a little boring at times day after day after day; nobody is here. Nobody is particularly interested except a few. But we are costing the taxpayers another $7 million.

Maybe some of you taxpayers out there who are watching this ought to start writing your Congressman and Senator and saying whatever the debate is on this bill, make a decision. Do it. Let us stop the delay.

So whoever is listening in their offices, Senators from the Republican or Democratic side, if you have amendments, bring them over, introduce them, let us debate them and vote, unless you want to be responsible for another $700 to $900 million cost to the taxpayers while we continue to pump hot air out of this Chamber rather than exercising our responsibilities.

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. KERREY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. KERREY. Madam President, I listened with great interest as the distinguished Senator from Utah talked earlier about the additional cost of delay imposed by Congress. I wonder if the distinguished Senator will yield for a couple of questions.

Mr. GARN. The Senator is happy to yield for a question.

Mr. KERREY. First of all, I am intrigued by the great respect that the Senator obviously has for the burden of responsibility of the executive branch compared to us in the legislative branch when we have to make a decision about appropriating money. I appreciate that respect.

I understand particularly when a new organization like the RTC is set up it is difficult to get it up and running, and they are tasked with the awesome responsibility. Nevertheless it seems to me that it is appropriate for us to be asking the question on how good a job they are doing when they are asking us for the money to do the job.

The Senator used a number of $300 or $400 million. Is that a documented number that we have added to the cost as a consequence of not appropriating the money last fall?

Mr. GARN. We have a letter from Secretary Brady, and also Mr. Seidman, saying that is the cost. I have the letter before me, previously placed in the RECORD, I believe last week.

Mr. KERREY. I have been led to believe that recently they have said—in fact they had not—that indeed they had a sufficient amount of funds to operate up to and including the current moment. Is that correct?

Mr. GARN. That is correct. That has nothing to do with the fact of not giving them sufficient money, to cause additional costs because of the fact that they had to use the loophole in the FIRREA legislation last year to have money to get through this period rather than having an appropriation. So that method of financing that they have been using was more expensive. We also have a letter from the Congressional Budget Office, Robert Reischauer, talking about the additional cost because of delay.

Mr. KERREY. I wonder if the distinguished Senator has done any evaluation of the RTC itself to try to calculate whether or not they have made any mistakes whatsoever? The Senator referred to the fact that the Senator has not been altogether pleased with the way the RTC has operated. The Senator sees some mistakes they have made as well. I wonder if the distinguished Senator has observed the cost associated with any of those mistakes?

Mr. GARN. Of course. I believe if the Senator listened carefully I said that I agree with some of the criticism of the distinguished Senator from Ohio. There is no doubt about that.

I also said in my remarks that if I had had my way the FIRREA legislation would have been constructed differently because Congress put provisions in that have caused additional costs as well. We had testimony on that; so there are mistakes that have been made on both sides.

What has been going on—and I hear it as I get up to speak again today—is that from the debate on this floor it would appear one-sided; that the RTC is operating out there in a vacuum; and, that Congress has no responsibility for that. Let me remind you, Congress created the RTC.

The Senator was not on the Senate Banking Committee at that time, and therefore was not involved in the negotiations. The Chairman and I were. There were great debates over how that should be structured. It would have been structured quite differently in many respects if I had my way, and I would still like to make some of those changes.

But I think there is a proper way to do that. Some of us have talked about the various changes that ought to be made, the RTC, and William Seidman, and Nick Brady have testified in favor of changes they would like to see made to help them do their job better.

So there is, as I said in my remarks, plenty of blame to go around on both sides, but it should not be a one-sided debate.

The other point that I made using the credit card example is whether we like what they are doing or not, do we cause additional costs while we debate these issues rather than trying to make the changes in the normal process. Do we delay refunding, and therefore cost the taxpayer more money?

I am arguing more for procedure at this point than anything else. This type of procedure does not help solve the problem. It only adds to the cost to the taxpayers.

Mr. KERREY. I appreciate the Senator does not want this to be one-sided, and I as well do not want it to be. I wonder if the Senator from Utah could tell me what was the cause of the Secretary of the Treasury's inability to come to testify last fall in support of the request for appropriation at that time?

Mr. GARN. I would suggest, if the Senator would check the record, he will see the Secretary was before the committee several times last summer and last fall. He did testify. I do not think that is a fair accusation because some people on the Senate Banking Committee were demanding that he put it in writing. His testimony was not sufficient.

Mr. KERREY. I am not leveling an accusation. Perhaps the record is not as I observed it because my recollection of last fall's transaction is the Senate Banking Committee made a request to the Secretary, and he sent a

letter and indicated that he was too busy, Madam President, to come at that time to explain the details of how the money was to be used.

Mr. GARN. That was the very end of the process. That is true, at the very end of the process, but that ignores the times that he had testified and the meetings he had with individual Senators. I will be very blunt about it. I think at that point it was more partisan than anything else, demanding that he come up once again.

Frankly, on the other side, if I had been him, I would have come up again. There are too many games that go on. The Senator, as a Governor, I think would appreciate some of the remarks that I make about dealing with a legislative body. I would expect the Senator had some of those same frustrations with the Senator's legislature when the Senator was the distinguished Governor of Nebraska of taking pot shots at his executive branch and his administration.

Mr. KERREY. Indeed, Madam President, I have a great deal of sympathy for the executive branch, and I am willing to stand as a witness to the difficulty at all times of working with the legislative branch, particularly when the Constitution says we have the responsibility of making expenditures. It is a difficult thing to do to make the case.

I am simply saying that basically the case has not been made. I am persuaded that there is a need. I am not trying to play any games. I am not trying to avoid the responsibility of proposing a change. I indeed will propose a change. I am trying to cite in fact the responsibility where indeed I think it belongs.

If I had a $150 billion a year organization, Mr. President, I would suggest that it is unlikely that I would put into place a board with a set of policies and a responsibility that would agree to meet every couple months, particularly one as busy as this one. Again I have a great deal of respect for the burdens and difficulties of the executive branch, but I observe that they have not made the case.

They have not made the case for the appropriation. They have not explained the defects of the RTC and the mistakes of the RTC. Instead, they choose to accuse Congress of wasting $300 or $400 million. I think that the evidence that we have is not there. Moreover, I think I can make a case that the RTC has wasted more than that, which is why I am concerned in the first place, which is why the people are upset in the first place.

We have not pulled this issue out of the air. Congress would like to get it behind us, as well. The compelling case for the need to make reform in our banking system is there. We are not going to be able to get to that. It is not as a consequence of Congress saying, gee, we want to play some games here. We are here for the people themselves. They do not understand what is going on. They have seen RTC's actions over the past 18 months, and they are not persuaded that they are doing as good a job as they should be.

That is the observation I make, Mr. President. It is not me, as a Member of the legislative branch, trying to make life more difficult for the executive branch. The point in fact is that I think the legislative branch is offering a variety of amendments that tend to nitpick. The reasons you have this environment that makes it difficult for the RTC to operate is because you do not have a full-time policy board trying to provide RTC with room to move.

I have heard the Senator from Ohio talk about the 1988 yields. They look awful. At least we sold something, I must say. There may have been some procedural mistakes. Maybe we should have a larger pool; maybe we should have done things differently. At least some action was taken, Mr. President.

What happened in the meantime, it seems to me, is that this thing is ground down to where the RTC—not as a consequence of not having money, but even when they have money—is having trouble making decisions. I watched the way they are operating in conservatorship, the 100 billion dollars' worth of assets, and I know there is a need to move those assets, but I see an appalling list of mistakes that are being made, and I do not think they are personal mistakes because Mr. Seidman is unable to make a decision, or Mr. Clark is unable. I think it is the political environment, and the reason for the political environment now being damaged is because there has not been a policymaker out in the public saying here is what we are doing and why.

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

Mr. KERREY. I would be glad to yield.

Mr. GARN. Playing the devil's advocate, assume that I said, OK, every argument and criticism of the RTC that the Senator from Nebraska and the Senator from Ohio made, is correct, and we have had additional costs—and I will submit that I have not been completely happy with the RTC. I made a speech one time talking about how it did not matter what the RTC said; that if they sold the real estate too fast, they would be criticized here on the Hill. If they did not sell it fast enough, I think they would be criticized. I think that is fair. Some arguments they could not win no matter what.

Assuming there are additional costs—which I suggest there are, as well—does it make sense for Congress to add to that? I specifically refer to not even giving them enough money to operate from October until we got back in session in February, because Chairman RIEGLE, and I, at that time, scaled down our request to just $10 billion, to go from October until we came back in session.

Where the Senator may not fully understand what I am talking about is it is being piecemealed to death by the Congress. Exactly the same arguments were made, not on the Senate side, on the House side last fall. We responded saying just enough to get us through while we are out of session.

Now we are hearing the same arguments again; another 2 or 3 months and we add additional costs to theirs, and the losers are the taxpayers. They are getting it from us, and they are getting it from the RTC, and this Senator would like to take care of both problems.

Mr. KERREY. Mr. President, I appreciate that. I would, as well. But it seems to me that to blame Congress for examining the defects of the RTC is to target their own body.

Mr. GARN. No.

Mr. KERREY. It seems to me that what Congress is responding to is what this RTC Oversight Board ought to be doing, the policy board. We ought to have a policy board, full-time policy board, where the President appoints a strong chairman, that is out all the time, coming not just before Congress but the American people.

There are difficult policy decisions. I agree with the distinguished Senator from Utah. They end up where they are going to get criticized one way or the other, which is why you need to have a strong policy board that is full time.

I absolutely agree with what the distinguished Senator from Utah is observing. What we have right now is Congress nitpicking the RTC. But Congress is nitpicking the RTC because the Oversight Board failed to get the job done, not because they are bad people, not because they are somehow incompetent; they are not incompetent. It is because they have a lot of other things to do, Mr. President, and they cannot give full time to the task, and as a consequence, they cannot assist the American people to say we have to do the right thing.

We are getting the call from the American people that do not understand what that money is going for. Frankly, we are not able to answer the question. That is the dilemma. That is why you see in every single instant of an amendment, it is a concern expressed by the people, and the Congress then attaches an amendment. It ought to be going to a policy board, an open hearing process, where the policy board can allow the people—when I get a call from somebody trying to see X, Y, or Z, I can say, look, there is an open process down there, a policy board. Present your case, make your case, and appeal to me if you do not like it. That does not exist in this.

For a $150 billion operation, we have a part-time board. That, Mr. President,

seems to me to be the defect in the operation, and why we are doing it right now, but with respect to what the distinguished Senator from Utah says, we will be doing it again even if you get a majority vote for the $30 billion. The second guessing is as a consequence of not having this policy operation in place.

Mr. GARN. Will the Senator yield for a comment?

Mr. KERREY. Yes.

Mr. GARN. I want to make very certain that my distinguished colleague from Nebraska understands what my argument has been, and I want to correct what he said about the Senator from Utah not criticizing congressional oversight. I have never said that—never. That is not what I am saying today. I can hardly be put in that position, when I have said I agree with some of the criticisms and would like to have changed the FIRREA legislation at its inception.

If you go back and look at some of the changes the Senator from Utah wanted to make, you would find some would have been very helpful in hindsight. There are still some changes that I would like to make. I will never criticize Congress' right to exercise oversight over the executive branch. I sincerely believe in the separation of powers and that we have a role to do that.

The major point I am trying to make is that in the exercise of that oversight, we do not continually add to the cost. I will say it once more. If we had passed the $10 billion in October, and the House had, we would have saved the taxpayers $250 to $300 million. While we were out of session, then there should have been some people working so that when we came back and needed the additional money, along with the changes they might have been able to work out, we might have been helpful to the RTC.

So I am not criticizing the Senator's right, my right, the right of the Senator from Connecticut, or any other Senator or Congressman, to criticize and try and improve their operation. I am simply saying that if they are wasting money, it makes no sense for us to piecemeal this 3 or 4 months at a time. And I have been making that argument for a week, not trying to preclude anybody from their ideas on how they can improve this operation and save the taxpayers money, but that we not add to that problem by giving them another short-term lease of $5 billion like was suggested for 5 weeks.

Then we are back here on the same debate again.

I do not think the Senator from Nebraska wants to be out here every 5 weeks debating the same situation while we toss them $5 or $7 billion to keep them going.

I would like to see some changes made, too, but I do not want the combination of waste by the RTC and waste by the Congress because of delay.

I am talking more about procedure and structure. I may very well agree with the Senator's amendment. I have not seen it. I certainly will look at it carefully. I do not want us to add to the problem.

Mr. KERREY. Mr. President, I agree with the Senator. I do not want to add to the problem. I am not anxious to come here 5 or 6 weeks and vote for an appropriation. Moreover, I am uncomfortable with many of the detailed amendments I have seen that come in and say thou shall sell the assets; thou shall not sell the assets.

It puts me in position of having to micromanage the RTC. I do not want to do that. It seems to me it puts me at risk doing something the opposite of what I am trying to do, dispose of an asset in the way that maximizes the value to the taxpayers.

It is possible to take taxes in and it looks good but is the opposite of what I intended to do.

I do not like micromanaging activities going on but it is going on as a consequence of what the RTC has been doing.

I say again there is ample evidence these are not just startup problems. But something is wrong, and the something that I believe is wrong is they are having a difficult time sorting out the policy option and most particularly taking the measure to the American people about what is going on.

If you look at the information the American people have gotten about the RTC and what they are doing, it does not provide much support for them saying, gee, I want to give you another $30 billion.

That in essence is what we are up against right now and it is not accidental there is a fair amount of enthusiasm for avoiding a rollcall vote on this issue, because we know quite likely that we need to provide money. We know that. There is not any dispute here.

I do not dispute that the money needs to be provided. I am willing to provide it if it is provided in an environment where I have some confidence that it is going to be done correctly. I do not have that confidence now, and that is the reason I pull up short of the appropriation.

I would love to get this thing out of the way. I can imagine any number of strong chairmen. The President has demonstrated the capacity to recruit good people into Government.

I can imagine a strong Chair with great public credibility going to the American people and saying here is what we are going to do. We have two or three. It is going to take $6 or $8 billion and here is what we are beginning to do. Some is unpopular, all unpleasant, but we have to get behind it. We have to restore the capital in the banking system of the United States of America. This problem has created additional problems for the entire banking system.

I can imagine a strong Chair being able to do that, assisting us so when we have citizens that come and say, gee, this thing is going here and it is not right, rather than come to the floor and offering an amendment to a piece of legislation like this, we have a vehicle, we have policymakers out there working to try to resolve the problem.

Mr. President, I appreciate the dilemma of the Banking Committee. I appreciate the dilemma in particular of the distinguished Senator from Utah. But I believe we need to bring some way of increasing the accountability of this process and proving the extent to which the policy is made so that we can say we have confidence this is being done right.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa.

Mr. HARKIN. Mr. President, might I inquire as to what is the pending business before the body?

The PRESIDING OFFICER. The current question is the D'Amato amendment No. 13.

Mr. HARKIN. The amendment by the Senator from New York [Mr. D'AMATO], is now pending?

The PRESIDING OFFICER. That is correct.

Mr. HARKIN. Mr. President, I am going to ask unanimous consent. But before I do, the Senator from Idaho wanted some time to introduce a couple bills.

I ask unanimous consent to yield to the Senator from Idaho for the purpose of introducing bills, and I do not lose my right to the floor when he is finished.

The PRESIDING OFFICER. Is there any objection? Without objection, it is so ordered.

The Senator from Idaho is recognized.

Mr. SYMMS. I thank the Chair.

(The remarks of Mr. SYMMS pertaining to the introduction of S. 559 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

(The remarks of Mr. SYMMS pertaining to the submission of Senate Concurrent Resolution 15 are located in today's RECORD under "Submission of Concurrent and Senate Resolution.")

Mr. SYMMS. I thank the Senator from Iowa and yield the floor.

Mr. HARKIN. Mr. President, I ask unanimous consent the pending D'Amato amendment be laid aside so I may offer an amendment on behalf of myself and Senator KOHL.

Mr. GARN. Mr. President, reserving the right to object, it is not my intention to object, but when the Senator from Iowa started to make his request

I requested the Cloakroom to call Senator D'AMATO as a courtesy to the author of the amendment. I personally have no objection. So if the Senator would be willing to talk, we should have an answer shortly.

Mr. HARKIN. Glad to do that.

Mr. GARN. At this point I would object.

The PRESIDING OFFICER. Objection is heard.

Mr. HARKIN. Then, Mr. President, I will withhold that unanimous consent. I will make it again after they find out from Senator D'AMATO.

Let me just explain what the amendment is or what it does.

Mr. President, I was listening to the remarks made by the Senator from Nebraska in the colloquy he had engaged in with the Senator from Utah. As I understand, the Senator from Nebraska was saying that we need some assistance—perhaps we need a board—that has some expertise that will take some leadership and give direction perhaps in the directions we ought to go in, assisting the RTC. Right now we have a situation where the RTC comes here or the administration comes to Congress and asks for billions of dollars.

Mr. GARN. Mr. President, will the Senator yield?

Mr. KERREY. Yes.

Mr. GARN. If the Senator from Iowa would like to renew the request, the Senator from New York will have no objection as long as the request is phrased that then his amendment would occur immediately following the amendment of the Senator from Iowa.

Mr. HARKIN. I believe my unanimous consent will do that.

I ask unanimous consent the pending D'Amato amendment be laid aside temporarily so I may offer an amendment on behalf of myself and Senator KOHL and I ask at the disposition of which the Senate return back to the D'Amato amendment.

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

Mr. HARKIN. I appreciate that and I thank the Senator from Utah for his courtesy.

So, Mr. President, the amendment that I offer on behalf of myself and the distinguished occupant of the Chair right now has to do with ensuring that the President and the administration are involved in the process of finding possible options for raising revenue that minimize the burden on low-, moderate-, and middle-income taxpayers, and improving the efficiency of the RTC.

As I said, I was taken with the remarks made by the Senator from Nebraska. While none of us want to come here every month or two and debate how much money we ought to give the RTC, I do believe we are acting in a manner that basically says we will just pile up the debt, we will give the money to the RTC and we will not really ask the tough questions.

This amendment I am offering sets up another procedure. Mr. President, let me go through what I believe that procedure ought to entail.

In a very short time the RTC, as we know, has become the third largest Federal agency and is still growing. It is spending money at a rapid rate. Additional funds are unfortunately necessary for the agency to do its job, close down the failing thrifts and cover losses so that the depositors will receive funds that are insured. After all, the Federal Government must keep its commitment to the depositors.

The bill before us, as we all know, to repeat for emphasis, authorizes an additional $30 billion to the RTC and the Federal Government to meet those commitments and do what is supposed to be done to mop up the S&L mess.

But the debate before us should not be just on how much money it will cost to allow the RTC to do its job. The debate should also be over how well the agency is doing its job, and what can be done to improve the RTC's efficiency. How can the Congress better exercise scrutiny over the thrift salvage operation. Again, that is sort of in keeping with what the remarks were of the Senator from Nebraska.

There are serious flaws in the way RTC operates; fundamental, structural flaws in the system that result in increased costs and thus increased tax losses. Anecdotal horror stories abound about property that sold for less than it's worth, or about assets deteriorating instead of being sold. I suppose every Senator here has heard stories of frustration from potential buyers of RTC-controlled property who are unable to get a clear set of terms so that an offer can be made. GAO has noted many problems in the sale of real property and sale of securities, as well.

Every month the RTC operates without these flaws being corrected means more deterioration of assets, lower sale prices of high-value assets, and lost opportunities for the sale of assets at a fair price; all of this, of course, resulting in a much higher cost-burden on the taxpayers. Reforms need to be made as soon as possible, and it is crucial that Congress play a role in proposing the kind of reform in the RTC structure that will allow it to efficiently sell assets at a fair price and minimize overhead to a prudent level.

But if we pass the bill before us, the pressure to enact such reform will dissipate, and then we will find ourselves back on the Senate floor in September with an even more costly bill, but with months wasted without any needed reform.

I certainly do not doubt the good intentions of my colleagues on the Banking Committee who have ensured us that they will exercise close oversight over the operation of the RTC in the coming months. However, I believe their efforts will be strengthened if we keep the RTC on a short leash.

What my amendment does is reduce the amount of the funding from $30 billion to $15 billion. That is one part of the amendment. By authorizing $15 billion instead of $30 billion, the RTC will understand more clearly the need for better management of the hundreds of billions of dollars in loans, real estate, and assets that they control. The Congress will increase its oversight, and will hopefully pass additional legislation that will improve the RTC operation.

However much the bailout can be reduced, and we all hope to minimize the cost, there is still the question of how to pay the bill. Under present law and the bill before us, the cost is simply added to the deficit. And what does that mean? That means that bonds will be sold, and all taxpayers will be paying the interest on those bonds for years and years to come, at prevailing interest rates, the interest alone on the $30 billion that we are being asked to authorize amounts to $72½ billion over 30 years.

And then when those bonds are due, what happens? Well, we will just sell more bonds to cover the accumulated interest, and the principal and on, and on, and on. As I stated before, Mr. President, that is like firing a missile directly at our children's future.

Some might argue that this type of debt is different because that money will be used to pay depositors and because, from an economic perspective, borrowing of this type does not have a negative effect. I can hear the arguments made now.

But let us not forget that every year, for decades to come, several billion dollars in interest will have to be paid every single year. As I said, when those bonds mature, new bonds will be issued with more interest to be paid. So not only will we pay every year, we will pay beyond the 30 years on those bonds, too.

So now, who pays that? Who pays the increased costs of these bonds, the interest? Well, we all know it is the average American taxpayers that pay it. The average American taxpayer is going to take it on the chin again. It should not be that way. After all, middle-income and lower-income taxpayers did not reap the benefit from the S&L crisis. As a matter of fact, the beneficiaries, by and large, were wealthy individuals who received far more than their share of the higher-than-normal interest rates being paid by the failing thrifts. If any one group should foot the bill, it should be those individuals who reaped the benefit—the higher income individuals, the wealthy individuals in our society—who can more easily undertake that burden.

We all know the story about Willie Sutton. When he was asked once why

he robbed banks, he said, "Well, because that is where the money is." Well, to help bail out the thrifts, we ought to go where the money went. It sure did not go to middle-income and lower-income taxpayers in this country. And yet, by selling the bonds to pay the RTC to bail out the S&L's, that is exactly who is paying: the middle-income and lower-income taxpayers in this country.

Mr. RIEGLE. Will the Senator yield at this point so I can ask unanimous consent to lock in his amendment and the timing on it?

Mr. HARKIN. Yes, I yield.

Mr. RIEGLE. I thank the Senator from Iowa for yielding.

I ask unanimous consent that the Harkin-Kohl amendment be in order, notwithstanding the fact that it amends the bill in more than one place, and that, in consideration of the Harkin-Kohl amendment, there be 1 hour equally divided in the usual form, with no amendments to the amendment in order, and that, at the conclusion or yielding back of the time, there be a vote on or in relation to the amendment, without any intervening action or debate.

Mr. HARKIN. Reserving the right to object. Might I just inquire, Mr. President, would that allow for a tabling motion?

Mr. RIEGLE. Yes, it would.

Mr. HARKIN. Is there any chance we can have an up or down vote?

Mr. RIEGLE. I would say to the Senator, to be very direct about it, there are going to be a lot of amendments offered, and I will be moving to table them because we have a proposal out of the committee. I don't know if this tabling motion will carry. But I think the responsibility I have is to try to present the legislation as we brought it out of committee. I have to do that. I do not do that to attempt to disadvantage of the Senator from Iowa, who is a dear friend. But that may very well be my intention when the time comes.

Mr. HARKIN. I have no objection.

Mr. GARN. Reserving the right to object, I hesitate to object, having tried to get people over here to work on this bill and have an amendment. I would offer an alternative suggestion.

Would it be possible to have the hour of debate and set the vote at a time certain when we convene in the morning? Because we apparently have several Senators who will not be here at 6:30 or so, when the vote would occur.

Mr. RIEGLE. If I may inquire of the Chair and make a parliamentary inquiry. This unanimous consent request does not mandate that the vote occur tonight; does it?

Mr. GARN. Yes, it does.

Mr. RIEGLE. So that we can check that out, let me ask——

Mr. GARN. May I make a suggestion? Could the Senator continue to give his speech uninterrupted, and be using the time while we are trying to work this out?

Mr. HARKIN. Fine. Obviously, I will be giving my remarks, and, if the Senator has another proposal, he can ask me to yield at that point in time.

The PRESIDING OFFICER. Is there objection?

Mr. RIEGLE. I am advised probably what we ought to do is withdraw the unanimous-consent request, let the Senator from Iowa proceed, and see if we can settle the question of when the vote will occur, and let the matter stand that way without prejudice until we can resolve the time of the vote. So I withdraw the unanimous-consent request at this time.

The PRESIDING OFFICER. The request is withdrawn.

Mr. RIEGLE. I thank the Senator from Iowa for his courtesy.

Mr. HARKIN. I thank the chairman of the committee.

Mr. President, again, my amendment does a couple of things. It reduces the funding for RTC to $15 billion. I had initially thought about $10 billion, but I am told there is a package being prepared that may amount to $14 billion, so I did not want to precipitate an argument that there is a package of S&Ls being developed and the RTC could not complete that deal. My amendment will permit the RTC to fulfill the deal that is.

And it will put them on a short leash. I do acknowledge the RTC needs more funds, but they do not need them now. Maybe they need $15 billion now, but that is all they need now. I kind of question that, but I gave them the benefit of the doubt. This amendment will require that the Congress consider the issue again. We are going to consider this issue again anyway. We all know that, but I hope that, with the passage of this amendment, we will consider a series of changes in the way the RTC operates far sooner, at a point where we are not in the end of the session rush.

Under this amendment, before the President requests additional funds, he must provide the Congress with proposals to improve how the RTC operates and to also provide options to raise revenues that places the burden on those most able to pay.

Let me read the section of that:

Any request to the Congress for Resolution Trust Corporation funding in addition to sums provided by this Act shall be accompanied by a set of proposals from the President that detail—

(1) funding options for raising additional revenues sufficient to offset such request that—

(A) minimize the economic burden of such request on low-, moderate-, and middle-income taxpayers; and

(B) improve the efficiency of the operations of the Resolution Trust Corporation and the sale of assets at fair market prices upon closure of a savings association due to insolvency;

(2) a system of budgetary accounting for Resolution Trust Corporation outlays that accurately reflects such outlays' impact on the Federal budget deficit; and

(3) recommendations for improving—

(A) the accountability of the Resolution Trust Corporation to the Congress; and

(B) the overall efficiency of Resolution Trust Corporation operations.

I think the administration ought to be involved in the process of making recommendations concerning the RTC to the Congress, as they do in everything else when they send down budget requests. The administration always tells us how they want to spend the money and why they ought to get the revenues.

The administration—this administration or any administration—always has those kinds of detailed operations or detailed suggestions for changes that they want made. I want to get the administration involved in this situation, also. Under my amendment, the President would have to recommend options. It does not say he has to recommend one course of action. It does not say he has to raise taxes or that the Congress must raise taxes. It does not say that. He has to consider options for raising revenues to cover the cost and detail such options to the Congress. The President is to also provide to the Congress suggestions for better operations and to increase the efficiency of the Resolution Trust Corporation. I do not think that is too much to ask of the administration.

Again, the amendment does not require the Congress to agree with any kind of tax increase. Senators would want to know just what tax increase is proposed, before making that judgment. Nobody wants to raise taxes. But huge interest payments is a vicious alternative. It puts the taxes on lower- and middle-income people and on our kids and on our grandkids.

The amendment really is very simple. Rather than $30 billion, $15 billion. It says from now on, if the President sends down a request for further funding for the RTC, he should detail funding options for raising additional revenues to offset the request that minimize the impact on low-, moderate-, and middle-income taxpayers. Then, of course, the second part of the amendment is to provide for improving the efficiency of the operations of the RTC and recommendations for improving the accountability of the RTC and its overall efficiency.

So basically the amendment is meant to reduce the overall funding from $30 billion to $15 billion. It means that legislation which can improve the efficiency of the RTC, higher prices on the sale of assets, will be passed and put into effect more quickly.

This Senator believes that the way we are doing it now is all wrong and the people being asked to pay the burden are not those who reap the benefits from the S&L mess. I believe our

wealthier individuals in this country ought to also be involved in it. Under current law, I do not believe that is the case.

AMENDMENT NO. 23

(Purpose: To decrease the amount of additional funding for the Resolution Trust Corporation, to require the President to submit certain recommendations to the Congress with any future requests for funding, and for other purposes)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself and Mr. KOHL, proposes an amendment numbered 23.

Mr. HARKIN. 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 2, line 11, strike "$30,000,000,000" and insert "$15,000,000,000".

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

SEC. . PRESIDENTIAL PROPOSAL OF FUNDING OPTIONS.

(a) IN GENERAL.—Any request to the Congress for Resolution Trust Corporation funding in addition to sums provided by this Act shall be accompanied by a set of proposals from the President that detail—

(1) funding options for raising additional revenues sufficient to offset such request that—

(A) minimize the economic burden of such request on low-, moderate-, and middle-income taxpayers; and

(B) improve the efficiency of the operations of the Resolution Trust Corporation and the sale of assets at fair market prices upon closure of a savings association due to insolvency;

(2) a system of budgetary outlays that accurately reflects such outlays' impact on the Federal budget deficit; and

(3) recommendations for improving—

(A) the accountability of the Resolution Trust Corporation to the Congress; and

(B) the overall efficiency of Resolution Trust Corporation operations.

The PRESIDING OFFICER (Mr. HARKIN). The distinguished Senator from Michigan.

Mr. RIEGLE. Mr. President, so we do not have to enter a quorum call here, I know the Senator from Wisconsin [Mr. KOHL] is going to speak here shortly.

I will momentarily be offering a unanimous-consent request in modified form. It will be to conclude most of the debate tonight on the amendment of the Senator from Iowa and the Senator from Wisconsin, and then to carry over 20 minutes of that debate time to tomorrow, equally divided, so we can have summary arguments for Members who are present at that time leading up to the vote.

So, in due course I will ask the Senator from Wisconsin, at an appropriate time, if he will yield just long enough for me to enter that unanimous-consent request. It is not quite ready in the form it needs to be. Once it is and we have had a chance to check it on both sides, I will ask him to yield just for that purpose.

With that I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, we must fund the RTC. As much as we may dislike that fact, it is exactly that—a fact. We have no choice but to honor the Federal Government's obligation to the depositors in failed financial institutions. And, as the chairman of the Banking Committee has made quite clear, totally cutting off the RTC's funds would allow dangerously sick thrifts to keep operating—adding hundreds of millions of dollars to the final, unavoidable cost of the bailout.

But the fact that we have to fund the RTC does not mean we have to write them a blank check; it does not mean that we have to throw a year's worth of money at the RTC without asking them for any improvement in their performance—without having sufficient evidence to judge whether they are conducting their business in the most cost-effective way possible.

The amendment that Senator HARKIN and I offer provides $15 billion in funding for the RTC and requires the administration to come to us with a serious proposal for RTC reform. I believe it is the only responsible course open to us.

During last week's debate on S. 419, we heard the disturbing history of an inefficient, muddled, unaccountable agency—the RTC. It is unbelievable to me that our response to this history would be to give that agency 30 billion taxpayer dollars—with no strings attached.

Our amendment would force this Congress and the administration to revisit the RTC issue inside of 2 months. Now I know that no one wants to revisit this issue in 2 months. In fact, most people want it to go away for at least 2 years. And I suppose there are political advantages to voting on this issue as infrequently as possible.

But what is politically expedient today could be a political disaster tomorrow. Our constituents are going to figure out that the Federal Government is not facing the issue of the RTC's efficiency and accountability openly or responsibly and, in fact, they are sweeping it under the rug with late night voice votes. I have no doubt they will discover—if they do not already know, but that the RTC could be doing its job a lot more cost effectively, and that Congress is not pushing them very hard in that direction. That discovery is where the real political danger lies.

The Harkin-Kohl amendment addresses this core issue. It says that we cannot continue to neglect our responsibility to manage the depositor bailout—Congress must come up with some reform proposals, and the administration has to think about how they will raise the bailout funds they are asking for. The amount of money the RTC needs to spend is overwhelming; the responsibility that such spending entails is equally daunting. The Harkin-Kohl amendment says: Let us face that responsibility squarely and soon. We owe no less to the taxpayers who bear the costs of this bailout.

In other words, if you like the way the RTC operates now, then vote against this amendment. But if you think the RTC could operate more effectively, then vote for this amendment.

Let me be more specific. Our amendment requires the President to come to us with several proposals before he asks for any new funds. He would have to explain to us how he plans to raise the new money he requests, and his proposal would have to be one that minimizes the burden on low-, moderate-, and middle-income taxpayers.

The President would also have to propose a system for reporting RTC outlays in the budget. Right now, these outlays are almost entirely off-budget. In other words, we are pretending that the money the RTC spends just does not exist. That is wrong and it is dishonest. Do we really think our constitutents believe that putting RTC funding off-budget makes it less costly to them? We are never going to get an open and full discussion of the RTC until we get clear budgetary accounting for that agency's expenditures.

Finally, the President would have to bring us serious proposals to improve RTC's efficiency and accountability. That agency is spending more money than the Department of Agriculture, than the Education Department, than the Department of Veterans Affairs, than all but four other executive agencies. The RTC will spend more this year than we will spend on the war in the gulf. We examine the budgets of other agencies piece by piece. We spend weeks—even years—on authorizing legislation. The RTC deserves at least the same level of scrutiny. The Harkin-Kohl amendment is an attempt to force that scrutiny.

Other Members have amendments which would require specific changes in the operations of the RTC. I am clearly sympathetic to the motives behind these amendments, and I agree with the substance of many of them. However, I just do not know if the mechanisms the amendments propose will achieve the ends their authors foresee.

We have not had hearings on these proposals, and we have not had the benefit of the administration's comments on them. We have not done the work we need to do to make the decisions these other amendments are asking us to make. The Harkin-Kohl amendment is an attempt to make sure that we will do that work, that before

we give the RTC a year's worth of funding, we will examine carefully the many good ideas out there for improving that agency's performance.

In essence, this amendment says one thing: The Government must carry out its obligation to depositors in an open, efficient, and responsible manner. This amendment gives the administration 2 months to make the case that they should have made to Congress last fall, and, in fact, again this year. They have to convince us that they are spending RTC money which is, of course, taxpayer money, to get their job done as quickly and inexpensively as possible. Until they make that case, this body owes it to the taxpayers to keep RTC on as short a leash as possible.

So I urge my colleagues to support this amendment. It represents the most open and reasonable response that we have right now to this horrible S&L mess.

UNANIMOUS-CONSENT AGREEMENT

Mr. RIEGLE. Mr. President, I will now make the unanimous-consent request that we had been discussing previously as follows:

Mr. President, I ask unanimous consent that the Harkin-Kohl amendment be in order, notwithstanding the fact that it amends the bill in more than one place, and this evening there be 40 minutes equally divided; that tomorrow morning, beginning at 10:10 a.m., there be 20 additional minutes, each equally divided and controlled in the usual form; and that at the conclusion or yielding back of time there be a vote on or in relation to the amendment without any intervening action or debate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. RIEGLE. Let me just indicate that has been cleared on both sides.

That then puts us in a situation where we have had pretty good debate this evening. I might just ask the sponsors of the amendment, do they wish to proceed at further length tonight, or would they want to have us in short order perhaps conclude the debate tonight and carry the rest over to tomorrow? I will be guided by their wishes on this.

Mr. HARKIN. I have made my statement. If the Senator will yield, let me just say I have concluded my statement. I do not speak for Senator KOHL. If others want to come over and speak, I do not know. Perhaps I can be refreshed on the unanimous-consent agreement. Would it be possible to carry over any more debate tomorrow and if no one wants to debate it, we will just leave it to 20 minutes equally divided tomorrow?

Mr. RIEGLE. If I may respond, I think we have locked the time in tomorrow. We probably ought to stay with that. I think we probably are close to the 40 minutes anyway. I am going to make a couple of comments myself in response to some of the points that have been raised.

Mr. HARKIN. If the Senator will yield, might I inquire as to how much time is remaining under the unanimous-consent request?

The PRESIDING OFFICER (Mr. KOHL). There are 40 minutes equally divided.

Mr. RIEGLE. By answering the unanimous-consent request just now, the debate time that had occurred earlier in effect does not count against that. Although in point of fact it constitutes debate time because we entered the unanimous-consent request late in the discussion.

Mr. HARKIN. Speaking only for myself, if the Senator will yield further, I would not be averse to even counting the previous time if there is no one else who wants to speak on it. I do not mean to hold up everybody. If people want to go, we can conclude that and move on.

Mr. RIEGLE. In effect, I guess that is what we will do in practical terms. Let me just say I want to refer to a statement by the Comptroller General of the United States, Charles Bowsher, which was made on February 20 on the Resolution Trust Corporation—an assessment of their performance to date. I want to read two paragraphs from page 6 of that report. I am going to read them verbatim:

> We do understand and agree with the administration's desire to avoid the slowdown in resolution activity caused by funding shortfalls. RTC has refrained from beginning the marketing process for 95 thrift resolutions because it was unsure that sufficient funding would be available to complete the process in a timely manner. Such slowdowns just add to the eventual cost of resolution by allowing failed institutions to continue operating and incurring losses. We believe short-term funding bills covering less than 1 year will prove inefficient and costly.

The second paragraph reads as follows, and immediately follows the one just read:

> However, providing sufficient funds to cover resolution needs for a year allows RTC to efficiently plan its workload, while retaining congressional control mechanisms. This yearly appropriation could be linked with the Oversight Board's reporting responsibilities as required by FIRREA. We believe that yearly funding, provided on budget and linked with the FIRREA obligations limit and reporting requirements, is the best alternative.

The bottom line of all of this is not only has GAO gone on the dotted line in supporting the request for $30 billion through the remainder of this fiscal year, but GAO has emphasized the problem that we face in terms of lead time. From the information we have, there are some 95 institutions ready for case resolution once new funding is provided, which is the purpose of this bill. But those 95 case resolutions are estimated to take some $14 billion. That is an estimate.

So maybe it is $14 billion and maybe it is $16 billion, maybe it is $17 billion or maybe it is $13 billion. We do not know that the numbers will come in right at the $14 billion estimate. But what we do know is that if we limit it to $15 billion, which is one of the parts of the amendment now before us, that will allow only resolution, if the estimates are right, of the 95 that are standing in the doorway waiting to be closed and resolved, but it will prevent the RTC from lining up the next set of thrifts that are losing money and need to be closed, which need to be put on the market so that bidders, prospective buyers, can come forward, knowing that the RTC will have the funds to be able to close the deal once a deal is reached on the next batch that come after the 95 that are now waiting in line.

So the reason for providing $30 billion is to recognize that roughly $14 billion, their best estimate, is needed over a period of about the next 60 to 120 days to resolve those 95 cases, but the remainder of the money is needed to be available as soon as 60 days from now so that the other institutions scheduled to be sold later can be put onto the market and deals be negotiated for completion in July, August, and September.

If you do not provide additional funds to do that, the RTC, in effect, has to stop processing the next phase of those institutions which need to be handled in that fashion.

We can stop and start as many times as we want. This amendment calls for a reduction of $30 billion to $15 billion. We could reduce it to $10 billion or we could reduce it from $30 billion to $20 billion.

We can pick any arbitrary period we want through which to fund activity and have an abrupt shutting down of the resolution process because there is no more money available to continue it. But as GAO has told us—and I think they are as good an independent party of interest that we might turn to for advice in this area—that is bad practice; that makes it more expensive; it makes it less efficient; and that it is not good public policy.

What they are saying is, in their view, the $30 billion, which only takes us down through 7 months, through the end of this fiscal year, is the right amount of money for the right length of time to allow the RTC to resolve the number of failed thrifts they anticipate through that period of time.

Mr. GARN. Will the Senator yield for a direct quote on that particular point?

Mr. RIEGLE. Yes, of course.

Mr. GARN. It is one we have both been trying to make for several days. Beyond the issue of how RTC might be structured, I would quote directly from Comptroller General Bowsher of the GAO:

Such slowdowns simply add to the eventual cost of resolution by allowing failed institutions to continue operating and incurring losses. We believe that short-term funding bills covering less than 1 year will prove inefficient and costly. The RTC estimates a 3-month delay would cost taxpayers $300 million.

So GAO says "bills less than a year," and we are obviously talking about until September 30.

Mr. RIEGLE. In any case, I conclude by saying these are judgment calls and in order to test the logic of the request of the administration, we went to the General Accounting Office for that purpose.

I think their track record in terms of independent analysis of issues related to the savings and loan problem has really been quite good. That does not mean they are absolutely correct in their judgment, but it gives us a crosscheck. It gives us a very important professional, arm's length crosscheck on the wisdom of providing this amount of money over this time period.

So for that reason and to allow time for appropriate hearings, I think this is the proper amount to provide. It provides a long enough planning horizon so that the RTC cannot only resolve the 95 cases that are waiting now to be disposed of, but also can line up the next set and be prepared to handle those so that these failed institutions can be closed, the losses can be contained, and we are not just adding more costs to the taxpayers, which is all of us, that we would otherwise have to pay in the future.

With that, I yield the floor.

Mr. HARKIN. Will the Senator yield?

Mr. RIEGLE. Yes, I yield to the Senator from Iowa.

Mr. HARKIN. Or I will use my own time, whatever.

I appreciate the explanation of the chairman. I have a great deal of confidence in the chairman. He has conducted the hearings and the process quite well. As I said in my opening remarks, I did not doubt that the distinguished chairman and ranking member would conduct efficient and timely oversight over the RTC. I have a couple of observations on what the distinguished chairman just said.

No. 1, I understand, to the best of my knowledge anyway, there is some $8 to $10 billion left over from the amount that Congress freed up at the end of the last session. Again, this is according to committee staff from the other body, that there would be $8 to $10 billion available for resolutions.

So, if you take the $15 billion that is in my amendment, and the distinguished chairman said the RTC might need 14 for the 95 S&L's, it might be 15, it might be 16, they also have 8 or 10 in addition. We are talking about a total of over $20 billion, that they would have.

Mr. RIEGLE. Could I respond to the Senator on that.

Mr. HARKIN. Yes.

Mr. RIEGLE. We looked at that, too, thinking that might be a way to depress the amount of money here. We have been told by RTC that the remaining amount of money, some $8 billion, is already committed to other closures apart from the 95 that are lined up waiting to be handled, which relates to the $14 billion.

I cannot give the Senator as I stand here the number of institutions that $8 billion covers, that would be separate and apart from the 95 institutions. But what they have said to us is that that money is already matched against other cases and so that money will be spent that way. So the $14 billion that I spoke about earlier is simply for the 95 which follow that. It does not constitute a pot of money sitting out there available to us that has not otherwise been applied to the problem.

Mr. HARKIN. The 95 cases, the estimate on that was somewhere around $14 billion. Now, obviously, it is going to take some time for them to deal with those cases. Even if we do limit them to the additional $15 billion, it is going to take them some time to put the next set of deals together, the one after the $14 billion deal. We should be back again in 2 or 3 or 4 months on the $15 billion cases and have a bill before us to reform the RTC. I have read the reports from Mr. Bowsher about how it might be more costly to delay and give partial funding, but I also remember a GAO testimony—I do not have it handy right now. I will get it tomorrow morning—in which GAO pointed out that putting this on the debt is also very costly.

Obviously, putting it on the debt increases the cost to the taxpayers considerably.

So I think that is the other thing we have to look at. The Chairman is just looking at the fact, well, we may come up a little short. We may or we may not. But, what is the savings from improving the way the RTC operates at an earlier point in time?

I ask the chairman to direct some comments at the other part of the amendment also which requires the administration when they come back to request more money for RTC to be involved in the process, to recommend ways or different options that might be available to us for financing this while minimizing the impact on moderate to lower income taxpayers, and let us look at those options.

Mr. RIEGLE. If we could find another way to pay for this that is fair and that gets the job done with less cost, I am for it. I will say this: The economy right now is in a recession, as the Senator knows. There are parts of the economy that are struggling to try to come out of the recession.

I am not sure a heavier tax at the present time would be good economic medicine just in terms of macroeconomic policy. I think with a static analysis somebody might say, look, let us face these costs now and raise the revenue now to cover some of these bills. But I think with unemployment still rising—we will see data coming out very shortly to tell us whether that is continuing—but the recent economic data shows the economy has not bottomed out and is still heading down.

Just from the point of view of whether we want to depress the economy further, I think that is a question that has to be looked at. The Senator responds by saying we are talking about something over a longer timeframe, and maybe the economy will be back in a stronger upswing in 6, 9, 12 months from now. Obviously that would be a point on the other side.

Let me cover a couple of other points while I have the floor now. I mentioned in response to the question about the $9 billion left under previous authority. There are 12 transactions ready to go that will absorb that $9 billion. Obviously those are some pretty big ones that are in the pipeline. That is the group that is separate and apart from the 95 that I spoke about that is next in line against which they anticipate the $14 billion cost.

With respect to what does it cost us and where does that premium cost come from if we do not go in and resolve these situations—in other words, if we allow in effect failed thrifts to stay open—the financing difference, just so it is clear for the record, reflects the difference between what those institutions now are paying depositors who have their money still on account at those still operating but insolvent savings and loans, open, along with the costs of gathering those deposits, and the interest costs of Treasury borrowing.

So because of this interest rates spread, the fact is you can go in and take the loss, but your financing cost falls to the lowest interest rate that is available under present market conditions. It is lower than this premium interest cost that you are paying the depositors to leave their money in account in a savings and loan that is in trouble.

It is the difference between those two interest rates and how long that differential remains in place that ends up creating this premium cost that is accruing that eventually we are all going to be stuck with. The sooner we can move into an insolvent thrift, resolve it, put an end to that premium cost, that becomes a part of the price that we then do not have to pay.

Let me say one other thing with respect to the RTC oversight hearings. The legislation, reform legislation that we passed, the FIRREA bill, mandates a certain number of appearances before

the Congress on their operating conduct. We have had some other ones also in addition to that. But for the record we have had them in to testify on the oversight hearings, talking about the RTC, on October 4, 1989; January 31, 1990; May 23, 1990; September 13, 1990; September 20, 1990; and already on January 23, 1991.

So over that stretch of time we have had six different oversight hearings to try to insist on accountability in terms of how they are functioning, and what they are doing. Are they following least cost practices? Are they ironing out organizational conflicts, gaps and things of that kind?

So I wanted the record to show we have been calling them in on a regular basis to try to pull out all of the relevant information we can. That is in addition to the separate analyses we have asked the General Accounting Office to do to provide a crosscheck on what we are able to learn in our oversight hearings.

I thank the Senator.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, the distinguished chairman of the Banking Committee has adequately commented on reasons for going for $30 billion. I think I can sum it up without being repetitious at all. As $15 billion perpetuates the stop and go, stop and go, whether it is in procurement of military weapons systems, the conduct of other agencies, if we treated other agencies the same way—EPA, give you enough money for 3 months. We do not like some of the things you are doing. Come back and justify it, and the programs are grinding down.

So on that basis alone, regardless of what the problems may be with the way RTC operates and how we should operate and supervise them, the stop and go funding will create additional costs.

But I think our colleagues, before we vote tomorrow, should be aware of what the second part of this amendment does. We debated all of these issues last fall, probably not to anyone's satisfaction on either side, but it would completely open up all the issues that we debated in the budget agreement in October.

Under the amendment, 90 days from now, RTC would be out of funds again and additional funding would be tied to a new debate on the method of funding, including the budget accounting procedures.

So in 90 days from now, in addition to looking at providing additional funding to keep RTC from closing up shop and not being able to continue to close these brain dead institutions down, the Senate would be faced with the following issues: Do we want to impose new taxes on the American people, or do we want to change tax formulas and tax burdens? Do we want to base budget accounting rules on how RTC is accounted and how revenue from RTC sales are accounted? The basic formulas for spending restrictions under the Budget Act as amended last year would have to make room for RTC spending; spend the limit of its budget status, if the budget status were to change.

To simplify that, what we are talking about is going back to where a budget compromise was made when RTC was created, and say part of it would be on budget and part of it would be off. But it would not be under Gramm-Rudman-Hollings ceilings.

So now in effect what we are saying here is we are going to review that today which is entirely separate from the issue of the amount of funding.

I am not sure the Senate of the United States wants to reopen that bitter debate, which went on for weeks, into late October, the 26th of October, as I remember, and start deciding that we are now going to count this under Gramm-Rudman-Hollings, which, theoretically, I would agree with. But that means that you are going to have to make the choices to pay for it through new taxes or taking out of somebody's favorite program, maybe NASA, which is one of my favorites. We all have favorite programs around here, and I am not certain that we want to open that whole debate at this time.

I want to put my colleagues on notice, when they vote, that the second part of this amendment is much more, I think, important than just a simple amendment. If they come over to the floor and say, that is a good idea, and let us keep them on a shorter leash until September 30, cut the funding in half, and look at it again in 3 months, consider the implications of opening up that whole debate of tax equity, the fairness issue, of whether we are going to raise taxes—which I do not think is a popular thing to do; certainly, this Senator is not willing to vote for that—or whether we want to take these billions of dollars out of other necessary programs. I hope that people will consider the full impact of this amendment and not consider it just a simple amendment to cut the funding in half.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I think we are at a point where we have essentially finished the debate this afternoon, and through the unanimous-consent agreement we entered into earlier, we will take this up again tomorrow at 10 a.m. for a 20-minute period to be equally divided, so that we can summarize the arguments. At the end of that time, at approximately 10:30, we will have a vote on this issue.

MORNING BUSINESS

Mr. RIEGLE. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

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

REQUEST FOR EXTENSION OF FAST TRACK PROCEDURES FOR CONSIDERATION OF TRADE LEGISLATION—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 23

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 1, 1991, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Finance:

To the Congress of the United States:

Pursuant to section 1103(b)(2) of the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100-418; 102 Stat. 1129), I transmit herewith a report that includes my request for the extension of fast track procedures for the consideration of implementing legislation with respect to trade agreements entered into after May 31, 1991, and before June 1, 1993, together with a description of the progress made to date in bilateral and multilateral trade negotiations, the anticipated schedule for transmitting such agreements to the Congress, and a statement of the reasons supporting my request for an extension of fast track procedures.

The fast track mechanism has played a vital role in U.S. trade policy for many years. It strengthens the hand of our trade negotiators and preserves the important role of the Congress in the shaping of U.S. trade policy. The continued availability of the fast track procedures over the next 2 years will ensure that our negotiators can bring to the Congress for its consideration trade agreements that will truly enhance the ability of the United States to compete internationally.

At a time when world events have reconfirmed the importance of U.S. leadership in multilateral efforts, maintaining fast track is essential to our leadership in the global trading system.

My request reflects my strong desire to continue the partnership between the Congress and the executive branch that the fast track represents. This partnership is essential if we are successfully to meet the world's growing economic challenges into the next century.

GEORGE BUSH.

THE WHITE HOUSE, *March 1, 1991.*

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

ENROLLED BILLS SIGNED

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 4, 1991, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

S. 379. An act to make certain technical amendments to the National and Community Service Act, and for other purposes; and

H.R. 555. An act to amend the Soldiers' and Sailors' Civil Relief Act of 1940 to improve and clarify the protections provided by that Act; to amend title 38, United States Code, to clarify veterans reemployment rights and to improve veterans' rights to reinstatement of health insurance, and for other purposes.

Under the authority of the order of the Senate of January 3, 1991, the enrolled bills were signed on March 4, 1991, during the recess of the Senate, by the President pro tempore [Mr. BYRD].

MESSAGES FROM THE HOUSE

At 2:34 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 and joint resolution, in which it requests the concurrence of the Senate:

H.R. 111. An act to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs and the Secretary of Defense to carry out a joint program to make grants for the establishment of research centers at qualifying medical schools;

H.R. 1176. An act to provide authorizations for supplemental appropriations for fiscal year 1991 for the Department of State and the Agency for International Development for certain emergency costs associated with the Persian Gulf conflict, and for other purposes; and

H.J. Res. 98. Joint resolution designating March 4 through 10, 1991, as "National School Breakfast Week."

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 83. A concurrent resolution providing for a joint session of the Congress to receive a message from the President of the United States.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 111. An act to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs and the Secretary of Defense to carry out a joint program to make grants for the establishment of research centers at qualifying medical schools; to the Committee on Veterans' Affairs.

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-648. A communication from the Comptroller of the Department of Defense, transmitting, pursuant to law, notice that the Secretary of Defense has invoked certain authority to authorize incurring deficiencies for the costs of additional members of the Armed Forces incident to Operation Desert Shield/Storm; to the Committee on Appropriations.

EC-649. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report on the exemption of certain appropriations accounts from the provisions of Section 1512 of Title 31, United States Code; to the Committee on Appropriations.

EC-650. A communication from the Director, Office of Environmental Restoration and Waste Management, Department of Energy, transmitting, pursuant to law, notice of a delay in the submission of a report detailing the expenditure of fiscal year 1990 Environmental Restoration and Waste Management funds for defense and non-defense activities and the accomplishments to-date; to the Committee on Armed Services.

EC-651. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to authorize supplemental appropriations for fiscal year 1991 on connection with operations on and around the Persian Gulf presently known as Operation Desert Shield/Storm, and for other purposes; to the Committee on Armed Services.

EC-652. A communication from the Chief, Special Actions Branch, Congressional Inquiry Division, Department of the Army, transmitting, pursuant to law, a cost comparison study of the visual information services function at Fort Riley, Kansas; to the Committee on Armed Services.

EC-653. A communication from the Secretary of the Air Force, transmitting, pursuant to law, notice of the reduction in the procurement quantities of some weapons systems; to the Committee on Armed Services.

EC-654. A communication from the Chairman of the Board of the National Credit Union Administration, transmitting, pursuant to law, the annual report on enforcement issues for calendar year 1990; to the Committee on Banking, Housing, and Urban Affairs.

EC-655. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the annual report on the Supportive Housing Demonstration program for fiscal year 1990; to the Committee on Banking, Housing, and Urban Affairs.

EC-656. A communication from the Director of the Office of Thrift Supervision, transmitting, pursuant to law, the annual report of the Office of Thrift Supervision for calendar year 1990; to the Committee on Banking, Housing, and Urban Affairs.

EC-657. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the Monetary Policy Report dated February 20, 1991; to the Committee on Banking, Housing, and Urban Affairs.

EC-658. A communication from the Deputy 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 dated February 6, 1991; to the Committee on the Budget.

EC-659. 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 dated January 30, 1991; to the Committee on the Budget.

EC-660. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to make amendments to the Liability Risk Retention Act, as amended, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC-661. A communication from the Deputy Under Secretary of Energy (Policy, Planning, and Analysis), transmitting, pursuant to law, notice of a delay in the submission of a report on CO2 emissions; to the Committee on Energy and Natural Resources.

EC-662. A communication from the Assistant General Counsel of the Department of Energy, transmitting, pursuant to law, notice of a meeting related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-663. A communication from the Assistant Secretary of Energy (Fossil Energy), transmitting, pursuant to law, notice of a delay in the submission of the Annual/Quarterly report on the Strategic Petroleum Reserve; to the Committee on Energy and Natural Resources.

EC-664. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to authorize funds for construction of highways, for highway safety programs, for mass transportation programs, and for other purposes; to the Committee on Environment and Public Works.

EC-665. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting a draft of proposed legislation to authorize appropriations for the Nuclear Regulatory Commission for fiscal years 1992 and 1993, and for other purposes; to the Committee on Environment and Public Works.

EC-666. A communication from the Vice President of the Tennessee Valley Authority (Communications), transmitting, pursuant to law, the statistical summaries to accompany the annual report of the TVA for fiscal year 1990; to the Committee on Environment and Public Works.

EC-667. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on measures undertaken by the Department of State for conservation and protection of sea turtles; to the Committee on Foreign Relations.

EC-668. A communication from the Inspector General of the National Aeronautics and

Space Administration, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC-669. A communication from the Director of the Office of Government Ethics, Office of Management and Budget, Executive Office of the President, transmitting a draft of proposed legislation to provide for Government-wide procurement ethics reform, and for other purposes; to the Committee on Governmental Affairs.

EC-670. A communication from the Inspector General of the Department of Commerce, Transmitting, pursuant to law, a report on the Department's implementation of the Anti-Lobbying Act; to the Committee on Governmental Affairs.

EC-671. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-344 adopted by the Council on February 5, 1991; to the Committee on Governmental Affairs.

EC-672. A communication from the Assistant Secretary of the Treasury (Management), transmitting, pursuant to law, the annual report of the Department under the Freedom of Information Act for calendar year 1990; to the Committee on the Judiciary

EC-673. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1990; to the Committee on the Judiciary.

EC-674. A communication from the Director of the Federal Domestic Volunteer Agency (ACTION), transmitting, pursuant to law, the annual report of the Agency under the Freedom of Information Act for calendar year 1990; to the Committee on the Judiciary.

EC-675. A communication from the Executive Director of the Committee For Purchase From the Blind and Other Severely Handicapped, transmitting, pursuant to law, the annual report of the Committee under the Freedom of Information Act for calendar year 1990; to the Committee on the Judiciary.

EC-676. A communication from the Chairman of the Barry M. Goldwater Scholarship and excellence in Education Foundation, transmitting, pursuant to law, the annual report of the Foundation for fiscal year 1990; to the Committee on Labor and Human Resources.

EC-677. A communication from the Secretary of Health and Human Resources, transmitting a draft of proposed legislation to amend title X of the Public Health Service Act to authorize a program of grants to States for family planning services; to the Committee on Labor and Human Resources.

EC-678. A communication from the Assistant Attorney General (Legislative Affairs), transmitting a draft of proposed legislation to amend the appointment provisions for members of the Board of Directors of the Commission on National and Community Service; to the Committee on Labor and Human Resources.

EC-679. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on activities and the use of funds provided by the Preventive Health and Health Services Block Grant; 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-14. A concurrent resolution adopted by the Legislature of the State of Oklahoma; to the Committee on Armed Services.

"HOUSE CONCURRENT RESOLUTION 1001

"Whereas the August 2nd invasion and subsequent occupation, of Kuwait by Iraq, that have resulted in the deployment of U.S. troops to Saudi Arabia, have stirred the emotions of the American public; and

"Whereas concern for the brave men and women in the Armed Forces who have been sent to the Middle East dominates the thoughts of most Americans; and

"Whereas the pride that all Americans feel for our military personnel should be expressed so that they know they are not forgotten: Now, therefore, be it

Resolved by the House of Representatives of the 1st extraordinary session of the 43rd Oklahoma Legislature, the Senate concurring therein:

"That the State of Oklahoma hereby commends U.S. troops in Saudi Arabia and the Persian Gulf, recognizes the hardships they must endure, and declares continuing support for their efforts.

"That Congress is hereby memorialized to provide to U.S. troops all that is necessary for them to fulfill their mission.

"That copies of this resolution be dispatched to the Oklahoma Congressional Delegation, to the Clerk of the United States House of Representatives and to the Secretary of the United States Senate."

POM-15. A resolution adopted by the House of Representatives of the State of Georgia; to the Committee on Armed Services:

"H.R. 166

"Whereas after debate in the United States Congress, the decision was made to intervene in the aggression against Kuwait by Iraq's troops led by Saddam Hussein; and

"Whereas support for our President, the Congress, and the men and women in the armed forces stationed in Saudi Arabia and other parts of the Middle East will be shown by a parade of support on Broad Street on February 2, 1991, at 5:00 p.m. by people from the Rome and Floyd County area; and

"Whereas this parade will be led by family members of those men and women in the Middle East; and

"Whereas the swift response of the United States to Iraq's aggression against the sovereign state of Kuwait sent thousands of American men and women in the armed forces to Saudi Arabia in an operation which came to be known as Operation Desert Storm; and

"Whereas those first troops stood bravely in harm's way, greatly outnumbered by Iraqi forces massed in Kuwait, and prevented the almost certain invasion of Saudi Arabia; and

"Whereas in the months since that initial response, over 400,000 American men and women in all branches of the service have left their families and homes for the hardships and dangers of the Saudi Arabian desert to give credibility to their country's efforts to achieve peace; and

"Whereas Iraqi soldiers have attacked and murdered people in Kuwait; and

"Whereas we support our armed forces in the liberation of the Kuwaiti people from this naked aggression by whatever means is necessary; and

"Whereas when Iraqi forces are removed from Kuwait, when Saddam Hussein has been appropriately dealt with, and when peace has been established in the Middle East through whatever measures the future may bring, the world will owe an inestimable debt to the courageous men and women of the armed services of the United States of America: Now, therefore, be it

"*Resolved by the House of Representatives*, That the members of this body join with citizens in Rome and Floyd County as we express our unanimous support for the President and Congress of the United States and the men and women involved in Operation Desert Storm and offer our heartfelt prayers for their safe return from the Persian Gulf: Be it further

"*Resolved*, That the Clerk of the House of Representatives is authorized and directed to transmit an appropriate copy of this resolution to General Colin Powell, Captain R. O. Wildes, Captain Frank Barron, Captain Roy C. Mears, Jr., President George Bush, the Speaker of the United States House of Representatives, and the President of the United States Senate."

POM-16. A joint resolution adopted by the Legislature of the State of Montana; to the Committee on Banking, Housing, and Urban Affairs:

S.J. RES. 8

"Whereas the United States Congress has, in the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, increased the Federal Deposit Insurance Corporation (FDIC) premium from 0.08% to 0.195% of insured deposits and has authorized a further premium increase to 0.23%; and

"Whereas the FDIC has extended the benefits of deposit insurance to deposits in overseas branches of the larger American banks that have overseas branches, although those banks pay no premiums on foreign deposits; and

"Whereas the largest United States banks operate foreign branches and accept uninsured deposits of various types to an extent that they pay FDIC premiums on approximately 40% of the funds their customers entrust to them, although their customers are assured that all funds in those large banks are protected by the FDIC; and

"Whereas the reason the umbrella of federal deposit insurance is extended to those funds is that the federal government bank regulators have decided that certain banks are too big to be allowed to fail; and

"Whereas the largest United States banks operate foreign branches and accept nondeposit liabilities to such an extent that less than 40% of the funds their customers entrust to them are assessed FDIC premiums, while 100% of those funds enjoy the benefit of insurance coverage from the FDIC; and

"Whereas the community banks, which do not operate foreign branches have nearly 90% of the funds their customers entrust to them assessed for FDIC premiums; and

"Whereas the result is that community banks pay for deposit insurance at twice the effective rate paid by large international banks, which is unfair and discriminatory and causes community banks to subsidize the national "too big to fail" policy: Now, therefore, be it

"*Resolved by the Senate and House of Representatives of the State of Montana:*

"(1) That Congress be urged to amend the Federal Deposit Insurance Act to extend the assessment for FDIC premiums to deposits held in foreign branches of American banks.

"(2) That the Secretary of State forward copies of this resolution, under the great seal of the State of Montana, to the United States Senate and the United States House of Representatives and to each member of the Montana Congressional Delegation."

POM–17. A concurrent resolution adopted by the Legislature of the State of Indiana; to the Committee on Foreign Relations:

"H. CON. RES. 8

"Whereas the torch of true patriotism has been held high in these United States and in the State of Indiana in support of our country and its armed forces; and

"Whereas when called to duty, 27,610 Hoosiers have given their lives for their country in World War I, World War II, the Korean Conflict, and the Vietnam War, and more than 685,000 Americans have given their lives during these hostilities; and

"Whereas there are 50,443 disabled veterans in the State of Indiana and there are still 68 Hoosiers missing in action in Southeast Asia, with a total of over 9,000 Americans still listed as prisoners of war or missing in action worldwide from all the wars; and

"Whereas no American wants to see the loss of even one more life; and

"Whereas mindful of these sacrifices, Hoosier men and women serving in Operation Desert Shield have responded to their country's call without hesitation; and

"Whereas these brave men and women are supported at home through the prayers, sacrifices, and love of their families left behind; and

"Whereas all Hoosiers should remember these troops and their families in their thoughts and prayers; and

"Whereas the Indiana General Assembly ardently supports those troops currently participating in Operation Desert Shield as well as those who may be called to participate in the future: Now, therefore, be it

"*Resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:*

"SECTION 1: That the General Assembly of the State of Indiana urges and prays for peaceful negotiations, which should be supported by all government leaders; and further, for a striving for a better understanding between nations, so that peace, goodwill and honor for individual life may prevail.

"SECTION 2: That the General Assembly of the State of Indiana demonstrate its respect and support for the men and women serving with the American forces in the Middle East, specifically in Operation Desert Shield.

"SECTION 3: That the General Assembly of the State of Indiana extend its prayers and concern to the families left behind.

"SECTION 4: That the General Assembly of the State of Indiana prays for the safe return of all our troops stationed in this troubled region.

"SECTION 5: That the General Assembly of the State of Indiana encourages in all of the citizens of Indiana, and of the global community, a spirit of understanding and peace.

"SECTION 6: That certified copies of the concurrent resolution be sent to the President of the United States, the U.S. Department of Defense, the National Security Staff, the presiding officers and the majority and minority leaders of both houses of the Congress of the United States, to the Secretary of the Senate and the Clerk of the House of Representatives of the Congress of the United States, to the Indiana members of the United States Congress, and to the Adjutant General of the Indiana National Guard and the Indiana Reserves."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

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

Edson G. Case, of Maryland, to be a member of the Defense Nuclear Facilities Safety Board for a term expiring October 18, 1995; and

Robert William Gambino. of Virginia, to be Director of Selective Service.

(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. DOMENICI:

S. 536. A bill to provide education loans to students entering the teaching profession and to provide incentives for students to pursue teaching careers in areas of national significance; to the Committee on Labor and Human Resources.

By Mr. GRAHAM (for himself and Mr. MACK):

S. 537. A bill to authorize the Secretary of Education to make a grant to Stetson University for the construction of library facilities; to the Committee on Labor and Human Resources.

By Mr. LUGAR:

S. 538. A bill to restore Federal recognition to the Miami Tribe of Indiana; to the Select Committee on Indian Affairs.

By Mr. INOUYE:

S. 539. A bill to amend title 23, United States Code, relating to motor carrier transportation; to the Committee on Commerce, Science, and Transportation.

By Mr. BURNS:

S. 540. A bill to amend title 23, United States Code, to assist in the development of an infrastructure to support the use of public lands for travel and tourism purposes, and for other purposes; to the Committee on Environment and Public Works.

By Mr. HEFLIN (for himself and Mr. SHELBY):

S. 541. A bill to provide for the use of excess assets in black lung benefit trusts for health care benefits for retired miners, and for other purposes; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Mr. DANFORTH, Mr. DURENBERGER, Mr. LEVIN, Mr. D'AMATO, Mr. SHELBY, Mr. HELMS, Mr. LOTT, and Mr. CONRAD):

S. 542. A bill to amend the Internal Revenue Code of 1986 to restore the deduction for interest on educational loans; to the Committee on Finance.

By Mr. RIEGLE (for himself, Mr. DODD, and Mr. WIRTH):

S. 543. A bill to reform Federal deposit insurance, protect the deposit insurance funds, and improve supervision and regulation of the disclosure relating to federally insured depository institutions; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HEFLIN:

S. 544. A bill to amend the Food, Agriculture, Conservation and Trade Act of 1990 to provide protection to animal research facilities from illegal acts, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

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

S. 545. A bill to authorize the additional use of land in Merced County, California; to the Committee on Energy and Natural Resources.

By Mr. CRANSTON:

S. 546. A bill to establish a Parents as Partners in Learning program, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 547. A bill to transfer certain facilities, easements, and rights-of-way to Elephant Butte Irrigation District, New Mexico; to the Committee on Energy and Natural Resources.

By Mr. CRANSTON (for himself, Mr. PACKWOOD, Mr. METZENBAUM, Mr. COHEN, Mr. ADAMS, Mr. INOUYE, Mr. AKAKA, Mr. GLENN, and Mr. SIMON):

S. 548. A bill to amend various provisions of law to ensure that services related to abortion are made available to the same extent as are all other pregnancy-related services under Federally-funded programs; to the Committee on Finance.

By Mr. CRANSTON:

S. 549. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Lower Merced River in California as a component of the National Wild and Scenic Rivers System; to the Committee on Energy and Natural Resources.

By Mr. CRAIG (for himself, Mr. HATFIELD, Mr. BURNS, Mr. ADAMS, and Mr. SYMMS):

S. 550. A bill to amend the Act of May 15, 1965, authorizing the Secretary of the Interior to designate the Nez Perce National Historical Park in the State of Idaho, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BOND (for himself, Mr. HEFLIN, Mr. COCHRAN, Mr. DANFORTH, Mr. BINGAMAN, Mr. CHAFEE, Mr. SHELBY, Mr. BRADLEY, Mr. ROCKEFELLER, Mr. KOHL, Mr. MCCAIN, Mr. COATS, Mr. DODD, Mr. KASTEN, Mr. STEVENS, Mr. KENNEDY, Mr. LIEBERMAN, Mr. COHEN, Mr. DOMENICI, Mr. BURNS, Mr. INOUYE, and Mr. AKAKA):

S. 551. A bill to encourage States to establish Parents as Teachers programs; to the Committee on Labor and Human Resources.

By Mr. CRANSTON (for himself, Mr. THURMOND, and Mr. KERRY):

S. 552. A bill to amend the Foreign Assistance Act of 1961 to provide support for emerging democracies and civilian control of military and security establishments in Central and Eastern Europe; to the Committee on Foreign Relations.

By Mr. PELL (by request):

S. 553. A bill to provide for the Implementation of the Enterprise for the Americans Initiative, and for other purposes; to the Committee on Foreign Relations.

By Mr. GLENN (for himself, Mr. D'AMATO, Mr. GORTON, Mr. CONRAD, and Mr. KASTEN):

S. 554. A bill to establish an Interagency Committee on Degradable Plastics Stand-

ards for the development of uniform definitions, standards, and testing procedures for plastic products made from certain commodities, to encourage the development, production, and use of environmentally safe degradable plastic products, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BRADLEY (for himself, Mr. CHAFEE, and Mr. LAUTENBERG):

S. 555. A bill to amend the Drug Free Schools and Communities Act of 1986 to provide education on the problems associated with the use of tobacco; to the Committee on Labor and Human Resources.

S. 556. A bill relating to cigarette labeling; to the Committee on Commerce, Science, and Transportation.

S. 557. A bill to amend the Internal Revenue Code of 1986 to disallow deductions for advertising expenses for tobacco products; to the Committee on Finance.

S. 558. A bill to amend the Internal Revenue Code of 1986 to increase the excise taxes on cigarettes to 32 cents per pack; to the Committee on Finance.

By Mr. SYMMS (for himself and Mr. SHELBY):

S. 559. A bill to require the Secretary of the Treasury to mint coins in commemoration of Operation Desert Shield/Desert Storm; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LAUTENBERG (for himself and Mr. BRADLEY):

S. 560. A bill to provide incentive grants for States that enact legislation aimed at limiting youth access to cigarettes, and for other purposes; to the Committee on Labor and Human Resources.

S. 561. A bill to provide incentive grants for States that enact legislation aimed at youth access to cigarettes, and for other purposes; to the Committee on Finance.

By Mr. BRYAN (for himself and Mr. REID):

S. 562. A bill to require that the surplus in the Highway Account of the Highway Trust Fund be available for expenditure, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BRYAN:

S. 563. A bill to impose additional duties on the products of foreign countries if, and during such time as, such countries do not make sufficient contributions to the multinational military mobilization and operations being carried out in response to the invasion of Kuwait by Iraq; to the Committee on Finance.

By Mr. WARNER (for himself, Mr. THURMOND, Mr. MCCAIN, Mr. WALLOP, Mr. LOTT, Mr. COATS, Mr. MACK and Mr. SMITH):

S. 564. A bill to direct the Secretary of Defense to undertake the development and testing of systems designed to defend the United States and its armed forces from ballistic missiles; to the Committee on Armed Services.

By Mr. WARNER (for himself, Mr. NUNN, Mr. THURMOND, Mr. COHEN, Mr. MCCAIN, Mr. WALLOP, Mr. LOTT, Mr. COATS, Mr. MACK, and Mr. SMITH):

S. 565. A bill to authorize the President to award a gold medal on behalf of the Congress to General Colin L. Powell, and to provide for the production of bronze duplicates of such medal for sale to the public; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KASTEN:

S.J. Res. 85. Joint resolution authorizing and requesting the President to appoint General Colin L. Powell and General H. Norman Schwarzkopf, Jr., United States Army, to the permanent grade of General of the Army; to the Committee on Armed Services.

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

S.J. Res. 86. Joint resolution designating April 21 through April 27, 1991 and April 19 through April 25, 1992 as "National Organ and Tissue Donor Awareness Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SPECTER:

S. Res. 71. Resolution to encourage the President of the United States to confer with the sovereign state of Kuwait, countries of the Coalition or the United Nations to establish an International Criminal Court or an International Military Tribunal to try and punish all individuals, including President Saddam Hussein, involved in the planning or execution of Crimes against Peace, War Crimes, and Crimes against Humanity as defined under international law; to the Committee on Foreign Relations.

By Mr. KASTEN (for himself, Ms. MIKULSKI, Mr. LIEBERMAN, Mr. BOND, Mr. BOREN, Mr. SEYMOUR, Mr. KERRY, Mr. DIXON, Mr. BURNS, and Mr. LEVIN):

S. Res. 72. Resolution to express the sense of the Senate that American small businesses should be involved in rebuilding Kuwait; to the Committee on Small Business.

By Mr. RIEGLE (for Mr. MITCHELL (for himself and Mr. DOLE)):

S. Res. 73. Resolution to authorize the Senate Financial Clerk and other present and former Senate employees to testify in the case of United States v. Darrell A. Tomblin, et al.; considered and agreed to.

By Mr. ADAMS (for himself, Mr. GORTON, Mr. KOHL, and Mr. KASTEN):

S. Con. Res. 14. Concurrent resolution requesting the United States Trade Representative to enforce the rights of United States beer exporters against unjustified treatment by Canadian provincial liquor control boards; to the Committee on Finance.

By Mr. SYMMS:

S. Con. Res. 15. Concurrent resolution expressing the sense of the Congress that it should be the policy of the United States to encourage an acceleration of growth in selected Third World nations in order to create new markets for advanced-country products and services; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI:

S. 536. A bill to provide education loans to students entering the teaching profession and to provide incentives for students to pursue teaching careers in areas of national significance; to the Committee on Labor and Human Resources.

COLLEGE HONORS PROGRAM ACT

• Mr. DOMENICI. Mr. President, I am today introducing a bill that I consider to be a top national priority: Encouraging and rewarding academic excellence in our schools, particularly as it relates to the preparation of teachers.

I believe the Federal Government has an obligation to encourage academic excellence. I also believe that, when students excel, they should be rewarded and encouraged to enter the teaching profession.

The initiative I am introducing today, the College Honors Program, does precisely this.

Under the program I am proposing, students who meet certain standards of academic excellence would be eligible for up to 4 years of undergraduate financial assistance in the form of a loan. The loan would subsequently be forgiven when the student takes a job teaching in public schools after graduation.

The initial Federal investment for this program is minimal, set at $25 million. These funds will be used by participating institutions to set up revolving funds to make loans to eligible students. Once a student starts teaching in public schools, and the student's debt is forgiven, the Federal Government will reimburse the institution for the eligible amount.

Mr. President, the College Honors Program would provide up to $4,000 per year for most students. However, as an incentive for students to pursue careers in math and science education, students with an academic concentration in these areas would be eligible to receive a grant of $5,000 per year.

I have also included an incentive for students to pursue teaching on Indian reservations. These students would also be eligible to receive loans of up to $5,000 per year.

Our future work force depends on the education of our youth. I am hard pressed to find a better way to spend our scarce Federal resources than to encourage students to achieve academic excellence and to support the desire of these students to share that academic achievement with others.

Mr. President, I believe the $25 million authorized in this bill is a sound investment. I ask unanimous consent that both the bill and a more detailed description of the bill be printed in the RECORD.

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

S. 536

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

SECTON 1. SHORT TITLE.

This Act may be cited as the "College Honors Program Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Federal Government has an obligation to encourage and reward academic excellence;

(2) the training of the United States workforce and the preparation of the future workforce is a national priority; and

(3) the Federal Government should encourage students with outstanding academic achievement to enter the teaching profession as such profession is the profession with primary responsibility for preparing the workforce.

SEC. 3. ALLOTMENTS AUTHORIZED.

(a) PROGRAM AUTHORIZED.—The Secretary shall allot the funds appropriated pursuant to the authority of section 10 among institutions of higher education to enable such institutions of higher education to establish revolving loan funds.

(b) AMOUNT OF ALLOTMENTS.—The portion of the funds appropriated pursuant to the authority of section 10 for any fiscal year that is allocated under subsection (a) to an institution of higher education for such fiscal year shall bear the same relationship to the total amount of such appropriated funds as the total number of students qualifying for assistance under this Act at that institution of higher education bears to the total number of students qualifying for assistance under this Act.

(c) INELIGIBILITY FOR ALLOTMENTS.—(1) Each institution of higher education for which the rate of default on the education loans provided by the institution of higher education pursuant to this Act equals or exceeds 20 percent shall be ineligible to receive an allotment under subsection (a) until such rate of default is below 20 percent.

(2) Any institution of higher education which is ineligible for participation in the Robert T. Stafford Student Loan Program shall be ineligible to receive an allotment under subsection (a) during the period such institution of higher education is ineligible for participation in the Robert T. Stafford Student Loan Program.

SEC. 4. USE OF ALLOTMENTS.

(a) IN GENERAL.—Funds provided to an institution of higher education pursuant to section 3(a) shall be used by the institution of higher education as a capital contribution for establishing a revolving loan fund to provide educational loans to students who qualify for assistance under this Act.

(b) LOAN AMOUNTS.—Each institution of higher education receiving an allotment pursuant to section 3(a) shall use such funds to provide each student qualifying for assistance under this Act who is enrolled at the institution of higher education with education loans that—

(1) in the case of a student who—

(A) has an academic concentration in science or math, and

(B) agrees, pursuant to section 5(5), to teach in the areas of science or math upon graduation,

do not exceed $5,000 per year for a maximum of 4 years; and

(2) in the case of a student who agrees, pursuant to section 5(5), to teach on Indian reservations upon graduation, do not exceed $5,000 per year for a maximum of 4 years; and

(3) in the case of any other student, do not exceed $4,000 per year for a maximum of 4 years.

SEC. 5. STUDENT ELIGIBILITY.

A student is eligible to receive educational loans pursuant to this Act if the student—

(1) ranks in the top 10 percent of such student's class in such student's junior or senior year of secondary school;

(2) is enrolled as a full-time student in an institution of higher education that is eligible to receive an allotment under section 3;

(3) ranks in the top 10 percent of such student's class at the institution of higher education;

(4) has not defaulted on any federally assisted student loan; and

(5) enters into an agreement with the Secretary that such student will—

(A) pursue a teaching career in a public school after graduation from an institution of higher education; and

(B) annually provide verification of employment as a teacher by a public school system after graduation from the institution of higher education.

SEC. 6. INSTITUTIONAL RESPONSIBILITIES.

(a) IN GENERAL.—Each institution of higher education receiving an allotment pursuant to section 3(a) shall—

(1) collect any loan or portion thereof in accordance with section 7; and

(2) certify annually to the Secretary that students receiving such loans are in compliance with the provisions of this Act.

(b) REPAYMENTS.—Each institution of higher education receiving an allotment pursuant to section 3(a) shall deposit all repayments of educational loans provided pursuant to this Act into the revolving loan fund of the institution of higher education.

(c) ADMINISTRATIVE COSTS.—In each fiscal year each institution of higher education receiving an allotment pursuant to section 3(a) may retain an amount not to exceed 5 percent such allotted for costs of administering the revolving loan fund.

SEC. 7. LOAN TERMS.

(a) IN GENERAL.—Each educational loan made to a student by an institution of higher education from a revolving loan fund established pursuant to section 3(a)—

(1) shall not accrue interest before the date that is 90 days after the day on which the student ceases to be enrolled at an institution of higher education;

(2) shall accrue interest at an annual rate of 5 percent after such date;

(3) shall be repaid over a period that does not exceed 10 years; and

(4) shall provide for cancellation of 20 percent of the principal and interest of the loan for each academic year for which the student is employed in a public school on a full-time basis as a teacher.

SEC. 8. LOAN FORGIVENESS.

(a) REIMBURSEMENTS.—(1) The Secretary annually shall reimburse institutions of higher education for the portion of the principal and interest of any loan that is canceled by reason of section 7(a)(4).

(2) Each institution of higher education receiving payments pursuant to paragrah (1) shall deposit such payments to the revolving loan fund of the institution of higher education established pursuant to section 3(a).

(b) SPECIAL RULE.—A student shall be excused from the repayment of any loan made from a revolving loan fund established pursuant to section 3(a) if such student—

(1) dies;

(2) becomes permanently totally disabled as established by the sworn affidavit of a qualified physician; or

(3) has been discharged in bankruptcy.

SEC. 9. DEFINITIONS.

As used in this Act—

(1) the term "institution of higher education" has the same meaning given that term in section 1201(a) of the Higher Education Act of 1965, and

(2) the term "Secretary" means the Secretary of Education.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated $25,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996, to carry out the provisions of this Act.

(b) SPECIAL RULE.—(1) For the purpose of affording adequate notice of funding available under this Act, amounts appropriated in an appropriation Act for any fiscal year to carry out this Act shall become available for obligation on July 1 of that fiscal year and shall remain available until September 30 of the succeeding fiscal year.

(2) In order to effect a transition to the forward funding method of timing appropriation action described in paragraph (1), there are authorized to be appropriated, in an appropriation Act or Acts for the same fiscal year, two separate appropriations to carry out this Act, the first of which shall not be subject to paragraph (1).

SUMMARY OF THE COLLEGE HONORS PROGRAM

PURPOSE

A bill to provide financial assistance to students entering the teaching profession and to provide incentives for students to pursue teaching careers in areas of national significance.

BACKGROUND

The Higher Education Amendments of 1986 revised and extended student financial aid programs by targeting resources to financially needy students. Most student aid programs are not disbursed based on need.

Students who excel in high school can be rewarded with scholarships to post-secondary institutions. However, the federal government has very few programs that specifically reward students for outstanding academic achievement.

The College Honors Programs (CHP) would reward students of exceptional academic achievement. Under the program, students who qualify would be eligible for up to 4 years of undergraduate financial assistance in the form of a federal loan. This loan would subsequently be forgiven if the student takes a post teaching in public schools following graduation. For every year of public teaching, one year of the loan would be forgiven.

FINDINGS

The federal government has an obligation to encourage and reward academic excellence.

Our future workforce is a national priority as is the education of the workforce. The federal government should encourage individuals of outstanding academic achievement to enter the teaching profession, the profession with primary responsibility for preparing the workforce.

ELIGIBLE PARTICIPANTS

Eligible participants are full time undergraduate students who meet certain academic standards, as defined by the Secretary of Education. Initial eligibility will be determined by the student's academic achievement during his or her junior and senior years in high school.

Participants must also maintain above average academic standards while in undergraduate school. Participants must also maintain a satisfactory employment record during the loan forgiveness period. These standards are to be defined by the Secretary of Education.

A student who has previously taken out other federal loans and is in default, or who owes a refund on any other Federal aid, may not borrow under the program.

Eligible students may receive loans during any year of their post-secondary education.

ELIGIBLE INSTITUTIONS

Institutions which are not eligible to participate in the Stafford Student Loan program may not participate in the College

Honors Program until such time as eligibility for the Stafford Student Loan program is restored. Institutions with default rates of 20% or higher under the College Honors Programs are no longer eligible for participation until such default rate falls below 20%.

LOAN DISBURSEMENT

Loans are disbursed by participating public institutions of higher education through institutional revolving funds initially established with a federal capital contribution. Federal capital contributions are allocated to institutions based on the number of eligible students in attendance.

The borrower will make no principal repayments while in school, and interest is neither paid nor accrued.

The institution may draw from its CHP revolving fund an amount equal to 5 percent of the amount of new loan awards for that year as reimbursement for the administrative costs associated with the operation of this program.

Institutions must verify student eligibility on an annual basis while the student is in school, and provide verification of the same to the Department of Education. As part of student eligibility, participants must sign a loan agreement stipulating that they intend to pursue careers in public education upon graduation.

LOAN FORGIVENESS

The institution administering the loan will be fully reimbursed by the Department of Education on an annual basis for all loans that meet forgiveness requirements. Institutions are responsible for verification of student employment and must provide verification to the Department of Education prior to reimbursement.

Students receiving loans must provide the institution with annual verification of employment of a public school system. For each year of public school employment, one year of loan obligation will be forgiven.

Loans will also be forgiven in the event of death, disability, or bankruptcy.

LOAN REPAYMENT

For eligible borrowers who are ineligible for loan forgiveness, repayment must begin upon termination of full time student status. Interest will be charged at a rate of 5 percent; the repayment period may not exceed 10 years.

Participating institutions are responsible for loan collections, which must be deposited into the CHP revolving fund. Adjustments to federal capital contributions will be made in consideration of an institution's collection/default performance.

LOAN AMOUNTS

Eligible students may receive up to $4,000 per year for a maximum of four years.

As an incentive for students to pursue careers in math and science education, students with an academic concentration in these areas are eligible to receive a grant of $5,000 per year for a maximum of four years. These students, of course, must subsequently teach in these fields in order to be eligible for loan forgiveness.

As incentive for students to pursue teaching careers on Indian reservations, students who sign an agreement to teach on reservations will be eligible to receive a maximum grant of $5,000 per year for a maximum of four years.

AUTHORIZATION LEVEL

There are authorized to be appropriated $25 million, to be used as a federal capital contribution by participating institutions to establish revolving funds, for each year FY 1992–1996.●

By Mr. LUGAR:

S. 538. A bill to restore Federal recognition of the Miami Tribe of Indiana; to the Select Committee on Indian Affairs.

MIAMI NATION OF INDIANA RESTORATION ACT

● Mr. LUGAR. Mr. President, today I have reintroduced a measure I originally offered during the last Congress. This bill would rectify an injustice imposed upon thousands of my constituents for over 90 years. I speak of the Miami Indians of Indiana who have resided in the north-central region of my State for centuries.

In 1897, officials of the U.S. Department of the Interior administratively terminated the Indiana Miamis. In this case, termination meant that the Department and the Federal Government would no longer formally recognize the tribe. In following decades this has meant that the Miamis have been unable to take advantage of the many Federal programs created by Congress to benefit Native Americans.

Mr. President, there is no such thing as administrative termination. Congress has never granted the Department of the Interior the authority to terminate the formal relationship between an Indian tribe and the Federal Government. Only Congress has such authority.

Consequently, in a purely legal sense, the Miami Indians of Indiana are today a formally recognized Indian tribe. In fact, the Bureau of Indian Affairs [BIA] later admitted that their 1897 decision was inappropriate. Nevertheless, the Department of the Interior continues to prevent the Miamis from enjoying the benefits of many Federal programs.

The legislation I have introduced today, seeks to correct this injustice by restoring the Miamis' legitimate status and directing the Department of the Interior to make available to the tribe all rights and privileges enjoyed by other federally recognized Indian tribes.

For decades, the Miamis sought to take aciton to correct this injustice. The tribe considered both legislative and legal avenues to reaffirm their status. Fearing that these approaches would be too time consuming, in 1980 the tribe decided to pursue the administrative recognition process established by the BIA in 1979.

The tribe made a mistake. Their foray into the Federal recognition process and the BIA bureaucracy has taken an entire decade of effort. After years of costly research, the tribe first submitted a petition for Federal recognition to the Department of the Interior-Bureau of Indian Affairs on July 10, 1984. I have followed the petition's slow and difficult progress over the past 6 years and in doing so have become familiar with the serious flaws and problems of the Federal recognition process. These problems have not gone unnoticed. Both Senator INOUYE, chairman of the Select Committee on Indian Affairs, and Senator MCCAIN, ranking member of that committee, have introduced legislation to fine tune this program.

On July 12, 1990, the Miami's petition for Federal recognition received a preliminary denial. After a decade of effort and 6 years of processing, this was an incredible blow to both the tribe and myself.

Many Native American experts were certain that the Miami's petition would be approved. The denial has surprised and concerned the many other tribes awaiting decision on their petitions. Questions are now being raised as to the future of the administrative recognition process. Clearly, these are questions for the Select Committee on Indian Affairs to address.

Regardless of the Miami's decision to participate in the administrative recognition process and regardless of the outcome of that process, the reality of the Miami's status has not changed. The U.S. Congress entered into treaties with this tribe, and in doing so, formally recognized them. Since that time, Congress has not terminated its relationship with this tribe. I urge my colleagues to join me in taking action to reaffirm the Miamis legitimate status.

Mr. President, I ask that the full text of my legislation be included in the RECORD.

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

S. 538

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 "Miami Nation of Indiana Restoration Act".

SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATIONS.

The Congress finds that—

(1) at the time of removal of the Miami Nation from Indiana, approximately 300 Miamis under the leadership of Meshingomesia remained in or returned to Indiana pursuant to Federal treaty stipulation;

(2) after removal, the Indiana Miamis were known as the Eastern Band of Miamis, and were recognized as a self-governing Indian tribe by the Department of the Interior;

(3) On June 5, 1854, the Eastern Band of Miamis signed a treaty with the United States, which treaty was ratified by the Senate on August 4, 1854;

(4) since the Treaty of 1854, the United States Congress has not by statute or otherwise teminated the Federal relationship with the Eastern Band of Miamis;

(5) until 1897, the Department of the Interior acknowledged the Federal relationship with the Eastern Band of Miamis and, in that year, administratively terminated the tribe based on an erroneous interpretation of Act of Congress that partitioned the Indiana reservation and granted citizenship to the members of the Eastern Band of Miamis;

(6) the Department's action in 1897 was unauthorized by Act of Congress and, thus, ultra vires and without force and effect; and

(7) the Eastern Band of Miamis, now known as the Miami Nation of Indiana, has not abandoned tribal relations since the Treaty of 1854.

SEC. 3. RESTORATION OF FEDERAL RECOGNITION, RIGHT, AND PRIVILEGES.

(a) IN GENERAL.—Notwithstanding any provision of law or determination of the Department of the Interior, Federal recognition of the Miami Nation of Indiana and all enrolled members of the tribe is hereby extended. All laws and regulations of the United States of general application to Indians and Indian tribes shall apply to the Miami Nation of Indiana.

(b) ELIGIBILITY OF TRIBE FOR FEDERAL BENEFITS.—Notwithstanding any provision of law or determination of the Department of the Interior, the Miami Nation of Indiana and its members shall be eligible immediately upon the enactment of this Act for all Federal services and benefits furnished to Indians and Indian tribes because of their status as Indians and without regard to the existence of a reservation for the tribe.

(c) DEEMED STATUS.—For the purpose of the delivery of Federal services, all enrolled members of the Miami Nation of Indiana residing in Allen, Huntington, Wabash, Miami, Howard, Grant, Elkhart, and St. Joseph counties in the State of Indiana shall be deemed to be residing on or near a reservation. Enrolled members residing in such counties shall continue to be eligible to receive such Federal services notwithstanding the establishment of a reservation for the tribe in the future.

SEC. 4. STATE OF INDIANA; CIVIL AND CRIMINAL JURSIDICTION.

(a) The State shall exercise civil and criminal jurisdiction over the Miami Tribe of Indiana, its members, and any dependent communities thereof, within the meaning of section 1151 of title 18, United State Code, as if such State has assumed such jurisdiction with the consent of the tribe under sections 1321 and 1322 of such title.

(b) NONAPPLICATION OF PROVISIONS TO CERTAIN LAW.—The provisions of this Act shall not affect the application of section 109 of the Indian Child Welfare Act of 1978 (25 U.S.C. 1919).

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.•

By Mr. INOUYE:

S. 539. A bill to amend title 23, United States Code, relating to motor carrier transportation; to the Committee on Commerce, Science, and Transportation.

MOTOR CARRIER TRANSPORTATION

• Mr. INOUYE. Mr. President, I rise to introduce a bill which would save consumers about $11 billion on the transportation costs of almost every product we buy. Excessively high transportation costs are in part a result of bureaucratic procedures governing motor freight rates. Estimates show that by removing the paperwork burden and eliminating the multiple decals and other tasks caused by varying State controls on motor carrier freight, we can reduce the burden on the transportation of goods across State lines.

I believe there is a need for a uniform and efficient approach to reporting requirements. Procedure for registration and fuel taxes required of interstate carriers operating in the contiguous 48 States need to be reasonably simple and efficient in order to avoid hidden costs associated with the transportation of goods. Hidden costs occur when a carrier is required to duplicate registration tasks or is faced with cumbersome, and in some instances unfair, taxes. Some truckers are still required to display more than 20 license plates on the front of a truck or tractor with corresponding State stickers and varying reporting procedures. Some truckers face varying definitions of taxable vehicles and collection procedures.

These hidden costs of goods also place us at a competitive disadvantage internationally. Therefore, I am advocating the uniform vehicle tax liability and fuel use reporting plan contained in this bill.

The plan I am proposing legislates the widespread use of already existing systems. The bill requires compliance with established systems in which many States voluntarily participate; 43 States are members of the International Registration Plan [IRP] and 16 are members of the International Fuel Tax Agreement [IFTA]. This bill authorizes a State to require an interstate carrier to register vehicles the carrier intends to operate within the State and collect a registration tax or fee only when these States are members of the uniform IRP. The bill also authorizes States to assess a tax on motor carriers operating vehicles registered in another State when these States comply with the IFTA.

The Secretary of Transportation, in his national transportation policy, has included the existing plans as part of an overall strategy to improve the Nation's transportation systems. I hope that we can accomplish that goal.

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

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

S. 539

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

SECTION 1. HIGHWAY TAXATION AND FEE UNIFORMITY AND EQUITY.

(a) GENERAL RULE.—Chapter 1 of title 23, United States Code, is further amended by adding at the end the following new section:

"§ 159. Motor carrier taxation and fees

"(a) GENERAL STANDARDS FOR TAXES AND FEES IMPOSED ON INTERSTATE CARRIERS.—Subject to the provisons of this section, a State or political subdivision thereof may assess, levy, or collect a tax or fee, directly or indirectly, on motor carriers operating vehicles properly registered in another State only if—

"(1) the tax or fee is fairly apportioned based on miles driven in the State or on some other equitable measure of the carrier's or vehicle's actual contact with the State;

"(2) the tax or fee does not discriminate against interstate commerce;

"(3) the tax or fee is fairly related to the services provided to the carrier or vehicle by the State or political subdivision; and

"(4) the activity with respect to which the tax or fee is being assessed, levied, or collected has a substantial nexus with the State or political subdivison.

"(b) VEHICLE REGISTRATION.—A State may require an interstate motor carrier to register vehicles the carrier intends to operate within that State and collect a tax or fee from that registration; however no State, except Hawaii and Alaska, may require vehicles to be registered or impose such a tax or fee on or after December 31, 1992, unless that State is a member of the International Registration Plan.

"(c) FUEL USE REPORTING.—A State may require an interstate motor carrier to report the fuel used by its vehicles within that State and to pay a tax or fee related to that fuel use; however no State, except Hawaii and Alaska, may require such reporting or impose such a tax or fee on or after December 31, 1996, unless that State is a member of the International Fuel Tax Agreement.

"(d) LOCAL TAXES AND FEES.—No political subdivision of a State shall assess, levy, or collect a tax or fee on a motor carrier if the carrier's only business activity within that political subdivision is limited to one or more of the following:

"(1) The delivery or pickup (or both) of property to or from a location within the political subdivison.

"(2) The use of streets or roads within the political subdivision.

"(3) The solicitation, sale, or advertising of transportation services by a motor carrier not domiciled in the political subdivision.

"(e) TAXES ON SHIPMENTS WITH NO PICKUP OR DELIVERY.—Except for vehicle registration, fuel tax reporting, and direct highway use fees, no State shall assess, levy, or collect a tax or fee on a motor carrier if the carrier's only business activity within that State is to transport fully or partially loaded or empty vehicles through the State.

"(f) REGULATIONS.—The Secretary may issue regulations implementing the provisions of this section.

"(g) JUDICIAL REVIEW.—Notwithstanding section 1341 of title 28, United States Code, and without regard to the amount in controversy or citizenship of the parties, a district court of the United States has jurisdiction, concurrent with other jurisdiction of courts of the United States and the States to prevent a violation of this section.

"(h) ENFORCEMENT.—

"(1) INJUNCTIVE RELIEF.—

"(A) GENERAL AUTHORITY.—The Secretary or, at the request of the Secretary, the Attorney General or any injured person may institute a civil action for injunctive relief as may be appropriate to assure compliance with this section.

"(B) JURISDICTION OF DISTRICT COURTS.—An action under this paragraph may be instituted in any district court of the United States in any State where such relief is required to assure compliance with this section.

"(C) REMEDIES.—Upon a proper showing in an action under this paragraph, the court shall issue a temporary restraining order or preliminary or permanent injunction as may be appropriate and may also issue a mandatory injunction commanding any State or

person to comply with any applicable provision of this section or any regulation issued to carry out this section.

"(2) REFUND OF MONEYS PAID.—

"(A) GENERAL AUTHORITY.—In addition to any other relief to which a motor carrier may be entitled, any motor carrier that has paid a tax or fee to a State that is later determined to be in violation of this section is authorized to institute a civil action on behalf of itself and on behalf of others similarly situated for refunds of the moneys paid by that carrier or carriers.

"(B) JURISDICTION OF DISTRICT COURTS.—An action under this paragraph for refunds may be instituted in any district court of the United States in any State where such relief is required to assure compliance with this section.

"(C) REMEDIES.—Upon a proper showing in an action under this paragraph, the court shall direct the State to issue such refunds and such other monetary damages which may be appropriate under the applicable State's law.".

"(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new item:

"159. Motor carrier taxation and fees.".

By Mr. BURNS:

S. 540. A bill to amend title 23, United States Code, to assist in the development of an infrastructure to support the use of public lands for travel and tourism purposes, and for other purposes; to the Committee on Environment and Public Works.

FEDERAL RURAL TOURISM AND RECREATIONAL DEVELOPMENT ACT

Mr. BURNS. Mr. President:

What I submit to you is that our passage over the land to an American is as rain is to the Irishman, as sand is to the Bedouin. What I mean is that highway travel, road travel, to an American is something that makes us what we are. I think seeing America, seeing a real and genuine America, one that has not been commercialized to look like every other part of the country, has a very direct link with understanding who and what we are.

Those are the words of the author of the celebrated book "Blue Highways," William Least Heat-Moon in support of a scenic byways program for America. He must be right, too, considering the fact that 30 percent of all vehicle miles driven in this country are for pleasure and recreation purposes.

Mr. President, I know the America that Least Heat-Moon is describing—it's called Montana.

Best known by most Americans as "Big Sky Country," Montana is a land of wide open spaces and spectacular landscapes.

A visitor to Montana can still see the same sites described in the journal entry of Capt. Meriwether Lewis of Lewis and Clark:

At 9 a.m. at the junction of the S.E. fork of the Missouri: the country opens suddenly to extensive and beautiful plains and meadows which appear to be surrounded in every direction with distant and lofty mountains.

This is the America, in Montana and every State, that people in this country and overseas want to visit.

The activity they are engaged in is called tourism—and it has become one of the world's most powerful tools of ecomonic development.

The development of a national rural tourism policy is crucial to the survival of rural America.

Tourism generates jobs and tax revenues, and it is an industry in which America is globally competitive.

In the West, tourism is particularly important because we are no longer able to rely on the boom-and-bust cycles of our extraction industries such as mining, ranching, drilling, logging and agriculture.

According to T.R. Reid of the Washington Post, the economic stability of the West lies in the development of the "attraction" industries meaning tourism.

However, people can not see sites that they can't get to. An adequate highway system and efficient air service are crucial to the successful development of a rural tourism economy.

We can market the unique qualities of the West all we want, but if we don't provide the means for people to get there, they won't come.

Today I am introducing a bill to amend the Federal-Aid Highway Act and commit more of this Nation's highway resources to an infrastructure that supports tourism on and around Federal lands.

My bill provides each region of the country money for planning, design and construction of roads and trails that support tourism and recreational travel on forest highways; U.S. Park Service roads; Indian reservation roads; and roads that access man-made lakes and other recreational sites.

It also authorizes the use of these funds for other infrastructure-related purposes such as interpretive signage, public road facilities, scenic easements, roadside rest areas and visitors centers.

I chose the already existing Federal lands category of the Federal-aid highway bill as the vehicle—if you will—for these tourism infrastructure improvements because Federal lands make up 30 percent of the total land of the United States and 50 percent of the land in the West.

Since nearly 70 million acres of private land have been closed to public access over the last 10 years, our Federal lands are fast becoming the primary recreation destination of tourists seeking to experience the America of Lewis and Clark.

In 1989, Federal agencies recorded 1.8 billion visits to recreational sites, parks, parkways and historic sites.

Federal lands in Western States have played, and will continue to play, a key role in establishing a sustainable tourism industry and a sustainable economic base for rural communities.

An example of the type of tourism concepts I hope to promote is described by the Center for the New West, a Denver-based research group, as a "'seamless border' concept of destination marketing and management based on natural attractions, gateways and geographic unity that spill across State lines."

This will become possible if we promote and encourage highway planning based on the need for access to Federal lands.

Planning must start on the State level and spread to the Federal level which is why my bill requires State highway agencies to develop a statewide tourism and recreational driving plan.

By funneling the funds through the Federal Lands Category and the Federal Highway Administration, I hope to encourage communication and coordination between the States and Federal planners.

This requirement is supported by a one-time $5 million funding increase to DOT's Rural Technical Assistance Program [RTAP].

The RTAP Program supports a national clearinghouse and 46 State centers which provide technical roadway information to local officials.

The additional funds would be used to develop information useful to State planning agencies as they identify roads for tourism and recreational purposes.

This approach is consistent with the new 10-year statewide rural plan included in the administration's 1991 highway program.

It is also consistent with the recommendations in the administration's recently released "National Scenic Byways Study" for interagency coordination and for a technical assistance program.

The technical assistance program will help States address sensitive environmental and land-use planning issues related to transportation for tourism purposes.

I believe that conservation of our natural resources should be an integral part of any government initiative to help build a long-term sustainable economy based on rural tourism and recreational development.

After all, we do not want to spoil the product we are attempting to promote.

This bill is not meant to fund the building of large highways capable of carrying traffic at high speeds, but rather to promote the development of roads that preserve the archeological, cultural and scenic interests that attract visitors to the unique qualities of the West and rural America.

It will also protect the natural beauty of the West by spreading visitors out and preventing the overuse of our most

popular national parks and recreation sites.

I urge my colleagues to cosponsor and support this legislation which I will offer as an amendment to the 1991 highway reauthorization bill.

I ask unanimous consent that a copy of the bill and a section-by-section analysis be printed immediately following this statement.

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

S. 540

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 "Federal Rural Tourism and Recreational Development Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that—

(a) The travel and tourism industry is a significant contributor to the overall gross national product providing nearly six million jobs directly in 1989; it was the largest United States export in 1989 ($44,500,000,000 spent in the United States); it generated $350,000,000,000 in expenditures in 1989; and was the largest retail or service industry in the United States with receipts making up over 6.7 per centum of the gross national product.

(b) The public lands administered for travel and tourism purposes by the Departments of Agriculture, Defense, and the Interior amount to six hundred and forty seven million acres and constitute 30 per centum of the total land within the boundaries of the United States.

(c) These public lands contain many of the major natural attractions in the United States and are major destinations for the travel and tourism industry.

(d) There is a significant number of rural communities and States that are dependent upon the travel and tourism trade for their economic well-being or see this trade as a way of improving their economic situation.

(e) Over the last ten years, approximately seventy million acres of private lands have been closed to public access for recreation. At the same time, demand for all types of recreation is expected to increase over the next fifty years placing an even larger demand on the Federal estate which in 1989 recorded one billion eight hundred million visitors to parks, parkways, recreational and historical sites.

(f) Traffic growth is 4 per centum annually, and today 17 per centum of the two trillion miles of traffic is related to pleasure driving; and increased international and domestic travel within the United States will require improved, safe public roads.

(g) Good road access on well maintained and safe roads is essential to meeting the expanding needs of the traveling public to and from our public lands.

(h) The inclusion of a State tourism and recreational travel component in the overall Federal-aid highway planning process along with a tourism technical assistance program would help all levels of government identify specific transportation needs and solutions to benefit the development of a national rural tourism policy.

SEC. 3. NATIONAL GOAL.

It shall be the national goal under this Act to improve and provide safe access to public lands to encourage the development of travel and tourism opportunities in support of rural area economic development.

SEC. 4. FEDERAL LANDS HIGHWAY PROGRAM.

Section 204 of title 23, United States Code, is amended by striking subsection (h) and inserting instead:

"(h) Funds available for each class of Federal Lands Highways may be made available for the following:

"(1) transportation planning for tourism and recreational travel including the National Forest Scenic Byways Program and other similar Federal programs that benefit recreational development;

"(2) adjacent vehicular parking areas;

"(3) interpretive signage;

"(4) development of public road facilities for areas of historical, archeological, cultural, and scenic interests;

"(5) acquisition of necessary scenic easements;

"(6) construction and reconstruction of roadside rest areas including sanitary and water facilities; and

"(7) other appropriate facilities such as visitor centers as determined by the Secretary.

"(i) The Secretary shall transfer to the Secretary of the Interior from the appropriations for public lands highways amounts as may be needed to cover necessary administrative costs of the Bureau of Land Management in connection with public lands highways.".

SEC. 5. FOREST DEVELOPMENT ROADS AND TRAILS.

Section 205 of title 23, United States Code, is amended by adding subsection (e) as follows:

"(e) Funds available for forest development roads and trails may be made available for—

"(1) transportation planning for tourism and recreational travel including the National Forest Scenic Byways Program and other similar Federal programs that benefit recreational development;

"(2) adjacent vehicular parking areas;

"(3) interpretive signage;

"(4) development of public road facilities for areas of historical, archeological, cultural, and scenic interests;

"(5) acquisition of necessary scenic easements;

"(6) construction and reconstruction of roadside rest areas including sanitary and water facilities; and

"(7) other appropriate facilities such as visitor centers as determined by the Secretary of the Interior.".

SEC. 6. BICYCLE AND PEDESTRIAN FACILITIES FOR TOURISM.

(a) Section 217(b) of title 23, United States Code, is amended by adding a new paragraph (4) as follows:

"(4) Notwithstanding the provisions of (b)(3), Federal-aid highway projects for pedestrian and bicycle facilities shall be authorized by the Secretary to encourage alternative modes of transportation for tourism and recreation purposes.".

(b) Section 217 of title 23, United States Code, is amended by striking paragraph '(g)' and inserting instead as follows:

"(g) Motorized use of trails and walkways authorized under this section shall be determined by State and local regulations.".

SEC. 7. ACCESS HIGHWAYS TO PUBLIC RECREATION AREAS AND CERTAIN LAKES.

Section 155(a) of title 23, United States Code, is amended by adding a new paragraph (3) as follows:

"(3) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for that fiscal year for access highways to public recreation areas on certain lakes according to the relative needs the various public recreation areas serving certain lakes taking into consideration the need for access as identified through recreation and land use planning and the impacts of planning on existing transportation facilities.".

SEC. 8. TECHNICAL ASSISTANCE PROGRAM.

The Secretary shall establish and carry out a tourism and recreational travel technical assistance program in non-urbanized areas. In carrying out this program, the Secretary shall administer the program in cooperation with other rural technical assistance programs to the extent that those programs for transportation assistance exist including assistance to American Indian Tribal governments.

SEC. 9. STATEWIDE DRIVING AND RECREATION PLAN.

Each State using funds provided in this Act shall have a multipurpose land use statewide driving and recreation travel plan to identify and find solutions to problems related to driving and tourism. This plan shall be coordinated with appropriate State and local agencies and Federal Land Management Agencies.

SEC. 10. AUTHORIZATIONS.

The following sums are authorized to be appropriated out of the Highway Account of the Highway Trust Fund:

(a) For Indian reservation roads $105,000,000 for fiscal year 1992; $115,000,000 for fiscal year 1993; $126,000,000 for fiscal year 1994; $138,000,000 for fiscal year 1995; and $152,000,000 for fiscal year 1996.

(b) For forest highways $200,000,000 for fiscal year 1992; $210,000,000 for fiscal year 1993; $220,000,000 for fiscal year 1994; $230,000,000 for fiscal year 1995; and $240,000,000 for fiscal year 1996: Provided, That up to 10 per centum of the sum may be expended for recreational travel and tourism projects on forest development roads and trails that are open to public travel.

(c) For public lands highways $60,000,000 for fiscal year 1992; $66,000,000 for fiscal year 1993; $73,000,000 for fiscal year 1994; $80,000,000 for fiscal year 1995; and $88,000,000 for fiscal year 1996: Provided, That up to 10 per centum of the sum may be expended for recreational travel and tourism projects on public lands development roads and trails that are open to public travel.

(d) For parkways and park roads $105,000,000 for fiscal year 1992; $115,000,000 for fiscal year 1993; $126,000,000 for fiscal year 1994; $138,000,000 for fiscal year 1995; and $152,000,000 for fiscal year 1996.

(e) For access highways to public recreation areas and certain lakes $15,000,000 per fiscal year for each of the fiscal years 1992, 1993, 1994, 1995, and 1996; Provided, That these sums shall be available for obligation as if apportioned under chapter 1 of title 23, United States Code.

(f) For the Technical Assistance Program established under section 9 of this Act, $5,000,000 to remain available until expended: Provided, That the $5,000,000 shall be available for obligation as if apportioned under chapter 1, of title 23, United States Code.

SECTION-BY-SECTION ANALYSIS OF FEDERAL RURAL TOURISM

SEC. 2. FINDINGS

This section explains the purpose of the act to improve the economy through a planned recreational travel and tourism program to address increased recreational

travel demand for road facilities serving or within federal lands.

SEC. 3. NATIONAL GOAL

This section establishes a goal to encourage the development of tourism for rural economic development.

SEC. 4. FEDERAL LANDS HIGHWAY PROGRAM

This section amends 23 U.S.C. 204(h) and adds 23 U.S.C. 204(i). Section 204(h) is amended by providing that Federal Lands Highway Program funds may be used for planning, design and construction projects that support recreational travel and tourism in rural areas in addition to the current adjacent vehicular parking areas and scenic easements.

Section 204(i) is added and provides for funds from the Federal Lands Highway Program to be made available to cover the Bureau of Land Management administrative costs associated with the recreational travel and tourism activities connected with projects funded under the section.

SEC. 5. FOREST DEVELOPMENT ROADS AND TRAILS

This section adds a subsection to 23 U.S.C. 205. The new subsection provides that the funds made available for constructing forest development roads and trails may also be used for planning, design and construction projects that support recreational travel and tourism in rural areas.

SEC. 6. PUBLIC LANDS DEVELOPMENT ROADS AND TRAILS

This section adds a subsection to 23 U.S.C. 214. The new subsection provides that the funds made available for constructing public lands development roads and trails may also be used for planning, design and construction projects that support recreational travel and tourism in rural areas.

SEC. 7. BICYCLE AND PEDESTRIAN FACILITIES FOR TOURISM

This section amends 23 U.S.C. 217(b) and (g). Section 217(b), as amended, will allow the funds made available for section 217 to be used for projects that encourage constructing bicycle and pedestrian facilities for advancement of tourism and recreational purposes.

Section 217(g), amended, eliminates the restriction that motorized vehicles cannot use trails and walkways.

SEC. 8. ACCESS HIGHWAYS TO PUBLIC RECREATION AREAS AND CERTAIN LAKES

This section amends 23 U.S.C. 1559(a). Section 155(a) is amended to provide a method of allocating funds for activities and projects funded under Section 155 based on relative road condition and access needs data. The data shall be developed through recreation and land use planning.

SEC. 9. TECHNICAL ASSISTANCE PROGRAM

This section creates a tourism and recreation travel technical assistance program in areas of under 50,000 population. The section is intended to provide supplemental technical assistance directed at tourism and recreational travel. Also, it is intended to build on the existing rural technical assistance programs.

SEC. 10. STATEWIDE DRIVING AND RECREATION PLAN

This section requires each State to have a Statewide Driving and Recreation Plan. States and local governments should develop recreation travel and tourism plans as part of a regular transportation planning process and the planning process should be coordinated with respective Federal land management planning activities.

SEC. 11. AUTHORIZATIONS

This section provides for continuing multi-year Highway Trust Fund authorizations at an increased funding level, for Indian reservation roads, forest highways, public land highways, and park roads and parkways. Up to 10 percent of forest highway funds may be used for recreational travel and tourism projects on forest development roads and trails. Up to 10 percent of public lands highway funds may be used for recreational travel and tourism projects on public lands development roads and trails. The section also provides for multi-year funding of projects for access highways to federally owned or constructed lakes and provides a one-time funding from the Highway Trust Fund for a technical assistance program that addresses recreation travel and tourism.

By Mr. HEFLIN (for himself and Mr. SHELBY):

S. 541. A bill to provide for the use of excess assets in black lung benefit thrusts for health care benefits for retired miners, and for other purposes; to the Committee on Finance.

RETIRED COAL MINERS HEALTH BENEFITS ACT

• Mr. HEFLIN. Mr. President, I rise today to introduce, on behalf of myself and Senator SHELBY, legislation which will allow the excess assets in private black lung trust funds to be used to pay for the health benefits of retired miners. Our bill would allow surplus funds which are otherwise idle, to be used to meet the rising health care costs of miners. This bill is very similar to a bill Senator SHELBY and I introduced last Congress.

Under current law, miners with black lung disease may receive benefits under the black lung disability trust fund which is funded through excise taxes on mined coal. Since 1977, black lung benefits have also been paid directly to miners by individual coal mine operators either through insurance, cash payments or through private trusts established under section 501(c)(21) of the Internal Revenue Code. The operator may make contributions to a section 501(c)(21) trust based on actuarially sound standards to cover contingent future liabilities. Although the code allows operators to self-insure by making contributions to a section 501(c)(21) trust, this method of funding is not required. Operators may choose in the alternative to purchase insurance to cover the liabilities out of general assets. An operator who establishes a section 501(c)(21) trust, however, provides a more secure fund from which black lung liabilities are to be paid.

The bill we are introducing today has changed somewhat from the version of the bill Senator SHELBY and I introduced last year. This bill incorporates the changes which were recommended by Senator METZENBAUM and his Labor Subcommittee staff during the final days of the 101st Congress. It is my understanding that Senator METZENBAUM and his staff recommended these changes in order to ensure that the primary beneficiaries of the black lung trust funds, miners with black lung disease, are well protected under the bill. Let me say that it has always been my intention that the bill would in no way diminish the trust funds available to be paid to miners as black lung benefits. I am also sure that coal operators who operate these trusts have the same intention and will take every precaution to protect the funds.

Under current law, private black lung trust funds, which are exempt from Federal income tax, can only be used to provide compensation for disability due to pneumoconiosis under the black lung acts, to provide insurance to cover such disabilities, or to pay administrative and other incidental costs associated with the trust. These trust funds may also be invested in Government securities, deposited in federally insured depository institutions, paid into the Federal black lung disability trust fund, or paid into the general fund of the U.S. Treasury. The trust must be irrevocable with no right or possibility of reversion to the coal mine operator.

Our bill would amend section 501(c)(21) to allow the trustees of private black lung trust funds to make payments for sickness, accident, hospitalization, and other medical expenses, their spouses and dependents, or the payment of premiums for insurance covering such expenses when assets in the trust exceed liabilities. The trust funds could only be used for this purpose to the extent that the fair market value of such funds exceeds an amount equal to 110 percent of the present value of the liability. We added the 10-percent cushion at the request of Senator METZENBAUM in order to provide additional assurance that the funds remaining will be more than adequate to cover the liability. The bill requires that reasonable actuarial studies be used to determine whether a trust fund contains surplus assets.

The use of surplus funds would in no way alter the coal mine operator's continuing legal obligation to fund the trust and black lung benefits. The trust could never be depleted below the present value of the coal mine operator's liability. This bill would allow funds which are otherwise idle, to provide a much needed benefit to retired miners.

Unless a coal operator is allowed to use the trust surplus to meet health care costs of retired miners, an operator is penalized for providing this secure fund. If the operator had, instead, chosen to pay black lung liabilities out of its general assets—which would have resulted in a less secure fund since the operator might be insolvent when the future liabilities arise—the surplus would have been available for paying health care costs of retired miners. If an operator is insolvent and unable to satisfy its black lung liabilities, the li-

abilities are paid by the Federal black lung disability trust fund. Creating a penalty by not allowing the operators to use the surplus trust funds to pay health care costs for retired miners, in effect, discourages operators from creating a secure funding arrangement to satisfy future black lung liabilities. To avoid this result, operators should be permitted to use the surplus funds to meet health care costs of the retired miners.

Mr. President, this bill will also provide a tax revenue benefit to the U.S. Treasury since health care expenditures are deductions from taxable income. If the surplus assets from black lung trusts are used for health care payments for retired miners, each company's taxable income will increase by the amount of such health care benefits since health care payments are normally made from the operator's general funds. We have added language to the bill to make it clear that coal operators may not take a second deduction for the health care payments made from the trust.

I urge my colleagues to support this bill.●

By Mr. GRASSLEY (for himself, Mr. DANFORTH, Mr. DURENBERGER, Mr. LEVIN, Mr. D'AMATO, Mr. SHELBY, Mr. HELMS, Mr. LOTT, and Mr. CONRAD):

S. 542. A bill to amend the Internal Revenue Code of 1986 to restore the deduction for interest on educational loans; to the Committee on Finance.

DEDUCTION FOR INTEREST ON EDUCATIONAL LOANS

● Mr. GRASSLEY. Mr. President, today, I rise to reintroduce legislation that will reinstate the tax deduction for interest on student loans. Senators DANFORTH, DURENBERGER, D'AMATO, HELMS, SHELBY, LEVIN, LOTT, and CONRAD are joining me in reintroducing this legislation.

As you know, under the Tax Reform Act of 1986, the consumer interest deduction was phased out after the 1990 tax year. Unfortunately, educational expenses were lumped together with consumer interest and the deduction for student loan interest will also be terminated.

Mr. President, by taking this action, Congress has, in effect, imposed an additional tax on individuals who are attempting to better themselves or their families through education.

Congress justified repealing the interest deduction on the grounds that it was a significant distincentive to saving. However, unlike loans for most other personal items, student loans have become a necessity for many students and their families who are unable to afford the rising costs of an education.

In addition, consumer interest, up to a limit, remains deductable if the loan is secured by a taxpayer's residence. Even if this home equity loan is used for educational expenses, the interests is deductable. Consequently, current law discriminates against lower income taxpayers who are not fortunate enough to own a home and able to borrow on the home's equity.

The present law regarding interest deductions for education is neither fair nor productive, and it is time to make an adjustment. We all agree that education is a national investment which will be a determining factor in the future of America. A well-educated work force is vitally important if we are to compete effectively in the international marketplace. Restoring the interest deduction for student loans is an expression of the value we place on education and its role in maintaining the position of the United States as the leader of the free world.

Unfortunately, the estimated cost of this legislation has substantially risen since I introduced this legislation in 1987. The first cost estimates were around $500 to $600 million over 5 years. The most recent estimate is nearly double the first one. I will, therefore, be looking into ways this legislation can be modified that will substantially achieve the original goal while also reducing the cost.

Since 1987, I have been working with Congressman SCHULZE to restore this educational assistance. Congressman SCHULZE has introduced a modified companion bill, H.R. 747, in this Congress. I look forward to working with Congressman SHULZE in the 102d Congress as we continue toward our goal of passing this needed legislation.

I urge my colleagues to join me and the cosponsors of this legislation in supporting the education and future of America by adjusting the Tax Code to allow a fair deduction to all Americans for reasonable educational expenses.

I ask unanimous consent to print the bill in the RECORD.

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

S. 542

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

SECTION 1. DEDUCTION FOR INTEREST ON EDUCATIONAL LOANS.

(a) IN GENERAL.—Paragraph (2) of section 163(h) of the Internal Revenue Code of 1986 (defining personal interest) is amended by striking out "and" at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

"(E) any interest on a qualified educational loan, and".

(b) QUALIFIED EDUCATIONAL LOAN.—Section 163(h) of such Code is amended by adding at the end thereof the following new paragraph:

"(6) QUALIFIED EDUCATIONAL LOAN.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified educational loan' means any indebtedness incurred to pay qualified educational expenses which are paid or incurred within a reasonable period of time before or after the indebtedness is incurred.

"(B) COORDINATION WITH HOME EQUITY INDEBTEDNESS LIMITS.—Any qualified education loan which is also home equity indebtedness shall not be taken into account for purposes of applying the limitation of paragraph (3)(C)(ii).

"(C) QUALIFIED EDUCATIONAL EXPENSES.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'qualified educational expenses' means qualified tuition and related expenses of the taxpayer, his spouse, or a dependent for attendance at an educational institutional described in section 170(b)(1)(A)(ii).

"(ii) QUALIFIED TUITION AND RELATED EXPENSES.—The term 'qualified tuition and related expenses' has the meaning given such term by section 117(b), except that such term shall include any reasonable living expenses while away from home.

"(iii) DEPENDENT.—For purposes of this subparagraph, the term 'dependent' has the meaning given such term by section 152."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.●

By Mr. RIEGLE (for himself, Mr. DODD, and Mr. WIRTH):

S. 543. A bill to reform Federal deposit insurance, protect the deposit insurance funds, and improve supervision and regulation of and disclosure relating to federally insured depository institutions; to the Committee on Banking, Housing, and Urban Affairs.

COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT

Mr. RIEGLE. Mr. President, I rise to introduce, for myself and Senator DODD and WIRTH the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991.

This bill will make badly needed changes in our deposit insurance system. I would like to just indicate some of the things it does.

It requires annual onsite examinations of all federally insured banks and thrifts.

It requires regulators to take prompt corrective action to recapitalize, sell, or close weakened institutions before they become liabilities to the deposit insurance fund. This would include restricting dividends, growth, activities, and executive bonuses, and also taking control of the institution if it continues to deteriorate.

It sets goals for reform of the accounting principles that apply to insured banks and thrifts and establishes a process for working toward those goals.

It restrains State-chartered commercial banks from engaging in risky activities at the expense of the Federal deposit insurance system.

It prevents the FDIC from treating any institution as too big to fail by requiring the FDIC to resolve failed institutions by whatever resolution strategy costs the deposit insurance fund the least, and prohibiting the FDIC from using the insurance fund's

resources to protect uninsured depositors.

It requires the FDIC to implement a system of risk-based deposit insurance premiums. That issue, I know, is of great interest to my colleagues, Senator DIXON of Illinois and Senator GRAHAM of Florida.

The bill limits the Federal Government's deposit insurance exposure by curtailing passthrough deposit insurance, restricting brokered deposits, and limiting deposit insurance to $100,000 per individual per institution, plus $100,000 more for tax-deferred retirement savings.

It makes the owners of banks and thrifts stand behind those institutions, by removing doubts about the enforceability of capital maintenance commitments and by strengthening the current requirement that an institution's affiliates protect the FDIC from losses caused by that institution.

Finally, it gives the financial markets, the regulators and the general public better information about the financial condition of depository institutions by imposing new reporting and disclosure obligations on those institutions and their regulators.

This bill is the successor to S. 3103, which I introduced last September. The cornerstone of the bill remains the same—the concept that if we can get regulators to act promptly and effectively to correct the problems of troubled banks and thrifts before they become insolvent, we can dramatically reduce costs to the deposit insurance system and in turn risk to the taxpayer.

The bill has been changed in several respects, of which the most important may be that it now requires the FDIC to adopt and implement a system of risk-based insurance premiums. I will not go into the changes in depth at this time. But I ask unanimous consent to print in the RECORD at the conclusion of my remarks the text of the revised bill, and a detailed statement on the bill, together with a summary of the bill, and explanation of how it differs from S. 3103, a set of questions and answers on various aspects of the bill, and a legal opinion by Prof. Geoffrey Miller of the University of Chicago Law School.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. President, 4 weeks ago, Secretary Brady forwarded to the Congress the Treasury Department's report on deposit insurance reform. That report was required under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, which reformed the regulation of the thrift industry to end past abuses.

The Treasury study lays out an impressive agenda for reform not only of our deposit insurance system but of our entire banking system. Many of the details of the Treasury's proposal will be clear only after we have received the implementing statutory language. Although we have not yet received that language, the Treasury has assured us that we will receive it sometime soon.

Nevertheless, the broad outlines of the Treasury proposal are already clear. The proposal has four major components:

First, it would reform the deposit insurance system in a number of ways. I am pleased to note that there appear to be close parallels between many aspects of the Treasury's deposit insurance reform proposal and the legislation I introduced last September and I am reintroducing today. But, of course, we will have to see the actual statutory language to find out exactly how close those parallels are.

Second, the proposal would restructure the bank regulatory system by reallocating regulatory jurisdiction among the FDIC, the Federal Reserve, and the Treasury, and combine the Treasury's existing regulators—the Office of the Comptroller of the Currency and the Office of Thrift Supervision.

Third, the proposal would eliminate existing barriers to affiliation between banks and other enterprises. Banks and other financial services providers could affiliate under the umbrella of a new type of corporation, the "financial services holding company." A financial services holding company could, in turn, be owned by any type of commercial concern.

Finally, the proposal would repeal provisions of existing law that prevent banks from branching across State lines. In addition, the proposal sets forth certain principles for recapitalizing the bank insurance fund. It does not, however, include an actual plan for recapitalizing that fund.

Every aspect of the Treasury's proposal raises legitimate public policy issues that fully warrant the close attention of the Congress.

I am here to say, as I have said elsewhere, that the Banking Committee has already taken up these issues and we intend to pursue them in the present comprehensive fashion throughout the spring and to bring forward a legislative package somewhat later this year.

Ultimately, it may or may not prove possible or prudent to move Treasury's entire proposal in a single legislative package. In my own opinion, some areas of proposed reform deserve higher priority than others, but we will have to let the legislative process work and see exactly where the balance of opinion lies, first within the committee—as we come to terms with all of the issues involved, then within the Senate as a whole, and ultimately between the Senate and the House.

I am going to make just a few personal observations to set some benchmarks on how I view some of the key issues involved here. Speaking just for myself, I assign top priority to recapitalizing the Bank Insurance Fund and reforming the deposit insurance system. Those things must be done and I am determined to see they will be done.

Frankly, I was disappointed the Treasury's proposal did not include a plan for recapitalizing the bank insurance fund.

In my own view, expanding the ability of banking organizations to do business across State lines should also receive a high priority. Such an expansion could help the insurance funds and the taxpayers, but we need to make sure that the regulatory system can adequately supervise interstate banks, and that we do not end up frustrating State and Federal community reinvestment policies.

I also think we should look closely at proposals to streamline our Federal bank and thrift regulatory system in order to improve the quality and consistency of bank and thrift regulation and supervision. We need to figure out if we should make improvements in the examination process, in the way we collect and analyze data from insured institutions, maybe in the way we monitor compliance with statutory and regulatory directives.

The condition of the banking industry and the bank insurance fund shows that something has gone very wrong with our system of regulation and supervision. We need to find out exactly what that is and fix it, and I am determined to do so.

Although my mind is open, I tend to assign a somewhat lower priority to powers legislation and proposals to let commerical firms own banks and bank holding companies. In these areas, we will have to move cautiously to avoid mistakes that could prove very costly.

We need to make sure we have learned the lessons of the savings and loan experience—recognizing that that situation is different from this one, but that experience there is relevant in many ways to the questions arising in this new debate. We need to make sure we have reformed the deposit insurance system and the supervisory system so as to guarantee that new powers do not mean unnecessary and unwise new risks to the taxpayers.

I do not know if the administration shares the priorities I have just expressed, but I am confident that we share a common bottom line; namely, a strong banking system which in turn can provide the foundation for a strong economy for our country.

So I very much look forward to working with all Senators and the administration to enact reforms that will put America's banking system on a solid foundation for the future and ensure that America's taxpayers will never

again have to foot the bill for the failure of the insurance deposit system.

Finally, today the Banking Committee heard from the Congressional Budget Office and later this week we will hear from the General Accounting Office their respective analyses of the Treasury proposal. These are just the beginning of a long series of hearings on proposed deposit insurance and banking reform legislation. During the process, we will also consider proposals to improve the administration of the Resolution Trust Corporation, an issue that is part of today's debate, and we will consider additional recommendations for financial services modernization and supervision.

I hope very much to finish the entire series of hearings and examination of these issues by midsummer so that we can mark up legislation as soon as possible after that.

Mr. President, I invite the comments and the observations of all interested parties. This will be a historic revision of the fundamental banking laws of this country. There is a great body of important expert opinion around this country, people from a wide variety of backgrounds, and I would like to be sure we have the full advantage of that kind of thoughtful perspective from everyone who wants to participate. And all are invited to participate.

Those who want to forward views of their own that I think would add to the general discussion, I will try not only to see that those views are considered but to make them a part of the committee record at the appropriate point along the way.

I might say just parenthetically that today a gentleman came up at the end of the hearing that we had in the committee—a man who has been around a good number of decades—and he reflected on the early days of the banking crisis that hit this country in the 1930's, telling stories about those times and making historical observations on what he had seen over the years.

I found his thoughts illuminating, I welcomed them, and in that same spirit hope to hear from others in the months ahead.

Mr. President, that concludes my remarks on the introduction of the deposit reform bill.

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

S. 543

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 "Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Improving capital standards.
Sec. 3. Accounting reform.
Sec. 4. Annual examinations.
Sec. 5. Prompt corrective action.
Sec. 6. Capital maintenance commitments.
Sec. 7. Multiple accounts.
Sec. 8. Pass-through insurance coverage.
Sec. 9. Brokered deposits.
Sec. 10. Risk-based assessments.
Sec. 11. Restricting risky bank activities.
Sec. 12. Safeguards against insider abuse.
Sec. 13. Interbank liabilities.
Sec. 14. Least-cost resolution.
Sec. 15. Cross-guarantee liability.
Sec. 16. Granting deposit insurance.
Sec. 17. Disclosure.
Sec. 18. Consent to be bound by Federal Deposit Insurance Act.
Sec. 19. Uninsured depository institutions.

SEC. 2. IMPROVING CAPITAL STANDARDS.

(a) IN GENERAL.—Each appropriate Federal banking agency shall do the following to improve its capital standards for insured depository institutions:

(1) IMPROVING CAPITAL STANDARDS GENERALLY.—Require enough capital to facilitate prompt corrective action to prevent loss to the Bank Insurance Fund and Savings Association Insurance Fund, consistent with section 35 of the Federal Deposit Insurance Act (as added by section 5 of this Act).

(2) IMPROVING RISK-BASED STANDARDS AND CONTROLLING INTEREST-RATE RISK.—Improve risk-based capital standards to ensure that such standards take adequate account of—

(A) interest-rate risk;

(B) concentration of credit risk; and

(C) the risks posed by activities more risky than conventional commercial lending, including real-estate development lending with a high loan-to-value ratio, financing highly leveraged transactions, lending without adequate security or recourse, interest-reserve lending, and equity investment.

(b) DEADLINE FOR PRESCRIBING REVISED STANDARDS.—Each appropriate Federal banking agency shall publish in the Federal Register final regulations or guidelines to implement subsection (a) not later than 18 months after the date of enactment of this Act.

(c) DEFINITIONS.—For purposes of this section, the terms "appropriate Federal banking agency" and "insured depository institution" have the meaning given to those terms in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

SEC. 3. ACCOUNTING REFORM.

Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(o) ACCOUNTING REFORM.—

"(1) OBJECTIVES.—The Congress declares that accounting principles applicable to insured depository institutions should—

"(A) result in financial statements and reports of condition that accurately reflect (at market value, to the extent feasible) the economic condition of those institutions; and

"(B) facilitate effective supervision of insured depository institutions, and prompt corrective action to resolve troubled institutions' problems at no cost to the Bank Insurance Fund or Savings Association Insurance Fund.

"(2) IMPROVING ACCOUNTING PRINCIPLES APPLICABLE TO INSURED DEPOSITORY INSTITUTIONS.—The Securities and Exchange Commission, in consultation with the appropriate Federal banking agencies, shall facilitate the development of accounting principles for insured depository institutions that meet the objectives set forth in paragraph (1).

"(3) STRINGENCY.—

"(A) GAAP AS MINIMUM.—Accounting principles applicable to insured depository institutions shall be no less conservative than generally accepted accounting principles.

"(B) GREATER CONSERVATISM AUTHORIZED.—The appropriate Federal banking agencies may prescribe accounting principles more conservative than generally accepted accounting principles as appropriate to facilitate effective supervision of insured depository institutions and prompt corrective action to resolve troubled institutions' problems at no cost to the Bank Insurance Fund or Savings Association Insurance Fund.".

SEC. 4. ANNUAL EXAMINATIONS.

(a) IN GENERAL.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by inserting after subsection (c) the following new subsection:

"(d) ANNUAL ON-SITE EXAMINATIONS OF ALL INSURED DEPOSITORY INSTITUTIONS REQUIRED.—

"(1) IN GENERAL.—The appropriate Federal banking agency shall, at least once during each 12-month period, conduct an on-site examination of each insured depository institution (other than an institution for which a conservator has been appointed).

"(2) EXAMINATION BY CORPORATION ALSO SATISFIES REQUIREMENT.—Paragraph (1) shall not apply during any 12-month period in which the Corporation has conducted an on-site examination of the insured depository institution.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 1 year after the date of enactment of this Act.

(c) TRANSITION RULE.—Notwithstanding section 10(d) of the Federal Deposit Insurance Act (as added by subsection (a) of this section), during the period beginning 1 year after the date of enactment of this Act and ending on December 31, 1993, an on-site examination of an insured depository institution is not required more often than once during every 18-month period unless—

(1) the institution, when most recently examined, received a composite CAMEL rating of 3, 4, or 5 under the Uniform Financial Institutions Rating System; or

(2) one or more persons acquired control of the institution during the preceding 12-month period.

SEC. 5. PROMPT CORRECTIVE ACTION.

(a) SYSTEM OF PROMPT CORRECTIVE ACTION.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 35. PROMPT CORRECTIVE ACTION.

"(a) PROBLEMS TO BE RESOLVED AT NO COST TO INSURANCE FUNDS.—

"(1) PURPOSE.—The purpose of this section is to ensure that the problems of insured depository institutions are resolved—

"(A) with only rare exceptions, at no cost to the Bank Insurance Fund or Savings Association Insurance Fund; and

"(B) when such costs cannot be avoided, at the least possible long-term cost to the affected deposit insurance fund.

"(2) PROMPT CORRECTIVE ACTION REQUIRED.—Each appropriate Federal banking agency shall carry out the purpose of this section by taking prompt corrective action to resolve the problems of insured depository institutions.

"(b) DEFINITIONS RELATING TO CAPITAL COMPLIANCE.—For purposes of this section:

"(1) UNDERCAPITALIZED.—An insured depository institution is 'undercapitalized' if it is not in compliance with all currently applicable capital standards prescribed by the appropriate Federal banking agency.

"(2) SATISFYING CAPITAL STANDARDS.—An insured depository institution satisfies capital standards only if it is in compliance with all currently applicable capital stand-

ards prescribed by the appropriate Federal banking agency.

"(3) AVERAGE.—The 'average' of an accounting item (such as total assets or tangible shareholders' equity) during a given period means the sum of that item at the close of business on each business day during that period divided by the total number of business days in that period.

"(c) PROVISIONS APPLICABLE TO ALL INSTITUTIONS.—

"(1) CAPITAL DISTRIBUTIONS RESTRICTED.—An insured depository institution shall make no capital distribution if, after making the distribution, the institution would be undercapitalized.

"(2) CAPITAL DISTRIBUTION DEFINED.—For purposes of paragraph (1), the term 'capital distribution' means any of the following:

"(A) A dividend paid or other distribution in cash or in kind made with respect to any shares of any insured depository institution, except a dividend consisting only of shares of the institution.

"(B) A payment made by an insured depository institution to repurchase, redeem, retire, or otherwise acquire any of its shares, including any extension of credit made to finance an affiliated company's acquisition of such shares.

"(C) A transaction that the appropriate Federal banking agency determines to be in substance the distribution of capital.

"(d) PROVISIONS APPLICABLE TO ALL UNDERCAPITALIZED INSTITUTIONS.—

"(1) MONITORING UNDERCAPITALIZED INSTITUTIONS.—Each appropriate Federal banking agency shall—

"(A) closely monitor the condition of any undercapitalized insured depository institution;

"(B) closely monitor compliance with capital restoration plans and restrictions imposed under this section; and

"(C) periodically review the plan and restrictions applicable to any undercapitalized insured depository institution to determine whether the plan and restrictions are achieving the purpose of this section.

"(2) CAPITAL RESTORATION PLAN REQUIRED.—

"(A) IN GENERAL.—Any undercapitalized insured depository institution shall submit an acceptable capital restoration plan to the appropriate Federal banking agency within the time allowed by the agency under subparagraph (D).

"(B) CONTENTS OF PLAN.—The capital restoration plan shall—

"(i) specify how the insured depository institution will satisfy capital standards, without increasing the risk (including credit risk, interest-rate risk, and other types of risk) to which the institution is exposed;

"(ii) specify the levels of capital to be attained during each year in which the plan will be in effect;

"(iii) specify how the institution will comply with paragraph (3);

"(iv) specify the types and levels of activities in which the institution will engage; and

"(v) contain such other information as the appropriate Federal banking agency may require.

"(C) CRITERIA FOR ACCEPTING PLAN.—The appropriate Federal banking agency shall not accept a plan unless the agency determines that:

"(i) the plan complies with subsection (B);

"(ii) the plan is based on realistic assumptions, and is likely to succeed; and

"(iii) each company having control of the insured depository institution has—

"(I) guaranteed that the institution will comply with the plan until the institution has satisfied capital standards on average during each of 12 consecutive months, and

"(II) provided appropriate assurances of performance.

"(D) DEADLINES FOR SUBMISSION AND REVIEW OF PLANS.—The appropriate Federal banking agency shall by regulation establish deadlines that—

"(i) provide insured depository institutions with reasonable time to submit capital restoration plans, and generally require an institution to submit a plan not later than 30 days after the institution ceases to satisfy capital standards; and

"(ii) require the agency to act on capital restoration plans expeditiously and generally not later than 30 days after the plan is submitted.

"(3) GROWTH RESTRICTED.—

"(A) IN GENERAL.—An undercapitalized insured depository institution shall not permit its average total assets during any calendar quarter to exceed its average total assets during the preceding calendar quarter.

"(B) LIMITED GROWTH EXCEPTION.—The appropriate Federal banking agency may permit an insured depository institution to increase its total assets notwithstanding subparagraph (A) if—

"(i) the agency has accepted the institution's capital restoration plan; and

"(ii) any increase in the institution's total assets after the date on which the institution became undercapitalized—

"(I) is not more than 10 times the increase in the institution's tangible shareholders' equity after that date; and

"(II) is consistent with the plan.

"(4) DISCRETIONARY SAFEGUARDS.—The appropriate Federal banking agency may, with respect to any undercapitalized insured depository institution, take 1 or more of the actions described in subsection (e)(2) if the agency determines that such actions are necessary to carry out the purpose of this section.

"(e) PROVISIONS APPLICABLE TO UNDERCAPITALIZED INSTITUTIONS THAT FAIL TO SUBMIT AND IMPLEMENT CAPITAL RESTORATION PLANS.—

"(1) IN GENERAL.—If any undercapitalized insured depository institution fails to submit an acceptable capital restoration plan within the time allowed by the appropriate Federal banking agency under subsection (d)(2)(C) or fails in any material respect to implement a plan accepted by the agency, the following provisions shall apply:

"(A) SPECIFIC ACTION REQUIRED.—The agency shall carry out the purpose of this section by taking 1 or more of the actions described in paragraph (2) of this subsection.

"(B) PRESUMPTION IN FAVOR OF CERTAIN ACTIONS.—In complying with subparagraph (A), the agency shall—

"(i) take the actions described in paragraph (2)(A)(i) (relating to requiring the sale of shares or obligations) and (2)(B)(i) (relating to prohibiting the institution from using the exemption contained in section 23A(d)(1) of the Federal Reserve Act) unless the agency determines that such action would not further the purpose of this section; and

"(ii) take the action described in paragraph (2)(G) (relating to requiring a change of auditor) unless—

"(I) the agency determines that such action would not further the purpose of this section;

"(II) the institution and any affiliated insured depository institutions have consolidated assets of less than $1,000,000,000; or

"(III) the institution's current independent auditor had not served in that capacity for more than 1 year when the institution ceased to satisfy capital standards.

"(C) BRANCHING RESTRICTED.—The agency shall not permit the insured depository institution to increase the number of its branches unless the Corporation certifies that the increase will further the purpose of this section.

"(D) DISCRETION TO IMPOSE CERTAIN ADDITIONAL RESTRICTIONS.—The agency may take one or more of the actions described in subsection (g)(2) to carry out the purpose of this section.

"(2) SPECIFIC ACTIONS AUTHORIZED.—The actions described in this paragraph are the following:

"(A) REQUIRING SALE OF SHARES OR OBLIGATIONS.—

"(i) Requiring the institution to sell enough shares or obligations of the institution so that the institution will satisfy capital standards after the sale.

"(ii) Further requiring that instruments sold under clause (i) be voting shares.

"(B) RESTRICTING TRANSACTIONS WITH AFFILIATES.—

"(i) Prohibiting the institution from using the exemption contained in section 23A(d)(1) of the Federal Reserve Act.

"(ii) Further restricting the institution's transactions with affiliates.

"(C) RESTRICTING ACTIVITIES.—Restricting the activities of the institution or any of its subsidiaries.

"(D) RESTRICTING INTEREST RATES PAID.—Restricting the interest rates the institution pays on deposits.

"(E) REQUIRING NEW ELECTION OF DIRECTORS.—Ordering a new election for the institution's board of directors.

"(F) DISMISSING DIRECTORS OR SENIOR EXECUTIVE OFFICERS.—Dismissing from office any director or senior executive officer (as defined by the Corporation under section 32(f)) who had held office for more than 180 days when the institution ceased to satisfy capital standards. Dismissal under this subparagraph shall not be construed as removal under section 8.

"(G) REQUIRING CHANGE OF AUDITOR.—Requiring the institution to retain a new independent auditor if the institution's current independent auditor had served in that capacity for more than 1 year when the institution ceased to satisfy capital standards.

"(3) SENIOR EXECUTIVE OFFICERS' COMPENSATION RESTRICTED.—

"(A) FAILING TO SUBMIT TIMELY PLAN.—If any undercapitalized insured depository institution fails to submit an acceptable capital restoration plan within the time allowed by the appropriate Federal banking agency under subsection (d)(2)(C), the institution shall not, until the institution has submitted and the appropriate Federal banking agency has accepted a plan, do any of the following:

"(i) Pay any bonus to any senior executive officer.

"(ii) Provide compensation to any senior executive officer at a rate exceeding that officer's average rate of compensation (excluding bonuses, stock options, and profit-sharing) during the 12 calendar months preceding the calendar month in which the institution ceased to comply with capital standards.

"(B) MATERIALLY FAILING TO IMPLEMENT PLAN.—If any undercapitalized insured depository institution fails in any material respect to implement a capital restoration plan accepted by the appropriate Federal banking agency, the institution shall not take any action described in clause (i) or (ii) of subparagraph (A) of this paragraph without the prior written approval of the appropriate Federal banking agency.

"(C) DEFINITIONS.—For purposes of this subsection:

"(i) SENIOR EXECUTIVE OFFICER.—The term 'senior executive officer' has the meaning given to that term by the Corporation under section 32(f).

"(ii) COMPENSATION.—The term 'compensation' means any payment of money or provision of any other thing of value in connection with employment.

"(f) PROVISIONS APPLICABLE TO INSTITUTIONS WITH CAPITAL BELOW CRITICAL LEVEL.—

"(1) AGENCY TO SPECIFY CRITICAL CAPITAL LEVEL.—

"(A) IN GENERAL.—Each appropriate Federal banking agency shall by regulation specify a capital level for purposes of this subsection, to be known as the 'critical capital level'.

"(B) CRITERION FOR SPECIFYING CRITICAL CAPITAL LEVEL.—The critical capital level shall be high enough so that the problems of insured depository institutions can, with only rare exceptions, be resolved at no cost to the Bank Insurance Fund or Savings Association Insurance Fund by carrying out this subsection when the institution's capital falls below that level.

"(C) FDIC'S CONCURRENCE REQUIRED.—The appropriate Federal banking agency shall not, without the concurrence of the Corporation, specify a critical capital level that is less stringent than the critical capital level specified by the Corporation for State nonmember insured banks.

"(2) PAYMENTS ON SUBORDINATED DEBT PROHIBITED.—

"(A) IN GENERAL.—An insured depository institution shall make no payment of principal or interest on the institution's subordinated debt unless, after making the payment, the institution would have capital equaling or exceeding the critical level specified under paragraph (1).

"(B) LIMITED EXEMPTION FOR CERTAIN SUBORDINATED DEBT.—Until October 25, 1995, subparagraph (A) shall not apply with respect to any subordinated debt that is outstanding on October 25, 1990, and that is not extended or otherwise renegotiated after October 25, 1990.

"(C) ACCRUAL OF INTEREST.—Subparagraph (A) does not prevent unpaid interest from accruing on subordinated debt under the terms of that debt, to the extent otherwise permitted by law.

"(D) SUBORDINATED DEBT DEFINED.—For purposes of this paragraph, the term 'subordinated debt' means debt subordinated to the claims of depositors or general creditors.

"(3) ACTIVITIES RESTRICTED.—If any insured depository institution's capital does not equal or exceed the critical capital level specified under paragraph (1), the institution shall comply with restrictions prescribed by the appropriate Federal banking agency under subsection (g).

"(4) CONSERVATORSHIP, RECEIVERSHIP, OR OTHER ACTION REQUIRED.—

"(A) IN GENERAL.—The appropriate Federal banking agency shall, not later than 30 days after the institution's capital ceases to equal or exceed the critical capital level specified under paragraph (1)—

"(i) appoint a conservator or receiver for the institution; or

"(ii) take such other action as the agency determines, with the concurrence of the Corporation, would better achieve the purpose of this section, after documenting why such action is more likely than the immediate appointment of a conservator or receiver to protect the interests of the Bank Insurance Fund or Savings Association Insurance Fund.

"(B) REVIEW OF OTHER ACTION.—If a conservator or receiver is not appointed for the insured depository institution, the agency (with the concurrence of the Corporation) shall review its action under subparagraph (A)(ii) not less often than every 90 days, determine whether that action should be modified to better achieve the purpose of this section, and make any appropriate modifications.

"(C) APPOINTMENT OF RECEIVER REQUIRED IF OTHER ACTION FAILS TO RESTORE CAPITAL.—Notwithstanding subparagraphs (A) and (B) or any provision of State law, the appropriate Federal banking agency shall appoint a receiver for the insured depository institution if the institution's capital does not exceed the critical capital level specified under paragraph (1) on average during any 3-month period during the 6-month period beginning after the end of the 9-month period beginning on the first day of the first month that begins after the date on which the institution's capital ceased to equal or exceed the critical capital level.

"(g) RESTRICTING ACTIVITIES OF INSTITUTIONS WITH CAPITAL BELOW CRITICAL LEVEL.—

"(1) IN GENERAL.—To carry out the purpose of this section, each appropriate Federal banking agency shall, by regulation or order, restrict the activities of any insured depository institution that does not have capital equaling or exceeding the critical capital level specified under subsection (f)(1).

"(2) SPECIFIC RESTRICTIONS.—Except to the extent that the agency determines that other restrictions will better achieve the purpose of this section, the restrictions prescribed under paragraph (1) shall prohibit an insured depository institution that does not have capital equaling or exceeding the critical capital level specified under subsection (f)(1) from doing any of the following without the agency's prior written approval:

"(A) Enter into any material transaction other than in the usual course of business.

"(B) Enter into any highly leveraged transaction.

"(C) Make or agree to make—

"(i) any nonrecourse loan other than a loan on which the principal and interest are fully guaranteed by the United States or an agency of the United States; or

"(ii) any interest-reserve loan.

"(D) Originate, fund, invest in, or buy (or commit itself to originate, fund, invest in, or buy) any investment, security, or other asset (or any group of such assets sold or pledged to, purchased from, or exchanged with the same person) in an amount exceeding the lesser of—

"(i) 10 percent of the institution's capital; or

"(ii) $500,000.

"(E) Sell, pledge, modify, or exchange any loan, participation, investment, or security (except for loans sold in the secondary market in the usual course of business) in an amount exceeding the lesser of—

"(i) 10 percent of the institution's capital; or

"(ii) $500,000.

"(F) Enter into any lease or contract for the purchase of real property or of any interest in real property.

"(G) Amend the institution's charter or bylaws.

"(H) Make any material change in accounting methods.

"(I) Pay interest on new or renewed liabilities at a rate that would increase the institution's weighted average cost of funds.

"(J) Accept or renew liabilities on terms that would increase the institution's exposure to interest-rate risk.

"(K) Make any disbursement to any 1 entity exceeding the lesser of—

"(i) 10 percent of the institution's capital; or

"(ii) $500,000.

"(L) Engage in any 'covered transaction', as defined in section 23A(b) of the Federal Reserve Act.

"(M) Pay or agree to pay any bonus to any employee or agent who receives annual compensation exceeding $60,000.

"(N) Increase the annual compensation of any employee or agent (including any compensation paid with respect to the termination of that person's employment) who receives annual compensation exceeding $60,000 by an amount that exceeds by more than 5 percentage points the percentage increase during the preceding 12 months in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics.

"(O) Indemnify or agree to indemnify any officer, director, employee, or agent.

"(P) Settle any claim, judgment, or award exceeding the lesser of—

"(i) 10 percent of the institution's capital; or

"(ii) $500,000.

"(3) EXCEPTIONS.—

"(A) LIQUID ASSETS.—Subparagraphs (D), (E), and (K) of paragraph (2) shall not apply with respect to the purchase or sale of liquid assets.

"(B) BINDING COMMITMENTS.—Paragraph (2) shall not apply with respect to transactions pursuant to legally binding commitments that—

"(i) were entered into while the insured depository institution's capital equaled or exceeded the critical capital level specified under subsection (f)(1); and

"(ii) were not entered into to evade paragraph (2).

"(C) CONSERVATORS.—This subsection shall not apply with respect to any insured depository institution for which a conservator has been appointed.

"(4) APPROVAL NEED NOT BE TRANSACTION-SPECIFIC.—For purposes of paragraph (2), the term 'prior written approval' includes approval granted by regulation or order under this subsection.

"(5) ADJUSTMENT FOR INFLATION.—The dollar amounts referred to in paragraph (2) shall be periodically adjusted to reflect increases after December 31, 1992, in the Consumer Price Index for Urban Wage Earners and Clerical Workers.

"(h) REVIEW REQUIRED WHEN INSURANCE FUND INCURS LOSS.—

"(1) IN GENERAL.—If the Bank Insurance Fund or Savings Association Insurance Fund incurs a loss with respect to an insured depository institution on or after July 1, 1992, the inspector general of the appropriate Federal banking agency shall—

"(A) make a written report to that agency reviewing the agency's supervision of the institution (including the agency's implementation of this section), which shall—

"(i) ascertain why the agency failed to resolve the institution's problems at no cost to the Bank Insurance Fund or Savings Association Insurance Fund, and

"(ii) make recommendations for preventing any such loss in the future; and

"(B) provide a copy of the report to—

"(i) the Comptroller General of the United States,

"(ii) the Corporation (if the agency is not the Corporation), and

"(iii) in the case of a State depository institution, the appropriate State banking supervisor.

"(2) LOSS INCURRED.—For purposes of this subsection, the Bank Insurance Fund or Savings Association Insurance Fund incurs a loss with respect to an insured depository institution—

"(A) if the Corporation provides any assistance under section 13(c) with respect to that institution, and it is not substantially certain that the assistance will be fully repaid not later than 12 months after the date on which the Corporation initiated the assistance; or

"(B) if the Corporation is appointed receiver of the institution, and it is or becomes apparent that the outlays of the Bank Insurance Fund or Savings Association Insurance Fund with respect to that institution will exceed the present value of receivership dividends or other payments on the claims held by the Corporation.

"(3) DEADLINE FOR REPORT.—The inspector general of the appropriate Federal banking agency shall comply with paragraph (1) expeditiously, and in any event as follows:

"(A) If the institution is described in paragraph (2)(A), during the 12-month period beginning on the date on which the Corporation initiates assistance under section 13(c).

"(B) If the institution is described in paragraph (2)(B), during the 12-month period beginning on the date on which it becomes apparent that the outlays of the Bank Insurance Fund or Savings Association Insurance Fund with respect to that institution will exceed the present value of receivership dividends or other payments on the claims held by the Corporation.

"(4) PUBLIC DISCLOSURE REQUIRED.—The appropriate Federal banking agency shall disclose the report upon request under section 552 of title 5, United States Code, without excising—

"(A) any portion under section 552(b)(5); or

"(B) any information about the insured depository institution under paragraph (4) or (8) of section 552(b).

"(5) GAO REVIEW.—The General Accounting Office shall annually—

"(A) review reports made under paragraph (1) and recommend improvements in the supervision of insured depository institutions (including the implementation of this section); and

"(B) audit 1 or more of those reports.

"(6) TRANSITION RULE.—During the period beginning on January 1, 1993, and ending on December 31, 1995, paragraph (1) does not require action by the inspector general of the appropriate Federal banking agency unless the loss incurred by the Corporation with respect to an insured depository institution—

"(A) with respect to which the Corporation initiates assistance under section 13(c) during the period in question, or

"(B) for which the Corporation was appointed receiver during the period in question,

exceeds the applicable percentage of the institution's total assets at that time set forth in the following table:

For the following period:	The applicable percentage is:
January 1–December 31, 1993	5
January 1–December 31, 1994	3
January 1–December 31, 1995	1

"(i) OTHER AUTHORITY NOT AFFECTED.—This section does not limit any authority of the appropriate Federal banking agency or a State to take action in addition to (but not in derogation of) that required under this section.

"(j) TRANSITION RULES FOR SAVINGS ASSOCIATIONS.—

"(1) RTC'S ROLE DOES NOT DIMINISH CARE REQUIRED OF OTS.—

"(A) IN GENERAL.—In implementing this section, the Director of the Office of Thrift Supervision shall exercise the same care as if the Savings Association Insurance Fund (rather than the Resolution Trust Corporation) bore the cost of resolving the problems of insured savings associations described in clauses (i) and (ii)(II) of section 21A(b)(3)(A) of the Federal Home Loan Bank Act.

"(B) REPORTS.—Subparagraph (A) does not require reports under subsection (i).

"(2) NEW CAPITAL PLAN NOT REQUIRED FOR CERTAIN SAVINGS ASSOCIATIONS.—Subsections (d)(2) and (e) shall not apply before July 1, 1994, to any insured savings association if—

"(A) before the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991—

"(i) the savings association had submitted a plan meeting the requirements of section 5(t)(6)(A)(ii) of the Home Owners' Loan Act; and

"(ii) the Director of the Office of Thrift Supervision had accepted the plan;

"(B) the plan remains in effect; and

"(C) the savings association remains in compliance with the plan.".

(b) DEADLINE FOR REGULATIONS.—The Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Director of the Office of Thrift Supervision shall each, after notice and opportunity for comment, promulgate final regulations under section 35 of the Federal Deposit Insurance Act (as added by subsection (a) of this section) not later than 240 days after the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991, and those regulations shall take effect not later than 270 days after that date of enactment.

(c) CONSERVATORSHIP AND RECEIVERSHIP AUTHORITY.—

(1) ADDITIONAL GROUNDS FOR APPOINTING CONSERVATOR OR RECEIVER; CONSISTENT STANDARDS FOR NATIONAL, STATE MEMBER, AND STATE NONMEMBER BANKS.—Section 11(c)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(5)) is amended to read as follows:

"(5) GROUNDS FOR APPOINTMENT OF CONSERVATOR OR RECEIVER.—The grounds for appointing a conservator or receiver (which may be the Corporation) for any insured depository institution are as follows:

"(A) The institution's assets are less than the institution's obligations to its creditors and others, including members of the institution.

"(B) Substantial dissipation of assets or earnings due to—

"(i) any violation of any law or regulation; or

"(ii) any unsafe or unsound practice.

"(C) An unsafe or unsound condition to transact business, including substantially insufficient capital or otherwise.

"(D) Any willful violation of a cease-and-desist order which has become final.

"(E) Any concealment of the institution's books, papers, records, or assets, or any refusal to submit the institution's books, papers, records, or affairs for inspection to any examiner or to any lawful agent of the appropriate Federal banking agency or State bank or savings association supervisor.

"(F) The institution is likely to be unable to pay its obligations or meet its depositors' demands in the normal course of business.

"(G) The institution has incurred or is likely to incur losses that will deplete all or substantially all of its capital, and there is no reasonable prospect for replenishment of the institution's capital without Federal assistance.

"(H) Any violation of any law or regulation, or any unsafe or unsound practice or condition which is likely to cause insolvency or substantial dissipation of assets or earnings, or is likely to weaken the institution's condition or otherwise seriously prejudice the interests of the institution's depositors.

"(I) The institution is not in compliance with all currently applicable capital standards prescribed by the appropriate Federal banking agency, and—

"(i) has no reasonable prospect of achieving such compliance by selling shares or obligations of the institution;

"(ii) fails to achieve such compliance when required to do so under subsection (d)(4) or (e)(2)(A) of section 35;

"(iii) fails to submit a capital restoration plan acceptable to that agency within the time prescribed under section 35(d)(2)(C); or

"(iv) materially fails to implement a capital restoration plan submitted and accepted under section 35(d)(2).

"(J) The institution fails to have capital that equals or exceeds the critical capital level specified by the appropriate Federal banking agency under section 35(f)(1).

"(K) The institution, by resolution of its board of directors or its members, consents to the appointment.

"(L) The institution's status as an institution the accounts of which are insured by the Corporation is terminated.

"(M) In the case of a national bank—

"(i) any creditor has obtained a judgment against the national bank in a court of record, and the clerk of the court certifies that the judgment has been rendered and has remained unpaid for 30 days; or

"(ii) the national bank's board of directors consists of fewer than 5 members.".

(2) CONFORMING AMENDMENT TO COMPTROLLER'S AUTHORITY TO APPOINT RECEIVER FOR NATIONAL BANK.—Section 1 of the Act of June 30, 1876 (12 U.S.C. 191) is amended to read as follows:

"SECTION 1. The Comptroller may, with or without notice or prior hearings, appoint the Federal Deposit Insurance Corporation as receiver for any national banking association if the Comptroller determines, in the Comptroller's discretion, that 1 or more of the grounds specified in section 11(c)(5) of the Federal Deposit Insurance Act exist.".

(3) CONFORMING AMENDMENT TO BANK CONSERVATION ACT.—Section 203(a) of the Bank Conservation Act (12 U.S.C. 203(a)) is amended to read as follows:

"(a) APPOINTMENT.—The Comptroller may, with or without notice or prior hearings, appoint a conservator (which may be the Federal Deposit Insurance Corporation) to the possession and control of a bank whenever the Comptroller determines that 1 or more of the grounds specified in section 11(c)(5) of the Federal Deposit Insurance Act exist.".

(4) CONFORMING AMENDMENTS TO THE HOME OWNERS' LOAN ACT.—Section 5(d)(2) of the Home Owners' Loan Act (12 U.S.C. 1464(d)(2)) is amended by striking subparagraphs (A) through (D) and inserting the following:

"(A) GROUNDS FOR APPOINTING CONSERVATOR OR RECEIVER FOR INSURED SAVINGS ASSOCIATION.—The Director may appoint a conservator or receiver for any insured savings association if the Director determines, in the Director's discretion, that 1 or more of the grounds specified in section 11(c)(5) of the Federal Deposit Insurance Act exist.

"(B) Repealed.

"(C) SPECIAL RULE LIMITING GROUNDS FOR DIRECTOR TO APPOINT CONSERVATOR OR RECEIVER FOR STATE ASSOCIATION.—Notwithstanding subparagraph (A), the Director may not appoint a conservator or receiver for an insured State savings association—

"(i) under section 11(c)(5)(D) of the Federal Deposit Insurance Act; or

"(ii) under section 11(c)(5)(E) of the Federal Deposit Insurance Act, if the State savings association has not concealed the association's books, papers, records, or assets from, or refused to submit the association's books, papers, records, or affairs to, any Federal examiner or to any lawful agent of the Director.

"(D) SPECIAL PROCEDURAL REQUIREMENTS FOR DIRECTOR TO APPOINT CONSERVATOR OR RECEIVER FOR STATE SAVINGS ASSOCIATION.—The Director shall not act under subparagraph (A) with respect to an insured State savings association unless—

"(i) the State official having jurisdiction over the insured State savings association has made a written finding that one or more of the grounds specified in section 11(c)(5) of the Federal Deposit Insurance Act exist;

"(ii) the Director has determined that one or more of those grounds exist, has given notice to the State official having jurisdiction over the insured State savings association, has not received a written finding satisfying clause (i) within 30 days after the State official received the notice, and has responded in writing to the State official's written reasons (if any) for withholding approval; or

"(iii) the appointment is under paragraph (10) or (11) of section 11(c) of the Federal Deposit Insurance Act.".

(5) ADDITIONAL PROVISIONS RELATING TO APPOINTMENT OF CONSERVATOR OR RECEIVER.—Section 11(c) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)) (as amended by paragraph (1)) is amended by adding at the end the following new paragraphs:

"(10) APPROPRIATE FEDERAL BANKING AGENCY MAY APPOINT CORPORATION AS CONSERVATOR OR RECEIVER FOR INSURED STATE DEPOSITORY INSTITUTION TO CARRY OUT SECTION 35.—

"(A) IN GENERAL.—The appropriate Federal banking agency may appoint the Corporation as sole receiver (or, subject to paragraph (12), sole conservator) of any insured State depository institution, after consultation with the appropriate State supervisor, if the appropriate Federal banking agency determines that—

"(i) 1 or more of the grounds specified in subparagraphs (I) and (J) of paragraph (5) exist with respect to that institution; and

"(ii) the appointment is necessary to carry out the purpose of section 35.

"(B) NONDELEGATION.—The appropriate Federal banking agency shall not delegate any action under this subsection.

"(11) CORPORATION MAY APPOINT ITSELF AS CONSERVATOR OR RECEIVER FOR INSURED DEPOSITORY INSTITUTION TO PREVENT LOSS TO DEPOSIT INSURANCE FUND.—

"(A) IN GENERAL.—The Board of Directors may appoint the Corporation as sole conservator or receiver of an insured depository institution, after consultation with the appropriate Federal banking agency and the appropriate State supervisor (if any), if the Board of Directors determines that—

"(i) 1 or more of the grounds specified in any subparagraph of paragraph (5) exist with respect to the institution; and

"(ii) the appointment is necessary to reduce—

"(I) the risk that the affected deposit insurance fund would incur a loss with respect to the insured depository institution, or

"(II) any loss that the affected deposit insurance fund is expected to incur with respect to that institution.

"(B) NONDELEGATION.—The Board of Directors shall not delegate any action under this subsection.

"(12) APPROPRIATE FEDERAL BANKING AGENCY SHALL NOT APPOINT CONSERVATOR UNDER CERTAIN PROVISIONS WITHOUT GIVING CORPORATION OPPORTUNITY TO APPOINT RECEIVER.—The appropriate Federal banking agency shall not appoint a conservator for an insured depository institution under subparagraph (I) or (J) of paragraph (5) without the Corporation's consent unless the agency has given the Corporation 48 hours notice of the agency's intention to appoint the conservator and the grounds for the appointment.

"(13) DIRECTORS NOT LIABLE FOR ACQUIESCING IN APPOINTMENT OF CONSERVATOR OR RECEIVER.—The members of the board of directors of an insured depository institution shall not be liable to the institution's shareholders or creditors for acquiescing in or consenting in good faith to the appointment of the Corporation or Resolution Trust Corporation as conservator or receiver for that institution.".

(d) CONFORMING AMENDMENT TO SECTION 5(t)(7) OF THE HOME OWNERS' LOAN ACT.—Section 5(t)(7) of the Home Owners' Loan Act (12 U.S.C. 1464(t)(7)) is amended—

(1) in subsection (A), by inserting "under this Act" before the period; and

(2) in subsection (B), by inserting "under this Act" after "imposed by the Director".

(e) EFFECTIVE DATE.—The amendments made by subsection (a), and the amendments made by subsection (c) insofar as they refer to section 35 of the Federal Deposit Insurance Act (as added by subsection (a)), shall take effect 270 days after the date of enactment of this Act.

SEC. 6. CAPITAL MAINTENANCE COMMITMENTS.

Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(p) COMMITMENTS TO MAINTAIN THE CAPITAL OF INSURED DEPOSITORY INSTITUTIONS.—

"(1) IN GENERAL.—Any commitment to maintain the capital of an insured depository institution, made to the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Corporation, the Director of the Office of Thrift Supervision, or their predecessors, may be enforced under this Act.

"(2) OTHER AUTHORITY NOT AFFECTED.—The authority granted by paragraph (1) is in addition to any other authority of the agencies specified in that paragraph.".

SEC. 7. MULTIPLE ACCOUNTS.

(a) IN GENERAL.—Section 11(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)) is amended—

(1) by redesignating paragraphs (4) through (7) as paragraphs (5) through (8), respectively; and

(2) by striking paragraphs (1) through (3) and inserting the following:

"(a) INSURANCE OF DEPOSITS.—

"(1) IN GENERAL.—The Corporation shall insure the deposits of all insured depository institutions as provided in this Act.

"(2) REGISTRATION OF DEPOSITS.—All deposits shall be registered under the taxpayer identification or employer identification numbers of 1 or more persons.

"(3) MAXIMUM AMOUNT INSURED.—The maximum amount of any depositor's insured deposit at any insured depository institution shall be—

"(A) $100,000; and

"(B) an additional $100,000 for—

"(i) accounts established pursuant to a pension or profit-sharing plan described in section 401(d) of the Internal Revenue Code of 1986; or

"(ii) individual retirement arrangements, as described in the Internal Revenue Code of 1986.

"(4) INSURED AMOUNT PAYABLE.—In determining the amount due to any depositor for deposits in an insured depository institution, the following provisions shall apply:

"(A) The Corporation shall—

"(i) aggregate the amounts of all deposits in the institution registered under the depositor's taxpayer identification or employer identification number and allocated to the depositor under subparagraph (C); and

"(ii) deduct any offsets.

"(B) The amount due to the depositor is the lesser of—

"(i) the amount calculated under subparagraph (a); or

"(ii) the sum of $100,000 and any additional amount described in paragraph (3)(B).

"(C) For purposes of subparagraph (A)—

"(i) a deposit registered under the taxpayer identification or employer identification number of 1 person shall be allocated to that person; and

"(ii) a deposit registered under the taxpayer identification or employer identification numbers of more than 1 person shall be allocated equally among those persons, except to the extent that the Corporation has provided otherwise by regulation. In no case shall the Corporation allocate to those persons a total amount exceeding the amount of the deposit.".

(b) CONFORMING AMENDMENT.—Section 7(i) of the Federal Deposit Insurance Act (12 U.S.C. 1817(i)) is amended by striking "Except with respect to trust funds which are owned by a depositor referred to in paragraph (2) of section 11(a) of this Act, trust" and inserting "Trust".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1993, except that such amendments shall not apply before the stated maturity of any time deposit made before June 1, 1991.

SEC. 8. PASS-THROUGH INSURANCE COVERAGE.

(a) RESTRICTING PASS-THROUGH INSURANCE COVERAGE; ELIMINATING COVERAGE OF CERTAIN BROKERED DEPOSITS.—Section 3(m) of the Federal Deposit Insurance Act (12 U.S.C. 1813(m)) is amended—

(1) by amending paragraph (1) to read as follows:

"(m) INSURED DEPOSIT.—

"(1) IN GENERAL.—Subject to paragraph (2) of this subsection, the term 'insured deposit' means the net amount due to any depositor, as determined under section 11(a)(1). To clarify the insurance coverage under this subsection and subsection (i) of section 7, the Corporation may define, with such classifications and exceptions as it may prescribe, terms used in this subsection, in subsection (p) of this section, in subsection (i) of section 7, and in subsections (a) and (i) of section 11, and the extent of the resulting insurance coverage.";

(2) in paragraph (2), by inserting "DEPOSIT IN BRANCH OF FOREIGN BANK.—" after "(2)"; and

(3) by adding at the end the following new paragraph:

"(3) PASS-THROUGH INSURANCE RESTRICTED TO INTERESTS IN TAX-QUALIFIED RETIREMENT PLANS.—Deposits may not be insured on a pro-rata or pass-through basis, except for—

"(A) the interests of individual participants in a plan meeting the requirements of

section 401(a) of the Internal Revenue Code of 1986 that includes a trust exempt from tax under section 501(a); and

"(B) individual retirement arrangements, as described in the Internal Revenue Code of 1986.".

(b) CONFORMING AMENDMENT.—Section 12(c) of the Federal Deposit Insurance Act (12 U.S.C. 1822(c)) is amended by striking "Except as otherwise prescribed by the Board of Directors, neither the Corporation nor such new bank or other insured depository institution shall be required to recognize" and inserting "The Corporation and any new bank or other insured depository institution may not recognize".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1993, except that such amendments shall not apply before the stated maturity of any time deposit made before June 1, 1991.

SEC. 9. BROKERED DEPOSITS.

(a) IN GENERAL.—Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f) is amended to read as follows:

"SEC. 29. DEPOSITS BY INTERMEDIARIES.

"(a) CERTAIN DEPOSITORY INSTITUTIONS INELIGIBLE TO ACCEPT DEPOSITS FROM ANY INTERMEDIARY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an insured depository institution shall not accept deposits, directly or indirectly, from or through any intermediary (other than the intermediary's own funds) unless the institution—

"(A) is in compliance with all currently applicable capital standards prescribed by the appropriate Federal banking agency; and

"(B) does not pay or offer to pay rates of interest for such deposits that significantly exceed rates paid or offered by the institution on deposits not made by or through intermediaries.

"(2) EXEMPTIONS.—The Corporation may, by order, exempt an insured depository institution from paragraph (1) if the Corporation determines that the institution's acceptance of deposits from or through intermediaries—

"(A) would be safe and sound; and

"(B) in the case of an institution for which the Corporation or the Resolution Trust Corporation is conservator, would be—

"(i) necessary so that the institution can meet its depositors' demands or pay its other obligations in the usual course of business; and

"(ii) consistent with the conservator's fiduciary duty to minimize the institution's losses.

"(b) REGULATION OF DEPOSITS THROUGH INTERMEDIARIES.—

"(1) CORPORATION'S REGULATORY AUTHORITY.—The Corporation may do any 1 or more of the following:

"(A) Prohibit any insured depository institution, any class of insured depository institutions, or all insured depository institutions from accepting deposits from or through any intermediary.

"(B) Establish the terms under which insured depository institutions, or any such institution or class of institutions, may accept deposits from or through intermediaries.

"(2) CORPORATION'S DUTY TO PROTECT INSURANCE FUND.—The Corporation shall exercise its authority under paragraph (1) so as to prevent insured depository institutions' acceptance of deposits from or through intermediaries from posing any significant risk to the Bank Insurance Fund, Savings Association Insurance Fund, or Resolution Trust Corporation.

"(3) GROWTH LIMITS.—In carrying out paragraph (2), the Corporation shall prescribe regulations prohibiting any insured depository institution that accepts deposits from or through intermediaries from rapidly increasing the institution's assets, or permitting deposits from or through intermediaries to increase at a rate exceeding the rate of increase in the institution's total deposits, unless—

"(A) the Corporation has issued an order permitting the institution to do so; or

"(B) interest on brokered deposits is an insignificant proportion of the institution's total cost of funds.

"(c) INTERMEDIARY DEFINED.—

"(1) IN GENERAL.—For purposes of this section, and except as provided in paragraph (2), the term 'intermediary' means—

"(A) any person engaged in the business of making or facilitating the making of deposits at insured depository institutions on behalf of other persons;

"(B) any person engaged in the business of making deposits at insured depository institutions for the purpose of selling interests in those deposits;

"(C) any agent or trustee who establishes a deposit account to facilitate a business arrangement with an insured depository institution to use the proceeds of the account to fund a prearranged loan; or

"(D) any trustee or custodian of a pension or profit-sharing plan who makes or facilitates the making of deposits at insured depository institutions on behalf of plan participants.

"(2) EXCLUSIONS.—The term 'intermediary' excludes the following:

"(A) A trust department of an insured depository institution, if the trust in question places funds at insured depository institutions only as an incident to its other activities.

"(B) The trustee of a testamentary account.

"(C) The trustee of an irrevocable trust (other than a trust described in paragraph (1)(C)), as long as the trust in question places funds at insured depository institutions only as an incident to its other activities.

"(D) An agent or nominee—

"(i) who is not engaged in the business of placing funds with insured depository institutions;

"(ii) who receives no remuneration, directly or indirectly, from the insured depository institution for placing funds on behalf of other persons; and

"(iii) whose aggregate deposits as agent or nominee do not exceed such dollar amounts as the Corporation may by regulation prescribe.

"(E) An individual who makes deposits on behalf of members of his or her immediate family.

"(F) An employee of an insured depository institution with respect to funds placed in that institution.

"(G) An employer with respect to a deposit of compensation to an account of his or her employee.

"(H) A person, or class of persons, described in regulations of the Corporation, whose treatment as an intermediary is not appropriate for the purpose of this section.

"(3) INCLUSION OF DEPOSITORY INSTITUTIONS ENGAGING IN CERTAIN ACTIVITIES.—Notwithstanding paragraph (2), the term 'intermediary' includes any insured depository institution, and any employee of any insured depository institution, which engages, directly or indirectly, in soliciting deposits by offering rates of interest on such deposits that are significantly higher than the prevailing rates of interest on deposits offered by other insured depository institutions.

"(4) EMPLOYEE DEFINED.—For purposes of paragraph (2)(F) of this subsection, the term 'employee' means any employee—

"(A) who is employed exclusively by the insured depository institution;

"(B) whose compensation is primarily in the form of a salary;

"(C) who does not share such employee's compensation with a deposit broker; and

"(D) whose office space or place of business is used exclusively for the benefit of the insured depository institution which employs such individual.".

(b) DEADLINE FOR REGULATIONS.—The Corporation shall promulgate final regulations under section 29(b) of the Federal Deposit Insurance Act (as added by subsection (a) of this section) not later than 240 days after the date of enactment of this Act, and those regulations shall take effect not later than 270 days after the date of enactment.

SEC. 10. RISK-BASED ASSESSMENTS.

(a) RISK-BASED ASSESSMENT SYSTEM.—Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended to read as follows:

"(b) ASSESSMENTS.—

"(1) RISK-BASED ASSESSMENT SYSTEM.—

"(A) RISK-BASED ASSESSMENT SYSTEM REQUIRED; BOARD HAS BROAD DISCRETION IN DESIGNING SYSTEM.—The Board of Directors shall, by regulation, establish a risk-based assessment system for insured depository institutions.

"(B) PRIVATE REINSURANCE AUTHORIZED.—In carrying out this paragraph, the Corporation may obtain private reinsurance covering not more than 10 percent of any loss the Corporation incurs with respect to an insured depository institution, and base that institution's semiannual assessment (in whole or in part) on the cost of that reinsurance.

"(C) RISK-BASED ASSESSMENT SYSTEM DEFINED.—For purposes of this paragraph, the term 'risk-based assessment system' means a system relating insured depository institutions' semiannual assessments to the risk those institutions pose to the affected deposit insurance fund.

"(D) SYSTEM FOR EACH FUND MAY BE ESTABLISHED SEPARATELY.—The Board of Directors may establish separate risk-based assessment systems for Bank Insurance Fund members and Savings Association Insurance Fund members.

"(2) SETTING ASSESSMENTS.—

"(A) ACHIEVING AND MAINTAINING DESIGNATED RESERVE RATIO.—

"(i) IN GENERAL.—The Board of Directors shall set semiannual assessments for insured depository institutions—

"(I) to maintain the reserve ratio of the Bank Insurance Fund and Savings Association Insurance Fund at the designated reserve ratio; or

"(II) if the reserve ratio is less than the designated reserve ratio, to increase the reserve ratio to the designated reserve ratio within a reasonable period of time.

"(ii) FACTORS TO BE CONSIDERED.—In carrying out clause (i), the Board of Directors shall consider each fund's expected operating expenses, case resolution expenditures, and income, the effect of assessments on members' earnings and capital, and such other factors as the Board of Directors may deem appropriate.

"(iii) MINIMUM ASSESSMENT.—The semiannual assessment of each member shall be not less than $1,000.

"(iv) DESIGNATED RESERVE RATIO DEFINED.—The designated reserve ratio of the Bank Insurance Fund and the Savings Association Insurance Fund for each year shall be—

"(I) 1.25 percent of estimated insured deposits; or

"(II) such higher percentage of estimated insured deposits as the Board of Directors determines to be justified for that year by circumstances raising a significant risk of substantial future losses to the fund.

"(B) EACH FUND INDEPENDENT OF OTHER.—The Board of Directors shall—

"(i) set semiannual assessments for Bank Insurance Fund members independently from semiannual assessments for Savings Association Insurance Fund members; and

"(ii) set the designated reserve ratio of the Bank Insurance Fund separately from the designated reserve ratio of the Savings Association Insurance Fund.

"(C) NOTICE OF ASSESSMENTS.—The Corporation shall notify each insured depository institution of that institution's semiannual assessment not less than 60 days before the beginning of each semiannual period.

"(D) PRIORITY OF FINANCING CORPORATION AND FUNDING CORPORATION ASSESSMENTS.—Notwithstanding any other provision of this paragraph, amounts assessed by the Financing Corporation and the Resolution Funding Corporation under sections 21 and 21B of the Federal Home Loan Bank Act, respectively, against Savings Association Insurance Fund members, shall be subtracted from the amounts authorized to be assessed by the Corporation under this paragraph.

"(3) SEMIANNUAL PERIOD DEFINED.—For purposes of this section, the term 'semiannual period' means a period beginning on January 1 of any calendar year and ending on June 30 of the same year, or a period beginning on July 1 of any calendar year and ending on December 31 of the same year.

"(4) RECORDS TO BE MAINTAINED.—Each insured depository institution shall maintain such records as the Corporation may require for verifying the correctness of the institution's assessments. No insured depository institution shall be required to retain such records for that purpose for a period in excess of 5 years from the date of the filing of any certified statement, except that when there is a dispute between the insured depository institution and the Corporation over the amount of any assessment, the depository institution shall retain such records until final determination of the issue.".

(b) CERTIFIED STATEMENTS AND PAYMENT PROCEDURES.—Section 7(c) of the Federal Deposit Insurance Act (12 U.S.C. 1817(c)) is amended to read as follows:

"(c) CERTIFIED STATEMENTS; PAYMENTS.—

"(1) CERTIFIED STATEMENTS REQUIRED.—

"(A) IN GENERAL.—Each insured depository institution shall file with the Corporation a certified statement containing such information as the Corporation may require for determining the institution's semiannual assessment.

"(B) FORM OF CERTIFICATION.—The certified statement required under subparagraph (A) shall—

"(i) be in such form and set forth such supporting information as the Board of Directors shall prescribe; and

"(ii) be certified by the president of the depository institution or any other officer designated by its board of directors or trustees that to the best of his or her knowledge and belief, the statement is true, correct and complete, and in accordance with this Act and regulations issued hereunder.

"(2) PAYMENTS REQUIRED.—

"(A) IN GENERAL.—Each insured depository institution shall pay to the Corporation the semiannual assessment imposed under subsection (b).

"(B) FORM OF PAYMENT.—The payments required under subparagraph (A) shall be made in such manner and at such time or times as the Board of Directors shall prescribe by regulation.

"(3) NEWLY INSURED INSTITUTIONS.—To facilitate the administration of this section, the Board of Directors may waive the requirements of paragraphs (1) and (2) for the semiannual period in which a depository institution becomes insured.

"(4) RETROACTIVE EFFECT.—Except as otherwise provided in this section, the Board of Directors shall promulgate all regulations necessary to carry out this section. The Board of Directors may limit any retroactive effect of its regulations.".

(c) REGULATIONS.—To implement the risk-based assessment system required under section 7(b) of the Federal Deposit Insurance Act (as amended by subsection (a)), the Corporation shall—

(1) provide notice of proposed regulations in the Federal Register, with an opportunity for comment on such proposal of not less than 120 days; and

(2) promulgate final regulations to become effective not later than January 1, 1993.

(d) CONFORMING AMENDMENTS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(1) in section 5(d)(3)(B)—

(A) by striking "average assessment base" and inserting "deposits"; and

(B) by striking "shall—" and all that follows through "(iii) shall be treated" and inserting "shall be treated";

(2) in section 7(a)(5) by striking "and for the computation of assessments provided in subsection (b) of this section";

(3) in section 7 by amending subsection (d) to read as follows:

"(d) CORPORATION EXEMPT FROM APPORTIONMENT.—Notwithstanding any other provision of law, amounts received pursuant to any assessment under this section and any other amounts received by the Corporation shall not be subject to apportionment for the purposes of chapter 15 of title 31, United States Code, or under any other authority."; and

(4) in the last sentence of section 8(q) by striking "upon" and inserting "with respect to".

(e) TRANSITION TO NEW SYSTEM.—To carry out the amendments made by this section, the Corporation may promulgate regulations governing the transition from the system in effect on the date of enactment of this Act to the system required under the amendments made by this section.

(f) EFFECTIVE DATE OF AMENDMENTS.—The amendments made by this section shall take effect on the earlier of—

(1) the date on which final regulations promulgated in accordance with subsection (c) take effect; or

(2) July 1, 1993.

SEC. 11. RESTRICTING RISKY BANK ACTIVITIES.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after section 23 the following new section:

"SEC. 24. BANK ACTIVITIES.

"(a) FDIC MAY RESTRICT RISKY ACTIVITIES OF BANKS.—The Corporation may, by regulation or order, restrict any activity of insured banks that poses a significant risk to the affected deposit insurance fund.

"(b) SAFEGUARDS ON EXERCISE OF STATE-AUTHORIZED POWERS EXCEEDING THE POWERS OF A NATIONAL BANK.—An insured State bank shall not engage as principal in any activity not permissible for a national bank unless—

"(1) the State bank is in compliance with the fully phased-in capital standards prescribed by the appropriate Federal banking agency; and

"(2) the Corporation has, by regulation or order, determined that engaging in that activity—

"(A) would pose no significant risk to the affected deposit insurance fund; and

"(B) would be consistent with the purposes of this Act.

"(c) SUBSIDIARIES OF STATE BANKS.—A subsidiary of an insured State bank shall not engage as principal in any activity not permissible for a subsidiary of a national bank unless—

"(1) the State bank is in compliance with all currently applicable capital standards prescribed by the appropriate Federal banking agency;

"(2) the Corporation has, by regulation or order, determined that engaging in that activity in a subsidiary of an insured bank—

"(A) would pose no significant risk to the affected deposit insurance fund; and

"(B) would be consistent with the purposes of this Act.

"(d) EQUITY INVESTMENTS BY STATE BANKS.—

"(1) INVESTMENTS BY BANK RESTRICTED.—An insured State bank shall not directly acquire any equity investment of a type or in an amount that is not permissible for a national bank.

"(2) INVESTMENTS BY SUBSIDIARY RESTRICTED.—

"(A) IN GENERAL.—A subsidiary of an insured State bank shall not acquire any equity investment of a type or in an amount not permissible for a national bank or a subsidiary of a national bank.

"(B) EXCEPTION FOR QUALIFYING COMMUNITY DEVELOPMENT INVESTMENTS.—Subparagraph (A) does not prohibit an insured State bank from acquiring a qualifying community development investment if the bank is in compliance with all currently applicable capital standards prescribed by the appropriate Federal banking agency.

"(C) QUALIFYING COMMUNITY DEVELOPMENT INVESTMENT DEFINED.—For purposes of this paragraph, the term 'qualifying community development investment' means an investment designed primarily to promote community welfare (such as the economic rehabilitation and development of low-income areas by providing housing, services, or jobs for residents) of a type and in an amount that the Corporation has determined poses no significant risk of loss to the affected deposit insurance fund.

"(e) CORPORATE DEBT SECURITIES NOT OF INVESTMENT GRADE.—

"(1) IN GENERAL.—An insured bank shall not, directly or through a subsidiary, acquire any corporate debt security not of investment grade.

"(2) DEFINITION.—The term 'corporate debt security not of investment grade' has the meaning given to that term in section 28(d)(4).

"(3) ACCOUNTING.—An insured bank that retains any corporate debt security not of investment grade shall account for that security in the same manner as if the security were held for sale.

"(f) OTHER AUTHORITY NOT AFFECTED.—This section does not limit any authority of the Corporation, the appropriate Federal

banking agency, or a State to impose more stringent restrictions.

"(g) EFFECTIVE DATE.—This section shall take effect upon the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991, except that subsections (b) and (c) shall take effect one year after that date of enactment.".

SEC. 12. SAFEGUARDS AGAINST INSIDER ABUSE.

(a) APPLYING SAFEGUARDS TO DEPOSITORY INSTITUTION'S PURCHASES OF ASSETS FROM ITS INSIDERS, AND TO INSIDERS' TRANSACTIONS WITH INSTITUTION'S SUBSIDIARIES.—Section 22(h) of the Federal Reserve Act (12 U.S.C. 375b) is amended—

(1) by striking "executve" in paragraph (1) and inserting "executive";

(2) by striking "and" at the end of paragraph (6)(E);

(3) by striking the period at the end of paragraph (6)(F) and inserting a semicolon; and

(4) by adding at the end of paragraph (6), as amended by paragraphs (1) and (2) of this subsection, the following new subparagraphs:

"(G) the term 'member bank' includes any subsidiary of a member bank, as the term 'subsidiary' is defined in section 2(d) of the Bank Holding Company Act; and

"(H) the term 'extension of credit' includes any purchase of assets by a member bank from—

"(i) any person covered by this section; or

"(ii) any company controlled by a person covered by this section.".

(b) LIMITING SAVINGS ASSOCIATIONS' LOANS TO THEIR EXECUTIVE OFFICERS.—Section 11(b)(1) of the Home Owners' Loan Act (12 U.S.C. 1468(b)(1)) is amended by striking "Section 22(h)" and inserting "Subsections (g) and (h) of section 22".

(c) PREVENTING SAVINGS ASSOCIATIONS FROM MAKING PREFERENTIAL LOANS THROUGH CORRESPONDENT INSTITUTIONS.—Section 106(b)(2)(H)(i) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)(h)(i)) is amended by adding after mutual savings bank ", a savings bank, and a savings association (as those terms are defined in section 3 of the Federal Deposit Insurance Act)".

(d) LIMITING STATE NONMEMBER BANKS' LOANS TO THEIR EXECUTIVE OFFICERS; CLARIFYING THAT PREFERENTIAL LOANS TO INSIDERS ARE PROHIBITED.—Section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) is amended to read as follows:

"(j) RESTRICTIONS ON TRANSACTIONS WITH AFFILIATES AND INSIDERS.—

"(1) TRANSACTIONS WITH AFFILIATES.—

"(A) IN GENERAL.—Sections 23A and 23B of the Federal Reserve Act shall apply with respect to every nonmember insured bank in the same manner and to the same extent as if the nonmember insured bank were a member bank.

"(B) AFFILIATE DEFINED.—For the purpose of subparagraph (A), any company that would be an affiliate (as defined in sections 23A and 23B) of a nonmember insured bank if the nonmember insured bank were a member bank shall be deemed to be an affiliate of that nonmember insured bank.

"(2) EXTENSIONS OF CREDIT TO OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS.—Subsections (g) and (h) of section 22 of the Federal Reserve Act shall apply with respect to every nonmember insured bank in the same manner and to the same extent as if the nonmember insured bank were a member bank.

"(3) PREVENTING EXTRATERRITORIAL APPLICATION TO FOREIGN BANKS.

"(A) TRANSACTIONS WITH AFFILIATES.—Paragraph (1) shall not apply with respect to a foreign bank solely because the foreign bank has an insured branch.

"(B) LOANS TO OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS.—Paragraph (2) shall not apply with respect to a foreign bank solely because the foreign bank has an insured branch, but shall apply with respect to the insured branch.

"(C) FOREIGN BANK DEFINED—For purposes of this paragraph, the term 'foreign bank' has the meaning given to that term in section 1(b)(7) of the International Banking Act of 1978.".

SEC. 13. INTERBANK LIABILITIES.

(a) REDUCING SYSTEMIC RISKS POSED BY LARGE BANK FAILURES.—The Federal Reserve Act is amended by inserting after section 22 the following new section:

"INTERBANK LIABILITIES

"SEC. 23. (a) PURPOSE.—The purpose of this section is to limit the risks that the failure of a large depository institution (whether insured or uninsured) would pose to insured depository institutions.

"(b) AGGREGATE LIMITS ON INSURED DEPOSITORY INSTITUTIONS' EXPOSURE TO OTHER DEPOSITORY INSTITUTIONS.—The Board shall, by regulation, limit an insured depository institution's exposure to any other depository institution.

"(c) DEPOSITORY INSTITUTIONS ACCEPTING INTERBANK DEPOSITS MUST BE WELL CAPITALIZED.—A depository institution shall not accept deposits for the account of any insured depository institution unless the depository institution accepting the deposits has—

"(1) capital exceeding all currently applicable capital standards prescribed by the appropriate Federal banking agency; and

"(2) such additional capital as the Board by regulation determines to be necessary to carry out the purpose of this section.

"(d) EXPOSURE DEFINED.—For purposes of subsection (b)—

"(1) IN GENERAL.—An insured depository institution's 'exposure' to another depository institution means—

"(A) all extensions of credit to the other depository institution, regardless of name or description, including—

"(i) all deposits at the other depository institution;

"(ii) all purchases of securities or other assets from the other depository institution subject to an agreement to repurchase; and

"(iii) all guarantees, acceptances, or letters of credit (including endorsements or standby letters of credit) on behalf of the other depository institution;

"(B) all purchases of or investments in securities issued by the other depository institution;

"(C) all securities issued by the other depository institution accepted as collateral for an extension of credit to any person; and

"(D) all similar transactions that the Board by regulation determines to be exposure for purposes of this section.

"(2) ATTRIBUTION RULE.—For purposes of this section, any transaction by an insured depository institution with any person is a transaction with another depository institution to the extent that the proceeds of the transaction are used for the benefit of, or transferred to, that other depository institution.

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

"(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term 'appropriate Federal banking agency' has the meaning given to that term in section 3 of the Federal Deposit Insurance Act, except that the Board shall also be the appropriate Federal banking agency for uninsured depository institutions.

"(2) INSURED DEPOSITORY INSTITUTION.—The term 'insured depository institution' has the meaning given to that term in section 3 of the Federal Deposit Insurance Act.

"(3) UNINSURED DEPOSITORY INSTITUTION.—A depository institution is 'uninsured' if it is not an insured depository institution.

"(f) RULEMAKING; EXEMPTIONS.—

"(1) RULEMAKING AUTHORITY.—The Board may issue such regulations and orders, including definitions consistent with this section, as may be necessary to administer and carry out the purpose of this section.

"(2) EXEMPTIONS.—The Board may, at its discretion, by regulation or order, exempt transactions from the requirements of subsection (b) or (c) if it finds such exemptions to be in the public interest and consistent with the purpose of this section.

"(3) TRANSITION RULES.—The Board shall prescribe reasonable transition rules to facilitate compliance with this section.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect 1 year after the date of enactment of this Act.

SEC. 14. LEAST-COST RESOLUTION.

Section 13 of the Federal Deposit Insurance Act (12 U.S.C. 1823) is amended by adding at the end the following new subsection:

"(l) LEAST-COST RESOLUTION REQUIRED.—

"(1) IN GENERAL.—The Corporation shall not do or bind itself to do, directly or indirectly, any of the following with respect to any insured depository institution except to satisfy the Corporation's obligations to that institution's insured depositors at the least possible long-term cost to the affected deposit insurance fund (and then only insofar as necessary to satisfy those obligations):

"(A) Take any action under subsection (f)(1), (i)(3), (m), or (n) of section 11.

"(B) Take any action under subsection (c) or (k).

"(C) Expend any money from the Bank Insurance Fund or Savings Association Insurance Fund other than to pay for examination, supervision, and administration.

"(D) Assume or guarantee any liability.

"(2) DETERMINING LEAST COSTLY APPROACH.—In determining how to satisfy the Corporation's obligations to an institution's insured depositors at the least possible long-term cost to the affected deposit insurance fund, the Corporation shall comply with the following provisions:

"(A) PRESENT-VALUE ANALYSIS; DOCUMENTATION REQUIRED.—The Corporation shall—

"(i) evaluate alternatives on a present-value basis, using a realistic discount rate;

"(ii) document that evaluation; and

"(iii) retain the documentation for not less than 5 years.

"(B) FOREGONE TAX REVENUES.—Federal tax revenues that the Government would forego as the result of a proposed transaction, to the extent reasonably ascertainable, shall be treated as if they were revenues foregone by the affected deposit insurance fund.

"(C) ECONOMIC CONDITIONS AND FINANCIAL STABILITY.—The Corporation shall not consider how the transaction would affect economic conditions or financial stability except insofar as such effects would result in quantifiable costs to the affected deposit insurance fund.

"(3) CATEGORICAL RULE TO BE IMPLEMENTED.—

"(A) IN GENERAL.—Effective January 1, 1995, or at such earlier time as the Corporation determines to be appropriate, the Cor-

poration shall not do or bind itself to do, directly or indirectly, anything described in any subparagraph of paragraph (1) with respect to any insured depository institution that would have the effect of preventing loss to—

"(i) depositors on the uninsured portion of deposits; or

"(ii) creditors other than depositors.

"(B) DEADLINE FOR REGULATIONS.—The Corporation shall promulgate regulations to implement subparagraph (A) not later than July 1, 1993, and such regulations shall take effect not later than January 1, 1995.

"(4) GAO AUDIT.—The General Accounting Office shall annually audit the Corporation's compliance with this subsection.

"(5) RULE OF CONSTRUCTION.—No provision of law shall be construed as permitting the Corporation to do anything prohibited by paragraph (1), (2), or (3) unless the provision expressly amends this subsection.

"(6) PUBLIC DISCLOSURE REQUIRED.—The Corporation shall disclose documents referred to in paragraph (2)(A)(ii) upon request under section 552 of title 5, United States Code, without excising—

"(A) any portion under section 552(b)(5); or

"(B) any information about the insured depository institution under paragraph (4) or (8) of section 552(b).".

SEC. 15. CROSS-GUARANTEE LIABILITY.

(a) IN GENERAL.—Section 5(e) of the Federal Deposit Insurance Act (12 U.S.C. 1815(e)) is amended—

(1) by amending the caption of the subsection to read as follows:

"(e) LIABILITY OF AFFILIATES FOR LOSSES TO CORPORATION.—";

(2) by amending paragraph (1)(A) to read as follows:

"(1) IN GENERAL.—

"(A) LIABILITY ESTABLISHED.—Any affiliate of an insured depository institution shall be liable for any loss incurred by the Corporation, or any loss which the Corporation reasonably anticipates incurring, after the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991 in connection with—

"(i) the default of that insured depository institution; or

"(ii) any assistance provided by the Corporation to that insured depository institution in danger of default.";

(3) by redesignating subparagraphs (B) and (C) of paragraph (1) as subparagraphs (C) and (D), respectively and inserting the following after subparagraph (A):

"(B) LIMIT ON LIABILITY.—The aggregate liability of all affiliates of an insured depository institution, other than insured depository institutions and subsidiaries of insured depository institutions, shall not exceed the amount obtained by subtracting—

"(i) the amount of any capital distribution repayment made pursuant to section 35(c)(1)(B) from

"(ii) 5 percent of the insured depository institution's total assets at the time of the default or assistance described in subparagraph (A).";

(4) in paragraph (2)(C)(ii)(III), by striking "other general or"; and

(5) in paragraph (2)(C)(ii), by striking subclause (IV).

(b) CONFORMING AMENDMENTS.—

(1) in subparagraph (C) of paragraph (1), as redesignated, by striking "insured depository institution" and inserting "affiliate";

(2) in subparagraph (D) of paragraph (1), as redesignated, by striking "insured depository institution" and inserting "affiliate", and by striking "institution" and inserting "affiliate";

(3) in paragraph (2)(A)(ii), by striking "commonly controlled insured depository institution" and inserting "affiliate" and by striking "commonly controlled depository institution's" and inserting "affiliate's";

(4) in paragraph (2)(A)(iii), by striking "commonly controlled depository institution" and inserting "affiliate";

(5) in paragraph (2)(B)(i), by striking "insured depository institution" and inserting "affiliate", and by striking "commonly controlled" and inserting "affiliated";

(6) in paragraph (2)(B)(ii), by striking "insured depository institution" and inserting "affiliate", by striking "institution's" and inserting "affiliate's", and by striking "commonly controlled" and inserting "affiliated";

(7) in paragraph (2)(C), by striking "insured depository institution" and inserting "affiliate";

(8) in paragraph (2)(C)(i), by striking "liabilities of the depository institution" and inserting "liabilities of the affiliate";

(9) in paragraph (2)(C)(i)(II), by striking "of the depository institution";

(10) in paragraph (2)(D)(i), by striking "such commonly controlled depository institutions" and inserting "affiliates", and by striking "such commonly controlled depository institution" and inserting "affiliate";

(11) in paragraph (2)(D)(ii), by striking "commonly controlled depository institutions" and inserting "affiliates", and by striking "commonly controlled depository institution" each place it appears and inserting "affiliate";

(12) in paragraph (3)(B), by striking "commonly controlled depository institutions" where it appears in clauses (ii) and (iii) and inserting "affiliates";

(13) in paragraph (4), by striking "insured depository institution" each place it appears and inserting "affiliate", by striking "institution's" and inserting "affiliate's", and by redesignating clauses (i) and (ii) as subparagraphs (A) and (B);

(14) in paragraph (5), by striking the catchline and inserting "(5) EXEMPTIONS.—";

(15) in paragraph (5)(A), by striking "insured depository institution" and inserting "affiliate";

(16) in paragraph (5)(B), by striking "all other insured depository institution affiliates of such depository institution" and inserting "all affiliates", and by striking "regard to" and inserting "using the exemption contained in";

(17) in paragraph (7), by striking "depository institution shall not be treated as commonly controlled" and inserting "affiliate shall have no liability";

(18) in paragraph (7)(A), by striking "1 depository institution controls another" and inserting "control was acquired";

(19) in paragraph (7)(B), by striking "the controlling bank and all other insured depository institution affiliates of such controlling bank" and inserting "all insured depository institution affiliates" and by striking "regard to" and inserting "using the exemption contained in";

(20) in paragraph (8), by striking "depository institution" and inserting "affiliate" and by striking "insured depository institution which is an affiliate of each such depository institution" and inserting "affiliated insured depository institution"; and

(21) by striking paragraph (9).

SEC. 16. GRANTING DEPOSIT INSURANCE.

Section 4 of the Federal Deposit Insurance Act (12 U.S.C. 1814) is amended—

(1) by amending subsection (b) to read as follows:

"(b) CERTIFICATION BY OTHER BANKING AGENCIES.—Every national bank which is authorized to commence or resume the business of banking, and which is engaged in the business of receiving deposits other than trust funds as herein defined, and every noninsured national nonmember bank which becomes a member of the Federal Reserve System, and every noninsured State bank which is converted into a national member bank or which becomes a member of the Federal Reserve System, and which is engaged in the business of receiving deposits other than trust funds as herein defined, shall be an insured depository institution upon—

"(1) application to the Corporation; and

"(2) receipt by the Corporation of a certificate which is issued to the Corporation by the Comptroller of the Currency in the case of a national member bank which is authorized to commence or resume the business of banking or a State bank which is converted into a national member bank, or by the Board of Governors of the Federal Reserve System in the case of a national nonmember bank or a State bank which becomes a member of the Federal Reserve System, and which meets the requirements of subsection (d), unless insurance is denied by the Board of Directors.";

(2) by redesignating subsections (c) and (d) as subsections (i) and (j), respectively; and

(3) by inserting after subsection (b) the following new subsections:

"(c) INTERIM NATIONAL BANKING ASSOCIATIONS.—In the case of any interim national bank that is chartered by the Comptroller of the Currency and will not open for business, such bank shall be an insured depository institution upon the issuance of such bank's charter by the Comptroller.

"(d) CERTIFICATE REQUIREMENTS.—Any certificate issued to the Corporation under subsection (b) shall state that the bank is authorized to transact the business of banking in the case of a national member bank, or is a member of the Federal Reserve System in the case of a State bank which is converted into a national member bank, or a national nonmember bank or a State bank which becomes a member of the Federal Reserve System, and that consideration has been given to the factors enumerated in section 6 of this Act.

"(e) REVIEW REQUIREMENTS.—In reviewing any certificate and application referred to in subsection (b), the Board of Directors shall consider the factors described in paragraphs (1), (2), (3), (4), (5), and (7) of section 6 of this Act in determining whether to deny insurance.

"(f) NOTICE OF DENIAL OF APPLICATION.—If the Board of Directors, after giving due deference to the determination of the Comptroller of the Currency or the Board of Governors of the Federal Reserve System, as appropriate, with respect to such factors, does not concur in the determination of the Comptroller or the Board of Governors, as appropriate, the Board of Directors shall promptly notify the Comptroller or the Board of Governors, as appropriate, that insurance has been denied, giving specific reasons in writing for the Corporation's determination with reference to the factors described in paragraphs (1), (2), (3), (4), (5), and (7) of section 6, and no insurance shall be granted.

"(g) VOTING REQUIREMENTS.—The authority of the Board of Directors to make any determination to deny insurance under this subsection may not be delegated by the Board of

Directors and any such determination may be made only upon a vote of not less than 3 members of the Board of Directors.

"(h) CONTINUATION OF INSURANCE UPON BECOMING A MEMBER BANK.—In the case of an insured bank which is admitted to membership in the Federal Reserve System or an insured State bank which is converted into a national member bank, such application and certificate shall not be required, and the bank shall continue as an insured bank.".

SEC. 17. DISCLOSURE.

(a) REPORTS OF FINANCIAL CONDITION BY INSURED DEPOSITORY INSTITUTIONS.—

(1) IN GENERAL.—Section 7(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(3)) is amended—

(A) by striking "(3)" and inserting the following:

"(3) QUARTERLY REPORTS.—

"(A) IN GENERAL.—"; and

(B) by inserting after subparagraph (A) the following:

"(B) ADDITIONAL INFORMATION.—In accordance with regulations prescribed by the appropriate Federal banking agency, the report of condition required by subparagraph (A) shall, in the case of banks with total assets of more than $1,000,000,000, also contain—

"(i) estimates of the aggregate market value of assets and liabilities and the resulting estimated net worth, and supporting data and assumptions used in preparing the estimates; and

"(ii) disaggregated reports of assets, including participation in highly-leveraged transactions, holdings of noninvestment grade securities, commercial and industrial loans by sector, and other assets as specified by the appropriate Federal banking agency.

"(C) REPORT ON SECURITIES HOLDERS AND NONBANKING ACTIVITIES.—At the same time as it submits the report required by subparagraph (A), each depository institution shall submit to the appropriate Federal banking agency a report containing—

"(i) the names of the holders of more than 5 percent of the insured institution's equity securities and the maximum amount of securities held by each such holder during the preceding quarter; and

"(ii) a description of activities conducted by the institution and its subsidiaries that are not permitted for national banks, with data on the magnitude of the activity.

"(D) PUBLIC ACCESS TO REPORTS.—Each appropriate Federal banking agency shall make reports required pursuant to this subsection available to the public upon request pursuant to section 552 of title 5, United States Code. The provisions of paragraphs (4) and (8) of section 552(b) of such title shall not apply to any such request. For the purpose of this subparagraph, beginning 75 days after the reporting date for such reports, section 552(b)(6)(A) of such title shall apply with respect to statistical information contained in those reports by substituting 'five' for 'ten' and section 552(b)(6)(B) shall not apply.".

(2) EFFECTIVE DATES.—The appropriate Federal banking agency shall promulgate final regulations requiring insured depository institutions to submit quarterly reports containing the information described in the amendments made by paragraph (1) effective for quarterly reports submitted for the quarter ending March 31, 1993.

(b) REPORTS BY FEDERAL BANKING AGENCIES.—

(1) IN GENERAL.—Section 17 of the Federal Deposit Insurance Act (12 U.S.C. 1827) is amended by—

(A) redesignating subsections (b) through (g) as subsections (c) through (h); and

(B) inserting after subsection (a) the following new subsection:

"(b) REPORTS TO CONGRESS.—

"(1) IN GENERAL.—Each appropriate Federal banking agency shall submit an annual report to the Congress which shall contain—

"(A) estimates of the number and aggregate assets of insured depository institutions likely to fail during each of the 2 years following submission of the report and of the costs to the Bank Insurance Fund and Savings Association Insurance Fund as a result of such failures, and supporting data and assumptions used in preparing the estimates;

"(B) a report on the conduct by insured depository institutions and their subsidiaries of activities not permitted for national banks or for bank holding companies, by State or Federal charter status;

"(C) a report on the number and aggregate assets of insured depository institutions that, under uniform definitions established by the appropriate Federal banking agencies, are insolvent, approaching insolvency, weakly capitalized, adequately capitalized, and strongly capitalized; and

"(D) a list of all cease-and-desist orders, supervisory agreements, and capital restoration plans entered into in the previous 12 months, and the extent of compliance with outstanding orders, agreements, and plans.

"(2) METHOD OF FILING.—Reports required by this subsection shall be submitted to the Congress in accordance with the requirements of subsection (a)(2) and shall be made available to the public.".

(2) EFFECTIVE DATE.—The reports required pursuant to the amendments made by paragraph (1) shall be filed annually not later than March 1 of the following year.

(c) INSURANCE FUND REPORTS.—Section 17(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1827(a)(1)) is amended by—

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

(2) striking the period at the end of subparagraph (F), and inserting a semicolon in lieu thereof; and

(3) inserting after subparagraph (F) the following:

"(G) information pertaining to failed depository institutions, including—

"(i) the name and total assets of each insured depository institution that failed during the 12-month period preceding submission of the report, including those that received assistance under section 13(c), and the actual or estimated cost of resolution or assistance to each such depository institution;

"(ii) for each failed institution, the location by State, the State or Federal charter status, and Federal Reserve System membership status;

"(iii) a breakdown of the number and aggregate assets of all failed institutions by region, State or Federal charter status, and Federal Reserve System membership status;

"(iv) a report of concentrations of liabilities and assets of failed institutions, including a breakdown by State or Federal charter status;

"(H) the number and aggregate assets of depository institutions on the problem bank list or any other list which identifies institutions which may fail or require assistance or resolution within the foreseeable future, by State or Federal charter status and Federal Reserve System membership status, at the time of submission of the report;

"(I) an estimate of the number and aggregate assets of banks that are likely to be included on the problem bank list or other list described in subparagraph (H) in each of the 2 years following submission of the report, by State or Federal charter status and Federal Reserve System membership status, and supporting data and assumptions used in preparing the estimate; and

"(J) the estimated resolution and assistance costs which are likely to be expended in each of the 2 years following submission of the report, including an explanation of all data and assumptions used in developing estimates required by this paragraph.".

(d) CONFIDENTIAL ACCESS TO INFORMATION BY CBO; GAO AND CBO REVIEWS AND REPORTS.—

(1) IN GENERAL.—The Federal Deposit Insurance Act is amended by adding at the end the following:

"SEC. 36. REVIEW OF ESTIMATES; CONFIDENTIAL ACCESS TO CERTAIN INFORMATION.

"(a) IN GENERAL.—The Comptroller General and the Congressional Budget Office shall review the estimates by the Corporation under subparagraphs (I) and (J) of section 17(a)(1) and by the appropriate Federal banking agencies under section 17(b)(1)(A).

"(b) ACCESS TO INFORMATION.—To carry out subsection (a), each appropriate Federal banking agency shall, upon request, provide the Director of the Congressional Budget Office—

"(1) the agency's internal rating system and each institution's rating; and

"(2) a list, identifying individual insured institutions, of those institutions which the agency believes may fail within the foreseeable future or which the agency believes may require assistance or resolution.

"(c) SAFEGUARDS AGAINST DISCLOSURE.—The provisions of subsections (c) and (d) of section 714 of title 31, United States Code, shall apply to any information provided in response to a request made by the Director of the Congressional Budget Office under subsection (b), except that for the purpose of this section any reference in such subsections to the Comptroller General or the General Accounting Office shall be deemed a reference to the Director or the Congressional Budget Office, respectively.".

(2) CRIMINAL PENALTIES FOR DISCLOSURE BY CBO EMPLOYEES.—Section 1906 of title 18, United States Code, is amended—

(A) by inserting "or a Congressional Budget Office employee with access to information obtained under section 36 of the Federal Deposit Insurance Act" after "title 31" the first place it appears; and

(B) by inserting "or to which information obtained under such section 36 pertains" after "title 31" the second place it appears.

(3) REVIEWS AND REPORTS.—Section 17(f) of the Federal Deposit Insurance Act (12 U.S.C. 1827(f)) is amended—

(A) by inserting "(1)" after "(f)"; and

(B) by adding at the end the following:

"(2) The Comptroller General shall review the oversight by the Federal banking agencies to determine whether reports of condition under section 7(a) require information to reasonably reflect the condition of depository institutions. The Comptroller General shall include in each report under paragraph (1) the results of such review and any recommendations to improve the reports so that—

"(A) the information required reasonably reflects the condition of depository institutions; and

"(B) the information provided facilitates regulatory actions, including prompt corrective action.

"(3) Each report under paragraph (1) shall also contain—

"(A) an audit of the failure estimates contained in the most recent reports under sub-

paragraphs (I) and (J) of subsection (a)(1); and

"(B) an audit of the failure estimates contained in the most recent reports under subsection (b)(1).".

(e) ACCOUNTING GUIDANCE.—

(1) DISCLOSURE GUIDELINES.—The Securities and Exchange Commission, in consultation with the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Director of the Office of Thrift Supervision, shall facilitate the development of disclosure guidelines under generally accepted accounting principles applicable to insured depository institutions for the purposes of—

(A) accurately reflecting (at market value, to the extent feasible) the economic condition of those institutions in financial statements and reports of condition; and

(B) facilitating effective supervision of insured depository institutions, and prompt corrective action to resolve troubled institutions' problems at no cost to the Bank Insurance Fund or Savings Association Insurance Fund.

(2) INTERPRETIVE GUIDANCE.—The Securities and Exchange Commission, in consultation with the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Director of the Office of Thrift Supervision, shall facilitate the development of guidelines used in interpreting existing accounting standards under generally accepted accounting principles for depository institutions in a manner consistent with the purposes of—

(A) requiring earlier disclosure of problem loans; and

(B) preventing such delay in recognizing losses and in providing adequate loss reserves as may result in loss to the Bank Insurance Fund or the Savings Association Insurance Fund.

(f) THRIFT CALL REPORTS.—Section 5(v) of the Home Owners' Loan Act (12 U.S.C. 1464(v)) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) PUBLIC DISCLOSURE.—Reports required under paragraph (1) and all information contained therein shall be available to the public upon request.";

(2) by striking paragraph (3); and

(3) by redesignating paragraphs (4) through (8) as paragraphs (3) through (7), respectively.

SEC. 18. CONSENT TO BE BOUND BY FEDERAL DEPOSIT INSURANCE ACT.

Section 1 of the Federal Deposit Insurance Act (12 U.S.C. 1811) is amended to read as follows:

"SECTION 1. ESTABLISHMENT OF FDIC.

"(a) IN GENERAL.—There is hereby established a Federal Deposit Insurance Corporation (hereinafter referred to as the 'Corporation') which—

"(1) shall insure, as provided by this Act, the deposits of all banks and savings associations entitled to the benefits of insurance under this Act; and

"(2) shall have the powers granted by this Act.

"(b) INSURED DEPOSITORY INSTITUTIONS CONSENT TO BE BOUND BY THIS ACT.—By becoming or remaining insured under this Act, an insured depository institution consents to be bound by this Act and by other Federal statutes relating to the safety and soundness of insured depository institutions.".

SEC. 19. UNINSURED DEPOSITORY INSTITUTIONS.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 37. DISCLOSURE BY UNINSURED DEPOSITORY INSTITUTIONS.

"(a) DISCLOSURE REQUIRED.—Any depository institution the deposits of which are not insured by the Corporation under this Act or by the National Credit Union Share Insurance Fund shall, within the United States, do the following:

"(1) PERIODIC STATEMENTS; ACCOUNT RECORDS.—Include the following notice conspicuously in all periodic statements of account, on each signature card, and on each passbook, certificate of deposit, or similar instrument evidencing a deposit:

" '[NAME OF INSTITUTION] IS NOT FEDERALLY INSURED

" 'If [name of institution] fails, the Federal Government does not guarantee that you will be able to get back any of your money.'

"(2) ADVERTISING; PREMISES.—Include the following notice conspicuously in all advertising and at each place where deposits are normally received:

" '[NAME OF INSTITUTION] IS NOT FEDERALLY INSURED'.

"(3) ACKNOWLEDGEMENT OF RISK.—Receive deposits only for the account of persons who have signed an acknowledgement of risk providing substantially as follows:

" 'ACKNOWLEDGEMENT OF RISK

" 'I have been warned that [name of institution] is not federally insured.

" 'I understand that if [name of institution] fails, the Federal Government does not guarantee that I will get back any of my money.'

"(b) EXCEPTION FOR ADVERTISING BY INSTITUTIONS NOT RECEIVING RETAIL DEPOSITS.—Subsection (a)(2) shall not apply with respect to advertising by any depository institution that, within the United States, does not receive initial deposits of less than $100,000 from individuals who are citizens or residents of the United States, other than money received in connection with any draft or similar instrument issued to transmit money.

"(c) MANNER AND CONTENT OF DISCLOSURE.—To ensure that current and prospective customers understand the risks involved in foregoing Federal deposit insurance, the Corporation, by regulation or order, shall prescribe the manner and may further prescribe the content of disclosure required under subsection (a).

"(d) UNLICENSED DEPOSITORY INSTITUTIONS INCLUDED.—For purposes of this section, the term 'depository institution' includes any entity that, as determined by the Board of Directors—

"(1) is engaged in the business of receiving deposits; and

"(2) could reasonably be mistaken for a depository institution by the entity's current or prospective customers.

"(e) ENFORCEMENT.—Compliance with the requirements of this section, and any regulation prescribed or order issued under this section, shall be enforced under section 8 in the same manner and to the same extent as if the depository institution were an insured State nonmember bank.".

(b) CONFORMING AMENDMENTS.—Section 28 of the Federal Deposit Insurance Act (12 U.S.C. 1831e) is amended—

(1) by striking subsection (h); and

(2) by redesignating subsection (i) as subsection (h).

(c) NATIONAL CREDIT UNION ADMINISTRATION'S AUTHORITY TO ENFORCE DISCLOSURE BY UNINSURED CREDIT UNIONS.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end the following:

"(t) ENFORCING CERTAIN DISCLOSURE BY UNINSURED CREDIT UNIONS.—Compliance with the requirements of section 37 of the Federal Deposit Insurance Act, and any regulation prescribed or order issued under that section, may be enforced under section 206 in the case of a credit union in the same manner and to the same extent as if the credit union were an insured credit union.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 120 days after the date of enactment of this Act.

FLOOR STATEMENT OF SENATOR DONALD W. RIEGLE, JR.—DEPOSIT INSURANCE REFORM

Mr. President, today I have introduced the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991. This legislation is the successor to legislation I introduced last September.

BACKGROUND

During the second session of the 101st Congress, the Senate Banking Committee held more than a dozen hearings on reform of the Federal deposit insurance system. The Committee took some 40 hours of testimony from 39 expert witnesses, including government officials, financial services industry representatives from both the United States and other countries, independent analysts, and academics. The message of those hearings is clear. Federal Reserve Board Chairman Alan Greenspan summed it up for the Committee in three words: "Reform is required."

The last five years have been disastrous for our Federal deposit insurance system. The old insurance fund for savings and loans—the FSLIC—failed and had to be rescued by the taxpayers at a cost of hundreds of billions of dollars. The insurance fund for banks now stands at less than half of its required reserve level and falling. In testimony before the Banking Committee on September 11, 1990, Comptroller General Charles Bowsher delivered a clear warning:

"Not since its birth during the Great Depression has the federal system of deposit insurance for commercial banks faced such a period of danger and uncertainty as it does today. Issues arising from our audit of the Bank Insurance Fund's 1989 financial statements * * * cause us both apprehension and concern for the safety and soundness of the Fund in the 1990s."

The Director of the Congressional Budget Office, Robert Reischauer, echoed the same theme in testimony before the Committee on September 12, and warned that deterioration of the Bank Insurance Fund could accelerate if a recession occurs:

"The uncertain economic outlook, exacerbated by declines in real estate values and sharp increases in oil prices, raises concerns that spending from the fund could be greater during the next few years than we have estimated. * * * Generally, a weaker economy would increase the likelihood of bank failures by reducing the value of bank assets, increasing loan defaults, and placing additional pressure on bank earnings."

Serious, comprehensive reform of the Federal deposit insurance system is required to protect the taxpayers, the financial system, the economy, and our nation's banks and thrifts.

The American people know reform is required. A recent Harris poll found that 72 percent of the American people believe the most important step that can now be taken to prevent another savings and loan crisis from occurring is to rewrite the laws to make it tougher for such a crisis to occur.

America's banks and thrifts also know reform is required. They cannot afford to pay ever-rising premiums for deposit insurance and remain competitive either at home or abroad. But they know those premiums will keep rising until Congress and the Administration enact reforms that contain the risk to the Federal deposit insurance system.

The Administration and Congress also know reform is required. Earlier this month, the Administration released its proposals for financial modernization and reform of the deposit insurance system. Legislative language to accompany those proposals is expected any day now. In the Senate, Senators Dixon, Dodd, Dole, Graham, and Kohl have all introduced different deposit insurance reforms bills, and I know Senator Wirth and Senator Sanford have introduced some related legislation as well. In the House of Representatives, House Banking Committee Chairman Gonzalez and Ranking Minority Member Wylie have introduced comprehensive, and thoughtful, legislation to reform our deposit insurance system.

I welcome the efforts of the Administration. I welcome the efforts of my colleagues in the Senate and the House. Deposit insurance reform is a complex issue and we will need a vigorous and creative debate to make sure the job get done right.

ONLY A STARTING POINT

Last September, when I introduced the predecessor to this bill, I said:

"My proposal is only a starting point for debate, not an ending point. No part of it is cast in stone and I am not ruling out any alternative approach or additional reform. * * * [It] is very much a work in progress."

All of those statements remain true. Those who follow these issues closely will recognize that this bill differs in many ways from its predecessor. Most of the changes are minor and technical. Some are more significant. But it remains true that no part of the bill is cast in stone. I remain open to alternative proposals. I remain open to suggestions for further refinements. This spring, the Banking Committee will conduct another extensive set of hearings on legislative proposals, including this one, to reform the deposit insurance system. I will listen closely to the ideas advanced at those hearings, and I expect they will be an important source of new ideas on the subject.

URGENT NEED TO ADDRESS OTHER ISSUES

Let me also say at the outset that while this bill, like its predecessor, focuses solely on deposit insurance reform, I continue to believe that we will ultimately need legislation to not only reform our deposit insurance system but also help modernize our system of bank and thrift regulation and our entire financial services industry. We also need to consider whether banks should be allowed to engage in increased interstate banking, along lines suggested by Senator Dodd in legislation he has introduced. The Administration has advanced a very ambitious proposal attacking all of these issues at once. While I remain open-minded about all of the issues presented in the Administration's proposal, I have doubts about whether it does not encompass more than Congress can digest in one bite. But we will have an opportunity to review the entire proposal and see what can be accomplished.

And I continue to believe we should consider seriously the idea of consolidating regulation of our banks and thrifts, possibly into a single—fully independent—regulator, separate and distinct from the deposit insurer. Somehow, we must rationalize and simplify our now Byzantine regulatory system and the burdens it imposes on the institutions it supervises. Chairman Gonzalez has introduced a very constructive proposal along these lines, and the idea will receive careful consideration in the Committee's hearings this spring.

PROBLEMS OF CURRENT SYSTEM

Before turning to the details of the bill, let me briefly outline some of the major problems it seeks to address.

Testimony before the Banking Committee showed clearly that our current system of deposit insurance is badly flawed. Stanford University Professor Ken Scott told the Committee last year that, "[w]hat you can ask of a deposit insurance system is that, at the very minimum, it not magnify the problem because of the way in which it distorts incentives and the way in which it is administered." The current system fails on both counts. Both in the way it distorts incentives and in the way it is administered, the system magnifies weaknesses in our banks and thrifts and increases the cost of deposit insurance to the insured institutions, the deposit insurance funds, and the taxpayers.

1. Distorted Incentives

A sound system of deposit insurance should give all parties—depositors, insured institutions, and regulators—incentives to act in ways that minimize insurance costs. But the system we have now falls short of that objective in two key respects.

We need better incentives for depositors—particularly, large depositors. Our current deposits insurance system clearly does not give depositors good incentives. Federally insured deposits are an investment product just like Government bonds and shares of stock. As SEC Chairman Richard Breeden has said, "we have to look at the pricing of this product. Deposit insurance is a product that is produced by the American taxpayers at considerable cost, and we should not be giving it away at below cost to produce it."

Of course, up to a point we accept incorrect pricing of insured deposits because we want small depositors to have confidence their funds are safe and because we want and need stability in our financial system. Depositors with a few thousand dollars in the bank shouldn't have to be constantly on guard against the possibility the bank is going to fail. Indeed, protecting small depositors was one of the original purposes of our deposit insurance system. But if you give the same protection to depositors with hundreds of thousands or even tens of millions of dollars to deposit, what you get is a system in which deposits flow to whichever institutions offer the highest rates. And those are usually the weakest institutions—the institutions whose deposits become Government liabilities when they fail. So when you charge large depositors too little for deposit insurance, the cost of deposit insurance goes up for society as a whole.

We also need better incentives for insured banks and thrifts. Currently, the premiums our insured banks and thrifts must pay for deposit insurance take no account of whether the institution paying the premium represents a high risk or a low risk to the deposit insurance fund. If you are an individual at high risk of having an auto accident, you have to pay more for your auto insurance. If you are a business at high risk of industrial accidents, you have to pay more for your liability insurance. But if you are a bank or thrift at high risk of suffering major loan losses, you pay the same for deposit insurance as every other bank or thrift. As Bert Ely put it at the Banking Committee's May 12 hearing, "the drunk drivers of the banking and thrift world pay no more for their deposit insurance than do their sober siblings."

2. Administration

We need to improve the way our deposit insurance system is administered. Many witnesses before the Committee noted that the Government is incurring excessive deposit insurance liabilities because of the way our system of deposit insurance is administered. Two problems deserve special mention.

First, regulators have too often delayed taking action against a weak institution in the false hope that it would recover. Lowell Bryan was only one of many witnesses to note that "the cost of forbearance is very, very high." Jim Barth, formerly Chief Economist to the Federal Home Loan Bank Board, now a professor at Auburn University, noted that once banks and thrifts become undercapitalized, the risk of loss begins to shift from the institution to the deposit insurance system. Professor Barth testified that:

"To contain this risk shifting behavior, somebody must impose discipline by attempting to measure capital correctly and then, if it declines, by intervening in a timely and cost effective manner. This intervention will necesarily take the form of requiring that more capital be injected or control of the insitution be taken away from the current owners."

If you want strong medicine to work, you have to administer it before the patient dies. But the current system has not always given regulators sufficient incentive to take prompt corrective action when an institution gets into trouble. Professor Scott's testimony addressed the reasons why this has occurred. He testified:

"[A] policy of delay and forbearance will always be more appealing than a policy of prompt closure upon economic insolvency. If the closure decision is a discretionary, subjective judgment by the regulators, they are vulnerable to pressure and they will often yield to it. So to the extent that any reform proposal relies on agency judgment and discretion, I think it is in trouble. The more objective the judgment and the more mandatory and automatic the prescribed action, the better off taxpayers will be."

Many witnesses also faulted administration of the current deposit insurance system for indiscriminate application of the so-called "too-big-to-fail" doctrine. "Failure," Barclay's Deputy Chairman Peter Leslie told the Committee on June 13, "is a vital part of market discipline." Chase Manhattan Bank CEO Thomas Labrecque agreed. On April 3, he told the Committee that:

"We must eliminate the * * * 'too big to fail' policy under which the very largest banks are given de facto 100 percent protection of all deposits. Such a policy is inconsistent with the original intent of deposit insurance and is unfair to smaller banks, but big bankers neither want it nor need it."

And on July 12, Federal Reserve Board Chairman Alan Greenspan warned in testimony before the Committee that "no bank should assume that its scale insulates it from market discipline."

Notwithstanding widespread agreement that the too-big-to-fail policy effectively destroys market discipline, the FDIC has rou-

tinely ignored the $100,000 limit on deposit insurance and seen to it that virtually all depositors receive 100 cents on the dollar, regardless of how many hundreds of thousands or millions they may have on deposit. In testimony before the Senate Banking Committee on August 11, 1988, FDIC Chairman Seidman stated that "99 percent of all the deposits that we handle in failed banks are fully protected, not only up to $100,000, but fully protected."

GOALS

A successful deposit insurance reform package, whether it is the one I am introducing today, or any other package, will have to include many specific reforms, but it should also embrace a combination of approaches to reform.

Banks and thrifts, regulators, and depositors will all have to make adjustments when our deposit insurance system is reformed. No single group should bear the brunt of reform.

I think deposit insurance reform should accomplish five things.

First, market discipline must be enhanced for banks and thrifts and large depositors. Owners of banks and thrifts should be encouraged to put more capital at risk so they will be less inclined to take excessive risks at taxpayer expense. Parent corporations and affiliates should be a source of strength to insured banks and thrifts. Regulators should be encouraged to develop and implement risk-based deposit insurance premiums. Large depositors should face enough risk to keep them from chasing high rates without regard to safety.

Second, regulators should take prompt corrective action when the capital of a bank or thrift begins to deteriorate unacceptably. If the institution cannot recapitalize, regulators should seek to arrest its deterioration and sell or close it at no cost to the deposit insurance fund. To facilitate effective regulatory monitoring and action, every insured bank and thrift should receive an on-site examination at least once a year. Accounting principles must be reformed to give regulators, investors, and the public more accurate and timely information on the economic condition of insured banks and thrifts.

Third, abuses of deposit insurance must end. State legislatures and regulators should not be able to leverage Federal deposit insurance for the benefit of their local tax bases. Depositors should not be able to use devices such as joint and trust accounts to evade the $100,000 limit. Deposit brokerage must be carefully restricted.

Fourth, too-big-to-fail must be curtailed. No institution should be beyond the discipline of the market. The FDIC's role should be carefully confined to resolving failures of insured banks and thrifts at least cost to the insurance funds. In the United States, as in other countries, the central banks, not the deposit insurer, should determine whether a particular failing institution is so large as to require special measures to protect the stability of the financial system.

Finally, we need better information from banks and thrifts and their regulators. The quality of available data on America's banks and thrifts is unacceptable. In order for regulatory reforms to work, in order for market reforms to work, in order for Congressional oversight to work, we need better quality and more timely financial disclosures from banks and thrifts themselves, and more extensive and timely analyses of industry performance from their regulators.

HIGHLIGHTS

Let me now turn more specifically to the bill I am introducing today and begin by highlighting eight of the bill's most important features:

It requires regulators to examine banks and thrifts annually and take prompt corrective action to recapitalize, sell, or close weak institutions before they became liabilities to the deposit insurance fund.

It requires regulators to reform capital standards. Appropriate levels of capital should be determined by reference to the goal of protecting the deposit insurance fund.

It sets goals for reform of the accounting principles that apply to insured banks and thrifts and establishes a process for working toward those goals.

It restrains State-chartered commercial banks from engaging in risky activities at the expense of the Federal deposit insurance system.

It ends the FDIC's ability to implement a too-big-to-fail policy by requiring the FDIC to resolve failed institutions by whatever resolution strategy costs the deposit insurance funds least and prohibiting the FDIC from taking actions that have the effect of protecting uninsured depositors.

It requires the FDIC to implement a system of risk-based deposit insurance premiums.

It limits the scope of deposit insurance by curtailing deposit brokerage, limiting pass-through deposit insurance, and limiting deposit insurance to $100,000 per individual per institution, plus another $100,000 in retirement savings.

It makes the owners of banks and thrifts stand behind those institutions by removing doubt about the enforceability of capital maintenance commitments; and by strengthening the current ("cross-guarantee") requirement that an institution's affiliates protect the FDIC from losses caused by that institution. No longer could that requirement be evaded by transferring assets to a parent, subsidiary, or other nondepository affiliate.

It gives the financial markets, the regulators, and the general public better information about the financial condition of financial institutions by imposing new reporting and disclosure obligations on financial institutions and their regulators.

The bill recognizes the need for appropriate transition periods for implementation of these reforms.

Let me now discuss these components in turn.

1. Requirement for Prompt Corrective Action to Recapitalize or Resolve Weak Institutions

a. In General

The bill requires regulators to take prompt corrective action to recapitalize or resolve weak institutions. The goal of this requirement—albeit a goal that cannot be realized in all cases—is to resolve troubled institutions at no cost to the deposit insurance funds. To make this goal realistic, the bill, when fully implemented, will require annual on-site examinations of all insured banks and thrifts; improvements in accounting principles that will yield more accurate financial statements and reports of condition; and reformed capital standards consistent with the prompt corrective action goal.

b. Annual Examination Requirement

The bill requires every federally insured bank and thrift to receive an on-site examination at least once annually. Currently, many commercial banks go years between examinations. That must change.

Federal Reserve Board Chairman Alan Greenspan endorsed a requirement for annual on-site examinations in his testimony before the Banking Committee last July 12:

"Where it is not already the practice, full in-bank supervisory reviews—focusing on asset portfolios and off-balance sheet commitments—should occur at least annually, and the results of such examinations should be used to evaluate the adequacy of the bank's capital."

Clearly, not all of the banking regulatory agencies currently have adequate staff to conduct on-site examinations. The bill provides a lengthy transition period to accommodate the need to hire and train more examiners. In addition, the bill provides that an examination by either an institution's primary Federal regulator or the FDIC can satisfy the annual examination requirement.

c. Prompt Corrective Action Requirement

The bill would require regulators to impose increasingly stringent restrictions on the activities and operations of troubled banks and thrifts as the capital of those institutions falls below required levels. One set of restrictions will come into force when an institution's capital falls below the regular minimum capital standards. If the institution's capital level continues to deteriorate and falls below a lower, "critical capital level"—set by the regulators, as I will explain in a moment—the regulators will have to sell or close the institution or, with the concurrence of the FDIC, take an alternative measure equally protective of the deposit insurance fund.

To understand how this part of the bill will work in practice, it helps to imagine a bank or thrift—for purposes of illustration, let's say a bank—whose capital is initially adequate, but deteriorating.

(1) Level One: Minimum Capital Requirement. The first set of restrictions will come into force when the bank's capital falls below the minimum capital levels established by the regulators. These will not be the same minimum capital levels in force today, but new, stronger minimums—as I will discuss in a moment.

When the bank's capital falls below the minimum level, it will have to do the following three things:

(a) Stop paying dividends. The bank will be prohibited from paying dividends. This restriction will protect the deposit insurance funds by ensuring that weak institutions do not deplete their capital for the benefit of their shareholders.

(b) Limit its asset growth. The bank's asset growth will be limited to 10 times new capital. This gives the bank a strong incentive to increase its capital.

(c) File a capital restoration plan. The bank will have to file a capital restoration plan within 30 days after it falls out of compliance with capital standards. Three aspects of the capital restoration plan requirement are significant. First, the plan must specify how the bank will attain compliance with capital standards, specify what activities the bank will engage in, and be acceptable to its regulator. Second, the plan must include specific, year-by-year capital targets to bring the bank back into compliance with capital requirements. These targets will give regulators an objective measure of the bank's progress toward capital compliance. Finally, if the bank is part of a holding company structure, its parent will have to guarantee compliance with the plan. This will press the parent to decide promptly whether to recapitalize the bank, sell it, or stand behind it until it recovers.

A bank that does not submit and implement a capital restoration plan will face se-

rious consequences. Its regulators must require three steps by the bank, unless the regulator finds that they would not further the purpose of protecting the deposit insurance fund from loss. First, the bank must recapitalize by selling stock. Second, transactions between the bank and affiliated depository institutions must fully comply with section 23A of the Federal Reserve Act: the interbank exemption—which allows unlimited transactions with affiliates, and is open to abuse—will not apply. Third, the bank must retain a new independent auditor unless the bank is small or changed auditors during the year before it became undercapitalized.

In addition, the regulator could further restrict the bank's activities and transactions with affiliates; limit the interest rates the bank pays for deposits; require a new election for the board of directors; or dismiss any of the bank's directors or senior executive officers. A bank that fails to submit and implement a capital restoration plan will also be prohibited from paying bonuses or granting salary increases to its executive officers.

(2) Level Two: Critical Capital Level. If the bank's capital level continues to deteriorate, it will eventually fall below the second key level, which I call the critical capital level. I will explain in a moment how that critical capital level will be set.

When the bank's capital falls below the critical level, three sets of additional restrictions will come into play.

(a) Restrictions on activities and operations. The bank will become subject to a broad range of stringent restrictions on its activities and operations. Large and potentially abusive transactions will be prohibited, except with specific regulatory approval. These restrictions will prevent the bank from engaging in activities that could lead to further deterioration in the bank's condition.

(b) Subordinated debt payments prohibited. The bank would be prohibited from making any payments of interest or principal on subordinated debt. By definition, subordinated debt holders have agreed to stand in line behind the deposit insurance funds. This provision will help protect the deposit insurance funds' place in line. The bill provides a 5-year exemption for subordinated debt outstanding on October 25, 1990, and not extended or otherwise renegotiated after that date.

(c) Receivership, conservatorship, or other protective action. Within 30 days after the bank falls below the critical capital level, its primary regulator would have to appoint a receiver or conservator, unless the FDIC agreed that taking an alternate action was more likely to protect the deposit insurance fund from loss. If an alternate action is taken the bank's regulator would have to document why that alternative is better than appointing a receiver or conservator and periodically review the effectiveness of any such alternative action. If the bank's capital remains below the critical level for one year, the regulator will have to appoint a receiver in any event—although it could still appoint a conservator with FDIC concurrence.

(3) Setting the Minimum and Critical Capital Levels. My bill does not specify the Federal banking agencies to specify these levels and provides a mandate on how to set them. The mandate is to set capital levels—both the minimum capital level and the critical capital level—so as to make the prompt corrective action mechanism I have just outlined a realistic way to prevent losses to the deposit insurance funds. That mandate might require higher capital levels, but need not if regulators take aggressive action to make the prompt corrective action system outlined in the bill work.

The bill also requires revision of the risk-based standards to take account of three types of risk largely ignored by the current standards: interest-rate risk; concentration of credit risk; and the risks of nontraditional activities. The bill requires publication of the revised standards within 18 months of enactment and leaves regulators free to prescribe a generous compliance period.

d. Accounting Reform

The bill specifies two goals for the accounting principles applicable to insured banks and thrifts and establishes a process to generate reformed accounting principles that will satisfy those goals. First, accounting principles for insured banks and thrifts should result in financial statements and reports that accurately reflect—at market value, to the extent feasible—the economic condition of those institutions. Second, accounting principles should facilitate both effective supervision of banks and thrifts generally and prompt corrective action to resolve troubled institutions. Again, the idea is to make the prompt corrective action mechanism I have outlined a realistic way to prevent losses to the deposit insurance funds.

Several witnesses before the Banking Committee have endorsed the concept of mark-to-market, or market-value accounting. Lawrence Connell, former Chairman of the National Credit Union Administration, told the Committee last May 17 that:

"I believe that market value accounting is a very important management tool to manage a financial institution. The good institutions do it today."

David Silver testified on behalf of the Investment Company Institute last April 24 that:

"[T]here is one reform which has been suggested from time to time that I suggest ought to go to the top of your agenda and that is simply the discipline that comes from marking to market. Regulatory accounting from my point of view has turned out to be phony accounting. There is nothing like marking to market which at least imports some discipline into the system and lets the air out of the balloon slowly. But to carry assets on the books for years and years and years at inflated value and then let the whole system collapse at once simply makes no sense at all."

And SEC Chairman Breeden testified on September 10 that:

"As we enter the decade of the 1990s, we should consider a fundamental shift in the goal we set for accounting standards for financial institutions. * * * Determining the value of an institution's assets and not recording their original cost should increasingly be the goal toward which we should work. The nation's experience with the crisis in the savings and loan industry as well as with many of the largest bank failures demonstrates the inherent and very substantial dangers of a reporting system for financial institutions that is premised on historic cost accounting principles."

The goals set forth in this bill are consistent with the spirit of Chairman Breeden's statement. But I want to emphasize that the bill would not require banks and thrifts to adopt mark-to-market accounting—it only requires movement in the direction of market-value accounting to the extent feasible. And I don't want to underestimate the extent of the feasibility problem: banks and thrifts hold large volumes of illiquid assets that do not lend themselves easily to market valuation. Chairman Breeden asserted that "there are certainly, if we put our minds to it, ways in which we could develop techniques for valuing even illiquid assets for which there is no readily quoted market value available."

This bill would begin a concentrated search for such techniques. It would direct the SEC, in conjunction with the Federal banking agencies, to facilitate development of accounting principles that meet the goals I have described. These accounting principles would have to be at least as conservative as generally accepted accounting principles. The bill would also authorize the Federal banking agencies to adopt accounting principles that are more conservative than generally accepted accounting principles as appropriate to facilitate effective supervision of banks and thrifts generally and, specifically, to help meet the goal of the prompt corrective action mechanism: resolution of troubled institutions at no cost to the deposit insurance funds.

e. Internal Audit Requirement

The bank regulatory agencies should have a strong incentive to minimize losses to the deposit insurance fund. Under the prompt corrective action requirement I have outlined, something will have gone wrong when a loss of the deposit insurance fund occurs. To help the regulators and Congress understand where breakdowns in the system occur, my bill would require—whenever the failure of a bank or thrift results in a loss to one of the deposit insurance funds—an internal investigation by the inspector general of the failed institution's primary regulator. Those reports would be available for review by Congress and the General Accounting Office. The internal audit requirement includes a transition rule to give regulators time to work through the current backlog of bank and thrift failures and fully implement the new system of prompt corrective action.

f. Expanded Receivership and Conservatorship Authority

In addition, the bill would give the FDIC independent authority to appoint conservators and receivers for banks and thrifts. The provision will enable the FDIC to protect the deposit insurance fund even when the failing institution's primary regulator will not.

This expansion of FDIC authority is a significant departure from existing law and practice—under which the FDIC must wait for an institution's primary regulator to institute conservatorship. But current practice in this area derives from the days before deposit insurance. With failed institutions generating losses to the deposit insurance funds of 30 cents on the dollar, the time to update our procedure is long past.

The bill also broadens the grounds for appointing receivers for national banks—making them consistent with those currently applicable to all other FDIC-insured institutions. This responds to deficiencies in the Comptroller's authority that came to light when the Bank of New England failed.

g. Related Issues

Let me touch briefly on some of the arguments surrounding these features of the bill, and especially the prompt corrective action requirement.

Is it too harsh? Some may say it is unreasonable to strengthen capital standards and expect weak institutions to be able to recapitalize, especially when the economy is in recession. Anybody who says that is jumping

the gun: my bill does not say regulators need to raise capital requirements; it only says they must set capital levels so as to enable them to resolve troubled institutions at no cost to the deposit insurance system in the vast majority of cases. Under my system, aggressive, effective regulation becomes, to some degree, a substitute for capital.

Should the regulators conclude that the new system requires increased capital levels, the bill leaves them free to provide a generous transition for achieving compliance.

Is it unfair? Others may say it is unfair, even unconstitutional, for regulators to sell or close institutions that are not yet insolvent. Again, requiring regulators to take prompt corrective action will be painful to the owners of weak banks and thrifts. But that pain has to be weighed against the pain the taxpayers will feel if weak institutions are allowed to get weaker and become liabilities. Here is what SEC Chairman Richard Breeden had to say on the subject when he testified before the Banking Committee on September 10:

"I am not a fan of forbearance, and I'm not a fan of using public credit to extend the time of institutions that can't raise capital anywhere in the world. If no investor anywhere in the world has confidence that a given set of management knows how to handle its problems, then I don't know the American public ought to be asked to put their credit at risk to support that institution."

Again, the thrift crisis has a lesson to offer: We gave the owners of weak thrifts a chance. Many weak and insolvent thrifts were allowed to remain in operation for years. We avoided pain in the short term. But in the end, the pain to the taxpayers has been immense. And the owners—except some high-fliers who benefitted through fraud—have lost everything just the same.

Is it unconstitutional? The argument that a prompt corrective action requirement such as I have outlined is unconstitutional does not withstand close scrutiny. Last September 25, when I introduced this bill's predecessor, I placed in the Congressional Record a legal opinion concluding as much. It appears on pages S13,844-47. I will now place in the Record another legal opinion upholding the constitutionality of prompt corrective action—this one by Mr. Geoffrey P. Miller, professor of constitutional law at the University of Chicago. Moreover, I note that the Treasury Department has likewise concluded there is no constitutional barrier to a prompt corrective action requirement like the one my bill would establish.

A new section of the bill reinforces this point by specifying that depository institutions that become or remain FDIC-insured consent to be bound by the Federal Deposit Insurance Act and other Federal safety-and-soundness statutes. This provision emphasizes that depository institutions cannot accept the benefits of Federal deposit insurance while rejecting the safeguards Congress has enacted to protect the insurance funds.

Is it feasible? Still others may say that requiring regulators to take prompt corrective action will not work because history has shown that regulators will try to find ways to avoid short-term costs. Bert Ely, for example, told the Banking Committee last May 17 that "Congress will find it extremely difficult to enact closure rules that [it] can force regulators to follow, for regulators resist mightily any effort to constrain their actions and limit their powers."

I think this underestimates our regulators. They are as capable as anybody else of learning the lessons of history, and I am confident they will work in good faith to carry out whatever reforms Congress ultimately adopts. But I agree we should not put all of our eggs in one basket. That is why prompt corrective action is only one of the elements of the bill.

h. Broad Support

Finally, let me note that there is ample support for the general idea of requiring prompt corrective action to recapitalize, sell, or close weak institutions. The Treasury Department's proposal for reform of the deposit insurance system incorporates many of the concepts of this portion of my bill. Treasury Secretary Brady told the Banking Committee on February 26 that:

"[T]he failure to take prompt corrective action in the past allowed some institutions to fail when they could have been saved, and fostered low capital levels that create incentives for firms to take excessive risk. The proposed new system would address those problems by creating a regime of specific supervisory actions that are triggered by declines to increasingly lower levels of capital."

Federal Reserve Board Chairman Alan Greenspan has also endorsed the concept. He testified last July 12 that:

"[F]orced mergers, divestitures, and, when necessary, conservatorships should occur while there is still positive, albeit low, capital in the bank to limit reorganization or liquidation costs. Existing stockholders should be given adequate time to correct deteriorating positions, including providing new capital. But Congress should specifically provide the bank regulators with the clear authority and, therefore, explicit support to act well before technical insolvency to minimize the ultimate resolution costs."

Robert Reischauer, Director of the Congressional Budget Office, also endorsed the concept in his testimony before the Banking Committee last September 12. Mr. Reischauer stated:

"[B]oth the FDIC and Congress can affect significantly the losses that will have to be covered by the Bank Insurance Fund. The fund only incurs losses if institutions are closed after the real value of their assets is less than their liabilities. If systems are in place to monitor closely the financial conditions of banks, and to trigger closure or mandatory disciplinary actions before significant losses occur, the fund's liabilities will be minimized."

Robert Eisenbeis, Professor of Banking at the University of North Carolina at Chapel Hill, was even more emphatic in his testimony the same day:

"Chairman Seidman suggested that it might be necessary to keep insolvent or weakly-capitalized thrift institutions open instead of reorganizing them due to the lack of sufficient funds in the FDIC, or the insurance fund, to resolve these cases. I would urge you strongly to resist that temptation. Such forbearance—I know people are not pleased with the use of that word—is why we got into trouble with the S&L industry. * * * I think the point can't be emphasized enough that we don't lose a dime if we close institutions before their net worth goes to zero. The fact that you see these losses appearing in the FDIC fund means that they didn't close those institutions on time."

And George Kaufman, Professor of Economics and Finance at Loyola University of Chicago, and a member of the Shadow Financial Regulatory Committee, told us last May 22 that such a requirement:

"* * * deals directly with the two costly features of the existing deposit insurance structure, too little private capital in banking and the potential for continued operation when banks are insolvent, and would impose the least cost on either the banking system or the taxpayers."

2. Risky activities curtailed

One of the clearest lessons of the thrift crisis is that States should not be allowed to leverage Federal deposit insurance for the benefit of their local tax bases. Bert Ely made this point when he testified on May 17:

"He who takes the risk should regulate. And so I think that, since the Federal Treasury is bearing the risk of failure, the Federal Government has to be preeminent in the regulation."

Treasury's reform proposal also recognizes this problem. Secretary Brady testified on February 26 that:

"[S]tates should no longer have authority to authorize risky activities for state banks that receive federal deposit insurance. A balance was struck in FIRREA for state thrifts between the benefits of the dual banking system and the interest of the federal government. We should strike this same balance for federally insured state banks."

As Secretary Brady noted, Congress has already addressed this problem in the thrift industry. In the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Congress curtailed the powers of State-chartered thrifts, generally limiting State-chartered thrifts to activities permissible for federally chartered thrifts. Such action was desperately needed: losses from State-chartered thrifts account for a hugely disproportionate share of the cost to the Federal Government of resolving failed thrifts. Indeed, California and Texas thrift failures alone accounted for 54 percent of FSLIC losses in 1987 and 70 percent in 1988.

We should not allow this problem to repeat itself in the commercial banking industry. Fortunately, as of yet, State-chartered banks have not presented the Federal deposit insurance system with the same kind of risk that State-chartered thrifts did. But the potential for problems is real. Indeed, even as the Committee was conducting its hearings on deposit insurance reform last year, Delaware enacted legislation permitting Delaware-chartered banks to underwrite all types of insurance.

This bill would generally prohibit State banks and their subsidiaries from engaging as principal in any activity impermissible for national banks unless two conditions are satisfied. First, the State bank must fully comply with applicable capital standards. Second, the FDIC must have found that the activity in question is consistent with the purposes of Federal deposit insurance, and poses no significant risk to the deposit insurance fund.

In addition, the bill would impose two specific restrictions on risky activities. It would prohibit State banks from making any equity investment not permissible for national banks, except for community development investments. It would also prohibit State banks from acquiring junk bonds, and require them to carry any existing junk bond holdings at fair market value.

Finally, the bill would empower the FDIC to restrict national bank activities that pose a significant risk to the deposit insurance fund.

3. Too-big-to-fail curtailed

One of the most roundly criticized aspects of our current deposit insurance system is

the so-called "too-big-to-fail" policy. Small banks, understandably, feel competitively disadvantaged by it because the policy tends to be applied primarily for the benefit of depositors at larger banks and thrifts. Large banks argue it is unnecessary and perceive it as an obstacle to financial modernization. Many members of the public view it as a policy that favors large investors while driving up costs to the taxpayer.

The term "too-big-to-fail" has at least two different meanings. Different elements of the bill are responsive to each sense of the term.

a. Making Depositors Whole

Most commonly, the term "too-big-to-fail" is used to describe a policy whereby all depositors are made whole when a financial institution fails. My bill will effectively eliminate this kind of too-big-to-fail policy.

The FDIC has several different strategies at its disposal for resolving failed banks and thrifts. The most basic resolution strategy is liquidation. The FDIC can simply mail out checks to all depositors and proceed to sell the assets of the failed institutions. But the FDIC regularly uses resolution techniques other than liquidations. In effect, the FDIC pays acquiring institutions to assume all of the deposit liabilities of the failed banks or thrifts. So, for example, if a bank with $1 billion in deposit liabilities fails, the institution acquiring its deposits will receive approximately $1 billion in cash and the obligation to honor the failed institution's liabilities to its depositors—without regard to whether the failed institution's deposit liabilities consisted of lots of small deposits under $100,000 or a few multimillion dollar deposits. In effect, the FDIC protects all deposits, regardless of size.

The FDIC has argued that paying off all depositors, regardless of size, is often the cheapest resolution strategy at its disposal. In many cases, however, the FDIC may be inappropriately viewing its options as "all or nothing"—either transfer all the deposits to an acquirer or liquidate the institution. In reality, there are intermediate options: the FDIC could, for example, allow acquirers to assume only account balances under $100,000, forcing larger depositors to stand in line with creditors.

The bill would require the FDIC to choose, in every case, the resolution strategy that costs the deposit insurance fund the least, and to document the analysis underlying that choice. And it would prohibit the FDIC from taking actions that have the effect of protecting uninsured depositors. Rigorously applied, these requirements should eliminate the practice of paying off uninsured depositors. Of course, in determining the least-cost approach to resolving a failed institution, the FDIC will have to consider the health and viability of the resulting institution.

b. Dealing With Unacceptably Large Failures

Sometimes, "too-big-to-fail" describes a policy of using Federal assistance to keep institutions open whose collapse might injure the payments system or the entire financial system. The classic illustration of this kind of too-big-to-fail policy is the Continental Illinois rescue.

Many commentators argue that too-big-to-fail in this sense can never be eliminated. The central banks of foreign countries, they say, would never permit the failure of major financial institutions in those countries. Accordingly, they reason, our own central bank would never permit the failure of a truly major financial institution in this country.

There are good reasons to be skeptical about that line of argument. For one thing, the large financial institutions in most foreign countries are far larger, relative to their markets, than the largest financial institutions in this country. Nevertheless, the argument clearly has at least a kernel of truth: nobody wants to limit the Federal Government's ability to stave off a collapse of America's financial system. But why should the FDIC decide which institutions are too big to fail? In other countries, the central bank would make such a determination. And in our country, too, it is the Federal Reserve Board, not the FDIC, that has the greatest expertise in dealing with macroeconomic policy and systemic risk.

This bill attacks this sense of too-big-to-fail in two ways. First, its prompt corrective action provisions will require recapitalization or resolution of all troubled institutions—large and small—before they become drains on the deposit insurance fund. Prompt corrective action requirements will eliminate the opportunity for unfair treatment of large institutions.

Second, the bill would preclude the FDIC from paying off uninsured deposits for the sake of preserving stability in the financial system. The FDIC would focus more narrowly on the task of insuring deposits at America's banks and thrifts, subject to the terms and conditions specified by law. When a large institution fails, the FDIC could do no more than pay off the insured deposits.

The bill would leave the Federal Reserve Board with its current authority to take whatever action is needed to protect the financial system. But no institution should draw comfort from this fact. The Federal Reserve has never shown much inclination to provide 100 percent assurances. Again, I am mindful of Chairman Greenspan's words before the Banking Committee on July 12: "no bank should assume that its scale insulates it from market discipline."

c. Limiting Systemic Risk

This bill differs from its predecessor in including two provisions intended to shore up the bill's limitations on too-big-to-fail by limiting the amount of risk any one institution can pose to the banking system as a whole.

When an institution's capital declines to zero while the institution continues to hold large amounts of deposits from other banks, something has gone very wrong. The goal of regulatory policy toward failing institutions should be to insulate them from the rest of the banking system, so that their failure cannot harm other institutions. This bill would do that in two ways.

First, the bill requires the Federal Reserve Board—as the agency most involved in handling systemic risk—to prescribe rules limiting depository institutions' credit exposure to other depository institutions. The logic of such limitations is clear: interbank deposits are, in reality, simply a loan from one bank to another. Like any other loan, they expose the lender to risk. A bank that lends a major portion of its capital to a single borrower is acting imprudently, whether the borrower is a commercial real estate developer or another bank. A bank should not put all its eggs in one basket—even if the basket is another bank.

Second, the bill requires banks accepting interbank deposits from FDIC-insured institutions to be well capitalized. The bank must comply with all currently applicable capital standards prescribed by its primary Federal regulator—and have additional capital to the extent that the Federal Reserve determines such capital is necessary to protect the system.

4. Changes in deposit insurance premium pricing

My bill would make several important changes in the laws governing the premiums banks and thrifts pay for deposit insurance coverage.

a. Risk-Based Premiums Authorized

The bill would require the FDIC to assess risk-based deposit insurance premiums, while giving the FDIC discretion to design the system. Such discretion will enable the FDIC to refine the system in light of experience. In addition, the bill expressly authorizes the FDIC to use private reinsurance as a basis for setting risk-based premiums, consistent with the general outlines of Senator Dixon's deposit insurance reform proposal. Senators Dixon and Graham have both done considerable work in this area, and I am interested in drawing on their expertise.

b. Assessment Base Repealed

Consistent with the requirement that the FDIC implement a system of risk-based premiums, the bill would repeal the current statutory references to the "assessment base." That language was designed for the existing assessment system—not a risk-based system. To leave it on the books while requiring the FDIC to adopt a risk-based system could only confuse and distort the new system. The intent of this bill is that the FDIC devise a system that is fair, administrable, and that relates premium levels to risk as accurately as is feasible. The system should also be reasonably certain, so that an institution can determine in advance, once the system is fully implemented, how a given operating strategy will affect its deposit insurance premiums. In ascertaining the amount of risk an institution poses to the deposit insurance system, the FDIC should be free to consider any aspect of the institution's financial condition, including all portions of its balance sheet and off-balance sheet risks.

5. Restrictions on the scope of deposit insurance coverage

One of the primary problems with our deposit insurance system is that is covers too much. Ostensibly, deposits are insured to $100,000, but in reality that limit is almost meaningless because existing laws, regulations, and regulatory policies allow abuses of the limit. As a result, we now have essentially unlimited coverage for virtually all depositors at virtually all institutions. Some of these abuses of the $100,000 limit are well known:

Pass-through deposit insurance.

Brokered deposits.

Multiple accounts far exceeding $100,000, even at one institution.

My bill will curtail these abuses through a variety of measures.

a. Passthrough Deposit Limited

One of the thorniest problems in deposit insurance today is the question of passthrough deposit insurance coverage. Currently, pension funds can make deposits of millions, or even tens or hundreds of millions of dollars, all of it fully insured on the theory that deposit insurance is "passed through" to individual investors, none of whom have more than a $100,000 interest in the deposit.

The pension funds that make such deposits have sophisticated managers, fully capable of determining from available information whether a bank or thrift is reasonably sound or a basket case. Recognizing that fact, the Administration's deposit insurance reform proposal would generally prohibit passthrough deposit insurance, except for pass-

through insurance for "self-directed benefit plans," a term the Administration has not yet clearly defined.

My bill would take a somewhat different approach. While generally limiting pass-through insurance, it would retain one form of pass-through insurance that I know will be of concern to many citizens who now enjoy pass-through deposit insurance protection for their retirement savings. Many tax-deferred retirement plans invest in bank investment contracts and insured certificates of deposit, and many of the people who participate in such plans believe such investments are the safest way to save for retirement.

As a factual matter, that belief is not accurate. U.S. Government securities are just as safe as federally insured deposits. Both enjoy the full faith and credit of the United States Government. And any retirement fund that offers its participants the opportunity to invest in insured deposits could choose instead to offer its participants an equally safe investment in U.S. Government securities.

Nevertheless, an outright prohibition on pass-through deposit insurance could cause needless anxiety to millions of Americans who are not sophisticated investors. Therefore, although the bill would generally prohibit pass-through deposit insurance coverage, as currently drafted it would contain an exception for deposits made by certain tax-deferred retirement plans. I want to make clear, however, that I remain concerned that this exception may be too broad to adequately protect the deposit insurance fund. My mind is still open on this point and I want to consider the issue further in the months ahead.

b. Limits on Deposit Brokerage

Deposit brokerage is a simple idea that can have dangerous consequences for the deposit insurance system. Generally speaking, what a deposit broker does is collect money from investors and invest it in insured certificates of deposit. Some investors prefer to make deposits through brokers because brokers can often locate a better rate than the investor could find on his or her own.

There may be legitimate uses for brokered deposits. Federal Reserve Chairman Alan Greenspan noted this in his testimony before the Banking Committee on July 12:

"[T]here are certain characteristics of brokered deposits which have advantages, namely, that they do improve the liquidity of the system. They do facilitate to a considerable extent the marshalling of depository funds. Nonetheless, they do potentially create significant risks * * *. [R]ather than abolish them, I think one should focus on those aspects of brokered deposits which are positive and try * * * to keep that aspect of the system in place without exposing ourselves to the abuses which have clearly existed in recent years."

Nevertheless, brokered deposits have been enormously abused, and are widely believed to have contributed significantly to the problems of the thrift industry. Former Justice Department prosecutor Bruce Maffeo gave the Committee a graphic description of the dangers of brokered deposits for weak banks and thrifts this past August 1:

"[B]rokered money was literally the financial equivalent of crack. You saw small savings and loan institutions and small banks all of a sudden pumped up on steriods with a $10 million asset, which was nothing more than an accumulation of brokered money that they had to pay back the principal on * * * and in some cases they were hung out to dry for as long as 20 years with interest payments that were extortionate by any other measure. So they had that rock in their knapsack just going out of the gate."

And, in a similar vein, Gerald Corrigan, President of the New York Federal Reserve Bank, called abuse of deposit brokerage arrangements "the worst single abuse of the deposit insurance system" when he testified before the Committee on April 3.

Recognizing the dangers of brokered deposits, Congress curtailed their use by undercapitalized institutions in the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

This bill would go farther. First, it would deny pass-through coverage altogether to brokered deposits that take the form of master certificates of deposit. Second, it would broaden the FDIC's authority over so-called money desks, through which banks and thrifts obtain high-rate deposits directly from investors. Third, it would require the FDIC to impose whatever additional restrictions on deposits by intermediaries may be needed to protect the deposit insurance funds. These provisions would become effective nine months after enactment of the bill.

c. Multiple Accounts Limited

One widespread abuse of the current deposit insurance system that has attracted a lot of criticism is the practice of evading the $100,000 limit by having more than one account at a single institution. Additional coverage can be obtained by holding different accounts in different capacities. Thus, for example, you can deposit $100,000 in your own name, the $100,000 in an account you hold jointly with your spouse, then another $100,000 in an account you hold jointly with a child, and so forth. The Treasury report notes that a family of three can obtain $1.2 million in coverage this way.

The bill will eliminate this abuse completely by repealing the language in current law that gives rise to it. It will not forbid individuals from having multiple accounts at insured depository institutions, but it will limit the aggregate amount of deposit insurance any individual could receive on accounts at any one depository institution. Under my bill, that aggregate limit would be $100,000 per individual, plus an additional $100,000 for tax-deferred retirement savings.

6. Source of strength

Some companies controlling thrifts have questioned regulators' authority to enforce commitments by parent corporations to maintain the capital of their insured depository institutions.

Testimony before the Banking Committee indicates that such capital maintenance agreements have been an important regulatory tool in the past. Lawrence Connell, former Chairman of the National Credit Union Administration and a member of the Shadow Financial Regulatory Committee, addressed the subject in his testimony last May 17:

"Should a company that controls a bank or thrift be free to let that institution fail without making an effort to assist it? * * * [T]he Federal Reserve Board has attempted to impose a source of strength doctrine from the very beginning of holding companies.

"The Office of Thrift Supervision * * * had open-ended contractual net worth maintenance agreements for many years. More recently, these have been modified to prenuptial type agreements where the institutions could be sold if the net worth fell below a certain level.

"I think they've been effective. * * *

"And I believe it would be valuable as one of the * * * tools for the regulatory agencies to have in their quiver to require net worth maintenance agreements on a limited basis, prenuptial type."

The bill would remove any doubt that such commitments are enforceable.

The bill would also extend cross-guarantee liability to affiliates and subsidiaries of insured banks and thrifts. No longer could a depository institution avoid liability by transferring assets to a subsidiary, parent, or other nondepository affiliate. The extent of the cross-guaranty liability would depend on whether the affiliate in question is itself an insured depository institution. As under current law, insured institutions would be fully liable for any loss incurred by the FDIC in connection with the failure of affiliated institutions. Subsidiaries would also be subject to such liability. But the total liability of other affiliates—i.e., those that are not banks, thrifts, or their subsidiaries—would be limited to 5 percent of the failed institution's assets.

7. Enhanced disclosure obligations for depository institutions and their regulators

The last major cluster of reforms in this package addresses the need for more, better, and more timely information from our insured banks and thrifts and their regulators. Lack of solid information is not just a frustration to Congress. We cannot expect regulators to do their jobs well if they do not have accurate information on the condition of institutions they supervise. We cannot expect depositors, shareholders, and creditors to invest prudently if they cannot distinguish strong institutions from weak institutions. And we cannot expect the American people to have confidence in their financial system if they do not believe they are receiving accurate information on its condition.

a. Disclosure by Depository Institutions

The bill requires banks and thrifts to provide more specific information in their quarterly reports so that the financial condition of insured banks and thrifts can be better assessed and monitored. In particular, the bill would impose four new quarterly disclosure requirements: first, major shareholders; second, disaggregated reports of assets—meaning more detailed disclosure of an institution's asset portfolio; third, nonbanking activities; and fourth, market value estimates of assets, liabilities, and net worth, in accordance with regulations prescribed by their regulators and the Financial Accounting Standards Board. The first three requirements would take effect 6 months after enactment; these simply require more regular and systematic disclosure of information already available to the regulators. The market value disclosure requirement will take effect January 1, 1993.

The bill also requires uninsured banks and thrifts to disclose to their customers the fact that they are not insured by the Federal Government, and receive a written acknowledgement of that disclosure from prospective customers before accepting any money for deposit. The bill authorizes the FDIC to determine, in uncertain cases, whether a particular enterprise—e.g., an unlicensed deposit-taker—constitutes an uninsured depository institution. This provision is intended as a consumer-protection measure, in response to recent incidents in Rhode Island and the District of Columbia in which depositors may not have recognized they were placing deposits in institutions that the Federal Government did not insure.

b. Disclosure by the Regulatory Agencies

The bill also requires each of the regulatory agencies to report annually on the volume of anticipated bank and thrift failures over the next two years; the involvement of insured banks and both State and Federal thrifts in nontraditional activities; the capital levels of insured banks and thrifts; and enforcement actions and subsequent compliance. The bill permits the Congressional Budget Office to obtain CAMEL ratings and problem-institution lists under strict confidentiality rules, including criminal penalties. Such access will better enable the CBO to estimate the future needs of the deposit insurance funds and the Resolution Trust Corporation.

c. Disclosure by the Insurance Fund

The bill requires more accurate and detailed disclosures to the Congress and the public on the condition of the deposit insurance funds. It requires annual reports on bank and thrift failures during the previous 12 months and projections of problem institutions two years into the future.

8. Other provisions

a. Safeguards Against Insider Abuse Strengthened

The bill includes provisions intended to strengthen safeguards in current law against insider abuse at insured depository institutions. These provisions would forbid insured institutions and their subsidiaries from purchasing assets from insiders on preferential terms; require regulators to promulgate limits on the amounts thrifts and State nonmember banks can loan their executive officers; and prevent thrifts from making preferential loans through correspondent institutions.

CONCLUSION

The deposit insurance reform package I have outlined remains, as I said at the outset, a work in progress. There will be still more progress to come.

In some areas, this bill may go too far. In others, it may not go far enough. There may be conceptual difficulties with some aspects, technical problems with others. Some provisions will need appropriate transition periods. But let me repeat: No part of this bill is cast in stone. And my mind is not closed to any additional or alternative reform. I am open to others as well.

I welcome the views of my colleagues in both Houses and on both sides of the aisle. I welcome the views of the Administration. And I welcome the views of America's banks and thrifts, their depositors and borrowers, and the public. Working together, we can and will craft a comprehensive deposit insurance reform package that restores safety and soundness to America's deposit insurance system and protects America's taxpayers.

Mr. President, I ask unanimous consent that the full text of this bill be reprinted in the record. I also ask unanimous consent to include some related explanatory and background materials in the record—including, specifically, a summary of the bill; a summary of significant differences between this new version of the bill and its predecessor; some questions and answers on important features of the bill; and a legal opinion by Professor Geoffrey P. Miller of the University of Chicago Law School.

COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991—SUMMARY OF THE BILL

A. PRELIMINARY POINTS

1. *Revision of S. 3103.* This is a revised version of S. 3103, which was introduced on September 25, 1990.

2. *This is a work in progress.* Constructive criticism is welcome. No part of the bill is cast in stone. Proposals for alternative and additional reforms are invited.

3. *Other reforms are also needed.* Whatever legislation results should not only reform our deposit insurance system but also help to modernize our system of bank and thrift regulation. Ultimately, we will need to examine current geographic and other restrictions on bank activities to determine whether they provide a sound foundation for banking in the decades ahead.

B. HIGHLIGHTS OF THE BILL

It requires regulators to examine banks and thrifts annually, and take prompt corrective action to recapitalize, sell, or close weak institutions before they become liabilities to the deposit insurance fund.

It requires regulators to reform capital standards. Appropriate levels of capital should be determined by reference to the goal of protecting the deposit insurance fund.

It sets goals for reform of the accounting principles that apply to insured banks and thrifts and establishes a process for working toward those goals.

It restrains State-chartered commercial banks from engaging in risky activities at the expense of the Federal deposit insurance system.

It prevents the FDIC from treating any institution as too big to fail—by requiring the FDIC to resolve failed institutions by whatever resolution strategy costs the deposit insurance fund least, and prohibiting the FDIC from using the insurance fund's resources to protect uninsured depositors.

It requires the FDIC to implement a system of risk-based deposit insurance premiums.

It limits the Federal Government's deposit insurance exposure by curtailing pass-through deposit insurance and brokered deposits, and limiting deposit insurance to $100,000 per individual per institution, plus another $100,000 in retirement savings.

It makes the owners of banks and thrifts stand behind those institutions by removing doubt about the enforceability of capital maintenance commitments; and by strengthening the current ("cross-guarantee") requirement that an institution's affiliates protect the FDIC from losses caused by that institution. No longer could that requirement be evaded by transferring assets to a parent, subsidiary, or other nondepository affiliate.

It gives the financial markets, the regulators, and the general public better information about the financial condition of financial institutions by imposing new reporting and disclosure obligations on financial institutions and their regulators.

The bill provides appropriate transition rules for implementing these reforms.

C. DETAILED OUTLINE OF BILL

1. Prompt Corrective Action Requirement:

a. *In General.* The bill requires regulators to take prompt corrective action to recapitalize or resolve weak institutions. The goal of this prompt corrective action requirement—albeit a goal that probably cannot be realized in all cases—is to resolve troubled institutions at no cost to the deposit insurance funds. To make this goal realistic, the bill reforms capital requirements by linking required capital levels to the goal of protecting the deposit insurance system; to annual on-site examinations of all insured depository institutions; and to improvements in accounting principles that will yield more accurate financial statements and reports of condition.

b. *Annual Examination Requirement.* The bill requires every federally insured depository institution to receive an on-site examination every year. An examination by either the institution's primary Federal regulator or the FDIC could satisfy this requirement.

c. *Prompt Corrective Action Requirement.* The bill requires regulators to impose increasingly stringent restrictions on the activities and operations of troubled depository institutions as the capital of those institutions falls below required levels. One set of restrictions will come into force when an institution's capital falls below the minimum capital standards established by the regulators. If the institution's capital level continues to deteriorate—and falls below a lower, "critical capital level"—the regulators will have to sell or close the institution or take an alternative action that better protects the deposit insurance fund.

To understand how this part of the bill will work in practice, it helps to imagine, say, a bank whose capital is initially adequate, but deteriorating.

(1) *Level One: Minimum Capital Level.* The first set of restrictions will come into force when the bank's capital falls below the minimum capital levels established by the regulators.

When the bank's capital falls below the minimum level, it will have to do the following three things:

(a) *Stop paying dividends.* The bank will be prohibited from paying dividends. This restriction protects the deposit insurance funds by ensuring that weak institutions do not deplete their capital for the benefit of their shareholders.

(b) *Back asset growth with new capital.* The bank's asset growth will be limited to 10 times new capital. This will provide an incentive to find new capital and help ensure that growth tends to strengthen—rather than weaken—the bank.

(c) *File and implement a capital restoration plan.* The bank must file a capital restoration plan within 30 days after it becomes undercapitalized. The plan must (i) explain how the institution will attain compliance with capital standards, and include specific year-by-year capital targets; (ii) describe what activities the bank will engage in; and (iii) be acceptable to the regulator. If the bank is part of a holding company structure, its parent will have to guarantee compliance with the plan. This will press the parent company to decide promptly whether to recapitalize the bank, sell it, or stand behind it until it recovers.

If the bank does not submit and implement a capital restoration plan, regulators must take three steps (unless they find that those steps would not further the goal of protecting the deposit insurance fund against loss). First, require the bank to recapitalize by selling stock. Second, require transactions between the bank and affiliated depository institutions to comply fully with section 23A of the Federal Reserve Act: the interbank exemption—which allows unlimited transactions with affiliates, and is open to abuse—would not apply. Third, require the bank to retain a new independent auditor (unless the bank is small or had changed auditors during

the year before it became undercapitalized). A new auditor would help root out any concealed problems.

The regulator could also restrict the bank's transactions with affiliates; restrict the banks' activities; limit the interest rates the bank pays for deposits; require election of a new board of directors; or dismiss any director or senior executive officer. Moreover, the bank could not increase the number of its branches without FDIC approval, and could not pay bonuses or grant salary increases to its executive officers.

(2) *Level Two: Critical Capital Level.* If the bank's capital level continues to deteriorate, it will eventually fall below a second key level—the "critical capital level." How that level will be set is discussed below.

When the bank falls below the critical capital level, three sets of additional restrictions will come into play.

(a) *Restrictions on activities and operations.* The bank will become subject to a broad range of stringent restrictions on its activities and operations. These restrictions will require regulatory scrutiny of large or potentially abusive transactions.

(b) *Subordinate debt payments prohibited.* The bank will be prohibited from making any payments of interest or principal on subordinated debt. Subordinated debt holders should not stand in line ahead of the deposit insurance funds and the taxpayers when it comes to dealing with troubled institutions. The bill provides a five-year exemption for subordinated debt outstanding on October 25, 1990, and not extended or otherwise renegotiated after that date.

(c) *Receivership, conservatorship, or other action.* Within 30 days after the bank falls below the critical capital level, its primary regulator must either appoint a conservator or receiver, or (with FDIC approval) take alternate action more likely to protect the deposit insurance fund from loss and document why that alternative is superior to appointment of a conservator or receiver. Receivership will be mandatory, however, if the bank's capital remains below the critical level for one year.

(3) *Setting the Minimum and Critical Capital Levels.* The bill does not specify the minimum and critical capital levels numerically. Instead, it requires the Federal banking agencies to set these levels and provides a mandate on how to set them. The nature of that mandate is this: capital levels—both the minimum capital level and the critical capital level—should be set so as to make the prompt corrective action mechanism outlined above successful in generally preventing losses to the deposit insurance funds. The represents a functional approach to capital adequacy.

(d) *Accounting Reform.* The bill specifies two goals for the accounting principles applicable to insured depository institutions and establishes a process to generate reformed accounting principles that satisfy those goals. The first goal of accounting reform is that accounting principles for insured depository institutions should result in financial statements and reports that accurately reflect—at market value, to the extent feasible—the economic condition of those institutions. The second goal is that the accounting principles should facilitate both effective supervision of depository institutions generally and prompt corrective action to resolve troubled institutions. Again, the idea is to make the prompt corrective action mechanism a realistic way of preventing losses to the deposit insurance funds.

The goals set forth in this bill are consistent with the spirit of SEC Chairman Breeden's testimony to the Senate Banking Committee on September 10, 1990. But the bill does not require depository institutions to adopt mark-to-market accounting—it only requires movement in the direction of market-value accounting to the extent feasible. The feasibility problem is significant: depository institutions hold large volumes of illiquid assets that are not readily susceptible to market-value accounting.

The bill will kick off a concentrated effort to find ways to more accurately value the illiquid portions of depository institution portfolios. The bill directs the SEC, in conjunction with the Federal banking agencies, to facilitate the development of accounting principles to meet these goals. The reformed accounting principles will have to be at least as conservative as generally accepted accounting principles. The bill also authorizes the Federal banking agencies to adopt accounting principles more conservative than generally accepted accounting principles as appropriate to facilitate effective supervision of depository institutions generally and, specifically, to help meet the goal of the prompt corrective action mechanism—resolution of troubled institutions at no cost to the deposit insurance funds.

e. *Internal Audit Requirement.* To help the regulators and Congress understand where breakdowns in the system occur, the bill requires an internal investigation by the inspector general of the failed institution's primary Federal regulator whenever a failure results in a loss to one of the deposit insurance funds. Those reports will be available for review by Congress and the General Accounting Office. To provide time for reforms such as the prompt corrective action requirement to take effect, the bill provides that this requirement will not begin to take effect until July 1, 1993, and will be phased in gradually over a period of years thereafter. This requirement also will give regulators a greater incentive to act in the interests of the deposit insurance fund.

f. *Expanded Conservatorship and Receivership Authority.* The bill will give the FDIC independent authority to appoint conservators and receivers for federally insured depository institutions when necessary to protect the deposit insurance funds. This will enable the FDIC to protect the deposit insurance funds even when the failing institution's primary regulator will not. The bill also broadens the grounds for appointing receivers for national banks—making them consistent with those currently applicable to other FDIC-insured institutions.

g. *Broad Support.* The general concept of requiring prompt corrective action to recapitalize or resolve failing institutions has been endorsed by numerous witnesses before the Banking Committee. These witnesses include Treasury Secretary Brady, Federal Reserve Chairman Greenspan, SEC Chairman Breeden, Comptroller General Bowsher, CBO Director Reischauer, and several academic experts.

2. *Risky Activities Curtailed:*

The thrift crisis illustrated the danger of allowing States to leverage Federal deposit insurance for the benefit of their local tax bases. Congress has already addressed this problem in the thrift context. The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 generally limited State-chartered thrifts to activities permissible for federally chartered thrifts, with limited exceptions. As of yet, State-chartered banks have not presented the Federal deposit insurance system with the same kind of risk that State-chartered thrifts occasioned. But the potential for problems is real, as demonstrated by Delaware's recent enactment of legislation permitting Delaware-chartered banks to engage in general insurance underwriting activities.

The bill generally prohibits State banks and their subsidiaries from engaging as principal in any activity impermissible for national banks unless two conditions are satisfied. First, the State bank must fully comply with applicable capital standards established by its primary Federal regulator. Second, the FDIC must have determined that the activity is consistent with the purposes of Federal deposit insurance, and poses no significant risk to the deposit insurance fund.

The bill also prohibits federally insured banks from acquiring junk bonds, and requires banks to carry existing junk bond holdings at fair market value. Finally, the bill prohibits State banks from making equity investments not permissible for national banks, except for community development investments.

3. Too-Big-to-Fail Curtailed.

The term "too-big-to-fail" has at least two different meanings. Different elements of the bill respond to each sense of the term.

a. *Making Depositors Whole.* Most commonly, the term "too-big-to-fail" is used to describe a policy whereby all depositors are made whole when a financial institution fails. The bill eliminates too-big-to-fail in this sense by requiring the FDIC to choose, in all cases, the resolution strategy that imposes the least cost on the deposit insurance fund, and to document the analysis underlying that choice. In addition, the bill prohibits the FDIC from taking any action—after January 1, 1985—that has the effect of protecting uninsured depositors of a depository institution. Rigorously applied, these provisions should eliminate the practice of making uninsured depositors whole.

Although the FDIC claims that least-cost resolution is its current practice, this bill would force the FDIC to perform its least cost analysis on a present-value basis, and to document its analysis. The GAO, in turn, would audit these analyses.

b. *Dealing With Unacceptably Large Failures.* Sometimes, the term "too-big-to-fail" is used to describe a policy of using Federal assistance to keep institutions open whose collapse might harm the entire financial system.

Although the Federal Government's ability to stave off a collapse of the payments system or the financial system should not be constrained, there is no clear reason why the deposit insurer should be charged with the task. In other countries, it is the responsibility of the central bank or the finance ministry.

This bill makes the situation in the United States more nearly parallel to that in other countries. It leaves the Federal Reserve Board with its current authority to take appropriate action to prevent a collapse of the financial system. But it takes such discretion away from the FDIC. The bill would refocus the FDIC on the narrower task of administering and protecting the deposit insurance fund.

The bill also contains additional safeguards intended to prevent a weak institution from exposing the entire banking industry to systemic risk. First, the bill would require the Federal Reserve Board (as the agency most involved in handling systemic risk) to prescribe rules limiting depository institutions' credit exposure to other depository institutions. The logic of such limitations is clear: interbank deposits are, in re-

ality, simply a loan from one bank to another. Like any other loan, they expose the lender to risk. A bank that lends a significant portion of its capital to a single borrower is taking a big risk, whether the borrower is a commercial real estate developer or another bank. A bank should not put all its eggs in one basket—even if the basket is another bank.

Second, the bill requires banks accepting interbank deposits from FDIC-insured institutions to be well capitalized. The bank must comply with the minimum capital standards prescribed by its primary Federal regulator—and have additional capital to the extent that the Federal Reserve Board determines such capital is necessary to protect the system.

4. Changes in Deposit Insurance Premium Pricing.

This bill makes several changes in the provisions of current law governing the prices depository institutions pay for deposit insurance coverage.

a. *Risk-based Premiums Required.* The bill requires the FDIC to institute risk-based deposit insurance premiums but gives the FDIC discretion to design the system. Such discretion will enable the FDIC to refine the system in light of experience. The bill further authorizes the FDIC to use private reinsurance as a basis for setting risk-based premiums, as proposed by Senator Dixon.

b. *Changes in the Assessment Base.* The bill repeals the assessment base language in current law. That language was not designed for a risk-based system, and leaving it on the books would only confuse and complicate efforts to make a risk-based system workable. Under the new risk-based system, the FDIC should assess premiums based on the risk that an institution will fail and the potential cost of such a failure to the insurance fund. In determining either the likelihood or the potential cost of failure, the FDIC should be free to consider any of an institution's assets or liabilities (including contingent liabilities).

5. Restriction on the Scope of Deposit Insurance Coverage:

a. *Brokered Deposits.* The bill (like the Treasury proposal) denies insurance coverage to brokered deposits taking the form of master certificates of deposit. The bill also requires the FDIC to impose whatever restrictions on deposits by intermediaries are necessary to protect the deposit insurance fund. These restrictions will become effective nine months after enactment.

b. *Restrictions on Pass-Through Deposit Insurance.* The bill allows pass-through deposit insurance only for certain tax-deferred retirement savings.

c. *Multiple Accounts Limited.* The bill eliminates the existing loophole that allows a family of three to obtain $1.2 million in deposit insurance protection for accounts at a single institution. In calculating compliance with the $100,000 limit, current law aggregates only accounts held "in the same right and capacity"—permitting an individual to hold $100,000 in his or her own name, another $100,000 jointly with his or her spouse, another $100,000 in trust for a child, and so forth. The bill eliminates that abuse by repealing the right and capacity language of current law. It will not forbid individuals from having multiple accounts at insured depository institutions, but it will ensure that no individual receives more than $200,000 in total insurance coverage on accounts at any one depository institution—$100,000 for any purpose, and another $100,000 for tax-deferred retirement savings.

6. Source of Strength:

The bill removes any doubt about Federal regulators' authority to enforce commitments by parent corporations to maintain the capital of their insured depository institution subsidiaries. The bill also extends cross-guarantee liability (for losses the FDIC incurs when an institution fails) to insured depository institutions' subsidiaries and affiliates, limiting the liability of non-depository-institution affiliates to 5 percent of the assets of the failed institution.

7. Enhanced Disclosure Obligations:

a. *Disclosure by Insured Depository Institutions.* The bill requires depository institutions to provide more specific information in their quarterly reports so that insured depository institutions' financial condition can be better assessed and monitored. In particular, it imposes four new quarterly disclosure requirements: (1) major shareholders; (2) disaggregated reports of assets; (3) nonbanking activities; and (4) market value estimates of assets, liabilities, and net worth (in accordance with regulations prescribed by their regulators). The first three requirements will take effect six months after enactment; these simply require more regular and systematic disclosure of information already available to the regulators. The market value disclosure requirement will take effect January 1, 1993.

b. *Disclosure by Uninsured Depository Institutions.* The bill requires uninsured depository institutions to disclose to their customers the fact that they are not insured by the Federal Government, and receive a written acknowledgement of that disclosure from their customers before accepting any money for deposit. The bill authorizes the FDIC to determine, in uncertain cases, whether a particular enterprise (e.g., an unlicensed deposit taker) constitutes an uninsured depository institution. This provision is intended as a consumer-protection measure, in response to recent incidents in Rhode Island and the District of Columbia in which depositors may not have recognized that they were placing deposits in uninsured institutions.

c. *Disclosure by the Regulatory Agencies.* The bill also requires each of the regulatory agencies to make an annual report on (1) likely failures of depository institutions over the next 2 years, (2) involvement of insured depository institutions in non-traditional activities; (3) capital levels of insured depository institutions; and (4) enforcement actions and subsequent compliance. The bill permits the CBO to obtain CAMEL ratings of depository institutions and problem bank lists under strict confidentiality rules (including criminal penalties). Such access—already available to the General Accounting Office—will better enable the CBO to estimate the future needs of the deposit insurance funds and the Resolution Trust Corporation.

d. *Disclosure by the Insurance Funds.* The bill requires more accurate and detailed disclosures to the Congress and the public on the condition of the deposit insurance funds. It requires annual reports on depository institution failures during the previous 12 months and projections of problem institutions two years into the future.

8. Other Provisions:

a. *Consent to Be Bound by Safety and Soundness Statutes.* The new bill specifies that depository institutions that become or remain FDIC-insured consent to be bound by the Federal Deposit Insurance Act and other Federal safety-and-soundness statutes. This provision makes clear that depository institutions cannot accept the benefits of Federal deposit insurance while rejecting the safeguards Congress has enacted to protect the insurance funds.

b. *Safeguards Against Insider Abuse Strengthened.* The bill includes provisions intended to strengthen safeguards in current law against insider abuse at insured depository institutions. These provisions forbid insured institutions and their subsidiaries from purchasing assets from insiders on preferential terms; require regulators to promulgate limits on the amounts thrifts and State nonmember banks can loan to executive officers; and prevent thrifts from making preferential loans through correspondent institutions.

COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991

QUESTIONS & ANSWERS

Why do we have a deposit insurance system in the first place?

The Federal deposit insurance system was created in the 1930s in response to a large number of bank runs in the late 1920s and 1930s. Bank runs are a real problem for depository institutions. Because depositors, especially small depositors, have very little way of knowing how healthy a bank or thrift may be, they have every incentive to take their money out at the first rumor of trouble—even if there is no truth to it. Moreover, they have every reason to take their money out fast, because they worry that, if they wait, there won't be any money left. A run can put even a healthy bank or thrift out of business.

The idea behind Federal deposit insurance is to take away the reason to run. If depositors know the Federal Government will always redeem their deposits, they don't have to worry about the strength of their bank or thrift. By and large, the theory seems to work in practice. Before the system was created, bank panics were a recurring event in American history. Since the system was created, they have virtually disappeared.

Why do we need deposit insurance reform?

The last five years have been disastrous for the Federal deposit insurance system. The old insurance fund for savings and loans—the FSLIC—failed and had to be rescued by the taxpayers at a cost of hundreds of billions of dollars. The insurance fund for banks is now at less than half of its required reserve level and falling.

Last year, Professor Ken Scott of Stanford University suggested to the Banking Committee that "[w]hat you can ask of a deposit insurance system is that, at the very minimum, it not magnify the problem because of the way in which it distorts incentives and in the way in which it is administered."

Our system of Federal deposit insurance fails the Scott test. In the judgment of numerous experts who testified before the Committee, our current system magnifies the problem both because of the way it distorts incentives and because of the way in which it is administered.

We can't afford another bailout of the Federal deposit insurance system. But in the course of thirteen days of hearings the Banking Committee held last year on financial modernization and deposit insurance, numerous witnesses advised the Committee that further bailouts will be needed unless we reform the system now.

Specifically, what's wrong with the current system?

The witnesses who have appeared before the Banking Committee last year cited numerous problems with the system. But a few

particular aspects of the system came in for especially severe criticism. These aspects included:

Forbearance. Almost everybody now recognizes that we could have managed the thrift crisis at lower cost if we had stepped in and closed insolvent institutions when they failed, instead of giving them months and even years to try to "grow out" of their problems. Many experts testified that a primary cause of such forbearance is the fact that regulators lack adequate incentives to take prompt corrective action when an institution gets into trouble. Ken Scott stated this argument well when he said that "[a] policy of delay and forbearance will always be more appealing than a policy of prompt closure upon economic insolvency. If the closure decision is a discretionary, subjective judgment by the regulators, they are vulnerable to pressure and they will often yield to it."

Brokered deposits. Although many experts believe there are appropriate uses of brokered deposits, there is a virtual consensus that brokered deposits were a primary cause of the savings and loan collapse. Gerald Corrigan, President of the Federal Reserve Bank of New York said that in his judgment "[t]he worst single abuse of the deposit insurance system has been the abuse of the brokered deposit system arrangements." Bruce Maffeo, a former Justice Department prosecutor, called brokered deposits "the financial equivalent of crack."

Too-big-to-fail. Although some experts believe that the Federal Government will always need the discretion to step in and rescue very large financial institutions when their collapse might jeopardize the stability of the financial system as a whole, virtually every witness felt that the Government has gone too far in implementing a too-big-to-fail policy. Thomas Labrecque, CEO of Chase Manhattan Bank, told the Committee that "[w]e must eliminate the . . . so-called "too big to fail" policy under which the very largest banks are given de facto 100 percent protection of all deposits. Such a policy is inconsistent with the original intent of deposit insurance and is unfair to smaller banks, but big bankers neither want it nor need it."

Multiple accounts. Many experts criticized the current system for allowing depositors to keep an unlimited number of fully insured accounts at different financial institutions and for allowing depositors to avoid the $100,000 limit at a given institution by using such devices as joint accounts. Thus, Jane Uebelhoer of the community group ACORN said "[t]he important point is attempting to protect against people attempting to play the system to win big at taxpayers' expense."

Incorrect pricing of insurance premiums. Under the current system, all banks pay a uniform price for their deposit insurance coverage. Thrifts pay a uniform price, too—although different from banks. Bert Ely diagnosed the problem well when he said that "[t]oday, the drunk drivers of the banking and thrift world pay no more for their deposit insurance than do their sober siblings." And Ulrich Cartellieri of Deutsche Bank was one of many experts who proposed that "a more market-oriented and, therefore, superior solution could be developed by introducing risk-related deposit insurance premiums."

State powers. Many witnesses testified that abuse of State-authorized investment powers contributed significantly to the problems of the savings and loan insurance fund. Losses in California and Texas alone—two of the States that most significantly deregulated thrift investment powers in the early 1980s—accounted for 70% of the cost to the savings and loan insurance fund in 1988. Although the evidence suggests the States are doing a significantly better job of regulating their commercial banks, there is still reason for concern. For example, even as the Banking Committee's 1990 hearings were in progress, the State of Delaware enacted legislation permitting its commercial banks to engage in insurance underwriting. Many witnesses suggested the need for tighter Federal controls on State powers. Lawrence Connell, former Chairman of the National Credit Union Administration, testified that "the Federal insurance coverage is a Federal issue and certainly the Federal insurance agency should have veto power or some way to control the risk by State-chartered institutions. They shouldn't have a free ride on the Federal system." Bert Ely put it even more simply: "He who takes the risk should regulate. And so I think that, since the Federal Treasury is bearing the risk of failure, the Federal Government has to be preeminent in the regulation."

So what would the bill do about the forbearance problem?

The bill would sharply curtail regulators' leeway to let a weak institution slide. Regulators would have to take prompt corrective action to stabilize a troubled institution and get it either recapitalized, sold, or closed, before it becomes a liability to the taxpayers. The goal of the bill is to get the institution recapitalized, sold, or closed before it becomes a liability to its deposit insurance fund. Robert Eisenbeis, Professor of Banking at the University of North Carolina at Chapel Hill backed this idea emphatically in his testimony before the Senate Banking Committee on the condition of the Bank Insurnace Fund, September 12. Professor Eisenbeis said, "I think the point can't be emphasized enough that we don't lose a dime if we close institutions before their net worth goes to zero. The fact that you see these losses appearing in the FDIC fund means that they didn't close those institutions in time." Others who have endorsed this concept in testimony before the Committee include Nicholas Brady, Alan Greenspan, Richard Breeden, Robert Reischauer, and George Kaufman.

How does this "prompt corrective action" requirement work?

Suppose you are a failing financial institution. You started out with a good capital position, but it's deteriorating. When your capital declines below the minimum required level, three things will happen to you. First, you will be prohibited from paying dividends. Second, you will be required to support any new asset growth with additional capital. Third, you will have to file a capital restoration plan that explains how you plan to restore your capital to required levels and includes specific, year-by-year targets for achieving compliance with capital requirements. If you fail to file the plan, or if you materially violate the plan, a number of very tough additional restrictions will come into force.

Now suppose you have filed your plan, and it is acceptable to your regulator, but your capital continues to deteriorate. At some point, it will decline below the "critical capital level." This is a level of capital that the regulators will have to specify. The bill requires them to specify a level such that they can resolve the problems of institutions whose capital falls below the level at no cost to the deposit insurance fund in virtually all cases.

When your capital falls below the critical capital level, you will be prohibited from making principal and interest payments on any subordinated debt you may have outstanding. You will also become subject to a range of very tough restrictions on your activities and operations. And, finally and most importantly, your primary regulator will have to appoint a conservator or receiver for you within 30 days, or take some other action that is more likely to protect the deposit insurance fund from loss.

Can a prompt corrective action requirement be effective without higher capital?

The prompt corrective action system depends on regulators detecting deterioration at a depository institution and stepping in to fix the problem before the institution becomes insolvent. Currently, regulators sometimes fail to recognize that an institution is insolvent or nearly insolvent in time to take effective corrective action.

There are two ways you could fix this. You could raise capital standards, so that on average more time will elapse between the time an institution falls short of required levels and the time it becomes insolvent. Alternatively, regulators could conduct more vigorous supervision, so that they usually know sooner when an institution's capital is eroding.

The bill leaves the choice between the two approaches to the regulators. It does not require regulators to increase capital levels, decrease capital levels, or leave them where they are. It simply requires that capital levels be set so that the prompt corrective action requirement works. This is a new legislative approach to capital levels—a functional approach. The idea is that capital standards ought to be set according to the purpose of holding capital.

How do you expect institutions to raise additional capital when the economy is weakening and capital is already in short supply? Aren't you changing the rules of the game at exactly the wrong time?

There are several answers to this. First, note that the bill does not require higher capital levels. The bill requires higher capital only to the extent needed to protect the deposit insurance funds. More aggressive supervision and prompter corrective action by regulators will also help protect the deposit insurance funds and could offset the need for greater capital. Second, note that even if regulators determine it is necessary to raise capital requirements, that is not the same as saying banks need to raise new capital. Institutions can also raise their capital levels by selling assets or retaining earnings. Finally, note that the bill would not require regulators to promulgate new capital requirements until 18 months after enactment and leaves the regulators free to prescribe a generous compliance period.

What about mark-to-market accounting? Do you need that too?

Regulators will need better and more timely information on the condition of the institutions they supervise if they are ever going to realize the goal of preventing troubled institutions from becoming liabilities to the deposit insurance system. But that doesn't necessarily mean we should move all the way to market-value accounting.

To help develop better and more timely information, the bill establishes two goals for reform of accounting principles applicable to insured depository institutions. First, those principles should result in financial statements and reports that accurately reflect—at market value, to the extent feasible—the economic condition of those institutions.

Second, they should facilitate both effective supervision of depository institutions generally and prompt corrective action to resolve troubled institutions in particular. The bill charges the SEC, in consultation with the Federal banking agencies, with developing the reformed accounting principles.

This is not, however, a requirement for depository institutions to adopt mark-to-market accounting. The goal is to move in the direction of market value accounting over time, but only to the extent feasible. Because there is no current consensus as to how many of the illiquid assets that depository institutions hold should be valued, any effort to force immediate adoption of market-value accounting would probably encounter significant technical problems.

What does the bill do about too-big-to-fail?

The bill would curtail too-big-to-fail through a multifaceted approach to the problem. First, the bill's prompt corrective action requirements eliminate the problem of inequitable treatment for large and small instititions. All institutions will have to be either recapitalized, sold, or closed before they become costs to the deposit insurance funds. Second, the bill requires the FDIC, in closing failed institutions, to choose the resolution strategy least costly to the deposit insurance fund. Third, the bill prohibits the FDIC after 1994 from taking any action to resolve a troubled institution that has the effect of protecting uninsured depositors. The bill would leave intact the Federal Reserve Board's authority to intervene as a safety net of last resort to protect the stability of the financial system, but it includes provisions intended to ensure that by the time an institution has failed it has been so insulated from the rest of the banking system that the Federal Reserve should never have to intervene in this way.

Does the bill do anything about brokered deposits?

The bill's restrictions on pass-through deposit insurance coverage would effectively eliminate insurance coverage for brokered deposits that take the form of master certificates of deposit. This is consistent with the Administration's proposal. The bill also requires the FDIC to impose whatever restrictions on other deposits by intermediaries are necessary to protect the deposit insurance fund. These provisions would become effective nine months after enactment.

What about risky activities by State-chartered institutions?

The bill would restrain State legislatures and bank regulators from leveraging Federal deposit insurance for the benefit of their local tax bases. It does that by generally prohibiting State banks from engaging as principal in any activity not permissible for national banks except where (1) the State banks is in full compliance with all applicable capital standards; (2) the FDIC has determined that the activity in question is consistent with the purposes of Federal deposit insurance, and poses no significant risk to the deposit insurance fund. The bill would prohibit State banks from acquiring junk bonds, and require them to carry any existing junk bond holdings at fair market value. It would also prohibit State-chartered institutions from making any equity investment (e.g., in real estate) impermissible for a national bank, except for community development purposes. These restrictions are similar to those imposed on State-chartered thrift institutions in the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

What does this plan do about the $100,000 limit?

The proposed legislation leaves the basic $100,000 limit intact. Although the idea of lowering the $100,000 limit has received considerable attention from the press, most of the testimony before the Committee was quite negative on this proposal. Thus, Bert Ely testified on May 17 that "[r]educing deposit insurance coverage from the present $100,000 limit will have almost no disciplinary effect. Congress will spill political blood unnecessarily in a totally futile exercise if it lowers the $100,000 deposit insurance limit." And Jane Uebelhoer of ACORN said that "reducing the level from $100,000 to $50,000 is probably a matter of indifference."

Does the bill limit deposit insurance to $100,000 per depositor?

No, it does not, but the bill does close several of the existing loopholes in the $100,000 limit. Under the bill, for example, it would no longer be possible for wealthy depositors to keep hundreds of thousands or even millions of dollars at a single institution by using joint accounts or trust accounts. Every account would have to be registered under one or more taxpayer identification or employer identification numbers. And the FDIC would insure a given depositor at a particular institution only to a total of $100,000 on all accounts—$200,000, if the second $100,000 is in a tax-deferred retirement account.

The one loophole that would remain in the $100,000 limit is this: a depositor could still have essentially limitless amounts of insured deposits, provided that no more than $100,000 is deposited at any one institution. Effectively, the bill would limit deposit insurance to $100,000 per depositor per insured insitution on routine transaction and savings accounts, plus a second $100,000 for tax-deferred retirement savings.

Why does the bill leave that loophole open?

It's not an easy loophole to close. When you start to look at what it would take to close the loophole from a technical perspective, it is hard to find a way to do it that would not be either enormously expensive or very intrusive on individual privacy. Given the very small number of individuals with more than $100,000 to deposit, it may well be that the benefits of making the $100,000 limit airtight simply are not worth the costs.

What does the bill do about risk-based premiums?

The bill would require the FDIC to implement a system of risk-based deposit insurance premiums. The bill gives the FDIC discretion to determine how a risk-based premium system should work, thus enabling the agency to refine the system in light of experience. In addition, the bill authorizes the FDIC to use private reinsurance as a means of pricing risk-based insurance, consistent with the plan developed by Senator Dixon.

What does the bill do about assessing foreign deposits?

Consistent with its requirement that the FDIC adopt a risk-based premium system, the bill would repeal current statutory references to the "assessment base." That concept was not designed for a risk-based system, and leaving it in law would only confuse and complicate efforts to implement a risk-based system.

How the new risk-based system affects institutions that hold, or do not hold, large amounts of foreign deposits will depend on what sort of risk-based system the FDIC adopts. The FDIC should be free to consider risks posed by any of an institution's assets or liabilities (including contingent liabilities). Thus, for example, if a bank relies heavily on short-term foreign deposits, the FDIC may wish to take account of those deposits—and any resulting volatility of the bank's liabilities—in assessing the risk that the bank will fail. On the other hand, the bill's too-big-to-fail reforms would prohibit the FDIC from protecting any uninsured creditor, including foreign depositors.

What else does the bill do?

The bill contains numerous individual reforms. Some other noteworthy reforms include:

Removing any doubt about Federal regulators' authority to enforce capital maintenance agreements against the parent corporations of banks and thrifts.

Strengthening the current requirement that affiliates of a bank or thrift protect the FDIC from losses caused by that institution. No longer could that requirement be evaded by transferring assets to a parent, subsidiary, or other nondepository affiliate.

Requiring annual, on-site examinations of every insured depository institution.

Expanded reporting requirements for banks and thrifts and for the Federal bank regulatory agencies.

How is this bill different from the deposit insurance bill Senator Riegle introduced last September?

This bill is similar to last September's bill, S. 3103, in most key respects. The revised bill retains the concept of prompt corrective action as the cornerstone of deposit insurance reform. And virtually all of the most important provisions of S. 3103 can also be found in the revised bill. Nevertheless, there are many differences. Most, but not all, of the differences are minor and most, but not all, are essentially technical. Here are a few of the most important differences:

S. 3103 merely authorized the FDIC to implement a risk-based premium system. The revised bill requires it to do so. Consistent with that change, the revised bill repeals existing statutory language regarding the insurance premium "assessment base," while S. 3103 left it intact.

The revised bill prohibits State-chartered, federally insured banks from investing in junk bonds, or from making equity investments not permissible for national banks (e.g., as a real estate developer)—except for community development purposes. S. 3103 relied on more general rules restricting State-authorized activities.

The revised bill requires banks accepting interbank deposits to be well capitalized, and directs the Federal Reserve to prescribe limits on a bank's credit exposure to (including its deposits at) any other bank. Both provisions help to ensure that no one institution can put a significant proportion of the entire banking system at risk, and therefore be too big to fail. S. 3103 did not contain either provision.

S. 3103 included an elaborate system of licensing and registration for deposit brokers. The revised bill requires the FDIC to impose whatever restrictions on deposits by intermediaries are necessary to protect the deposit insurance fund. Like S. 3103 (and the Treasury proposal), the bill also denies insurance coverage to conventional brokered deposits.

S. 3103 limited deposit insurance to $100,000 per person per institution. The revised bill allows an additional $100,000 insurance at any given institution per institution for tax-deferred retirement savings.

These are just a few of the more significant changes. These and other changes are described in greater detail in a separate document entitled "Summary of Major Changes from S. 3103."

This bill would make a lot of changes. Would they all happen at once?

No. The key substantive provisions of the bill are accompanied by appropriate transition periods. In many instances, the bill gives the regulators additional authority to adopt appropriate transition periods by regulation.

COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1991

SUMMARY OF MAJOR CHANGES FROM S. 3103

The Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991 differs from its predecessor, S. 3103 (introduced on September 25, 1990), in numerous respects. Most, but not all, of the differences are minor. Most, but not all, are technical. This document summarizes the more significant substantive changes. It does not cover most technical changes or some minor substantive changes.

1. Prompt Corrective Action Requirement

The cornerstone of the bill continues to be the requirement that regulators take prompt corrective action to recapitalize or resolve weak institutions. The revised bill contains several refinements to S. 3103's prompt corrective action provisions.

a. Annual examination requirement. Both S. 3103 and the revised bill require Federal regulators to conduct annual on-site examination of every federally insured depository institution. S. 3103 permitted bank regulators to contract with private-sector firms for examination services. In response to confidentiality and conflict-of-interest concerns, this has been deleted from the revised bill. In addition, the revised bill allows an examination by either the institution's primary Federal regulator or the FDIC to satisfy the annual-examination requirement.

b. Prompt corrective action requirement. The prompt corrective action provisions themselves have been changed in several respects.

(1) Level one: minimum capital level. As before, the first set of restrictions comes into force when the bank's capital falls below the minimum capital levels established by the regulators. And, as before, institutions whose capital falls below the minimum levels must stop paying dividends, limit their asset growth, and file a capital restoration plan.

(a) Asset growth limit.—In the revised bill, the asset growth limitation has been tightened in some respects and loosened in others. In S. 3103, asset growth was limited to net interest credited on deposits and had to be fully capitalized under both the leverage ratio and the risk-based capital standards. The revised bill imposes no rigid ceiling on total asset growth, but provides that such growth may not exceed 10 times new capital. The revised limit reinforces incentives to increase capital, is easier to administer, and gives the undercapitalized institution more flexibility to match capital with growth.

(b) Capital restoration plan.—The revised bill continues the requirement that undercapitalized institutions file a capital restoration plan, and specifies that the plan contain year-by-year capital targets.

In addition, the revised bill toughens the consequences for undercapitalized institutions failing to submit and implement a capital restoration plan. In particular, the following safeguards would apply unless the agency found that they would not further the goal of protecting the deposit insurance fund against loss:

(i) Transactions between the insured institution and any affiliated depository institution would have to comply fully with section 23A of the Federal Reserve Act: the interbank exemption (allowing unlimited transactions with affiliates) would not apply.

(ii) The institution would be required to retain a new independent auditor unless (1) the institution had changed auditors during the year before it became undercapitalized, or (2) the institution and any affiliated banks and thrifts have consolidated assets of less than $1 billion. A new auditor would help root out any concealed problems.

Experience indicates that expansion by undercapitalized institutions often worsens their problems. Accordingly, the revised bill would restrict branching by undercapitalized institutions failing to submit or implement a capital restoration plan: they could increase the number of their branches only if the FDIC certified that the increase would tend to avoid a loss to the deposit insurance fund. This provision does not restrict changes in branch location, or closing one branch and opening another.

S. 3103 authorized regulators to dismiss the chairman, chief executive officer, or chief financial officer of undercapitalized institutions that fail to submit and implement a capital restoration plan. The revised bill extends this authority to any senior executive officer (i.e., major policymaker). This gives regulators greater flexibility to oust inept senior managers without resorting to the cumbersome and punitive removal-for-misconduct statute.

(2) Level two: critical capital level. Like S. 3103, the revised bill provides that if an institution's capital level continues to deteriorate—below a lower, "critical capital level"—it will face additional restrictions. If the institution's capital remains below the critical level for 30 days, its primary Federal regulator must either appoint a conservator or receiver or take alternative action designed to better protect the deposit insurance fund. The revised bill also gives the FDIC a say in the regulator's decision to take alternative action. In addition, the revised bill requires the regulator to appoint a receiver for an institution whose capital remains below the critical level for one year. This sets an outer limit on regulatory inaction when an institution remains critically undercapitalized for a protracted period.

(3) National bank receiverships. The revised bill broadens the grounds for appointing receivers for national banks—making them consistent with those currently applicble to other FDIC-insured institutions. This reponds to deficiencies in the regulator's authority that came to light when the Bank of New England failed.

2. Risky Activities Curtailed

Under S. 3103, a State-chartered, federally insured bank could not engage as prinicpal in activities impermissible for national banks unless (1) the bank complied with all capita requirements, and (2) the activity posed no signficant risk to the deposit insurance fund. The revised bill continues these requirements and specifies that the activity must also be consistent with the purposes of Federal deposit insurance, and that the risk determination must be made by the FDIC (as deposit insurer).

The revised bill also includes two specific rules not present in S. 3103. First, banks cannot acquire junk bonds, and must carry any existing junk bond holdings at fair market value. Second, State banks cannot make any equity investment impermissible for national banks, except for community development investments.

3. Too-Big-to-Fail Curtailed

The revised bill retains S. 3103's prohibitions on FDIC implementation of a too-big-to-fail policy. In addition, the bill contains additional safeguards intended to prevent a weak institution from exposing the entire banking industry to systemic risk. These limits will help ensure that no institution is ever too large to fail.

First, the bill would require the Federal Reserve Board (as the agency most involved in handling systemic risk) to prescribe rules limiting depository institutions' credit exposure to other depository institutions. The logic of such limitations is clear: interbank deposits are, in reality, simply a loan from one bank to another. Like any other loan, they expose the lender to risk. A bank that lends a major portion of its capital to a single borrower is acting imprudently, whether the borrower is a commerical real estate developer or another bank. A bank should not put all its eggs in one basket—even if the basket is another bank.

Second, the bill requires banks accepting interbank deposits from FDIC-insured institutions to be well capitalized. The bank must comply with all currently applicable capital standards prescribed by its primary Federal regulator—and have additional capital to the extent that the Federal Reserve Board determines such capital is necessary to protect the system.

4. Changes in Deposit Insurance Premium Pricing

a. Risk-Based Premiums Required. S. 3103 authorized, but did not require, the FDIC to institute a system of risk-based deposit insurance premiums.

The revised bill goes further. It requires the FDIC to implement a risk-based premium system, while giving the FDIC discretion to design the system.

As before, the proposal authorizes the FDIC to use private reinsurance as a basis for setting risk-based premiums, as proposed by Senator Dixon.

b. Changes in the Assessment Base S. 3103 proposed no changes in the deposit insurance premium assessment base. The revised bill would repeal the assessment base language in current law. That language was not designed for a risk-based system, and leaving it on the books would only confuse and complicate efforts to make a risk-based system workable.

Under the new risk-based system, the FDIC should assess premiums based on the risk that an institution will fail and the potential cost of such a failure to the insurance fund. In determining either the likelihood or the potential cost failure, the FDIC should be free to consider any of an institution's assets or liabilities.

5. Restrictions on the Scope of Deposit Insurance Coverage

a. Brokered Deposits. S. 3103 required the FDIC to license and register individuals and entities in the business of making deposits at insured institutions on behalf of third parties. The revised bill drops that provision and substitutes alternative provisions.

Like S. 3103 (and the Treasury proposal), the revised bill denies pass-through insurance coverage to conventional brokered deposits. The bill requires the FDIC to impose whatever restrictions on deposits by intermediaries are necessary to protect the deposit insurance fund. It also broadens the FDIC's authority over so-called money desks, through which institutions obtain high-rate deposits directly from investors. Current law, by focusing on the prevailing

local rate, permitted the Bank of New England to attract $2 billion in hot money nationwide; the revised bill includes a national standard.

b. Mulitple Accounts. S. 3103 eliminated the loophole in current law that allows depositors to maintain multiple fully-insured $100,000 accounts at a single depository institution. Under S. 3103, a depositor could have no more than $100,000 in insured deposits at a single institution. The revised bill is slightly looser than the original insofar as it would allow an additional $100,000 in coverage for tax-deferred retirement savings.

6. Disclosure Obligations

a. Disclosure by Uninsured Depository Institutions. The revised bill required uninsured depository institutions to disclose to there customers the fact that they are not insured by the Federal Government, and receive a written acknowledgement of that disclosure from their customers before accepting any money for deposit. The bill authorizes the FDIC to determine, in uncertain cases, whether a particular enterprise (e.g., an unlicensed deposit-taker) constitutes an uninsured depository institution. This provision is intended as a consumer-protection measure, in response to recent incidents in Rhode Island and the District of Columbia in which depositors may not have recognized that they were placing deposits in uninsured institutions.

7. Other Major Changes

a. Consent To Be Bound by Safety and Soundness Statutes. The revised bill specifies that depository institutions that become or remain FDIC-insured consent to be bound by the Federal Deposit Insurance Act and other Federal safety-and-soundness statutes. This provision emphasizes that depository institutions cannot accept the benefits of Federal deposit insurance while rejecting the safeguards Congress has enacted to protect the insurance funds.

b. Safeguards Against Insider Abuse Strengthened. The revised bill includes provisions intended to strengthen current safeguards against insider abuse at insured depository institutions. These provisions would forbid insured institutions and their subsidiaries from purchasing assets from insiders on preferential terms; require regulators to promulgate limits on loans by thrifts and State nonmember banks to their senior executive officers; and prevent thrifts from making preferential loans to insiders through correspondent institutions.

8. Section Numbering

The following table correlates the section numbers of the revised bill with those of S. 3103:

Subject	Revised bill section	S. 3103 section
Short title; table of contents	1	1
Improving capital standards	2	2
Accounting reform	3	3
Annual examinations	4	5
Prompt corrective action	5	4
Capital maintenance commitments	6	6
Multiple accounts	7	12(b)
Pass-through insurance coverage	8	12(a)
Brokered deposits	9	8
Risk-based assessments	10	11
Restricting risky bank activities	11	7
Safeguards against insider abuse	12	
Interbank liabilities	13	
Least-cost resolution	14	9
Cross-guarantee liability	15	10
Granting deposit insurance	16	13
Disclosure	17	14
Consent to be bound by Federal Deposit Insurance Act	18	
Uninsured depository institutions	19	14(e)

THE UNIVERSITY OF CHICAGO, THE LAW SCHOOL,

Chicago, IL, February 28, 1991.

Hon. DONALD W. RIEGLE, Jr.,

Chairman, Senate Committee on Banking, Housing, and Urban Affairs, Washington, DC.

DEAR CHAIRMAN RIEGLE: Questions have been raised about the constitutionality of early regulatory closure of depository institutions. I am pleased to offer the following thoughts.

First, any consideration of early closure policies must take account of the fact that depository institutions are financial intermediaries. They specialize in pooling depositors' funds and investing them in illiquid ventures about which public information is not readily available. Depository institutions and other financial intermediaries trade on the specialized information and expertise which they develop with respect to various markets and classes of borrowers.

An inevitable consequence of the intermediation function is that many depository institution assets are difficult to appraise. Because depository institutions specialize in investing in illiquid assets for which there is no ready market value, evaluating the worth of these assets is necessarily an imprecise enterprise. The balance sheet of a depository institution will often overstate its actual solvency because assets such as commercial loans are held at par until they are written down, which often occurs well after they actually lose economic value.

Past history has shown that when regulators rely on balance sheet numbers alone as a measure of a depository institution's solvency, the result is systematic overestimation of solvency levels. The result is that banks and thrift institutions have often been deeply under water when they were eventually closed by the regulators. Enormous losses to the federal deposit insurance funds have resulted.

Seen against this backdrop, proposals for "early closure" of depository institutions can be viewed as attempts to correct for a systematic regulatory bias that has historically resulted in late closure of depository institutions. Indeed, a fairly large class of early closure policies can be sustained simply on the ground that they represent attempts to identify more accurately the actual point of economic insolvency for a depository institution. No serious constitutional issues would be presented by such policies to the extent they could be justified as representing legitimate regulatory efforts to identify the point of actual economic insolvency.

Moreover, it is my opinion that a reasonable early closure policy could be sustained against constitutional challenge even if the consequence were to close depository institutions at some point prior to actual economic insolvency. Experience has shown that as a depository institution's capital position becomes seriously weakened, the probability of eventual insolvency increases nearly exponentially. Often a reduction in capital reflects deeper underlying problems in an institution's loan portfolio that will cause further deterioration over time. Further, managers of depository institutions in weak capital positions have an incentive to take excessive risks in hopes of returning a shaky institution to profitability, despite the fact that the risky activities greatly increase the costs of depository institution failure if it should occur. Thus a depository institution in a weak capital position poses a serious risk to the federal deposit insurance funds. There is ample authority for regulatory intervention to protect the deposit insurance funds against losses in this situation.

There is little basis for the argument that early intervention would "take" the property of shareholders without payment of just compensation.

First, a reasonable early closure policy would not represent an expropriation of shareholder wealth for the benefit of the government or anyone else. The depository institution would be resolved under the FDIC's "cost test", which requires the FDIC to use procedures that maximize the value of the institution's assets. If the institution had a sufficiently positive value at the time of closure, the sale of its assets would result in the payment of creditors, with any residue paid over to shareholders. Closure could of course reduce an institution's "going concern" value; but the FDIC has available a range of closure procedures, including purchase and assumption transactions, that are intended to maximize going concern value.

Second, a reasonable early closure policy would not defeat the investment-backed expectations of depository institution shareholders. Bank shareholders have every reason to know that they are investing in institutions subject to comprehensive government regulation. That regulatory system has many benefits for bank shareholders; it also imposes some burdens. Shareholders take the burdens along with the benefits when they invest their funds in a depository institution.

Further, it should be noted that a form of early closure has always been possible. The FDIC and the (now-defunct) FSLIC have always had the power to suspend or terminate deposit insurance for institutions found to be operating in an unsafe and unsound manner. As a practical matter, the termination of deposit insurance makes closure of the institution inevitable. Thus even before the present upheaval in the banking industry, depository institution shareholders had reason to anticipate that their institutions might be closed if its capital ratios fell to precarious levels.

Shareholders or others interested in a depository institution might attempt to challenge early closure on the ground that it violates the due process clause. It has long been established, however, that in banking cases a pre-closure hearing is not constitutionally required so long as a relatively prompt post-closure hearing is available. *Fahey* v. *Mallonee*, 332 U.S. 245 (1947). Thus, as long as an early closure rule provides a reasonably prompt opportunity to aggrieved persons to challenge the agency action on the merits in a post-closure hearing, no serious due process issues should be involved.

In conclusion, a reasonable early closure policy should easily withstand attack under the takings clause, the due process clause, or any other provision of the Constitution.

Sincerely,

GEOFFREY P. MILLER,
Kirkland & Ellis Professor.

By Mr. HEFLIN:

S. 544. A bill to amend the Food, Agriculture, Conservation, and Trade Act of 1990 to provide protection to animal research facilities from illegal acts, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

ANIMAL RESEARCH FACILITIES PROTECTION ACT

• Mr. HEFLIN. Mr. President, today I rise to introduce the Animal Research Facilities Protection Act. Last Con-

gress, this vital piece of legislation garnered over 30 cosponsors and passed the Senate with an unanimous vote. Unfortunately, this bill was stymied in the House Agriculture Committee because of last year's farm bill debate. The need for this legislation has only intensified with the rising number of break-ins experienced by America's leading research institutions and the increase in the number of threats to America's research scientists.

In fact, six major break-ins and thefts at research laboratories have been reported across the country since I introduced this legislation in the last Congress. These crimes were not limited to any one region; they took place in California, Florida, Illinois, New York, Pennsylvania, and Texas. An underground group which calls itself the Animal Liberation Front took credit for all of them. None of these cases have been solved. No one responsible for them has been brought to justice.

In the most egregious of these incidents, a Texas researcher's federally supported project sustained immediate damages costing $70,000. His basic research that could benefit victims of Sudden Infant Syndrome and those suffering from sleep disorders was halted for more than a year. That researcher has been the subject of a second break-in attempt, death threats, and a hate campaign which continues to this day.

Another researcher at the University of Pennsylvania a year ago saw his office broken into: computer disks, a scientific manuscript, videotapes and personal files stolen. He and his family received anonymous threatening phone calls, his home was watched by unknown persons and another animal rights group, not the ALF, sent his neighbors derogatory letters about his work. This man was not accused of animal cruelty as such. Rather, according to the ALF, he was targeted for defending his colleagues in Texas and for being very vocal in telling the public about the importance of animal research. Our right of free speech is precious. I am as appalled by the attempts to intimidate this researcher into silence as I am by the senseless destruction of property. Lawful protest, including that against the use of animals in research, is protected in this country. All citizens are free to express their opinions; there is no justification for resorting to violence. Extremists in the animal rights movement who choose to be terrorists must be stopped.

While crimes committed in the name of animal rights have increased throughout the U.S., thankfully we have not reached the level of violence experienced in Britain. According to New Scotland Yard, there were over 400 crimes in the United Kingdom linked to the animal rights movement in 1989 alone. Firebombings have often been used by animal rights extremists in Britain to destroy property. This past June, however, there were two car bombing incidents specifically designed to kill or maim their targets, who included a medical scientist and a veterinary officer. Fortunately the veterinarian escaped when her car burst into flames, but when the bomb intended for the scientist exploded, it permanently scarred and injured a baby being wheeled by in a stroller.

The reason I bring these incidents to your attention is because it is believed that the United States is not more than 2 years behind the United Kingom in terms of the terrorist activities being employed by the animal rights movement. We should learn from Britain's experience and do everything we can to stem the rising tide of illegal and increasingly violent acts being committed by animal rights extremists here in our country.

The legislation I am introducing today is designed to do just that by making it a Federal offense to commit crimes against our Nation's vital research facilities. The fact that 12 States have already enacted laws increasing penalties for crimes against research facilities is convincing evidence that this is an extremely serious problem. No individual State, however, can protect its research facilities from interstate or international saboteurs. We must provide that protection on the Federal level.●

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

S. 545. A bill to authorize the additional use of land in Merced County, CA; to the Committee on Energy and Natural Resources.

USE OF LAND IN MERCED COUNTY, CA

Mr. CRANSTON. Mr. President, on behalf of Senator SEYMOUR and myself, I introduce for appropriate reference a bill to authorize the additional use of land in Merced County, CA. This legislation responds to the need for both an elementary school site and parkland in a rapidly growing area of our State.

In 1973 the United States, acting through the Secretary of the Interior, conveyed 40 acres of surplus Federal property to Merced County for use as a public park and recreation area. However, because of financial difficulties, the county has not been able to develop the land for park purposes as planned.

Last year the local school district expressed an interest in acquiring 15 acres of the 40 acre parcel as a site for an elementary school to serve its expanding student body. At the same time the school district offered to provide ballfields and other recreation facilities on the 15 acres and maintain 5 acres which the county is finally developing for public recreation use.

Legislation is necessary because under the original conveyance Merced County cannot deed the land directly to the school district. Rather the property must revert back to the Federal Government and can only be conveyed to the school district by the General Services Administration after having been offered to all other Federal agencies and the public. While I know of no other party interested in the 15 acres, there is no guarantee the school district would ultimately receive the land. Legislation will both expedite the process and assure that the school district obtains a much needed school site.

An identical bill is being introduced in the House by Congressman GARY CONDIT.

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

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

S. 545

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

SECTION 1. AUTHORIZATION OF ADDITIONAL USE.

(a) Subject to the requirements of this Act, the county of Merced, California (hereinafter in this Act referred to as the "county") is authorized to permit use of the land described in section 3 (hereinafter in this Act referred to as the "land") for the purposes of an elementary school, notwithstanding the restrictions on use of such land otherwise applicable under the terms of conveyance of such land to the county by the United States.

(b) Except as specified in this Act, this Act shall not increase or diminish the authority or responsibility of the county with respect to the land.

SEC. 2. USE OF LAND FOR ELEMENTARY SCHOOL.

(a) The authority of the county under this Act shall be limited to the authorization of use of the land for an elementary school serving children without regard to their race, creed, color, national origin, physical or mental disability, or sex, operated by a nonsectarian organization on a nonprofit basis and in compliance with all applicable requirements of the laws of the United States and the State of California.

(b) If the county permits use of the land as an elementary school, the county shall include information concerning such use in the biennial reports of the Secretary of the Interior required under the terms of the conveyance of the land to the county by the United States.

(c) Any violation of the provisions of this Act shall be deemed to be breach of the conditions and covenants under which the land was conveyed to the county by the United States, and shall have the same effect, as provided in the deed, whereby the United States conveyed the land to the county.

SEC. 3. LAND DESCRIPTION.

The land referred to in section 1 is the south 15 acres of the 40 acres located in the northeast quarter of the southwest quarter of section 20, Township 7 South, Range 13 East, M.D.B&M. of Merced County, California, declared to be surplus property by the United States in action 9–D–Calif–1028 and conveyed to the county by deed recorded in volume 1941 at page 441 of the official records of Merced County, California.

• Mr. SEYMOUR. Mr. President, I rise today with my colleague, Senator CRANSTON, to introduce legislation that will allow for the much-needed expansion of the McSwain Union Elementary School District, which is located in Merced County, CA.

Our legislation is necessary and will go a long way toward easing the McSwain Union Elementary School District's burden in meeting its obligation to area communities, which, I might add, includes a large influx of school-aged Hmong refugees.

In 1972, the General Services Administration declared a 40-acre parcel of land in Merced County as surplus property. The County applied for the land and title was conveyed to it in 1973 pursuant to the applicable Federal law, the Federal Property and Administrative Services Act of 1949.

Since that time, several acres of the parcel have been developed as recreation and picnic areas as specified under the conveyance agreement. Early in 1989, the McSwain Union Elementary School District approached the county with a proposal to develop 15 acres of the parcel as an elementary school with adjoining public recreation areas to be operated and maintained by the school. Both sides quickly recognized the "win-win" aspect of such an agreement, and set to work to formalize such a sharing of the property.

The county and school district reached agreement on the proposed use of the 15 acres as a project of great benefit to the community but have been unable to proceed with its implementation due to the strict language of the original deed of conveyance. Under the terms of the deed, if the county were to permit these 15 acres to be used for the elementary school, the entire parcel would convert back to ownership of the GSA.

Given this brief background of the issue, it is clear that Merced County faces the choice of either losing the entire parcel of property it received in 1973, or forfeiting a new school building the McSwain Union Elementary School District so desperately needs.

The bill we are introducing would resolve this situation to the benefit of all parties concerned, Mr. President, and extend the ultimate benefit to that special group of people most deserving of our attention and help, the school kids themselves.

I look forward to working with my colleagues on the Energy Committee of which I am a member, and urge all of my colleagues to support timely passage of this legislation. With any luck, we will have modular classroom units on the proposed site and open for business in time for the upcoming term.•

By Mr. CRANSTON:

S. 546. A bill to establish a Parents as Partners in Learning Program, and for other purposes; to the Committee on Labor and Human Resources.

PARENTS AS PARTNERS IN LEARNING ACT

Mr. CRANSTON. Mr. President, today I introduce for appropriate reference the Parents as Partners in Learning Act of 1991. The purpose of this legislation is to help bring parents more fully into the learning process as active participants in the academic achievement of their children—rather than as persons whose place in the life of the school is marked by an occasional PTA meeting or help with a bake sale. This bill is about parents who help with homework, who provide a quiet place each night for a child to study, who make sure their children get enough sleep and get to school on time, and who spend daily time reading to their children.

Quite a commitment? Yes, and the results can be extraordinary. In fact, hundreds of California parents, now involved in a program called the Quality Education Project, are making such a commitment and having the time of their lives. As their enthusiasm and involvement increases, the academic achievement of their children accelerates. In turn, the school is enlivened and enriched. In the schools where QEP is operating, the families' place in the learning process is both accepted and well-defined. As a result, there is a synergism between parents and the school that is bringing about greater academic achievement for the student.

We have known for a long time that the attitude of the parent toward a child's education is important to success in school. In fact, the link between achievement and family environment—as several studies have pointed out—is a key factor in educational success. Yet the role of the family is generally overlooked when we talk about education reform. Most of the recent major education reports do not mention families as a factor in education success and only one or two make any recommendation for school reform based on involving parents.

This is more than just an oversight. It is a misreading of psychology, sociology, anthropology, and contemporary history. There was a time in our society when learning was thought to occur almost entirely in school. But television and the information age—and the increasing education level of parents themselves—have changed all that. Much, much learning occurs outside of the classroom. Too, society expects more than academic success from schools, and many of these expectations center around addressing problems thought traditionally within the total purview of the family. Child care, drug abuse, and sexuality issues are just a few of the problems that every American school must consider as thoughtfully as the strategies for learning math and science.

To avoid being a part of the problem, the family must be a part of the solution.

When the National Center on Education Statistics surveyed 60,000 high school students between 1980–82, NCES found that 32 percent of students with an "A" average said that their parents helped them decide what courses to take while only 13 percent of "C" students reported such parent help. Two-thirds of the "A" students in the study said their parents met with or telephoned the teacher when a learning issue arose, but less than half of the "C" students reported that kind of communication between family and school. The study also found that parent membership in a parent-teacher organization or parent involvement with school activities had no discernable effect on good grades. What helped with good grades was parent involvement in the day-to-day learning process and a communications program—between teachers and parents and administrators and parents—that was clear, regular, and that reflected respect for parents.

California's Quality Education Project, founded in 1982, is a not-for-profit corporation designed specifically to bring parents together with teachers and administrators to help raise student achievement, especially for at-risk students. The QEP's premise is that parents will actively support their children's education if they are shown how to do so effectively; that parents will support the school—no matter what their cultural, socioeconomic, language, or educational background—when they feel accepted, cared about, and respected; and that a parent involvement program is successful in direct proportion to the belief and commitment of school leadership and staff. Also critical to success in the view of QEP is a specific plan with supporting materials and evaluation and accountability components.

Working in some of the areas of greatest poverty in California, QEP has successfully involved disadvantaged families in their children's school. In one school district in Los Angeles county, the QEP Program raised attendance at parent/teacher conferences by 1,272, a 16-percent increase; more than 10,400 additional children took home weekly folders of academic work for review by parents; over 8,000 parents signed pledges promising to participate in school activities and to help their children succeed academically. For 2 successive years in that district, scores on statewide achievement tests increased.

The basics of QEP can be used to build model projects anywhere in the country: First, home activities where parents can reinforce what is learned at school; second, effective home/school communication which leads to the family supporting the school; and

third, parenting skills to help parents interact more positively with their children at home. The fundamental concepts here are clear goals, intelligent marketing, and accountability. As the QEP record shows, they work.

Mr. President, the Parents as Partners in Learning Act is a very simple bill with a modest dollar authorization. The basic components of a model project under this bill are clear and uncomplicated. Applicants for grants must assess the present extent and quality of parent involvement and state clear objectives for each year of the project. A strong communications component must be set forth to increase family understanding and support of the school. Training must be provided to enable parents to build positive relationships with their children that will bolster academic success. There must be continuing community outreach activities in order to develop community support for the schools. Strong evaluation and dissemination components are required.

The grant requirements provide a structure within which local needs can be met while assuring success through proven means. Grants under the act are to be made in settings that reflect the diversity of this country in order that they may serve as models for other parts of the Nation with similar characteristics.

The Federal authorization is set at $20 million for each of 4 fiscal years. However, the Federal contribution is designed to get initial projects off the ground, rather than to provide ongoing major financial support. Federal support declines each year as projects become self-supporting. When designed with the key components in mind, these projects can demonstrate a degree of success that will assure their becoming a valuable and continuing part of the school program far beyond the end of Federal support.

Mr. President, I ask unanimous consent that a section-by-section analysis of the Parents as Partners in Learning Act be printed at this point in the RECORD, followed by the text of the bill.

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

S. 546

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 "Parents as Partners in Learning Act of 1991".

SEC. 2. PURPOSE.

It is the purpose of this Act—

(1) to build effective parent involvement in schools in order to help raise student achievement;

(2) to positively engage parents in their children's education;

(3) to build consistent and effective communications between home and school so that parents may know their children's progress in all aspects of school life;

(4) to train teachers to communicate effectively with parents;

(5) to train parents in home strategies for raising their children's academic success; and

(6) to train administrators and teachers in building support for schools in the community.

SEC. 3. FINDINGS.

The Congress finds that—

(1) the understanding and active support of parents for all aspects of schooling is important if children are to succeed academically;

(2) parents will support the school, regardless of cultural, socio-economic, language or education background, when parents feel acccepted, cared about, and respected;

(3) parents will actively support their children's education when shown how to do so effectively; and

(4) a parent involvement program is successful in direct proportion to the belief and commitment of the school leadership and staff and to the extent that a specific plan with supporting materials, evaluation, and accountability components are provided.

SEC. 4. GRANTS AUTHORIZED.

(a) GRANTS AUTHORIZED.—The Secretary is authorized to make grants to eligible applicants to design and carry out projects that seek to build effective parent involvement in the education of their children in order to raise student achievement. In making grants under this Act, the Secretary shall take into consideration regional, cultural, and ethnic diversity within the United States.

(b) PRIORITY.—In awarding grants under this Act the Secretary shall give priority to eligible applicants whose applications—

(1) demonstrate the potential to serve as models for dissemination to other entities wishing to develop parent participation in schools; and

(2) describe programs which serve families in greatest need of assistance.

SEC. 5. APPLICATION.

Each eligible applicant desiring to receive a grant under this Act shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall—

(1) describe the activities and services for which assistance is sought;

(2) contain an assessment of the extent and quality of parent involvement in the school;

(3) include clear, written objectives and desired outcomes for each year of the project;

(4) contain assurances of frequent and regular communications between teachers and parents and between administrators and parents, including consideration of the specific language and literacy needs of the parents; and

(5) contain such information and assurances as the Secretary may require to ensure compliance with the provisions of this Act.

SEC. 6. USE OF FUNDS.

Each eligible applicant may use funds provided under this Act to—

(1) provide for home activities where parents can reinforce skills learned at school;

(2) provide parents with training to enable parents to build positive relationships with their children and to communicate successfully with teachers and administrators;

(3) conduct regular and ongoing community outreach activities which develop support for the community's schools;

(4) evaluate program progress in meeting stated objectives; and

(5) disseminate information about successful strategies and materials.

SEC. 7. ESTABLISHMENT OF NATIONAL ADVISORY RESOURCE CENTER CONCERNING PARENTS AS PARTNERS IN LEARNING.

(a) NATIONAL ADVISORY RESOURCE CENTER.—The Secretary shall, by grant or contract with a nonprofit organization, establish and operate a National Advisory Center for Parents as Partners in Learning (hereafter in this Act referred to as the "Center"). The Center shall provide—

(1) technical assistance in developing model Parents as Partners in Learning programs;

(2) staff training for Parents as Partners in Learning programs; and

(3) model materials for Parents as Partners in Learning program implementation.

(b) LIMITATION.—The non-profit organization described in subsection (a) shall—

(1) be expressly incorporated for the purpose of improving the scholastic achievement of students by bringing parents into an active role in their children's education;

(2) be of proven experience and effectiveness in designing and carrying out such programs; and

(3) have previously implemented a Statewide program.

SEC. 8. EVALUATION AND DISSEMINATION.

The Secretary shall conduct an annual evaluation of grants made under this Act and shall disseminate such information.

SEC. 9. PAYMENTS.

(a) PAYMENTS.—(1) The Secretary shall pay to each eligible applicant having an application approved under section 5, the Federal share of the cost of the activities described in the application.

(2) The Federal share—

(A) for the first year in which the State receives funds under this Act shall be 90 percent;

(B) for the second such year shall be 75 percent;

(C) for the third such year shall be 50 percent; and

(D) for the fourth such year and each succeeding year thereafter shall be 33⅓ percent.

(b) NON-FEDERAL SHARE.—The non-Federal share of payments under this Act may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

SEC. 10. DEFINITIONS.

As used in this Act—

(1) The term "eligible applicant" means one or more of the following:

(A) a local educational agency;

(B) an individual school;

(C) a nonprofit private organization;

(D) an institution of higher education;

(E) a business concern; or

(F) a State educational agency.

(2) The term "parent" includes a legal guardian or other person standing in loco parentis.

(3) The term "Secretary" means the Secretary of Education.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for the purposes of this Act, $20,000,000 for the fiscal year 1992, $20,000,000 for fiscal year 1993, $20,000,000 for fiscal year 1994, and $20,000,000 for fiscal year 1995.

SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

Section 1 of the bill designates the Act as "Parents as Partners in Learning Act of 1991."

SECTION 2. PURPOSE

Section 2 sets forth the purposes of the Act, including programs in parent involvement, communications between home and school, teacher training, and programs in building community support for schools.

SECTION 3. FINDINGS

Section 3 sets forth various Congressional findings in support of the Act.

SECTION 4. GRANTS AUTHORIZED

Section 4 authorizes the Secretary of Education to make grants under the Act to eligible applicants and establishes priority considerations for the awarding of grants.

SECTION 5. APPLICATION

Section 5 sets forth criteria for the design of applications for grants under the Act.

SECTION 6. USE OF FUNDS

Section 6 describes how funds awarded under the Act may be used.

SECTION 7. ESTABLISHMENT OF A NATIONAL ADVISORY RESOURCE CENTER

Section 7 directs the Secretary to establish a National Advisory Center for Parents as Partners in Learning in order to provide technical assistance, staff training, and model materials in support of Parents as Partners in Learning programs.

SECTION 8. EVALUATION AND DISSEMINATION

Section 8 requires the Secretary to conduct annual evaluations and to disseminate materials.

SECTION 9. CONSULTATION REQUIRED

Section 9 requires the Secretary to consult with an experienced nonprofit organization prior to issuing regulations and guidelines under the Act.

SECTION 10. PAYMENTS

Section 10 sets forth federal share criteria for payments under the Act.

SECTION 11. DEFINITION

Section 11 sets forth definitions of eligible applicants for grants under the Act.

SECTION 12. AUTHORIZATION OF APPROPRIATIONS

Section 12 authorizes expenditures under the Act, through fiscal year 1995.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 547. A bill to transfer certain facilities, easements, and rights-of-way to Elephant Butte Irrigation District, New Mexico; to the Committee on Energy and Natural Resources.

TRANSFER OF CERTAIN FEDERAL FACILITIES

• Mr. BINGAMAN. Mr. President, I rise today to join with my colleague from New Mexico, Senator DOMENICI, in introducing legislation to transfer certain rights-of-way to the Elephant Butte Irrigation District of New Mexico.

The Elephant Butte Irrigation District [EBID] is a quasi-municipal corporation formed in cooperation with the U.S. Bureau of Reclamation under the laws of the State of New Mexico. The EBID is a successor to the Elephant Butte Water Users Association. It was established in 1905 as a preliminary component for the Rio Grande project that was authorized in 1906. The EBID, through various repayment contracts with the Bureau of Reclamation, made its final payment for the construction of the project in September 1971.

On February 15, 1979, the Bureau transferred the operation and maintenance of the New Mexico portion of the Rio Grande project to the EBID. This year the EBID marks its 12th year operating the Rio Grande project, and over these past years they have had the opportunity to evaluate and recommend improvements to the project.

Over the last decade, the costs to EBID for the annual operation and maintenance charges by the Bureau of Reclamation have increased 141 percent, while the duties and responsibilities of the Bureau have continued to decrease. In an effort to halt the spiraling costs of the annual operation and maintenance budget, EBID assumed operation and maintenance responsibilities over the three diversion dams within the EBID boundaries. Within 2 years, the Bureau of Reclamation's budget again outstripped the savings that had been achieved when the district assumed greater responsibilities.

The district has also had a continuing problem with encroachment on their rights-of-way and easements which severely impacts the project's operations. There have also been delays in processing and issuing permits to cross these easements and rights-of-way which undermines the efficiency of the various utilities and water companies that work hand-in-hand with the district.

Several years ago the Bureau of Reclamation established a policy of transferring single purpose and many multipurpose facilities to local water organizations for operation and maintenance. In an effort to implement that plan, the district has initiated this legislation for the return of the remaining district works so that it may assume complete operation and maintenance control over them. Part of a contract entered into between the Bureau and the district in 1979 provided that "upon the execution of this contract, the United States shall transfer to the Elephant Butte Irrigation District, and the district shall assume the operation and maintenance of the transferred district works." The term "transferred district works" in the contract refers to the distribution and drainage systems for the operation and maintenance of the irrigation district.

In addition to this contract language transferring the balance of the district works, statutory language found in 43 U.S. Code 498 also provides that when repayment to the Government has been made, the title to, and the management and operation of the irrigation works should pass to the owners of the land irrigated by the project. This statute was section 6 of the original 1902 Reclamation Act.

This legislation provides the Secretary of the Interior with the necessary authority to transfer back to EBID all those district works covered by the 1979 contract and 43 U.S. Code 498. The EBID has demonstrated clearly its ability to govern, control, maintain, and operate its portion of the project in an efficient manner. Since the district assumed greater responsibility for the project, costs for operation and maintenance have been reduced substantially. The result is a net savings for the Federal Government and lower water rates for members of the district. In this time of tight budgets and fiscal restraint, this transfer serves the best interest of all parties involved.

I urge the Senate to approve this legislation, and I ask unanimous consent that the full text of the bill appear in the RECORD following my statement.

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

S. 547

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

SECTION 1. TRANSFER.

The Secretary is authorized to transfer to the Elephant Butte Irrigation District, New Mexico, without cost to the district, title to such easements, ditches, laterals, canals, drains, and other rights-of-way, which the United States has acquired on behalf of the project, that are used solely for the purpose of serving Elephant Butte Irrigation District lands and which the Secretary determines are necessary to enable the Elephant Butte Irrigation District to carry out operation and maintenance with respect to that portion of the Rio Grande project to be transferred. The transfer of the title to such easements, ditches, laterals, canals, drains, and other rights-of-way located in New Mexico, which the Secretary has, that are used for the purpose of jointly serving Elephant Butte Irrigation District and El Paso County Water Improvement District No. 1, may be transferred to Elephant Butte Irrigation District upon agreement by the Secretary and both districts. Any transfer under this section shall be subject to the condition that the Elephant Butte Irrigation District assumes the responsibility for operating and maintaining that portion of such project.

SEC. 2. LIMITATION.

Title to and responsibility for operation and maintenance of Elephant Butte and Caballo dams, and Percha, Leasburg, and Mesilla diversion dams and the works necessary for their protection and operation shall be unaffected by this Act.•

By Mr. CRANSTON (for himself, Mr. PACKWOOD, Mr. METZENBAUM, Mr. COHEN, Mr. ADAMS, Mr. INOUYE, Mr. AKAKA, Mr. GLENN, and Mr. SIMON):

S. 548. A bill to amend various provisions of law to ensure that services related to abortion are made available to the same extent as all other pregnancy-related services under federally funded programs; to the Committee on Finance.

REPRODUCTIVE HEALTH EQUITY ACT

Mr. CRANSTON. Mr. President, I am pleased today to reintroduce with bipartisan support the proposed Repro-

ductive Health Equity Act. This is a bill which the Senator from Oregon [Mr. PACKWOOD] and the Senator from Ohio [Mr. METZENBAUM] and I first introduced in the Senate in November 1989. We are joined today by the Senator from Maine [Mr. COHEN], the Senator from Washington [Mr. ADAMS], the Senators from Hawaii [Mr. INOUYE and Mr. AKAKA], the Senator from Ohio [Mr. GLENN], and the Senator from Illinois [Mr. SIMON]. Companion bipartisan legislation, H.R. 766, was introduced in the House of Representatives on February 6, 1991, by Representative BILL GREEN from New York and my friend and colleague from California, Representative VIC FAZIO.

This legislation would amend various provisions of Federal law to help ensure that services related to abortion are made available to the same extent as other pregnancy-related services under Federal programs. In past years, restrictions have been added to a number of Federal programs, ranging from Medicaid to the Federal employee health benefits programs, either directly or through appropriations riders, which deny women who are otherwise eligible for medical services under these programs coverage for abortion-related services except in very limited circumstances involving a threat to the life of the woman.

The first of these restrictions, the so-called Hyde amendment, was attached to Medicaid funding in 1977. Despite the restrictions on Federal funding of abortions for low-income women, a number of States have, by State law or under State constitutional mandates, continued to provide public funding for abortion services for needy women. However, in the vast majority of States, the restrictions on Federal funding resulted in these women having no financial assistance if they choose to exercise their constitutional right to terminate a pregnancy. The average cost for an abortion in a clinic setting at 8 weeks, estimated to be about $231, represents more than half of the average monthly income of a family on Medicaid according to a report issued last year, Abortion and Women's Health, by the Alan Guttmacher Institute. According to information also compiled by the Alan Guttmacher Institute, an estimated 22 percent of Medicaid-eligible women who had second-trimester abortions would have had first-trimester abortions if the lack of public funds had not resulted in a delay in trying to raise funds.

Mr. President, it is important to understand that although these Federal restrictions may result in forcing some women to continue a pregnancy against their will, for many it simply means that they will be forced to undergo a later, more risky procedure because of the difficulties in raising the money needed. Impoverished families will be forced to use funds needed for living expenses for their children to pay these medical expenses. Some will also be driven to resort to "cheap" illegal and life-threatening abortions or self-induced procedures.

Although the Medicaid Program was the first target for the Hyde amendment type of restriciton, it was not the last. Similar restrictions were imposed upon the Department of Defense appropriations bill for fiscal year 1979, and then made permanent law in the 1984 Department of Defense authorization bill. In 1982, it was extended to Federal employee health insurance progams and in 1987 to Federal prisoners. Other programs such as Peace Corps, Indian Health Services programs and public health care programs in the District of Columbia—even those funded entirely with non-Federal funds—were subsequently subjected to Hyde type restrictions.

In short, Mr. President, Federal laws have become riddled with Hyde amendments, either in permanent law or annual appropriations bill language that is carried over year after year. Women seeking abortions in the most dire conditions, poor women, victims of rape or incest, or incarcerated women, are denied health care assistance which they would have been entitled to receive under preexisting laws. This legislation would restore neutrality to these programs; the decision whether or not to have an abortion would be made by the woman involved and her physician, not by Federal dictates aimed at denying individuals freedom of choice by withholding Federal medical assistance to individuals who would otherwise be eligible.

Abortion is a legal procedure and the right to choose to terminate a pregnancy is a personal and private right protected by the Constitution. Excluding abortion services from the coverage of federally-funded health programs creates an inequitable result, particularly for low-income women who are dependent upon federally-funded programs for access to health care services. These restrictions contribute to the existence of a two-tiered system which protects only the rights of women who can afford to pay for an abortion—an unconscionable result.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at the conclusion of my remarks.

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

S. 548

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reproductive Health Equity Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) abortion is a legal medical service related to pregnancy and the choice to elect an abortion is a personal, private right protected by the Constitution;

(2) the Federal Government provides assistance for pregnancy-related care for substantial numbers of women under a variety of Federal programs, including the medicaid program, the Indian health care program, the Federal employees' health benefits program, the program of health care for military dependents and retirees, the Peace Corps program, general payments to the District of Columbia, and the program of medical services to Federal penal and correctional institutions;

(3) pregnant women who otherwise are provided pregnancy-related care under the Federal programs have been denied equal access to health care services due to severe and unjustified congressional restrictions on the freedom of the women to choose services that relate to abortion; and

(4) denial of access to health care services because the services relate to abortion is unjust and unfair to pregnant women who are employed, or whose spouses are employed, by the Federal Government or who otherwise are dependent on the Federal Government for health care, and threatens the health and well-being of the women and their families.

SEC. 3. MEDICAID PROGRAM.

Section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)), relating to medical assistance under the medicaid program, is amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by inserting "and" at the end of subparagraph (F); and

(3) by inserting after subparagraph (F) the following new subparagraph:

"(G) for making medical assistance available with respect to services related to abortion to the same extent as such assistance is provided with respect to other pregnancy-related services;".

SEC. 4. FEDERAL EMPLOYEES HEALTH BENEFITS PLANS.

Section 8902 of title 5, United States Code, relating to the type of benefits under health benefits plans for Federal employees, is amended by adding at the end the following new subsection:

"(n) Each plan contracted for under this chapter shall include benefits for services related to abortion to the same extent as such plan includes benefits for other pregnancy-related services.".

SEC. 5. INDIAN HEALTH CARE.

(a) GENERAL AUTHORITY.—Section 201(b) of the Indian Health Care Improvement Act (25 U.S.C. 1621(b)), relating to funding for the improvement of Indian health status, is amended by adding at the end the following new paragraph:

"(4) Funds appropriated in accordance with subsection (h) for each fiscal year are available to provide services related to abortion to the same extent as such funds are available for other pregnancy-related services.".

(b) CONFORMING REPEAL.—Section 706 of the Indian Health Care Improvement Act (25 U.S.C. 1676) is repealed.

SEC. 6. MILITARY HEALTH CARE.

(a) MEMBERS AND FORMER MEMBERS.—Section 1074 of title 10, United States Code, relating to medical and dental care for members and certain former members of the uniformed services, is amended by adding at the end the following new subsection.

"(d) The administering Secretaries shall provide under this section for the furnishing of medical care related to abortion to the same extent as such Secretaries provide

under this section for the furnishing of other pregnancy-related medical care.".

(b) DEPENDENTS.—Section 1077(a) of such title, relating to medical care for dependents of members of the uniformed services, is amended by striking paragraph (8) and inserting the following:

"(8) Maternity care (including abortion-related care to the same extent as other pregnancy-related care) and infant care.".

SEC. 7. PEACE CORPS.

Section 5(e) of the Peace Corps Act (22 U.S.C. 2504(e)), relating to health care for Peace Corps volunteers, is amended—

(1) by inserting "(1)(A)" immediately after "(e)";

(2) by redesignating the last sentence as paragraph (2); and

(3) by adding at the end of paragraph (1)(A), as amended by paragraph (1), the following new subparagraph:

"(B) Health care provided under this subsection to volunteers during service of the volunteers shall include services related to abortion to the same extent as such care includes other pregnancy-related services.".

SEC. 8. DISTRICT OF COLUMBIA.

Section 502 of the District of Columbia Self-Government and Governmental Reorganization Act, relating to the authorization of appropriations of the Federal payment to the District of Columbia, is amended by adding at the end the following new subsection:

(d) Amounts appropriated pursuant to the authorization provided under this section shall be made available for services related to abortion to the same extent as such amounts may be made available for other pregnancy-related services.".

SEC. 9. FEDERAL PENAL AND CORRECTIONAL INSTITUTIONS.

Section 4005(a) of title 18, United States Code, relating to medical services to the Federal penal and correctional institutions, is amended—

(1) by inserting "(1)" immediately after "(a)"; and

(2) by adding at the end the following new paragraph:

"(2) Notwithstanding any other provision of law, medical services provided under this subsection shall include services related to abortion to the same extent as the medical services include other pregnancy-related services.".

SEC. 10. EFFECTIVE DATE.

Amendments made by this Act shall apply with respect to services performed on or after the date of the enactment of this Act.

By Mr. CRANSTON:

S. 549, A bill to amend the Wild and Scenic Rivers Act by designating a segement of the Lower Merced River in California as a component of the National Wild and Scenic Rivers System; to the Committee on Energy and Natural Resources.

LOWER MERCED RIVER WILD AND SCENIC RIVER DESIGNATION

Mr. CRANSTON. Mr. President, I introduce for appropriate reference a bill to designate the Lower Merced River as a component of the National Wild and Scenic Rivers System.

Our legislation designates 8 miles of the Lower Merced from 300 feet upstream of its confluence with Bear Creek to the maximum control storage of Lake McClure. It classifies 4 miles of the river as recreational and 4 miles as a wild river.

Additionally, the bill withdraws the entire length of the main stem of the Merced River and portions of the South Fork from mineral entry, subject to valid existing rights. This withdrawal is essential to protect the river's recreational use and prevent cumulative impacts of dredging in the riverbed.

The bill also includes language directing the Secretary of Interior to approve the Saxon Creek project consistent with the Wild and Scenic Rivers Act and other applicable Federal law.

This project, which is necessary to ensure an adequate supply of water for Mariposa County, would pump a maximum of 5,000 acre-feet of water a year from the Merced River near its confluence with Saxon Creek without adversely impacting the river's suitability for inclusion in the National Wild and Scenic Rivers System.

Finally, the bill designates the North Fork of the Merced River as a wild and scenic study river. This river segment is approximately 15 miles in length.

Mr. President, there is broad public support for this bill. It has the backing of the Mariposa County Board of Supervisors as well as the Sierra Club, the Wilderness Society, American Rivers, Friends of the River, the Merced Canyon Committee, the California Wilderness Coalition, Planning and Conservation League, and the California Recreational Trails Committee.

Moreover, the Senate passed this legislation late last year; but unfortunately, Congress adjourned before final action could be taken. It's my hope the 102d Congress will be able to act expeditiously and grant the Lower Merced River the protection it deserves.

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

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

S. 549

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

SECTION 1. DESIGNATION OF THE LOWER MERCED RIVER FOR INCLUSION IN THE WILD AND SCENIC RIVERS SYSTEM.

Section 3(a)(62) of the Wild and Scenic Rivers Act (16 U.S.C. 127(a)(62)) is hereby amended—

(1) by striking "The main stem" and inserting in lieu thereof, "(A) The main stem";

(2) by striking "paragraph" whenever it appears and inserting in lieu thereof "subparagraph"; and

(3) by adding the following new subparagraph at the end thereof:

"(B)(i) The main stem from a point 300 feet upstream of the confluence with Bear Creek downstream to the point of maximum flood control storage of Lake McClure (elevation 867 feet mean sea level) consisting of approximately 8 miles, as generally depicted on the map entitled 'Merced Wild and Scenic River', dated April, 1990. The Secretary of the Interior shall administer the segment as recreational, from a point 300 feet upstream of the confluence with Bear Creek downstream to a point 300 feet west of the boundary of the Mountain King Mine, and as wild, from a point 300 feet west of the boundary of Mountain King Mine to the point of maximum flood control storage of Lake McClure. The requirements of subsection (b) of this section shall be fulfilled by the Secretary of the Interior through appropriate revisions to the Sierra Management Framework Plan for the Sierra Planning Area of the Folsom Resource Area, Bakerfield District, Bureau of Land Management. These are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subparagraph.

"(ii) To the extent permitted by, and in a manner consistent with section 7 of this Act (16 U.S.C. 1278), and in accordance with other applicable law, the Secretary of the Interior shall permit the construction and operation of such pumping facilities and associated pipelines as identified in the Bureau of Land Management right-of-way application CACA 26084, filed by the Mariposa County Water Agency on November 7, 1989, and known as the 'Saxon Creek Project', to assure an adequate supply of water from the Merced River to Mariposa County.

"(C) With respect to the segments on the main stem of the Merced River and the South Fork Merced River designated as recreational or scenic pursuant to this paragraph or by the appropriate agency pursuant to subsection (b), the minerals in federal lands which constitute the bed or bank or are situated within one-quarter mile of the bank are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto.".

SEC. 2. STUDY OF THE NORTH FORK OF THE MERCED RIVER.

Section 5(a) of the Wild and Scenic Rivers Act, as amended (16 U.S.C. 1276(a)), is further amended by adding the following new paragraph at the end thereof:

"( ) NORTH FORK MERCED, CALIFORNIA.—The segment from its headwaters to its confluence with the Merced River, by the Secretary of Agriculture and the Secretary of the Interior.".

By Mr. CRAIG (for himself, Mr. HATFIELD, Mr. BURNS, Mr. ADAMS, and Mr. SYMMS):

S. 550. A bill to amend the act of May 15, 1965, authorizing the Secretary of the Interior to designate the Nez Perce National Historical Park in the State of Idaho, and for other purposes; to the Committee on Energy and Natural Resources.

NEZ PERCE NATIONAL HISTORICAL PARK

• Mr. CRAIG. Mr. President, today in conjunction with my colleagues from Oregon, Washington, and Montana, I have introduced a bill that reflects a bipartisan effort to amend the Nez Perce National Historical Parks authorizing legislation, Public Law 89–19. This legislation will allow the addition of several sites of national and historical significance to this unique element of the National Park System.

In response to concerns from citizens of northeastern Oregon, the Umatilla Tribe of Oregon, and the Nez Perce Tribe of Idaho, to protect the grave

site of Old Chief Joseph located near the banks of Wallowa Lake and to recognize, within the National Park System, sites that are central to the history of the Nez Perce Tribe, the Park Service undertook a major study of the Nez Perce National Park System in 1988. This legislation is a result of a need to implement that study's recommendations.

The authorizing legislation for the existing park system calls for sites to be recognized in the State of Idaho. This legislation amends the law to authorize the addition of 13 sites to the Nez Perce National Historical Park. Five of the sites are located in my home State of Idaho. The other sites are in the States of Oregon, Washington, and Montana. The authorization also recognizes the Nez Perce involvement in Wyoming although no specific sites are named in that State. The inclusion of these sites in the park system are justified for a couple of reasons. First, the Nez Perce people occupied a traditional homeland which exceeded 27,000 square miles. Second, the battles of the Nez Perce war trace a path from the banks of the Snake River dividing Oregon and Idaho, through Idaho to Wyoming and Montana. This legislation will allow recognition of the sites where this history was made.

The sites which the National Park Service has recommended to be included in the Nez Perce National Historical Park are such places as Old Joseph's Grave in Washington, the Bear Paw Battlefield in Montana, Camas Meadows battle site in Idaho, and other sites of great importance to the protection and interpretation of Nez Perce history and culture.

Mr. President, as a native of the State of Idaho, I learned the story of the Nez Perce war and of the bravery and leadership of Chief Joseph. He was one of this Nation's finest statesmen, an eloquent leader who wanted nothing other than to protect his people from harm. The Nez Perce war of 1877 was the last official conflict between the United States and an Indian tribe. It marked the turning point of an era and set the stage for modern day relationships between the United States and the Nez Perce Tribe. The statesmanship of Chief Joseph won him international praise and support for his requests to be returned from Oklahoma to his home in the Northwest after the war. His acts and those of the Nez Perce people should be commemorated and remembered.

I am pleased to offer this bill to commemorate the sites of this important part of Western history.

This bill will allow the National Park Service to maintain, protect, and interpret some of the most important battlefields, campsites, and other significant areas on our Nation's history.●

By Mr. BOND (for himself, Mr. HEFLIN, Mr. COCHRAN, Mr. DANFORTH, Mr. BINGAMAN, Mr. CHAFEE, Mr. SHELBY, Mr. BRADLEY, Mr. ROCKEFELLER, Mr. KOHL, Mr. MCCAIN, Mr. COATS, Mr. DODD, Mr. KASTEN, Mr. STEVENS, Mr. KENNEDY, Mr. LIEBERMAN, Mr. COHEN, Mr. DOMENICI, Mr. BURNS, Mr. INOUYE, and Mr. AKAKA):

S. 551. A bill to encourage States to establish Parents as Teachers programs; to the Committee on Labor and Human Resources.

PARENTS AS TEACHERS: THE FAMILY INVOLVEMENT IN EDUCATION ACT OF 1991

● Mr. BOND. Mr. President, today on behalf of myself and 20 of my colleagues, I am reintroducing legislation to expand Missouri's highly successful parents as teachers program nationwide.

All of us are aware of the great needs and problems facing our country's educational system. Our Nation's Governors, the President, and we in Congress have focused increasing attention on the first few years of life, before school even starts, as crucial in the development of a child's language skills, social skills, and personality.

We also know that parental involvement in the education of their children appears to be the key to long-term gains for youngsters. Parents are their children's first and most influential teachers. What parents do to help their children learn is more important to academic success than how well-off the family is.

With a limited Federal investment, we can help parents get children's lives started in the right direction by exporting the success of Missouri's parents as teachers program.

The parents as teachers program is an all-in-one early intervention, parent education, and early childhood education program which addresses a variety of needs for young families.

The parents as teachers curriculum starts early in strengthening the foundations of later learning—language and intellectual development, curiosity, and social skills. In addition, health screening is provided for participating preschool children to detect potential impairments early.

An independent evaluation showed that children participating in parents as teachers consistently scored significantly higher on all measures of intellectual achievement, auditory comprehension, verbal ability, and language ability than their peers who did not participate.

Parents participating in parents as teachers were shown in the same study to be more knowledgeable about childrearing practices and child development than comparison parents.

Parents as teachers staff have been successful in identifying and intervening in at-risk situations, and in encouraging families to seek medical assistance or other specialized services. Many children receive no health screening between birth and the time they enter school. Early intervention through parents as teachers results in improved or corrected conditions before a child reaches school.

The parents as teachers legislation is a great way for the Federal Government to work with the Governors to meet the first of the educational goals: That all children enter school ready to learn.

Briefly, our legislation would set up a $20 million competitive grant for States who wish to begin or expand parents as teachers programs similar to the Missouri model. We believe providing seed money to expand proven-effective programs is an appropriate role for the Federal Government.

We envision that down the road the States will be able to muster the political support they need for this great program to sustain it by themselves, and provide for a diminishing Federal share over the 5-year authorization.

Mr. President, I have a personal interest in the ongoing success of this program. The program started with a bit of Federal seed money in four Missouri school districts while I was Governor. My wife Carolyn and I participated in the program when our son Sam was born, and experienced firsthand its beneficial effects, both for parents and children. In four successive budget messages, I asked for full funding of the parents as teachers program, and in one of my last acts as Governor, signed legislation that expanded the program statewide.

The good news is spreading, and a number of other States are interested in the program. I believe a little Federal seed money would go a long way toward laying a foundation for young children and minimizing developmental problems which might interfere with future learning. That means down the road these kids are less likely to end up in costly remedial education programs, correctional systems, or on the Government dole. And we'll all be better off for showing a little foresight.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 551

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 "Parents as Teachers: the Family Involvement in Education Act of 1991".

SEC. 2. FINDINGS.

The Congress finds—

(1) increased parental involvement in the education of their children appears to be the key to long-term gains for youngsters;

(2) providing seed money is an appropriate role for the Federal Government to play in education;

(3) children participating in the parents as teachers pilot program in Missouri are found to have increased cognitive or intellectual skills, language ability, social skills and other predictors of school success;

(4) most early childhood programs begin at age 3 or 4 when remediation may already be necessary; and

(5) many children receive no health screening between birth and the time they enter school, thus such children miss the opportunity of having developmental delays detected early.

SEC. 3. STATEMENT OF PURPOSE.

It is the purpose of this bill to encourage States to develop and expand parent and early childhood education programs in an effort to—

(1) increase parents' knowledge of and confidence in child-rearing activities, such as teaching and nurturing their young children;

(2) strengthen partnerships between parents and schools; and

(3) enhance the developmental progress of participating children.

SEC. 4. DEFINITIONS.

For the purposes of this Act—

(1) the term "developmental screening" means the process of measuring the progress of children to determine if there are problems or potential problems or advanced abilities in the areas of understanding and use of language, perception through sight, perception through hearing, motor development and hand-eye coordination, health, and physical development;

(2) the term "eligible family" means any parent with one or more children between birth and 3 years of age, or any parent expecting a child;

(3) the term "lead agency" means the office, agency, or other entity in a State designated by the Governor to administer the parents as teachers program authorized by this Act;

(4) the term "parent education" includes parent support activities, the provision of resource materials on child development and parent-child learning activities, private and group educational guidance, individual and group learning experiences for the parent and child, and other activities that enable the parent to improve learning in the home;

(5) the term "parent educator" means a person hired by the lead agency of a State or designated by local entities who administers group meetings, home visits and developmental screening for eligible families, and is trained by the Parents As Teachers National Center established under section 8; and

(6) the term "Secretary" means the Secretary of Education.

SEC. 5. PROGRAM ESTABLISHED.

(a) IN GENERAL.—The Secretary is authorized to make grants to States to pay the Federal share of the cost of establishing, expanding, and operating parents as teachers programs.

(b) SPECIAL RULE.—Any State operating a parents as teachers program on the date of enactment of this Act shall be eligible to receive a grant under this Act.

SEC. 6. PROGRAM REQUIREMENTS

(a) IN GENERAL.—(1) Each State receiving a grant pursuant to section 5 shall conduct a parents as teachers program which—

(A) establishes and operates parent education programs including programs of developmental screening of children; and

(B) designates a lead State agency which shall—

(i) hire parent educators who have had supervised experience in the care and education of children;

(ii) establish the number of group meetings and home visits required to be provided each year for each participating family, with a minimum of 2 group meetings and 10 home visits for each participating family;

(iii) be responsible for administering the periodic screening of participating children's educational, hearing and visual development, using the Denver Developmental Test, Zimmerman Preschool Language Scale, or other approved screening instruments; and

(iv) develop recruitment and retention programs for hard-to-reach populations.

(2) Grants awarded under this Act shall only be used for parents as teachers programs which serve families during the period of time beginning with the last 3 months of a mother's pregnancy and ending when a child attains the age of 3.

SEC. 7. SPECIAL RULE.

No person shall be required to participate in any program of parent education or developmental screening pursuant to the provisions of this Act.

SEC. 8. PARENTS AS TEACHERS NATIONAL CENTER.

The Secretary shall establish a Parents As Teachers National Center to disseminate information to, and provide technical and training assistance to, States establishing and operating parents as teachers programs.

SEC. 9. EVALUATIONS.

The Secretary shall complete an evaluation of the State parents as teachers programs assisted under this Act within 4 years from the date of enactment of this Act, including an assessment of such programs' impact on at-risk children.

SEC. 10. APPLICATION.

Each State desiring a grant pursuant to the provisions of this Act shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require. Each such application shall describe the activities and services for which assistance is sought.

SEC. 11. PAYMENTS AND FEDERAL SHARE.

(a) PAYMENTS.—The Secretary shall pay to each State having an application approved under section 10 the Federal share of the cost of the activities described in the application.

(b) FEDERAL SHARE.—(1) The Federal share—

(A) for the first year for which a state receives assistance under this Act shall be 100 percent;

(B) for the second such year shall be 100 percent;

(C) for the third such year shall be 75 percent;

(D) for the fourth such year shall be 50 percent; and

(E) for the fifth such year 25 percent.

(2) The non-Federal share of payments under this Act may be in cash or in kind fairly evaluated, including planned equipment or services.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $20,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out the provisions of this Act.●

● Mr. HEFLIN. Mr. President, I am pleased to be an original cosponsor of Parents as Teachers: The Family Involvement in Education Act of 1991.

The Parents as Teachers Program is spreading across the Nation. It is growing because it has a proven record of success. In my home State of Alabama a second Parents as Teachers Program has been initiated since last year, this one in the capital city of Montgomery.

Both Alabama programs receive financial support and encouragement from the children's trust fund. The Alabama children's trust fund provided the original funds which allowed the Mobile Parents as First Teachers Program to open its doors. Just last week, the executive director of the Alabama children's trust fund visited my Washington office to emphasize the importance of the Parents as Teachers Program, and encourage a Federal investment. The Alabama children's trust fund has certainly done as much as it can to promote and support this program.

However, there is a need for immediate Federal financial assistance. The original pilot program in Mobile may have to close its doors this year due to lack of funds despite an enormous demand for its service. The second program, which is supported partially by the Montgomery County Board of Education, can serve only a small segment of its target population.

There is a growing recognition in this country of the importance of the first 3 years of a child's development. Subtle and overt influences during this period of development may adversely affect the academic and social development of children. I am convinced that the Parents as Teachers Program is the most effective system available to help parents best nurture their children.

Money spent on this program is clearly an investment. By reaching children before problems take root, failure, and the need for remediation can be avoided. The Parents as Teachers Program can help parents nurture the skills necessary for later school success.

The Parents as Teachers Program may also help to address some social problems facing our Nation. The children's trust fund of Alabama is convinced that this program can prevent or reduce child abuse, a cyclic problem affecting all socioeconomic and racial groups. And the Montgomery County, AL, Board of Education has demonstrated its confidence in this program to aid teen mothers by choosing this as its focus group.

Parents as Teachers: The Family Involvement in Education Act of 1991, will not create a huge Federal program. The act is designed to encourage States to adopt this program by providing seed money for 5 years. Two States have already adopted statewide programs, and others will follow given the incentive of Federal money.

Please join me in support of this momentous legislation. Congress cannot afford not to make this investment.

Thank you, Mr. President.•

• Mr. DODD. Mr. President, I am pleased to be an original cosponsor of Parents as Teachers: the Family Involvement in Education Act of 1991. I commend my colleague from Missouri, Senator BOND, for his initiative in developing this legislation.

As chairman of the Senate Subcommittee on Children, Family, Drugs, and Alcoholism, I began this Congress with a series of hearings on the status of American children and families. Witness after witness documented the plight of our Nation's children: one in five living in poverty, one in four dropping out of school before the 12th grade. We know the problems—but we also know many of the solutions. The Parents as Teachers Program works. It succeeds by recognizing that parents are a child's first and most important teachers and by giving parents the tools they need to play this critical role.

The Parents as Teachers Program has been in place in Missouri since 1981 and has been replicated in a number of States, including my home State of Connecticut. Parents are provided with child development information through group meetings and home visits until the child reaches age 3, and the child is provided with developmental screening. The approach is simple, and the cost of $20,000 per school district is modest. But the results are impressive and far-reaching. A rigorous evaluation conducted in Missouri found that children who had participated in the program scored higher on measures of intelligence, achievement, and language ability than did comparison children. Child development experts speak highly of this approach, among them Dr. Edward Zigler, director of the Bush Center in Child Development and Social Policy at Yale University.

Last year I authored legislation for Family Resource and Support Programs, which bring together community-based services to help young parents maintain strong families. That measure was to help young parents maintain strong families. That measure was enacted as part of the Human Services Reauthorization. Today's Parents as Teachers legislation incorporates a similar approach and encourages States to adopt this specific model of family-based services provided by parent educators based in schools.

This bill authorizes $20 million annually in Federal startup funds for competitive grants to States. The States would use the funds to establish or expand Parents as Teachers Programs in approximately 1,000 school districts. Parent educators would carry out parent education and developmental screening of children through group meetings and home visits. Families of all incomes would be eligible to participate until their children reach age 3.

Families today are under severe stress. Reports of child abuse and neglect continue to rise. More and more families are damaged to the extent that children must be removed and placed in foster care. These alarming trends call for a redoubling of efforts to assist families and to prevent harm to children, whether the physical harm of child abuse or the educational neglect that stunts school performance. By reaching out to parents at the earliest possible moment, this program can play a critical role in strengthening families and improving chances for success when children enter school.•

• Mr. CHAFEE. Mr. President, I am pleased to join as a sponsor of Parents as Teachers: The Family Involvement in Education Act of 1991. This legislation will allow States to implement or expand programs modeled after Missouri's highly successful Parents as Teachers Program.

Many educators now focus on the first 3 years of life as crucial to a child's intellectual, social, and physical development. Most formal education programs, however, begin at age 3 or 4. Parents as Teachers recognizes that parents are their children's first and best teachers, and stresses parental involvement in the early development and education of their children.

In 1988, Rhode Island established a pilot program in East Providence that provided home visits by parent educators and monthly meetings for parents. The program was completely voluntary and open to all parents regardless of income. Its purpose was not to give parents just a simple list of do's and don'ts, but to provide information on what parents should expect as their child grows older. In addition, the parent educator provided referral for invaluable health screening that could detect potential health problems or learning impairments early on.

Evaluations of the Missouri Parents and Teachers Program have shown that children whose parents participated in the program consistently score higher on assessment and achievement tests, and that parents are more knowledgeable in childhood development and child rearing practices. The Rhode Island program experienced similar success.

Last year, President Bush and the National Governors Association [NGA] adopted goals to improve our Nation's education system. The first goal is to have all children start school ready to learn, the second is to ensure that children receive the proper nutrition and health care they need to arrive at school with healthy minds and healthy bodies. I believe the Parents as Teachers Program is in keeping with these goals because it provides a solid foundation that is essential for a successful educational career.

Mr. President, as Mildred Winter, director of Missouri's program has stated, the goal of the Parents as Teachers Program is not to create superbabies. Its intent is to demonstrate the importance of early education and proper health care in getting children off to a good start in school and life. I urge my colleagues to consider the merits of this program and to join in cosponsoring this legislation.•

• Mr. COHEN. Mr. President, I rise today to join Senator BOND as an original cosponsor of his legislation to offer States and local school districts the opportunity to begin an innovative parent education program, the Parents as Teachers Program. This bill is based on the premise that parents are a child's first, and most important teachers. From birth to the time a child enters school, parents play the most significant role in the development of a child's language, intellectual, and social skills, and are therefore teachers as much as they are nurturers and protectors.

While schoolteachers receive specific training in their field, no such training or preparation goes into parenting. Unfortunately, children do not come with instructions, or a handbook of guidelines. Who among us, as parents, can say that we were adequately prepared for the job?

The Parents as Teachers Program would probably have the greatest impact on at-risk parents, such as teen mothers, victims of child abuse, and so forth. These parents may not have had strong role models in their own parents to pattern their behavior after, and need extra guidance. However, I would argue the program's benefits cross all socioeconomic and geographical lines. All parents could use extra guidance during the first 3 years of a child's life. For instance, parents need to be aware of certain signs of development, such as a baby's ability to hold his head up, or his ability to focus on objects and to recognize faces. A trip to the grocery store can provide an educational opportunity for a 3-year-old to learn about different food groups—vegetables, meats; colors—green apples, red apples; directions—the bottom shelf, turning left into the aisle—and so forth. Good parents use even the most ordinary of situations to communicate with their children and help them learn about the world around them.

In my State, the University of Maine Cooperative Extension Service has funded a pilot Parents as Teachers Program that currently serves 115 families in Waldo County. Since the area is largely rural and includes many low-income families, the program was tailored to fit the community's special needs. The program serves parents with educational backgrounds ranging from eighth grade to master's degrees equally well. Success stories from the program are just as varied. For example, a

borderline retarded mother who was abused as a child has learned alternative ways to discipline her child. And well-educated, well-intentioned parents have become more aware of their potential impact on their children, and need support and encouragement to know that they are doing things right.

Unfortunately, this program is funded only through September, and its future is uncertain. Similarly, the Dover-Foxcroft community is interested in starting a Parents as Teachers Program, but the necessary State funds are unavailable. This bill would provide the initial Federal support to ensure that both programs, and possibly more in other areas of the State, could serve the communities' children into the future.

Mr. President, it is widely agreed that early intervention programs such as Parents as Teachers are wise investments in a child's development and education which can be key to long-term gains for the child, and reduce the need for expensive remedial programs later. I am pleased to be an original cosponsor of this important legislation, and encourage my colleagues to join in the effort to lay a good foundation for our children's future.●

By Mr. CRANSTON (for himself, Mr. THURMOND, and Mr. KERRY):

S. 552. A bill to amend the Foreign Assistance Act of 1961 to provide support for emerging democracies and civilian control of military and security establishments in Central and Eastern Europe; to the Committee on Foreign Relations.

OMNIBUS EASTERN EUROPEAN SECURITY ASSISTANCE ACT OF 1991

● Mr. CRANSTON. Mr. President. I rise today to introduce the Omnibus Eastern European Security Assistance Act of 1991.

Last year I authored a section of the Support for East European Democracy [SEED] Act II, concerning security assistance for the emerging democracies in the region.

At that time, I discussed the monumental task being faced by the new democratic leaders of Eastern and Central Europe.

I noted that nationalism, age-old hatreds, economic dislocation and disrepair threatened vast expanses of European soil.

I pointed out that frustration and anger had already erupted in strikes, walkouts and protests in some countries.

I called attention to the fact that primitive scapegoating had surfaced among small but vocal groups, in the form of anti-Semitism and other ideologies of hatred.

Unfortunately, we were unable to take up the SEED II bill last year. The bill was stalled by some Members from the other side of the aisle. It appeared that they were concerned that the benefits of a bill offering United States assistance in building democractic insitutions and market economies might reach as far east as the Soviet Union.

The logic of scuttling a bill in order not to provide help to democractic sectors struggling to make change in the Soviet Union escaped me then, and it escapes me now. But, the bill was not acted upon during the last Congress, it did not pass, and the moment for reform in the Soviet Union appears to be slipping by.

Mr. President, I wish I could report that time is on our side in Eastern and Central Europe, but I cannot. The trends I pointed to when I spoke last year in support of the SEED II bill have, in many respects worsened. We must not let the moment for democratic change in the countries there founder because of our lack of support.

The collapse of the socialist bloc, the disappearance of the Warsaw Pact, the unification of Germany—all these have unended a balance of forces which provided a certain, though certainly unhappy, stability in Europe.

In a period of economic austerity, each former pact member must now reevaluate not only the threat faced, but also, who will supply it with arms? If they want to look to the West, prices soar, as they have to switch from buying in subsidized rubles to dollar accounting.

Meanwhile, increasing tension from within the Soviet Union itself has evoked the spectre of mass migration to the already overburdened nations of the region. These new conditions in Eastern and Central Europe have made it imperative for each of the new democratic leaders of the region to review the underpinnings of their own defense in order to see whether they still apply to the present and future political-military situation.

One Bulgarian general recently captured the sense of flux and unease roiling the once stolid world of the Eastern and Central European militaries:

> The Warsaw Pact is disintegrating as a military union. The military guarantees of our security are no longer supported by the bloc system or even by bilateral treaties. The defense mechanisms of the all-European structures are far away from actual application. They have not been constructed yet, and nobody knows how to activate them. Thus, for Bulgaria, a dangerous contradiction emerges. * * *

As the old structures have collapsed, the leaders of these fledgling democracies face economic austerity aggravated by events in the Persian Gulf, and ethnic strife. As the euphoria emanating from the overthrowing of dictatorships cedes, the problems that remain—ultranationalism, xenophobia—have come into a clearer focus. The possibility remains that the abating East-West conflict will be replaced by regional conflict, confrontations based on ethnic rivalries, and unrestrained territorial ambitions.

Yugoslavia seems poised on the brink of civil war.

Anti-Semitism reared its ugly head in the elections in Poland.

Gypsies face continued discrimination and intimidation in Romania.

Unrest simmers among ethnic Turks in Bulgaria.

Czechosolvakia finds itself confronting new spates of animosity between Czech and Slovaks, as well as anti-Hungarian feeling. The "Invisible Empire of the KKK Knights" organization has even made an appearance in Prague!

Mr. President, because of the gravity of the situation, one of my first acts in this new Congress is to introduce, with the support of the State Department and the Department of Justice, the Omnibus Eastern European Security Assistance Act of 1991. The bill is cosponsored by the distinguished Senators from South Carolina [Mr. THURMOND] and from Massachusetts [Mr. KERRY].

Mr. President, this bill is meant to strengthen civilian political control over the Armed Forces and police in the nations of that region.

It provides for the familiarization by the democratic leaders of Eastern and Central Europe with the range of models of civil-security forces in Western Europe, in other countries recently experiencing democratic transitions, and in the United States.

It also includes a modest program of support for law enforcement—in a region in which the United States is currently without a presence and where knowledge of the techniques and skills of community-based policing are virtually nonexistent.

Without a doubt, one of the most important aspects of successful democratic governance is civilian control over a nation's security forces. Unfortunately, more than 40 years of Communist party-military cooperation and a close working relationship with both the Soviet military and the KGB, have left a difficult legacy to be faced by these new democratic leaders.

To overcome this inheritance, the leaders of these young democracies must successfully establish and institutionalize civilian control of their nation's military, police and intelligence services. At the same time, they must imbue such forces with the knowledge of the values and procedures necessary for the maintenance of democratic rights and liberties.

Mr. President, this is not an easy task. And the outcome is not guaranteed.

Last May, two civilians created something of a stir in Poland when they were appointed as deputy ministers of defense. One of them, Janusz Onyszkiewicz, was quite candid about the lack of tradition of civilian control

of the security forces in his own country. Onysziewicz noted that:

Although the presence of civilians in the defense ministry is indeed inconsistent with the traditions of Polish politics, in the political life of the democratic countries it is a completely natural phenomenon. * * * While formally the military was a state institution, it was under the total control of the Communist Party. For all practical purposes there were no high-ranking officers who did not belong to the party. Even the satellite parties, the Peasant Party and the Democratic Party, were denied any say in the affairs of the Ministry. The PZPR (Polish United Workers Party) was in sole control. * * * *More so than any of the other branches, the Ministry of Defense has been an enigma to Solidarity, for we have known absolutely nothing about its inner workings.* (Emphasis added.)

And last September, Hungarian Defense Minister Lajos Fur alluded to some of the roadblocks his countrymen face as they seek to reexamine the size and structure of their army. Where will Hungary's future officers go to school? he asked:

Previously, officers destined for higher positions were trained almost exclusively in the Soviet Union. * * * In the future, we wish to limit our officer training links to the Soviet Union to certain specific areas. We have called back the younger generations from the Soviet Union, and only those classes that are preparing for their final examinations have stayed there. *In the future, we would like to open up toward the West.* * * * (Emphasis added.)

Mr. President, by passing the "Omnibus Eastern European Security Assistance Act of 1991," Congress will be recognizing the painfully obvious—that democratic control over the military and police forces of Central and Eastern Europe cannot be established without a comprehensive program of assistance. This bill will provide a broad array of programs so as to provide support for emerging democracies and the civilian control of the military and security establishments. It will do this in several ways.

First, it will offer to the democratic political communities of the region a series of initiatives designed to help increase civilian oversight of defense and police budgets and defense and internal security policy issues. By empowering civilian managers in the defense and security area, these programs, which include conferences, seminars, workshops and exchange programs, will help ensure that the military and police respond to civilian priorities and policies.

Second, it allocates not less than 20 percent of training slots made available through the International Military Education and Training Program to personnel from Eastern and Central Europe. The program will be opened not only to military personnel, but also to a representative range of civilian political leaders and their staffs. At current IMET funding levels, this means a total annual earmark of slightly more than $9 million.

The bill also provides increased civilian law enforcement assistance to Central and Eastern European countries. It calls on the President to ensure that a significant number of students from those nations are included in training offered by the National Academy of the Federal Bureau of Investigation. It also provides for up to $5 million in new moneys for the International Criminal Investigative Training Assistance Program [ICITAP].

Mr. President, as each of these countries seeks to sort out its own civil-military relationship, I believe the successful 200-year legacy of the United States can and should provide a model for the people of Eastern and Central Europe. And, given the confusion of police and military roles fostered by the Soviet Union, this training ought to reflect the essential distinction between internal security and national defense as embodied in the principle of posse comitatus, which has served to protect American political liberties from encroachment by the security establishment.

The American model has an important array of other lessons in the proper mangement of civil-military relations; The control of the military budget by Congress ensures a close collaborative relationship between civilian political authority and the leadership of the Armed Forces. There is close interaction and contact between civilian and military, and between the four services, throughout our command and control structure. Scores of civilian-run nongovernmental organizations help to inform and to shape military policy. And the military has remained at the margins of partisan politics in large part because its role in internal security has always been sharply circumscribed.

Mr. President, I used to be a strong critic of U.S. police training programs abroad. There were too many credible reports of abuses, too many eyes that were winked, too many dictatorships that were coddled. However, the reforms undertaken by Congress in the mid-1970's, and later during the Carter administration, helped forge a strong bipartisan consensus about the importance of human rights and the support of democracy. I believe we can and we must put the mistakes of the past behind us.

It is, Mr. President, time to build a better mousetrap.

This bill builds on the successful experience initiated in Central America by the International Criminal Investigative Training Assistance Program [ICITAP]. Under my bill, training for Eastern and Central European police will only be provided if several conditions are met:

First, the country receiving help must be a democracy.

Second, the instruction offered must meet the highest professional standards available in the United States.

And third, the formulation, formation and use of operational non-law-enforcement intelligence ties—including the participation of intelligence personnel from the Central Intelligence Agency or the Department of Defense—is strictly precluded.

Finally, the "Omnibus Eastern European Security Assistance Act of 1991" also requires the Secretary of State, together with the Attorney General, to submit a report to Congress on possible sites for the establishment of no less than three legal attache posts at U.S. Embassies in the region.

Mr. President, this bill is a very small price to pay in helping the nations of Eastern and Central Europe as they painstakingly craft their own democratic institutions. Not only is it the right thing to do. It is in our own self-interest.

If the nations of Eastern and Central Europe cannot police themselves, then who will want to invest in their future?

What company will want to construct a plant in Poland if it cannot effectively seek enforcement of its contracts?

Who will want to embark on a joint venture in Hungary, if it is later impossible to bring charges of fraud if the case so requires?

What American entrepreneur will want to visit Bucharest, if he or she knows it is not safe to walk the streets?

Mr. President, in each of the countries of Eastern and Central Europe the issues this bill addresses are of vital importance.

In Bulgaria, a painful process of renewal and restructuring is taking place in the army, with some branches being abolished. The changes are being carried out amidst feelings of insecurity in the officer corps, a decline in its prestige and the negative attitude by civilians toward the army as an institution. Some 45 generals have been purged, and the Interior Ministry is undergoing a reorganization along apolitical lines. A new police law has been debated. Government officials appear to lose no opportunity to explain their interest in the methods and techniques, such as crowd control, of law enforcement in Western democracies. Meanwhile, military commanders complain that civilian political forces are trying to exert their influence in the barracks.

In Poland, the military is only beginning to assume its role as an apolitical institution. Policymakers have sought to develop an outward-looking mission for its intelligence services, one that keeps them out of the business of spying on internal "enemies." Meanwhile, the civilian leadership ponders the modernization and professionalization of the Armed Forces against a back-

drop of more than a decade of budgetary austerity. Although its Western border with a united Germany seems secure, Polish leaders are looking with increasing nervousness to events in the east. They also sense dangers concerning the international arms trade, including a possible trade in radioactive materials. At the same time, the breakdown of the Warsaw Pact has left Poland to face some hard questions, such as whether and how to try to diversify its suppliers of military hardware. A chemical warfare school has been closed. And a police academy has been opened.

In Czechoslovakia, a special team of military and civilian professionals has been evaluating the experiences and suggestions from foreign countries in an effort to find ways to contribute to the professionalization of their own forces. The military intelligence system is being overhauled. Both Czechs and Slovaks have been working together to hammer out issues of Federal-State law enforcement. Pressure has been building for a purge of old-line military officers.

In Hungary, policymakers face issues such as: What role should the army play in the new democracy? How can a party's militia become the people's army? There is a growing debate about whether police forces ought to be national entities or community based. One part has called for a purge of the army and police. Civilian authorities in Budapest admit privately that they are hampered in their reform efforts by a dearth of non-communist civilians with experience or knowledge of military issues.

In Yugoslavia, there have been complaints that the police "plant" incriminating evidence such as weapons on suspects allegedly shot down in cold blood. And in Romania, younger officers have been in a virtual state of revolt, while a controversy simmers over the army's role in internal security.

Mr. President, agreements reached by the United States and the Soviet Union on limiting some types of nuclear weapons, and the ongoing negotiations within the framework of CSCE for providing a reduction in conventional forces, have measurably enhanced continental security and confidence.

Yet, as praiseworthy as these superpower efforts are, and I support them wholeheartedly, they are in and of themselves insufficient to ensure the maintenance of democratic institutions and practices. This bill can help these young democracies go the distance.

Mr. President, I would like to remind our colleagues again, as I did last year, that twice in this century the world has been engulfed in total war. Economic austerity and/or nationalism fed the flames that consumed millions of people.

I saw the effects of one of those conflagrations. And I began my public life determined to do all I can to prevent such an immense tragedy from occuring one—last—time.

We can learn from history, and not repeat it. I urge all my colleagues to support this effort.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

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

S. 552

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 "Omnibus Eastern European Security Assistance Act of 1991".

SEC. 2. STATEMENT OF FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the nations of Eastern and Central Europe are undergoing profound political, economic, and social change;

(2) in the emerging Eastern and Central European democracies, economic austerity, ethnic rivalries, and ideological antagonisms continue to threaten the development and consolidation of the institutions of free society;

(3) decades of cooperation involving indigenous military and political forces, occupying Soviet troops, and the Soviet secret police have left a dangerous legacy with which the region's new democratic leaders must now contend;

(4) to overcome this legacy, newly elected leaders must successfully establish and institutionalize civilian control of their nation's military, police, and intelligence service, as well as the administration of justice, while imbuing such forces with the knowledge of the values and procedures necessary for the maintenance of democracy and the rule of law;

(5) the 200-year old American experience in the civilian management of administration of justice and of the military and internal security forces, and the experiences of the nations of Western Europe and Latin America, both those with long-standing democracies and those that have recently undergone democratic transitions, represent a collective Western asset; and

(6) this body of accumulated experience and civilian expertise might be of substantial benefit to the leadership and people of the emerging democracies of Eastern and Central Europe.

(b) PURPOSE.—(1) Recognizing that democratic control over the administration of justice and the management of the military and police forces in Central and Eastern Europe cannot be established without a comprehensive program of assistance, including the empowerment of civilian managers in justice, defense, and internal security issues, it is the purpose of this Act to provide a broad array of programs so as to provide support for emerging democracies and the civilian control of justice, military, and internal security establishments.

(2) Pursuant to this purpose, the United States shall offer to the democratic political communities of Eastern and Central Europe a series of initiatives, including conferences, workshops seminars, and exchange programs designed to help increase civilian oversight of justice, defense, and police budgets and defense and internal security policy issues and to help ensure that the military forces of these countries respond to civilian priorities and policies.

(3) The programs referred to in paragraph (2) shall—

(A) offer to Eastern and Central European civilians an opportunity to become familiarized with the broad range of models of civil justice institutions, civil-internal security force, and civil-military relations in Western Europe and in countries recently experiencing democratic transitions;

(B) bring to the United States political party and parliamentary leaders and congressional and ministerial staffs for the purpose of viewing the manner in which the United States successfully manages its own civil justice, civil-internal security, and civil-military relationships;

(C) seek to provide the civilian political leadership of Central and Eastern European countries with the expertise and technical skills to exercise political control over the internal security establishment and to promote healthier relationships between the civilians and the military; and

(D) reflect the essential distinction between internal security and national defense embodied in the principle of posse comitatus, which is a cornerstone of the United States experience and one which has served to protect American political liberties from encroachment by the security establishment.

SEC. 3. INTERNATIONAL MILITARY EDUCATION AND TRAINING.

(a) ALLOCATION OF IMET FUNDS.—Not less than 20 percent of the funds made available each fiscal year to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (relating to the International Military Education and Training (IMET) program) shall be available to train military personnel and a representative range of civilian political leaders and their staffs from the countries of Eastern and Central Europe.

(b) CONTENT OF IMET INSTRUCTION.—All trainess under the International Military Education and Training (IMET) program shall receive instruction specifically designed to promote adherence to the universal military responsibilities of protecting civilians and prisoners from harm and intimidation, reporting to the proper civilian, military, and legal authorities all abuses of human rights by military forces, and accepting the authority of elected civilian officials.

SEC. 4. EXTENSION OF ADMINISTRATION OF JUSTICE ASSISTANCE, FBI TRAINING, AND ICITAP ASSISTANCE TO CENTRAL AND EASTERN EUROPEAN COUNTRIES.

(a) NATIONAL ACADEMY OF THE FEDERAL BUREAU OF INVESTIGATION.—In order to provide increased civilian law enforcement assistance to Central and Eastern European countries, the President shall, through the Secretary of State and Attorney General ensure that a significant number of students from Central and Eastern Europe be included in the training offered by the National Academy of the Federal Bureau of Investigation.

(b) EXTENSION OF ADMINISTRATION OF JUSTICE AND ICITAP ASSISTANCE TO CENTRAL AND EASTERN EUROPEAN COUNTRIES.—Chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) is amended by inserting after section 534 the following new section:

"SEC. 534A. INTERNATIONAL CRIMINAL INVESTIGATIVE TRAINING ASSISTANCE FOR CENTRAL AND EASTERN EUROPEAN COUNTRIES.—(a) Notwithstanding section 660, the President may furnish international criminal investigative training assistance and ad-

ministration of justice assistance under this chapter to countries and organizations in Central and Eastern Europe, including national and regional institutions, in order to—

"(1) strengthen civilian control of law enforcement agencies;

"(2) promote respect for the rule of law and internationally recognized human rights;

"(3) improve the professionalism and effectiveness of law enforcement agencies;

"(4) improve the capacity of law enforcement officials and the courts to render independent, fair, timely, and accessible justice;

"(5) enhance the interaction among courts, prosecutors, and police in the investigation of crimes;

"(6) support specialized professional training, scholarships, and exchanges for continuing legal education;

"(7) enhance prosecutorial and judicial capabilities and protection for participants in judicial cases;

"(8) enhance penal reform; and

"(9) enhance judicial administration.

"(b) Assistance under this section may only include—

"(1) programs to enhance professional capabilities to carry out investigative and forensic functions conducted under judicial or prosecutorial control;

"(2) programs to assist in the development of academic instruction and curricula for training law enforcement personnel;

"(3) programs to improve the administrative and management capabilities of law enforcement agencies, especially their capabilities relating to career development, personnel evaluation, and internal discipline procedures;

"(4) programs, conducted to improve penal institutions and the rehabilitation of offenders;

"(5) programs to enhance professional capabilities to carry out prosecutorial functions; and

"(6) programs to enhance professional capabilities to carry out judicial functions.

"(c) The type of assistance offered pursuant to subsection (b) shall include—

"(1) enhancing professional capabilities under civilian and prosecutorial control;

"(2) assisting in the development of academic instruction and curricula for training law enforcement personnel;

"(3) improving the administrative and management capabilities of law enforcement agencies, especially those related to career development, personnel evaluation, and internal discipline procedures; and

"(4) enhancing the protection of participants in judicial cases.

"(d)(1) No program, project, or exchange shall take place with the authorities of any nonelected government, or with a regime which the Secretary of State determines, in consultation with Congress, carries out gross, sustained and unremediated human rights violations, or with any government which the Secretary of State otherwise determines is grossly negligent in the prosecution of hate crimes.

"(2) The expanded development and training role preclude formulation, formation, and use of operational non-law enforcement-related intelligence links. The proscription includes the participation of intelligence personnel from the Central Intelligence Agency or the Department of Defense. Personnel for the program shall be limited to bona fide criminal justice personnel and civilian development specialists.

"(3) All training undertaken by the program must meet the highest professional standards available in the United States.

"(4) All training shall include as a primary goal civilianization of police forces, their removal from the control of the nation's political parties and armed forces, and their direct responsibility to the nation's civilian political leadership.

"(5) All training shall be conducted in keeping with a participant country's laws and with international human rights standards.

"(e) In addition to funds otherwise available for such purposes, there are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1992.".

SEC. 5. ACTIONS FOR USIA.

The Director of the United States Information Agency (USIA) shall require the translation into the appropriate languages of books, manuscripts, and materials available concerning transitions to democracy and civilian control over justice, military, and security forces, for distribution on an emergency basis to parliaments, relevant ministries, and institutions of higher learning through Central and Eastern Europe.

SEC. 6. REPORTING REQUIREMENT.

Not later than 90 days after the date of enactment of this Act, the Secretary of State, together with the Attorney General, shall submit to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives a report on possible sites for the establishment of no less than three legal attache posts at United States embassies in Central and Eastern Europe.

SEC. 7. ADMINISTRATION OF THIS ACT.

The Secretary of State shall draw upon the expertise, experience, and resources of the Agency for International Development, the Department of Justice, and upon those of non-governmental organizations such as the National Endowment for Democracy and Helsinki Watch in carrying out this Act.•

By Mr. PELL (by request):

S. 553. A bill to provide for the Implementation of the Enterprise for the Americas Initiative, and for other purposes; to the Committee on Foreign Relations.

ENTERPRISE FOR THE AMERICAS INITIATIVE ACT

• Mr. PELL. Mr. President, by request, I introduce for appropriate reference a bill to provide for the implementation of the Enterprise for the Americas Initiative, and for other purposes.

This proposed legislation has been requested by the President, and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the letter from the President to the Congress of the United States, and a section-by-section analysis which was received on February 26, 1991.

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

S. 553

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Enterprise for the Americas Initiative Act of 1991".

TITLE I—PROVISIONS RELATING TO THE ENTERPRISE FOR THE AMERICAS INVESTMENT FUND AT THE INTER-AMERICAN DEVELOPMENT BANK

SEC. 101. UNITED STATES CONTRIBUTION.

(a) CONTRIBUTION AGREEMENT.—The Secretary of the Treasury (hereinafter the "Secretary") is hereby authorized to contribute and to make payment of a grant of $500,000,000 to the Enterprise for the Americas Investment Fund (hereinafter the "Fund") to be administered by the Inter-American Development Bank (hereinafter the "IDB").

(b) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated to the Secretary without fiscal year limitation and for the purposes of subsection (a), $500,000,000, to be paid in five annual installments of $100,000,000 each, beginning in Fiscal Year 1992.

SEC. 102. PURPOSE OF THE FUND.

The purpose of the Fund shall be to provide program and project grants that will advance specific, market-oriented investment policy initiatives and reforms to encourage domestic and foreign investment in Latin America and the Caribbean. The Fund will also finance technical assistance for privatizing government-owned industries; enterprise development and business infrastructure; and worker training and education programs to develop supporting human capital.

SEC. 103. CONTRIBUTIONS FROM OTHER COUNTRIES.

The Secretary may seek contributions to the Fund from other countries.

TITLE II—ENTERPRISE FOR THE AMERICAS FACILITY

SEC. 201. ESTABLISHMENT.

There is hereby established in the Department of the Treasury the Enterprise for the Americas Facility (hereinafter in this Act referred to as the "Facility").

SEC. 202. PURPOSE.

The purpose of the Enterprise for the Americas Initiative is to encourage and support improvement in the lives of the people of Latin America and the Caribbean through market-oriented reforms and economic growth with interrelated actions to promote debt reduction, investment reforms, trade liberalization, and community-based conservation and sustainable use of the environment. The Facility will support these objectives through administration of debt reduction operations or those countries that meet investment reforms and other policy conditions.

SEC. 203. ELIGIBILITY FOR BENEFITS UNDER THE FACILITY.

(a) REQUIREMENTS.—To be eligible for benefits under the Facility, a country must—

(1) be a Latin American or Caribbean country;

(2) have in effect, have received approval for, or, as appropriate in exceptional circumstances, be making significant progress toward—

(A) an International Monetary Fund ("IMF") standby arrangement, extended IMF arrangement, or an arrangement under the structural adjustment facility or enhanced structural adjustment facility, or in exceptional circumstances, an IMF monitored program or its equivalent; and

(B) as appropriate, structural or sectoral adjustment loans from the International Bank for Reconstruction and Development or the International Development Association;

(3) have put in place major investment reforms in conjunction with an Inter-American Development Bank loan or otherwise be implementing, or making significant progress toward, an open investment regime; and

(4) if appropriate, have agreed with its commercial bank lenders on a satisfactory financing program, including, as appropriate, debt or debt service reduction.

(b) ELIGIBILITY DETERMINATIONS.—The President shall determine whether a country is an eligible country for purposes of subsection (a).

TITLE III—DEBT REDUCTION

SEC. 301. REDUCTION OF CERTAIN DEBT.

(a) AUTHORITY TO REDUCE DEBT.—

(1) AUTHORITY.—The President may reduce the amount owed to the United States (or any agency of the United States) that is outstanding as of January 1, 1991, as a result of concessional loans made by the United States pursuant to the Foreign Assistance Act of 1961 (or predecessor foreign economic assistance legislation) to a country eligible for benefits under the Facility.

(2) LIMITATION.—The authority of this section may be exercised beginning in FY 1992 and only to such extent as provided for in advance in appropriation acts for FY 1992 or thereafter.

(3) CERTAIN PROHIBITIONS INAPPLICABLE.—

(A) A reduction of debt pursuant to this section shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

(B) The authority of this section may be exercised notwithstanding section 620(r) of the Foreign Assistance Act of 1961 and section 321 of the International Development and Food Assistance Act of 1975.

(4) DEFINITION.—Hereafter in this Act, a country with respect to which the authority of paragraph (1) is exercised is referred to as the beneficiary country.

(b) IMPLEMENTATION OF DEBT REDUCTION.—

(1) IN GENERAL.—Any debt reduction authorized pursuant to subsection (a) shall be accomplished at the direction of the Facility by the exchange of a new obligation for obligations outstanding as of January 1, 1991.

(2) EXCHANGE OF OBLIGATIONS.—The Facility shall notify the Agency for International Development of the agreement with a beneficiary country to exchange a new obligation for outstanding obligations pursuant to this subsection; and at the direction of the Facility, the old obligations shall be established, and the Agency for International Development shall make an adjustment in its accounts to reflect the debt reduction.

SEC. 302. REPAYMENT OF PRINCIPAL.

(a) CURRENCY OF PAYMENT.—The principal amount of each new obligation issued pursuant to section 301(b) shall be repaid in United States dollars.

(b) DEPOSIT OF PAYMENTS.—Principal repayments of new obligations shall be deposited in the United States Government account established for principal repayment of the obligations for which those obligations were exchanged.

SEC. 303. INTEREST ON NEW OBLIGATIONS.

(a) RATE OF INTEREST.—New Obligations issued by a beneficiary country pursuant to section 301(b) shall bear interest at a concessional rate.

(b) CURRENCY OF PAYMENT; DEPOSITS.—

(1) LOCAL CURRENCY.—If the beneficiary country has entered into an Environmental Framework Agreement under section 402, interest shall be paid in the local currency of the beneficiary country and deposited in the Environmental Fund provided for in section 401(a). Such interest shall be the property of the beneficiary country, until such time as it is disbursed pursuant to section 401(d). Such local currencies shall be used for the purposes specified in the Environmental Framework Agreement.

(2) UNITED STATES DOLLARS.—If the beneficiary country has not entered into an Environmental Framework Agreement under section 402, interest shall be paid in United States dollars and deposited in the United States Government account established for interest payments of the obligations for which the new obligations were exchanged.

(c) INTEREST ALREADY PAID.—If a beneficiary country enters into an Environmental Framework Agreement subsequent to the date on which interest first became due on the newly issued obligation, any interest already paid on such new obligation shall not be redeposited into the Environmental Fund established for that beneficiary country pursuant to section 401(a).

TITLE IV—ENTERPRISE FOR THE AMERICAS ENVIRONMENTAL FUNDS

SEC. 401. ESTABLISHMENT OF, DEPOSITS INTO, AND DISBURSEMENTS FROM ENVIRONMENTAL FUNDS.

(a) ESTABLISHMENT.—Each beneficiary country that enters into an Environmental Framework Agreement under section 402 shall be required to establish an Enterprise for the Americas Environmental Fund (referred to in this Act as the "Environmental Fund") to receive payments in local currency pursuant to section 303(b)(1).

(b) DEPOSITS.—Local currencies deposited in an Environmental Fund shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

(c) INVESTMENT.—Deposits made in an Environmental Fund shall be invested until disbursed. Notwithstanding section 3302(b) of title 31, United States Code, any return on such investment may be retained by the Environmental Fund, without deposit in the Treasury of the United States and without further appropriations by Congress.

(d) DISBURSEMENTS.—Funds in an Environmental Fund shall be disbursed only pursuant to an Environmental Framework Agreement under section 402.

SEC. 402. ENVIRONMENTAL FRAMEWORK AGREEMENTS.

(a) AUTHORITY.—The President is authorized to enter into an agreement (referred to in this Act as an "Environmental Framework Agreement") with any country eligible for benefits under the Facility concerning the operation and use of the Environmental Fund for that country. In the negotiation of such agreements, the President should consult with the Environment for the Americas Board in accordance with section 403.

(b) CONTENTS OF AGREEMENTS.—An Environmental Framework Agreement with a beneficiary country shall—

(1) require that country to establish an Environmental Fund;

(2) require that country to make interest payments under section 303(b)(1) into an Environmental Fund;

(3) require that country to make prompt disbursements from the Environmental Fund to the administering body described in subsection (c);

(4) when appropriate, seek to maintain the value of the local currency resources of the Environmental Fund in terms of United States dollars;

(5) specify, in accordance with subsection (d), the purposes for which the Environmental Fund may be used; and

(6) contain reasonable provisions for the enforcement of the terms of the agreement.

(c) ADMINISTERING BODY.—

(1) IN GENERAL.—Funds disbursed from the Environmental Fund in each beneficiary country shall be administered by a body constituted under the laws of that country (referred to in this Act as the "administering body").

(2) COMPOSITION.—The administering body shall consist of—

(A) one or more individuals appointed by the President,

(B) one or more individuals appointed by the government of the beneficiary country, and

(C) individuals who represent a broad range of environmental nongovernmental organizations of the beneficiary country, local community development nongovernmental organizations of the beneficiary country, and scientific or academic organizations or institutions of the beneficiary country.

A majority of the members of the administering body shall be individuals described in subparagraph (C).

(3) RESPONSIBILITIES.—The administering body—

(A) shall receive proposals for grant assistance from eligible grant recipients (as determined under subsection (e)) and make grants to eligible grant recipients in accordance with the priorities agreed upon in the Environmental Framework Agreement, consistent with subsection (d);

(B) shall be responsible for the management of the program and oversight of grant activities funded from resources of the Environmental Fund;

(C) shall be subject to fiscal audits by an independent auditor on an annual basis;

(D) shall present an annual program for review each year by the Environment for the Americas Board; and

(E) shall submit a report each year on the activities that it undertook during the previous year to the Environment for the Americas Board and to the government of the beneficiary country.

(d) ELIGIBLE ACTIVITIES.—Grants from an Environmental Fund shall be used for activities that link the conservation and sustainable use of natural resources with local community development, including activities described in section 463 of chapter 7 of part I of the Foreign Assistance Act of 1961, Public Law 87-195, as added by the Global Environmental Protection Act of 1989, Public Law 101-240, title VII, section 711; 103 Stat. 2322.

(e) GRANT RECIPIENTS.—Grants made from an Environmental Fund shall be made to—

(1) nongovernmental environmental, conservation, development, educational, and indigenous peoples organizations of the beneficiary country;

(2) other appropriate local or regional entities; and

(3) in appropriate circumstances, the government of the beneficiary country.

(f) REVIEW OF LARGER GRANTS.—Any grant of more than $100,000 from an Environmental Fund shall be subject to veto by the Government of the United States or the government of the beneficiary country.

SEC. 403. ENVIRONMENT FOR THE AMERICAS BOARD.

(a) ESTABLISHMENT.—There is hereby established an Environment for the Americas Board (hereinafter in this Act referred to as the "Board").

(b) MEMBERSHIP.—The Board shall be composed of 11 members appointed by the President as follows:

(1) 6 officers or employees of the United States Government; and

(2) 5 individuals who are representatives of private non-governmental environmental, community development, scientific, or academic organizations that have experience and expertise in Latin America and the Caribbean. The chair of the Board shall be designated by the President from among the members of the Board appointed pursuant to paragraph (1).

(c) RESPONSIBILITIES.—The Board shall—

(1) advise the President on the negotiations of Environmental Framework Agreements;

(2) ensure, in consultation with—

(A) the government of the beneficiary country,

(B) nongovernmental organizations of the beneficiary country,

(C) nongovernmental organizations of the region (if appropriate),

(D) environmental, scientific, and academic leaders of the beneficiary country, and

(E) environmental, scientific, and academic leaders of the region (as appropriate),

that a suitable administering body is identified for each Environmental Fund; and

(3) review the programs, operations, and fiscal audits of each administering body.

SEC. 404. OVERSIGHT.

The President may designate appropriate United States agencies to review the implementation of programs under this Act and the fiscal audits relating to such programs. Such oversight shall not constitute active management of an Environmental Fund.

SEC. 405. ENCOURAGING MULTILATERAL DEBT DONATIONS.

(a) ENCOURAGING DONATIONS FROM OFFICIAL CREDITORS.—The President should actively encourage other official creditors of a beneficiary country whose debt is reduced under this Act to provide debt reduction to such country.

(b) ENCOURAGING DONATIONS FROM PRIVATE CREDITORS.—The President should make every effort to ensure that Environmental Funds established pursuant to section, 401 are able to receive donations from private and public entities and from private creditors of the beneficiary country.

TITLE V—SALES, REDUCTIONS, OR CANCELLATIONS OF LOANS OR ASSETS

SEC. 501. LOANS OR ASSETS ELIGIBLE FOR SALE, REDUCTION, OR CANCELLATION.

(a) Notwithstanding any other provision of law, the President may, in accordance with this title—

(1) sell to any eligible purchaser any loan or portion thereof of an eligible country (as determined pursuant to section 203) or any agency thereof, that was made pursuant to the Export-Import Bank Act of 1945, as amended;

(2) sell to any eligible purchaser any asset or portion thereof which is acquired by the Commodity Credit Corporation as a result of its status as a guarantor of credits in connection with export sales to an eligible country (as determined pursuant to section 203), in accordance with export credit guarantee programs authorized pursuant to the Commodity Credit Corporation Charter Act, as amended, or section 4(b) of the Food for Peace Act of 1966, as amended; and

(3) upon receipt of payment from an eligible purchaser, reduce or cancel any loan or the amount of any asset or portion thereof referenced in paragraphs (1) or (2) of subsection (a) of this section,

provided that any such loan or asset that is sold, reduced, or canceled under this section was made or acquired prior to January 1, 1991, and such sale, reduction, or cancellation would not contravene any term or condition of any prior agreement relating to such loan or asset.

(b) Notwithstanding any other provision of law, the President shall establish the terms and conditions under which loans or assets may be sold, reduced, or canceled pursuant to this title.

(c) Any sale made pursuant to this title by the Export-Import Bank of the United States or the Commodity Credit Corporation of a loan or asset (including any interest therein) to an eligible purchaser under section 503 shall be a transaction not required to be registered pursuant to section 5 of the Securities Act of 1933. For purposes of the Securities Act of 1933, neither the Export-Import Bank of the United States nor the Commodity Credit Corporation shall be deemed to be an issuer or underwriter with respect to any subsequent sale or other disposition of such loan or asset (including any interest therein) or any security received by an eligible purchaser pursuant to any debt-for-equity swap, debt-for-development swap, or debt-for-nature swap.

(d) The Facility shall notify the Export-Import Bank of the United States or the Commodity Credit Corporation of purchasers the President has determined to be eligible under section 503, and shall direct the Export-Import Bank of the United States or the Commodity Credit Corporation to carry out the sale, reduction, or cancellation of a loan or asset pursuant to this section. Such agency shall make an adjustment in its accounts to reflect the sale, reduction, or cancellation.

(e) The authorities of this section may be exercised beginning in FY 1992 and only to such extent as provided for in advance in appropriations acts for FY 1992 or thereafter, as necessary to implement section 13201 of the Budget Enforcement Act of 1990.

SEC. 502. DEPOSIT OF PROCEEDS.

The proceeds from the sale, reduction, or cancellation of any loan or asset sold, reduced, or cancelled pursuant to this title shall be deposited in the United States Government account(s) established for the repayment of such loan or asset.

SEC. 503. ELIGIBLE PURCHASER.

A loan or asset may be sold pursuant to this title only to a purchaser who presents plans satisfactory to the President for using such loan or asset for the purpose of engaging in debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps. A loan or asset may be reduced or cancelled pursuant to this title only for the purpose of facilitating debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

SEC. 504. DEBTOR CONSULTATION.

Prior to the sale to any eligible purchaser, or any reduction or cancellation pursuant to this title of any loan made to an eligible country, or asset acquired as the result of a credit guarantee made in connection with export sales to an eligible country, the President should consult with that country concerning, among other things, the amount of loans or assets to be sold, reduced, or cancelled and their uses for debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

TITLE VI—REPORTS

SEC. 601. ANNUAL REPORT TO CONGRESS.

Not later than December 31 of each year, the President shall transmit to the Speaker of the House of Representatives and the President of the Senate an annual report on the operation of the Facility for the prior fiscal year.

To the Congress of the United States:

I am pleased to transmit a legislative proposal entitled the "Enterprise for the Americas Initiative Act of 1991." This proposal sets forth key measures to implement the investment, debt, and environmental components of my "Enterprise for the Americas" Initiative announced on June 27, 1990. It will build on the provisions in Title IV of the Agricultural Trade Development and Assistance Act of 1954 as amended by section 1512 of the Food, Agriculture, Conservation, and Trade Act of 1990 ("1990 Farm Bill") to grant the Administration the remaining authority needed to implement these aspects of the Initiative. Also transmitted is a section-by-section analysis of the proposed legislation.

This Initiative acknowledges the gains made for freedom in our hemisphere over the last year, as a resurgence of democratic rule has swept through the Americas. It also reaches out to support the realignment of economic policies that has paralleled this political shift.

As the people of Latin America and the Caribbean search for prosperity following a decade of painful economic adjustment, their governments are focusing on economic growth and the free market policies needed to nourish it. By reforming economies and rebuilding their strengths, each country will contribute to the prospects for the Americas as a whole in the coming years. My new Enterprise for the Americas Initiative aims to build a broad-based partnership for the 1990s to promote this process.

The Initiative rests on three pillars—actions on trade, investment, and debt—through which we can reach out to our neighbors and support economic reform and sustained growth. *First*, we want to expand trade by entering into framework agreements on trade agreements that will establish a hemisphere-wide free trade system. *Second*, we want to encourage a foreign and domestic investment and help countries compete for capital by reforming both broad economic policies and specific regulatory systems. *Third*, we want to build on our successful efforts to ease debt burdens and to increase the incentives for countries to reform their economies by offering additional measures in the debt area. Building a strong future for the hemisphere also depends on preserving and protecting the environment. Accordingly, we also propose to create resources to support environmental programs as an important element of debt reduction.

The proposal I am transmitting to the Congress focuses on the investment, debt, and environment components of the Enterprise for the Americas Initiative. It reflects the mechanisms established in the 1990 Farm Bill authorizing the reduction of PL-480 debt of eligible countries and the payment of interest in local currency to support environmental projects.

The proposal provides for contributions by the United States to a multilateral investment fund to be established by the Inter-American Development Bank (IDB) that would foster a climate favorable to investment in Latin American and Caribbean countries. This Enterprise for the Americas Investment Fund will provide additional support for reforms undertaken as part of the new IDB investment section lending program. The Fund will advance specific, market-oriented investment policy initiatives and reforms and finance technical assistance.

The proposal establishes the Enterprise for the Americas Facility to support the objectives of the Initiative through administration of debt reduction operations for those nations that meet the investment reform and other policy conditions. Latin American and Caribbean countries can qualify for benefits under the Facility if they:

—Have in effect, have received approval for, or in exceptional circumstances are making significant progress toward International Monetary Fund/World Bank reform programs and World Bank adjustment loans;

—Have in place major investment reforms in conjunction with an IDB loan or are otherwise implementing or making significant progress toward open investment regimes; and

—Have nogotiated a satisfactory financing program with commercial banks, including debt and debt service reduction, if appropriate.

The proposal authorizes the reduction of concessional obligations extended under the Foreign Assistance Act of 1961. The Agency for International Development will exchange—at the direction of the Facility—new obligations for obligations outstanding as of January 1, 1991. Principal on the new obligation will be paid in U.S. dollars. Interest will be at a concessional rate and paid in local currency if an eligible country has entered into an Environmental Framework Agreement establishing an Enterprise for the Americas Environmental Fund; otherwise, interest will be paid in U.S. dollars.

The Environmental Fund into which local currency interest payments are deposited will be owned by the debtor country. The Environmental Framework Agreement negotiated with each country will provide guidelines for the administration of its Environmental Fund. This Agreement will be negotiated by the President in consultation with the Environment for the Americas Board, a Washington-based entity with both United States Government and nongovernmental representatives.

This Board will also ensure that appropriate local administering bodies are established and will review the programs, operations, and fiscal audits of each administering body. Local administering bodies will include representatives from the United States Government, the debtor government, and a broad range of environmental nongovernmental organizations based in the participating country. A majority of the members of each administering body shall be individuals from such nongovernmental organizations.

These administering bodies will be responsible for identifying projects and managing the use of the Environmental Funds in each country. They will prepare annual programs laying out their priorities and plans, which will be submitted to the Environment for the Americas Board for review. Grants in excess of $100,000 will be subject to the veto of the United States Government or the debtor government involved.

The proposal also authorizes the sale, reduction, or cancellation of loans made to eligible countries under the Export-Import Bank Act of 1945, as amended, and assets acquired under export credit guarantee programs authorized pursuant to the Commodity Credit Corporation Charter Act or section 4(b) of the Food for Peace Act of 1966. These sales, reductions, or cancellations will be undertaken only when purchasers confirm that they will be used to carry out debt-for-equity, debt-for-development, or debt-for-nature swaps in eligible countries.

We believe that these investment, debt, and environmental measures will provide significant support to the efforts of Latin America and the Caribbean to build strong economies.

The leaders of these countries have welcomed the Initiative and widely recognize it as the most significant opportunity—and challenge—in inter-American relations in recent years. These are the leaders who are facing difficult choices in reforming their economies and, in the process, turning the tide away from economic decline and environmental degradation.

Their efforts are not merely of theoretical importance to us in the United States. We have not gone untouched by the economic crisis faced by Latin America and the Caribbean over the last decade. As countries in the region cut imports, postponed investment, and struggled to service their foreign debt, we too were affected. We lost trade, markets, and opportunities.

Enactment of the Enterprise for the Americas Initiative Act of 1991 will permit the United States to support the efforts of Latin American and Caribbean leaders, increasing the prospects for economic growth and prosperity throughout the hemisphere.

GEORGE BUSH.

THE WHITE HOUSE, *February 26, 1991.*

SECTION-BY-SECTION ANALYSIS OF THE ENTERPRISE FOR THE AMERICAS INITIATIVE ACT OF 1991

TITLE I. PROVISIONS RELATING TO THE ENTERPRISE FOR THE AMERICAS INVESTMENT FUND AT THE INTER-AMERICAN DEVELOPMENT BANK

Section 101 provides for contribution by the United States to the Enterprise for the Americas Investment Fund (the "Fund"), an investment fund to be established by the Inter-American Development Bank (the "IDB").

Subsection (a) authorizes the United States to contribute $500 million to the Fund.

Subsection (b) authorizes appropriations for the contribution.

Section 102 describes the purpose of the Fund. The purpose of the Fund is to foster a climate favorable to private investment in Latin American and Caribbean countries. Conditions in Latin America and the Caribbean over the last decade have led private investors to look away from the region to other markets. The goal of the Fund is to support the efforts of Latin American and Caribbean nations to carry out investment reforms in order to facilitate private foreign and domestic investment and the reflow of flight capital. Specifically, the Fund would:

Advance specific, market-oriented investment policy initiatives and reforms; and

Finance technical assistance for privatizing government-owned industries, enterprise development and business infrastructure, and worker training and education programs.

Section 103 provides that the Secretary of the Treasury may seek contributions to the Fund from other countries.

TITLE II. ENTERPRISE FOR THE AMERICAS FACILITY

Section 201 establishes the Enterprise for the Americas Facility (the "Facility") in the Department of the Treasury.

Section 202 provides that the purpose of the initiative is to encourage and support improvement in the lives of the people of Latin America and the Caribbean through market-oriented reforms and economic growth with inter-related actions to promote debt reduction, investment reforms, trade liberalization, and community-based conservation and sustainable use of the environment. The purpose of the Facility is to support these objectives through administration of debt reduction operations for countries that meet certain investment reforms and other policy conditions.

Section 203 governs eligibility to participate in the Facility. These criteria are designed to encourage economic reform in Latin American and Caribbean countries, including measures to liberalize investment regimes, and to reach satisfactory agreements with commercial bank creditors. Subsection (a) provides that an eligible country is one that:

(1) Is a Latin American or Caribbean country;

(2) Has in effect, has received approval for, or, as appropriate in exceptional circumstances, is making significant progress toward:

An International Monetary Fund (IMF) standby arrangement, extended IMF arrangement, or an arrangement under the structural adjustment facility, or enhanced structural adjustment facility or, in exceptional circumstances, an IMF monitored program or its equivalent; and

As appropriate, structural adjustment or sectoral adjustment loans under the International Bank for Reconstruction and Development (World Bank), or the International Development Association (IDA);

(3) Has in place major investment reforms in conjunction with an IDB loan or otherwise is implementing, or making significant progress toward, an open investment regime; and

(4) If appropriate, has agreed on a satisfactory financing program with commercial banks, including, if appropriate, debt and debt service reduction.

It is the Administration's intent in implementing this section that official debt reduction negotiations with a country that owes a significant amount of its external debt to commercial bank creditors may begin once the country and its commercial bank creditors have agreed in principle on a financing program. However, the President will not finally agree to any debt reduction for such a country until the commercial banks and the country have reached a final agreement.

Subsection (b) provides that the President shall determine whether a country is eligible to participate in the Facility pursuant to subsection (a).

TITLE III. DEBT REDUCTION

Section 301. Subsection (a)(1) authorizes the reduction of concessional loans extended under the Foreign Assistance Act of 1961 (FAA). Subsection (a)(2) provides that this authority may be exercised beginning in FY 1992 and only to such extent as provided for in advance in appropriations acts for FY 1992 or thereafter. Subsection (a)(3)(A) provides that a reduction of debt pursuant to this section shall not be considered assistance for purposes of any provisions of law limiting assistance to a country. Subsection (a)(3)(B) provides that the authority of this section may be exercised notwithstanding section 620(r) of the FAA and section 321 of the International Development and Food Assistance Act of 1975. Subsection (a)(4) provides that a country whose debt is reduced pursuant to the authority of this section is referred to as the beneficiary country in the Enterprise for the Americas Initiative Act.

Subsection (b) provides that debt reduction will be accomplished by the exchange of a new obligation for obligations outstanding

as of January 1, 1991. The subsection also provides that the responsibility for executing the exchange of obligations that will result in the debt reduction agreed to by the President pursuant to subsection (a) rests with the Agency for International Development ("AID"), and that AID shall act at the direction of the Facility.

Section 302 provides that repayments of principal on new obligations issued pursuant to section 301(b) shall be paid in U.S. dollars and deposited in the United States Government account established to receive principal repayments on the old debt obligations.

Section 303 provides that the rate of interest on the new obligations shall be a concessional rate and that payment of that interest shall be made in the local currency of the debtor country if that country has entered into an Environmental Framework Agreement establishing an Environmental Fund into which the interest would be deposited (see title IV); otherwise, interest shall be paid in U.S. dollars into the U.S. Treasury. Interest deposited in the Environmental Fund would be owned by the beneficiary country, as would any earnings on that interest, and would be used for purposes specified in the Environmental Framework Agreement.

Subsection (c) provides that there is no retroactive crediting of interest payments to the Environmental Fund established pursuant to section 401(a) in the event that a beneficiary country enters into an agreement after the date that interest payments become due on the new obligation.

TITLE IV. ENTERPRISE FOR THE AMERICAS ENVIRONMENTAL FUNDS

Section 401. Subsection (a) provides for the establishment of an Enterprise for the Americas Environmental Fund by a beneficiary country.

Subsection (b) provides that deposits into an Environmental Fund shall not be taken into account for purposes of other provisions of law limiting assistance to a country.

The "miscellaneous receipts" statute (31 U.S.C. 3302(b)) has been interpreted to require that interest earned by a grantee on funds advanced by the United States must be paid to the United States, except as otherwise explicitly provided by law. Subsection (c) provides that, notwithstanding 31 U.S.C. 3302(b), deposits into an Environmental Fund shall be invested, that earnings form a part of the Fund, and that deposits and any earnings thereon are available for expenditures without further need for an appropriation.

Subsection (d) provides that funds in an Environmental Fund shall be disbursed only pursuant to an Environmental Framework Agreement.

Section 402 authorizes the President to enter into an Environmental Framework Agreement with each beneficiary country to determine the operation and use of the Environmental Fund. In negotiating the agreement, the President should consult with the Environment for the Americas Board (see Section 403). The agreement shall, among other things, require a beneficiary country to establish an Environmental Fund; require that country to make interest payments under section 303(b)(1) into an Environmental Fund; require that country to make prompt disbursements from the Environmental Fund to the administering body described in subsection (c); when appropriate, seek to maintain the value of the local currency resources of the Environmental Fund in terms of United States dollars; specify, in accordance with subsection (d), the purposes for which the Fund may be used; and contain reasonable provisions for the enforcement of the terms of the agreement.

Subsection (c) provides that funds disbursed from the Environmental Fund in each beneficiary country shall be administered by a body constituted under the laws of that country. The administering body will consist of one or more individuals appointed by the President, one or more individuals appointed by the government of the beneficiary country, and individuals who represent a broad range of environmental nongovernmental organizations of the beneficiary country, local community development nongovernmental organizations of the beneficiary country, and scientific or academic organizations or institutions of the beneficiary country, who shall constitute the majority of the members of the administering body.

The administering body shall: receive proposals for grant assistance from eligible grant recipients and make grants to eligible grant recipients in accordance with the priorities agreed upon in the Environmental Framework Agreement; be responsible for the management of the program and oversight of grant activities funded from resources of the Environmental Fund; be subject to fiscal audits by an independent auditor on an annual basis; present an annual program for review each year by the Environment for the Americas Board; and submit a report each year on the activities that it undertook during the previous year to the Environment for the Americas Board and to the government of the beneficiary country.

Grants made from an Environmental Fund must be used for activities that link the conservation and sustainable use of natural resources with local community development, including activities described in the Global Environmental Protection Assistance Act of 1989, and shall be made to nongovernmental environmental, conservation, development, educational, and indigenous peoples organizations of the beneficiary country, other appropriate local or regional entities, and in appropriate circumstances, the government of the beneficiary country. Grants of more than $100,000 from an Environmental Fund are subject to veto by the Government of the United States or the government of the beneficiary country.

Section 403 establishes an Environment for the Americas Board, which shall be composed of eleven members appointed by the President, six of whom shall be officers or employees of the United States Government, and five of whom shall be representatives of private nongovernmental environmental, community development, scientific, or academic organizations that have experience and expertise in Latin America and the Caribbean. The President shall designate a chair of the Board from among the United States Government members of the Board.

Subsection (c) provides that the Board shall: advise the President on the negotiations of Environmental Framework Agreements; ensure, in consultation with the government of the beneficiary country, nongovernmental organizations of the beneficiary country, nongovernmental organizations of the region (if appropriate), environmental, scientific, and academic leaders of the beneficiary country, and environmental, scientific, and academic leaders of the region (as appropriate), that a suitable administering body is identified for each Environmental Fund; and review the programs, operations, and fiscal audits of each administering body.

Section 404 provides that the President may designate appropriate United States agencies to review the implementation of programs under the Act and the fiscal audit relating to these programs. This oversight shall not constitute active management of an Environmental Fund.

Section 405 provides that the President should actively encourage other official creditors of a beneficiary country to provide debt reduction to that country, and that the President should make every effort to ensure that an Environmental Fund is able to receive donations from private and public entities and from private creditors of the beneficiary country.

TITLE V. SALES, REDUCTIONS, OR CANCELLATIONS OF LOANS OR ASSETS

Section 501 authorizes the President to sell, reduce, or cancel loans made to an eligible country prior to January 1, 1991, under the Export-Import Bank Act of 1945, as amended, (including direct loans and loans acquired by the Export Import Bank of the United States pursuant to its guarantee and insurance programs) and assets acquired prior to January 1, 1991, as a result of credit guarantees made in connection with export sales to eligible countries under programs authorized pursuant to the Commodity Credit Corporation Charter Act, as amended, or section 4(b) of the Food for Peace Act of 1966, as amended. Any such sale, reduction, or cancellation may not contravene any term or condition of any prior agreement relating to such loan or asset.

The President is authorized under section 503 to determine the eligibility of a purchaser; the Facility communicates this determination to the agency whose loans or assets are affected, which is in turn responsible for carrying out the sale, reduction, or cancellation. It is the Administration's intent that any loan or asset sales under this section will be carried out in such a way to maximize return to the U.S. Government.

Subsection (c) provides that any loan or asset sale made pursuant to Title V shall be a transaction not required to be registered pursuant to the Securities Act of 1933, and, for the purposes of that Act, neither the Export-Import Bank of the United States nor the Commodity Credit Corporation shall be deemed to be an issuer or underwriter with respect to any subsequent sale or other disposition of such loan or asset pursuant to a debt-for-equity swap, debt-for-development swap, or debt-for-nature swap.

Subsection (e) provides that the authorities of this section may be exercised beginning in FY 1992 and only to such extent as provided for in advance in appropriations acts for FY 1992 or thereafter, as necessary to implement section 13201 of the Budget Enforcement Act of 1990.

Section 502 requries that proceeds of a sale, reduction, or cancellation of a loan or asset pursuant to section 501 be deposited into the United States Government account(s) established for the repayment of that loan or those assets.

Section 503 requires that the loans be sold only to purchasers who present to the President satisfactory plans for engaging in debt-for-equity, debt-for-development, or debt-for-nature swaps. A loan or asset may be reduced or canceled pursuant to this title only for the purpose of facilitating debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

Section 504 provides that prior to a loan or asset sale, reduction, or cancellation, the President should consult with the eligible country to which the loans that will be sold, reduced, or canceled relate, specifying the amounts to be affected and their uses for

debt-for-equity, debt-for-development, or debt-for-nature swaps.

TITLE VI. REPORTS.

Section 601 requires the President to submit an annual report to Congress on the operation of the Facility.•

By Mr. GLENN (for himself, Mr. D'AMATO, Mr. GORTON, Mr. CONRAD, and Mr. KASTEN):

S. 554. A bill to establish an Interagency Committee on Degradable Plastics Standards for the development of uniform definitions, standards, and testing procedures for plastic products made from certain commodities, to encourage the development, production, and use of environmentally-safe degradable plastic products, and for other purposes; to the Committee on Environment and Public Works.

DEGRADABLE PLASTICS STANDARDS ACT

• Mr. GLENN. Mr. President, I rise today to introduce the Degradable Plastics Standards Act of 1991. I am pleased to have Senators D'AMATO, GORTON, CONRAD, and KASTEN as original cosponsors of this bill. This legislation addresses the need to address waste management problems associated with disposal of plastics items and to return our Nation's agricultural sector to prosperity.

The primary purpose of the Degradable Plastics Standards Act is to develop uniform standards and definitions for plastic products. It is critical to establish standards to measure the impact and effectiveness of degradable products on the environment. In addition, the adoption of uniform standards and testing procedures will assist Federal, State, and local government officials in developing effective agricultural, environmental, and economic policies.

Mr. President, I have held two hearings in the Governmental Affairs Committee focusing on the extent of Federal and private sector efforts in developing standards for degradable plastics programs. This legislation embodies suggestions given in testimony by the GAO, OTA, Federal agencies and representatives in the private sector. Although most Government and industry officials agree that degradable plastics can provide new uses for agricultural commodities and can diminish the amount of plastics in landfills, this potential cannot be realized until uniform definitions and standards are in place.

Mr. President, management of our Nation's growing volume of solid waste has reached a crisis point. Plastic products comprise a significant amount of the 160,000,000 tons of solid waste produced annually. It is clear that use of degradable plastic is an important part of the solution to the solid waste crisis. However, the potential benefits of these products cannot be realized on a commercial scale without the development of uniform standards and testing procedures.

Mr. President, there is a compelling need for standards to ensure that degradable plastics are environmentally safe. We owe it to the American people, as well as to our next generation, to make maximum and safe use of degradable items. My legislation will further this process, and I urge my colleagues to join me in supporting this effort.

I ask unanimous consent that the full text of the bill be printed following my remarks.

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

S. 554

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 "Degradable Plastics Standards Act of 1991".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the achievement of long-term health for the agriculture sector of the United States is essential to the vitality of the national economy, the well-being of our citizens and rural communities, and the maintenance of national security;

(2) the development of new nonfood uses for agricultural commodities will reduce crop surpluses, raise farm income, and lower the cost of agricultural subsidies provided by the Federal Government;

(3) the economic security of the United States requires that the Federal Government should promote the development and use of products derived from agricultural commodities through the preferential procurement of such products to reach a threshold level of commercial application at which such products can successfully compete;

(4) many cities in the United States are close to or have already exhausted their current landfill capacities, and the management of this growing volume of solid waste is one of the most urgent and fundamental environmental problems facing Federal, State, and local officials;

(5) plastic products comprise a significant amount of the 160,000,000 tons of solid waste produced in the United States and the use of degradable plastic products made from agricultural commodities can provide a positive impact in solving the problem of solid waste disposal;

(6) the technology exists to develop and market degradable agricultural commodity-based plastic for use in packaging, agricultural mulching, and in other applications;

(7) the widespread introduction of the technology referred to in paragraph (6) into the commercial marketplace will provide a new outlet for United States agricultural products;

(8) the use of domestically producted agricultural commodity-based degradable plastic products will reduce the reliance of the United States on imported oil and result in an improved trade balance for the United States and increased employment opportunities for our citizens;

(9) the potential benefits of degradable plastic products cannot be realized on a commercial scale without the development of uniform standards and testing procedures; and

(10) the adoption of uniform standards and testing procedures will assist Federal, State, and local government officials in developing effective agricultural, environmental, and economic policies.

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

(1) that the Federal Government shall—

(A) develop uniform definitions, standards, and testing procedures for degradable plastic products;

(B) ensure that degradable plastic products meet human health and environmental protection safety standards;

(C) promote the continued development of degradable plastics technology and to encourage the use of degradable plastic products meeting safety standards, with special emphasis on agricultural commodity-based products;

(D) assist State and local entities in purchasing degradable plastic products;

(E) promote the manufacture and purchase of degradable plastic products by assisting producers in demonstrating the capability of this technology; and

(F) support existing Federal, State, local, and privately sponsored degradable plastic programs; and

(2) for the establishment of an interagency committee to develop and coordinate the implementation of this Act.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) AGRICULTURAL COMMODITY-BASED PLASTICS.—The term "agricultural commodity-based plastics" means plastic products that use agricultural commodity products as a constituent component.

(2) DEGRADABLE.—The term "degradable" means the biologically, chemically, or light-induced loss of utilitarian or physical characteristics of a plastic or hybrid material containing plastic as a major component.

(3) NONFOOD USES FOR AGRICULTURAL COMMODITIES.—The term "nonfood uses for agricultural commodities" means uses for agricultural commodities that do not involve the consumption of the commodities as food.

(4) SOLID WASTE.—The term "solid waste" means nonsewage waste which must be disposed of by Federal, State, or local officials through landfills, incineration, or other approved methods.

SEC. 4. INTERAGENCY COMMITTEE

(a) ESTABLISHMENT.—There is established the Interagency Committee on Degradable Plastics Standards to develop uniform definitions, standards, and methods of testing for degradable plastic products, to encourage the production and use of such products, and coordinate activities under this Act.

(b) MEMBERS.—The Committee established under subsection (a) shall include the—

(1) Secretary of Agriculture;

(2) Secretary of Energy;

(3) Secretary of Defense;

(4) Secretary of the Interior;

(5) Administrator of the Environmental Protection Agency;

(6) Commissioner of the Food and Drug Administration;

(7) Director of the National Institute of Standards and Technology;

(8) Administrator of General Services;

(9) Director of the National Science Foundation;

(10) Under Secretary and Administrator of the National Oceanic and Atmospheric Administration; and

(11) Heads of all other Federal departments and agencies as the Committee considers appropriate.

(c) ORGANIZATION AND PROCEDURE.—The Committee shall be chaired by the Administrator of the Environmental Protection

Agency, who shall have authority to perform any action or promulgate any regulations, consistent with administrative law, on behalf of the Committee, as may be necessary. The Director of the National Institute of Standards and Technology, Commissioner of Food and Drugs, and the Administrator of General Services shall act as Vice-Chairpersons of the Committee. A Vice-Chair may act as Chair in the absence of the Chair. Any dissenting views of a Vice-Chair from a decision of the Chair in the discretion of the dissenting Vice-Chair, may be described in the report to the Congress required under this section. The Chair shall consult with the Vice-Chairs as to the dates and agendas of meetings.

(d) CONSULTATION AND COOPERATION WITH PUBLIC AND PRIVATE ORGANIZATIONS.—In carrying out its duties, the Committee shall seek the participation, through consultation and cooperation, of other public and private organizations, such as the Office of Technology Assessment, the American Society for Testing and Materials, and the Society of Plastics Industry, which have a significant interest in the research and development of degradable plastic technology and policy. Reports containing details of meetings, lists of activities and other communications shall be submitted as described in subsection (k).

(e) DUTIES.—The Committee shall—

(1) prior to the expiration of the 24-month period following the date of the enactment of this Act, establish uniform definitions, standards, and methods of testing for types of degradable plastic products. The Committee shall periodically review and revise the definitions, standards, and methods of testing established to incorporate subsequent advances in degradable plastic technologies and other new degradable plastic products;

(2) determine what factors must be considered to assess the safety of indirect food additives intended to increase the degradability of plastic food-packaging materials, including the effect of degradability on the shelf-life of such products and the potential migration, if any, of additives from such packages to the food;

(3) identify methods to encourage increased usage of environmentally-safe degradable plastic products by the Federal Government;

(4) consider other relevant policy, scientific, and technical matters relating to degradable plastics and solid waste management, including the feasibility and desirability of labeling products to distinguish degradable products from nondegradable items; and

(5) coordinate Federal degradable plastic research and development policy.

(f) DEFINITIONS FOR DEGRADABLE PLASTIC PRODUCTS.—The Committee shall establish definitions for degradable plastic products including but not limited to, biodegradable, photodegradable, and chemically degradable.

(g) STANDARDS FOR DEGRADABLE PLASTIC PRODUCTS.—The Committee shall establish standards for degradable plastic products. In developing these standards, the Committee shall consider—

(1) the timeframe and rate of degradation for such products under different environmental and biological conditions, like those present in common disposal methods, such as landfills, incineration, or litter;

(2) the risk, if any, degradable plastics, its resins, additives, or by-products pose to human health and the environment under different environmental and biological conditions, like those present in common disposal methods, such as landfills, incineration, or litter; and

(3) the impact of degradable plastics on other waste management methods, such as landfilling and recycling.

(h) TESTING METHODS FOR DEGRADABLE PLASTIC PRODUCTS.—In order to evaluate the performance and suitability of plastic products for degradability, the Committee shall establish such uniform methods of testing as may be necessary.

(i) MEETINGS.—The Interagency Committee shall meet within 60 days of the enactment of this Act, and shall meet a minimum of 6 times per year.

(j) PERSONNEL.—The detailing of personnel from any Federal agency to the Interagency Committee shall be permitted.

(k) REPORT.—Not later than 12 months after the date of the enactment of this Act, and annually thereafter, the Committee shall prepare and submit to the appropriate committees of Congress, a report that contains the status of each duty as identified in subsection (e) of this section, including but not limited to, a summary of all activities, projects, and programs undertaken by the Committee; progress achieved in performing each duty; problems or other difficulties identified which inhibit or prevent any duty from being carried out effectively and efficiently; recommendations to Congress for consideration regarding degradable plastic policy, including increased production and use in government; meetings, activities, and contacts with other Federal agencies and public and private organizations; a list of projects and program objectives to be carried out in the 12-month period following the month in which such report is submitted; and an accounting of agency resources expended in this effort.•

• Mr. D'AMATO. Mr. President, I rise to join with Senator GLENN and many of my colleagues in introducing the Degradable Plastics Standards Act of 1991. This legislation addresses the need to develop uniform standards and definitions for degradable plastic products.

It is widely known that our Nation is facing a garbage crisis. We all remember the ill-fated voyage of the garbage barge from Long Island—the *Marbo*—which searched in vain for a place to unload its garbage in 1987. After 187 days and 6,000 miles, its trash was finally burned in Brooklyn and its ashes deposited back in its home community of Islip.

Approximately 80 percent of our garbage is landfilled. The EPA has estimated that 80 percent of existing landfills will close within 20 years. The situation in my State is even more severe. According to the New York State Legislative Commission on Solid Waste Management, all landfills in the State will reach their capacity and close by 1995. Already since 1982, the number of landfill facilities in New York State has declined from 500 to fewer than 270.

Faced with these ominous statistics, it is imperative that we search for ways and methods in which to address this problem. One solution that has received increased attention is degradable plastics. Plastics currently account for 7.3 percent of the municipal solid waste stream and are estimated to account for over 9 percent by the year 2000.

Although the term "biodegradable plastic" generally refers to plastic that can be broken down by biological means, there are no uniform definitions of this basic term. In other words, no standards have been established to define what is or is not a degradable plastic.

Degradable plastic products have infiltrated the commercial market in recent years. Since Americans are becoming more environmentally aware, it has become increasingly popular to buy products that are environmentally friendly. While I applaud these efforts, I am concerned that claims on product degradability made on several plastic products, particularly on garbage bags and diapers, may be misleading to consumers. Since most of these products will end up in a landfill, there is a good chance that they will not fully degrade.

The rate at which a plastic degrades depends upon many factors such as the presence of micro-organisms, temperature, and moisture conditions, starch content, and additive used. Unfortunately, the degradation process can be severely retarded in a landfill. In fact, some naturally degradable items such as newspapers, often take decades to degrade in a landfill.

A 1988 General Accounting Office report found that widespread concern among officials and scientists about the lack of standards such as uniform definitions and methods of testing plastic degradability. The report further stated that testing remains necessary to resolve two basic technical uncertainties about the performance of degradable plastics in the environment: the rate of degradation and the safety of the end products.

The legislation that we are introducing today establishes an Interagency Committee on Degradable Plastics Standards. This Committee will be charged with developing definitions, standards, and methods of testing for degradable plastics. If degradable plastics are to be part of the solution to solving our garbage crisis, we must have uniform standards. Adoption of uniform standards and testing procedures will help States and localities in developing sound and effective agricultural, environmental and economic policies.•

By Mr. BRADLEY (for himself, Mr. CHAFEE, and Mr. LAUTENBERG):

S. 555. A bill to amend the Drug Free Schools and Communities Act of 1986 to provide education on the problems associated with the use of Tobacco.

S. 556. A bill relating to cigarette labeling; to the Committee on Commerce, Science, and Transportation.

S. 557. A bill to amend the Internal Revenue Code of 1986 to disallow deduc-

tions for advertising expenses for tobacco products; to the Committee on Finance.

S. 558. A bill to amend the Internal Revenue Code of 1986 to increase the excise taxes on cigarettes to 32 cents per pack; to the Committee on Finance.

TOBACCO LEGISLATION

• Mr. BRADLEY. Mr. President, I rise today with my colleagues to introduce a package of legislation that addresses the serious medical problems caused by tobacco use. Joining me in introducing these bills are the Senator from Rhode Island [Mr. CHAFEE] and my friend and colleague from New Jersey [Mr. LAUTENBERG].

Mr. President, 2 years ago I rose in this Chamber to talk about the horrible effects of tobacco, and I introduced legislation similar to what I am introducing today to combat the tragedy inflicted by tobacco use. Since that time, another 750,000 Americans have died from diseases caused by smoking. If three-quarters of a million people died in 2 years from something more immediate, or more public, there would be a national call for action unlike anything we have ever witnessed.

We have always associated smoking and cancer—and we should. But as each year passes, we discover even more diseases directly linked to smoking—coronary heart disease; strokes; chronic obstructive pulmonary disease; respiratory infections such as pneumonia, influenza, and bronchitis; stomach and duodenal ulcers. The list goes on.

Of course, we have also learned that the harmful effects of smoking extend beyond the smokers themselves. The Surgeon General has said that smoking is probably the most modifiable cause of poor pregnancy outcomes among women in the United States. The effects of passive smoking are becoming more apparent, and the most vulnerable among the nonsmokers are newborns and young children. The children of parents who smoke have an increased frequency of respiratory infections such as pneumonia and bronchitis. And children of parents who smoke are more likely to become smokers themselves.

The tobacco companies understand this relationship. They prey on the young, the undereducated, and the disadvantaged. They need to keep a steady stream of new customers because their old customers have either come to their senses or died. They are succeeding. More than 3,000 teenagers become regular smokers each day in the United States. This is the only group in the country where smoking is on the rise.

But we must also talk about the good news. We know that education and public policy can make a difference. More people are quitting smoking. For people who quit, the improvement in health is almost immediate and continues to improve over time. And quitting at any time in your life can make a difference. It's a medical fact.

The programs that would be expanded by this package of legislation are effective. A report by the Centers for Disease Control suggests that a smoking cessation program, by preventing low birthweight associated neonatal intensive and long-term care costs, could save $5 for every dollar spent on prevention.

BILL TO AMEND THE DRUG FREE SCHOOLS AND COMMUNITIES ACT OF 1985

Mr. President, we need to recognize that the long-term effects of tobacco use are as serious as the use of drugs and alcohol. The first piece of legislation I am introducing today amends the 1986 Drug Free Schools and Communities Act to include education and prevention services related to the use of tobacco products. It cannot be said too often—the easiest way to stop smoking is not to start. This legislation targets the school system and our young people for education efforts.

BILL RELATING TO CIGARETTE LABELING

Mr. President, in 1988, the Surgeon General conclusively reported that nicotine is, without question, an addictive substance. The second bill I have introduced today will make sure that the public is informed of this fact. We can no longer avoid the facts with wording choices such as "may be harmful" and the like. The statement is clear—"Smoking is addictive. Once you start, you may not be able to stop." That's the fact, so that's the warning we should put on boxes.

BILL TO AMEND THE INTERNAL REVENUE CODE OF 1986 TO DISALLOW DEDUCTIONS FOR ADVERTISING EXPENSES FOR TOBACCO PRODUCTS

Mr. President, there has been a tremendous, and partially successful, public education effort in the past 20 years about the hazards of smoking. We know smoking kills, we know the tragedies of families who lost their loved ones to smoking-related illnesses, and we in this Chamber certainly know of the costs to society as a whole from smoking-related illnesses—lost productivity, premature death, outrageously high medical costs. Yet we continue to make the taxpayer subsidize the product. When certain cigarette advertisements with successful, athletic women tell our young girls, "you've come a long way, baby" the American taxpayer underwrites the cost of the ad. I think it should stop, and this third bill I introduce today will stop it. The company can still advertise smoking and they can say anything they want about it, because that's the most precious right Americans have. But you don't have the right to make other Americans pay for it.

BILL TO ADD AN EXCISE TAX

My final piece of legislation provides for an increase of the Federal excise tax on tobacco products. I propose raising the excise tax from 20 cents to 32 cents per pack. The real level of taxation of cigarettes has eroded over time since the excise was first introduced in 1951. The reasons for this increase are two-fold: First, it once again allows us to direct our attention to children and teenagers. Studies have shown that this group of smokers is most sensitive to price changes. By increasing the excise tax, we can force young people to recognize the ultimate cost of smoking to themselves and others. This is smart tax policy—we should tax those things we want to discourage, so that we can cut taxes on things we want to encourage, like savings and jobs. Second, the Office of Technology Assessment has estimated the cost to society of cigarette smoking at $65 billion annually. This amounts to $2.16 for each pack of cigarettes sold. It is more than fair to ask smokers to shoulder some of these costs.

Mr. President, these are four separate but closely tied pieces of legislation. The Government should speak with one voice on this problem, and that voice should unequivocally say, "Tobacco use will harm you." We will not subsidize the seller; we will not underwrite the smoker; we will support efforts to stop; and we will dedicate our resources to preventing Americans from ever starting.•

By Mr. SYMMS (for himself and Mr. SHELBY):

S. 559. A bill to require the Secretary of the Treasury to mint coins in commemoration of Operation Desert Shield/Desert Storm; to the Committee on Banking, Housing, and Urban Affairs.

OPERATION DESERT SHIELD/DESERT STORM COMMEMORATIVE COIN ACT

Mr. SYMMS. Mr. President, the American people have every reason today to take pride in America. And every reason to praise and give thanks to the brave soldiers, sailors, airmen, and marines for the outstanding job they have done to free Kuwait and to destroy Saddam Hussein's military machine.

War is a terrible thing, Mr. President. But the American people showed they have the strength and the character to accept the challenge when the cause is just. And George Bush showed his mastery of foreign and domestic affairs by leading the free peoples of the world to, once again, break a tyrant.

But our greatest praise must be for our troops. You cannot help but be impressed with the resounding success of our troops—in the air, in the gulf itself, and on the ground. Even our military leaders have commented on how the troops have performed beyond expectation. And I believe there are two basic reasons for the success.

First of all, the men and women of our Volunteer Force are second to none. They are bright, eager, enthu-

siastic, and well-motivated. They are trained for their job like no other force in the world. And when duty calls, you can count on their commitment to carry out the task. Mr. President, they deserve the Nation's gratitude and appreciation.

The second reason, Mr. President, is that the money we have spent on our weaponry has been money well-spent. In Congress, we've argued about the need for certain weapons programs—some of which are in the theater of operations today. And, as we debate the fiscal year 1992 Defense budget later this year, we'll do it again. But the critic's and naysayer's arguments that certain weapon systems wouldn't work have proven to be unfounded.

One way of expressing our thanks is to make sure the troops have the best reception possible when they come home. To this end, in January I organized Operation Homefront—a grassroots volunteer effort to support our troops and their families. And in the Senate I introduced Senate Resolution 17, which passed the Senate in February, which encourages all other States to start their own Operation Homefront operations.

It is correct and appropriate, Mr. President, to celebrate and to commemorate this great political and military success. And so I rise today, along with my friend the distinguished Senator from Alabama, RICHARD SHELBY, to introduce a bill to instruct the Bureau of the Mint to strike a new coin—a Desert Shield/Desert Storm commemorative coin—so that all Americans can have something tangible to recall this great moment in our Nation's history.

Mr. President, we commemorate an event in order to commit that event to memory. We must commit to memory the bravery of our troops. We must commit to memory the sacrifice of the men and women sent to a foreign land to confront evil. And we must commit to memory the steadfastness of the American people in delivering up a peaceful people from tyranny.

No act of the Congress will have the dimension of the actions of our troops. But we can remember their actions, and we can create something tangible to commemorate this moment in our history. And so I encourage my colleagues to join Senator SHELBY and me in support of this Desert Storm commemorative coin.

Mr. President, I ask unanimous consent that the full text of the 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. 559

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 "Operation Desert Shield/Desert Storm Commemorative Coin Act".

SEC. 2. COIN SPECIFICATIONS.

(a) ONE DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall mint and issue one dollar coins, each of which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) be composed of 90 percent silver and 10 percent copper,

in such quantities as the Secretary determines appropriate.

(2) DESIGN.—The design of the one dollar coins shall, in accordance with section 4, be emblematic of the United States military's participation in Operation Desert Shield/Desert Storm. Each one dollar coin shall bear a designation of the value of the coin, an inscription of the year 1991, and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

SEC. 3. SOURCES OF BULLION.

The Secretary shall obtain silver for minting coins under this Act only from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 4. DESIGN OF COINS.

The design for each coin authorized by this Act shall be selected by the Secretary.

SEC. 5. ISSUANCE OF COINS.

(a) ONE DOLLAR COINS.—The one dollar coins minted under this Act may be issued in uncirculated and proof qualities, except that not more than one facility of the United States Mint may be used to strike each quality of the coins.

(b) COMMENCEMENT OF ISSUANCE.—The coins authorized and minted under this Act may be issued beginning on the date of enactment of this Act.

(c) TERMINATION OF AUTHORITY.—Coins may not be minted under this Act after December 31, 1992.

SEC. 6. SALE OF COINS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall sell the coins minted under this Act at a price equal to the face value, the surcharge provided in subsection (d), plus the cost of designing, minting, and issuing the coins (including labor, materials, overhead, distribution, and promotional expenses).

(b) BULK SALES.—The Secretary shall make any bulk sales of the coins minted under this Act at a reasonable discount.

(c) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins minted under this Act prior to the issuance of such coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount.

(d) SURCHARGES.—All sales of coins minted under this Act shall include a surcharge of $3 per coin for the one dollar coins.

SEC. 7. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

SEC. 8. DISTRIBUTION OF SURCHARGES.

The surcharges received from the sale of coins under this Act shall be used to defray the costs of Operation Desert Shield/Desert Storm, and shall be paid promptly into the Defense Cooperation Account established by section 2608 of title 10, United States Code.

SEC. 9. COINAGE PROFIT FUND.

(a) DEPOSITS.—All amounts received from the sale of coins issued under this Act shall be deposited in the coinage profit fund.

(b) PAYMENT.—The Secretary shall pay the amounts authorized to be paid into the Defense Cooperation Account under section 8 from the coinage profit fund. Such payments shall be made quarterly based on estimates made by the Secretary, and proper adjustments shall be made in amounts subsequently transferred to the extent that prior estimates were in excess of or less than the amounts required to be transferred.

(c) EXPENDITURES.—The Secretary shall charge the coinage profit fund with all expenditures under this Act.

SEC. 10. AUDITS.

The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data as may be related to the expenditure of amounts paid under section 8 of this Act. Annual reports shall be submitted to both Houses of Congress on all expenditures of surcharge funds.

SEC. 11. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

By Mr. LAUTENBERG (for himself and Mr. BRADLEY):

S. 560. A bill to provide incentive grants for States that enact legislation aimed at limiting youth access to cigarettes, and for other purposes; to the Committee on Labor and Human Resources.

S. 561. A bill to provide incentive grants for States that enact legislation aimed at limiting youth access to cigarettes, and for other purposes; to the Committee on Finance.

ADOLESCENT TOBACCO PREVENTION ACTS

• Mr. LAUTENBERG. Mr. President, today I am introducing the Adolescent Tobacco Prevention Act in a continued effort to prevent increasing numbers of adolescents from using tobacco products. The bill would create incentive grants for States that enact and en-

force specific laws to limit youth access to tobacco products.

Trends in tobacco use reveal that more and more young people are beginning to smoke. One out of four high school seniors who have ever smoked began by sixth grade when they were 12 years old. Half began by eighth grade when they were 14 years old.

These statistics are of concern because we know that the earlier a young person begins using tobacco, the harder it is for them to kick the habit. In a statement by HHS Secretary Sullivan in 1990, he reported that about 90 percent of adult smokers begin their addiction as children or adolescents. Additionally, according to the National Institute on Drug Abuse, more than half of high school seniors who smoke at least half a pack of cigarettes a day have made at least one serious but unsuccessful attempt to quit smoking. Some 47 percent say they would now like to quit. And almost 75 percent of daily smokers in high school still smoke 7 to 9 years later, even though in high school only 5 percent thought they would be daily smokers 5 years later.

It is widely believed in the medical and health community that these trends in adolescent smoking are not coincidential and that an effort is being made to reach youth. Cigarette advertising, for example, is heavy in a number of magazines with large adolescent readerships. One of those magazines is Glamour, which has about one-quarter of its female readers under age 18. Another is Sports Illustrated with about one-third of readers who are boys under age 18.

The Coalition on Smoking or Health maintains that nearly 2 million new smokers are needed annually for cigarette companies to maintain their market. That means some 6,000 children and teenagers have to begin smoking every day in order for the tobacco industry to maintain the status quo.

Former Surgeon General Koop shares this concern about adolescent smoking. In a speech to the National Cancer Institute's Smoking, Tobacco and Cancer Program, he said:

> Most of the industry's current efforts are directed at young people. * * * They deny it, but it's true. They are trying to replace the smokers they've lost. And the best candidates are young people.

An aggressive cigarette advertising campaign is underway which undoubtedly impacts on America's adolescents. In 1981 the Federal Trade Commission found that cigarettes are the most heavily advertised and marketed product in America. In constant dollars, expenditures on the advertising and promotion of cigarettes have increased more than fivefold since 1971. In 1986 the six major cigarette companies spent close to $2.4 billion or over $6.5 million a day on advertising and promotion.

The result is that we are losing the battle to keep our kids from taking up smoking. Too many adolescents think smoking is glamorous. Too many do not know how dangerous tobacco is. Too many are taking a fatal first puff and becoming hooked for life.

But we can tackle this problem. We can prevent nicotine addiction among our youth. We can do so by making a concerted effort to limit adolescents' access to tobacco products and by sending children a loud, clear message that smoking kills.

The legislation I am introducing today would help us do that by providing incentives to States to enact laws limiting adolescent access to tobacco products. It would authorize $100 million per year for 5 years for incentive grants to be distributed through the Preventive Health Block Grants Program for States that enact and enforce three laws. The first law would establish 18 or older as the minimum age for the sale of a tobacco product to a minor. The second would limit the sale of cigarettes in vending machines to places where minors are not permitted. And the third would prohibit the distribution of free samples of tobacco products.

The legislation would authorize an additional $100 million a year for 5 years in incentive grants through the chapter II education program for States that enact and enforce three other laws or regulations. The first would prohibit smoking by minors on school grounds and in buildings. A second would prohibit smoking by minors on school buses. And a third would require that authorized use of tobacco products by adults be in areas separate from students and that adequate safeguards are in place to protect students from the impact of passive smoke.

These laws would need to be backed by effective enforcement and substantial compliance. The Assistant Secretary of Health or a designee would promulgate rules to determine the meaning of effective enforcement of and substantial compliance with minimum age, vending machine, and free sample prohibition State laws. In the case of vending machines, the Assistant Secretary of Health or a designee would promulgate rules to determine where minors are not permitted. The Secretary of Education, in consultation with the Secretary of Health and Human Services, would promulgate rules to determine the meaning of effective enforcement and substantial compliance on the school smoking prohibitions.

States would be eligible to receive grant money from one or both of the incentive grant programs once it has been determined that the State laws meet the standard. The incentive grants would be distributed according to the formula currently used for distributing chapter II and preventive health block grant funds.

If the Assistant Secretary of Health involved the Commissioner of the FDA with enforcement, it would be consistent with efforts underway in Congress to give the FDA authority to regulate tobacco products.

It is not enough to tell our adolescents not to smoke and to limit their access to tobacco products. We also need to teach them why smoking is harmful. To that end, the legislation would require the Secretary of Health and Human Services, through the Office on Smoking and Health, to develop a comprehensive outreach program, targeted at minors, to inform them about the health consequences of smoking. An outreach program would ensure that suitable materials to target minors, such as public service announcements and educational material, are available to States, local governments, and schools.

In addition, the bill would authorize a $0.1 increase in the cigarette excise tax that would be placed into a tobacco adolescent prevention trust fund and used to pay for the incentive grants. The $0.1 increase in the cigarette excise tax is not intended to be a substitute for greater increases, in the cigarette excise tax called for in other pending legislation. It is not intended to reflect a sentiment that Congress believes a $0.1 increase in the cigarette excise tax is the maximum increase necessary. It is merely intended to cover the cost of the incentive grants. I have also introduced a version of the bill that does not include an increase in the excise tax.

Mr. President, the provisions in the legislation are in line with many of the recommendations for Congress and the administration that emerged from a conference sponsored in 1989 by the American Medical Association and the Coalition on Smoking or Health, which is comprised of the American Heart Association, the American Lung Association, and the American Cancer Society. They reflect the strong belief in the health community that we need to do more to keep American kids away from tobacco products. That is why this legislation has the support of former Surgeon General Koop and the Coalition on Smoking or Health.

Why do we want States to establish at least 18 as the minimum age for the sale of tobacco products to minors? The Department of Health and Human Services has expressed concern for many years about teenage access to tobacco products and has recommended minimum age laws as one method of preventing youth from taking up smoking. In fact, in 1986 former Secretary of Health and Human Services, Otis R. Bowen, recommended that States establish 18 as the minimum age for the purchase of tobacco products.

Currently, there is no uniformity in State minimum age laws. Forty-two States and the District of Columbia have minimum age laws ranging from 16 to 18. Other States, like Alabama, Alaska, and Utah have gone further by establishing 19 as the the minimum age for purchasing cigarettes and smokeless tobacco. Unfortunately, there are still five States that have no minimum age law.

We should build on the momentum underway in the States by encouraging all States to enact and enforce at least 18 as the minimum age for the purchase of tobacco products. Those States that do not have a minimum age law, or have one that is below the age of 18 need to be encouraged to meet the mark. And those with laws on the books need greater incentives to enforce those laws. Some localities are requiring licensing as an approach to enforcement. Some believe enforcement should be placed in the hands of the police. Others say it could be put into the hands of public health agencies. Regardless of the approach, the laws need to be enforced and the States need greater encouragement to enforce them.

Another related issue to enforcement of minimum age laws is vending machines. This legislation would restrict vending machine sales to places where minors are not permitted. If we are going to expect merchants to respect minimum age laws, it does not make sense to provide minors with access to tobacco products from vending machines. Now, merchants can point to unrestricted vending machine sales of tobacco products as a reason for continuing to sell tobacco products to a minor. We need to eliminate this disincentive.

According to the National Automatic Merchandising Association, 31 percent of vended cigarette sales are in bars and cocktail lounges, 27 percent are in industrial plants, and 12 percent are in offices. That represents 70 percent of vended cigarette sales. Limiting the vended sale of tobacco products to places like these, where minors are not permitted, would help with enforcement of minimum age laws without infringing in a significant way on the ability of adults to purchase tobacco products in vending machines.

There is activity already underway in the States to limit and altogether ban vending machine sales of tobacco products. Colorado is the first State to impose a complete ban on the sale of tobacco products in vending machines. Other States like Indiana, Minnesota, New Hampshire, Utah, and Wisconsin have approved laws that require both the posting of signs and the restricted placement of machines in adult-supervised areas in an attempt to protect against the purchase of tobacco products by youths. Finally, 11 other States have placed at least one of the previously mentioned restrictions on vending machine tobacco sales.

Another important issue related to youth access to tobacco products is that of free samples. Too often, free samples are ending up in the hands of vulnerable youth. To prevent this from happening, the legislation would encourage States to prohibit all free sampling of tobacco products. So far, cities have taken the lead in restricting the distribution of tobacco product samples. In fact, 21 cities have banned the distribution of tobacco product samples. Minnesota and Utah are the only two States that completely prohibit the distribution of free samples of cigarettes, smokeless tobacco products, cigars, pipe tobacco, or other tobacco products suitable for smoking. While there is some momentum on the issue at the State level, it is clear that States need greater incentives to enact this type of legislation.

And what about students smoking in school? Why do we need to focus attention on schools?

It is appropriate to restrict student smoking on school property as we redoubled our efforts to educate adolescents about the harmful effects of smoking. Education about the health consequences of smoking is mandated by law in 20 States and has also been the result of voluntary efforts by individual schools. Despite these efforts, we need to do more.

We should give States incentives to ensure that smoking policies on school property are in line with minimum age laws. In some States, for example, it is currently against the law to sell tobacco products to a minor. At the same time, State law may permit schools to designate an area at school for kids to smoke. That just does not make sense. That was the case in my own State of New Jersey, until the legislature recently enacted a law banning all smoking on campuses. If States determine that it is against the law for minors to purchase tobacco products, it should also be against the law for minors to smoke tobacco products on school grounds, in school buildings and on school buses.

Also, adolescents spend many hours of the day at school. These youngsters are impressionable and susceptible to peer pressure. Unfortunately, peer pressure is often so great that vulnerable kids are unable to resist. It is those adolescents who fall victim to the fatal first puff. If we encourage States to prohibit students from smoking in school buildings and on school grounds, hopefully, we can remove, or at least minimize, an important element of peer pressure for adolescents. And just maybe we can prevent some would be smokers from taking their first puff.

Some States are moving in the direction of completely smoke-free schools. In fact, New Jersey, Kansas, New Hampshire, Utah, and Washington have laws on the books that prohibit smoking in schools by teachers and students. The Adolescent Tobacco Prevention Act, however, is aimed at minors in general. For that reason the prohibition on smoking on school grounds, in school buildings, and on school buses is limited to minors. States that prohibit adults from smoking on school grounds certainly would qualify for incentive grants as well. But it is not a requirement under this legislation. While the legislation would enable adults to smoke, areas would have to be designated that are absolutely separate from students, and students would have to be protected from the harmful impact of passive smoke. In light of the fact that a 1986 OTA report concluded that "children and people with pre-existing lung disease might be more susceptible than healthy adults to some of the effects of passive smoking," this is an extremely important provision.

How are the States currently faring in this area? Currently, 15 States prohibit smoking by students on school property, and permit the designation of enclosed smoking areas for teachers and faculty. Five States prohibit all smoking on school grounds.

Mr. President, cigarette smoking is the single most preventable cause of death and disease in our country. Some 434,000 Americans die every year from smoking related diseases. That is 434,000 too many.

If we are going to prevent these needless deaths, we need to start now by preventing would-be smokers, America's adolescents, from taking up smoking. The legislation we are introducing today would move us in that direction. I urge my colleagues to join me in the battle to keep our kids away from tobacco products by cosponsoring this legislation.

I ask unanimous consent that the full text of the bills and a table outlining State laws on some of the issues covered in this legislation be printed at the conclusion of my remarks.

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

S. 560

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 "Adolescent Tobacco Prevention Act of 1991".

SEC. 2. FINDINGS.

Congress finds that—

(1) cigarette smoking and the use of smokeless tobacco products continue to represent a major health hazard to the American public causing approximately 434,000 premature deaths per year;

(2) cigarette smoking continues to be the single most preventable cause of death and disability in the United States;

(3) tobacco products contain hazardous tobacco additives, gases, and other chemical constituents dangerous to health;

(4) the use of tobacco products cost the United States in excess of $60,000,000,000 in lost productivity and health care costs;

(5) tobacco products contain nicotine, a poisonous drug that the Surgeon General has determined is highly addictive;

(6) 90 percent of smokers start their addiction as children or adolescents;

(7) the tobacco industry spends over $2,000,000,000 annually to promote and sell its products; and

(8) the Congress has a major policy-setting role in ensuring that the use of tobacco products among minors is discouraged to the maximum extent possible.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) MINOR.—The term "minor" means an individual under the age of 18.

(2) SCHOOL.—The term "school" means an elementary or secondary school.

(3) TOBACCO PRODUCT.—The term "tobacco product" means cigarettes, cigars, little cigars, pipe tobacco, smokeless tobacco, snuff, and chewing tobacco.

SEC. 4. INCENTIVE GRANTS TO LIMIT YOUTH ACCESS TO TOBACCO PRODUCTS.

(a) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated $100,000,000 for each of the fiscal years 1992 through 1996 to enable the Secretary of Health and Human Services to make incentive grants to States, to be distributed in accordance with Part A of title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.) as such part exists on the date of enactment of this Act.

(b) LEGISLATIVE REQUIREMENT.—

(1) IN GENERAL.—To receive a grant under this section, a State shall enact legislation that prohibits—

(A) the sale of a tobacco product to a minor;

(B) the sale of a tobacco product in a vending machine, in accordance with regulations promulgated under paragraph (2), unless the presence of minors is not allowed on the premises where such machine is located; and

(C) the distribution of a free sample of a tobacco product.

(2) REGULATIONS.—The Assistant Secretary for Health of the Department of Health and Human Services, or the designee of such Assistant Secretary, shall promulgate regulations that prescribe where tobacco product vending machines may be placed under paragraph (1)(B).

(c) ENFORCEMENT AND COMPLIANCE.—

(1) BY STATE.—A State receiving a grant under subsection (a) shall ensure that the legislation referred to in subsection (b) is effectively enforced to achieve substantial compliance, as determined by the Assistant Secretary for Health of the Department of Health and Human Services, or the designee of such Assistant Secretary.

(2) REGULATIONS.—The Assistant Secretary or designee referred to in paragraph (1) shall promulgate regulations necessary to implement this section.

(d) ADDITIONAL RESTRICTIONS.—A State receiving a grant under subsection (a) may place restrictions on the sale or distribution of tobacco products to minors in addition to the requirements referred to in subsection (b).

SEC. 5. SMOKING EDUCATION AND INFORMATION.

Section 3 of the Comprehensive Smoking Education Act (15 U.S.C. 1341) is amended—

(1) in paragarph (5) by striking out "and" after the semicolon;

(2) in paragraph (6) by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(7) establish a comprehensive outreach program to inform individuals under the age of 18 about the health consequences of smoking.".

SEC. 6. INCENTIVE GRANTS TO PROHIBIT STUDENT SMOKING IN SCHOOLS.

(a) IN GENERAL.—There is authorized to be appropriated $100,000,000 for each of the fiscal years 1992 through 1996 to enable the Secretary of Education to make incentive grants, to be distributed in accordance with part A of chapter 2 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2921 et seq.) as such part existed on the date of enactment of this Act.

(b) LEGISLATIVE REQUIREMENT.—To receive a grant under this section, a State shall enact legislation that—

(1) prohibits smoking by minors on elementary and secondary school buildings and grounds;

(2) prohibits smoking by minors on school buses; and

(3) requiring schools to establish smoking areas for adults that are separate from students, and to ensure adequate safeguards exist to protect students from exposure to smoke.

(c) ENFORCEMENT AND COMPLIANCE.—

(1) BY STATE.—A State receiving a grant under subsection (a) shall ensure that the legislation referred to in subsection (b) is effectively enforced to achieve substantial compliance, as determined by the Secretary of Education in consultation with the Secretary of Health and Human Services.

(2) REGULATIONS.—The Secretary of Education, in consultation with the Secretary of Health and Human Services shall promulgate regulations necessary to implement this section.

(d) ADDITIONAL RESTRICTIONS.—A State receiving a grant under subsection (a) may place restrictions on the use of tobacco products in schools in addition to the requirements referred to in subsection (a). A State receiving funds under this section shall provide assistance under this section only to schools that are subject to State laws of the type described in subsection (b).

S. 561

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 "Adolescent Tobacco Prevention Act of 1991".

SEC. 2. FINDINGS.

Congress finds that—

(1) cigarette smoking and the use of smokeless tobacco products continue to represent a major health hazard to the American public causing approximately 434,000 premature deaths per year;

(2) cigarette smoking continues to be the single most preventable cause of death and disability in the United States;

(3) tobacco products contain hazardous tobacco additives, gases, and other chemical constituents dangerous to health;

(4) the use of tobacco products cost the United States in excess of $60,000,000,000 in lost productivity and health care costs;

(5) tobacco products contain nicotine, a poisonous drug that the Surgeon General has determined is highly addictive;

(6) 90 percent of smokers start their addiction as children or adolescents;

(7) the tobacco industry spends over $2,000,000,000 annually to promote and sell its products; and

(8) the Congress of the United States has a major policy-setting role in ensuring that the use of tobacco products among minors is discouraged to the maximum extent possible.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) MINOR.—The term "minor" means an individual under the age of 18.

(2) SCHOOL.—The term "school" means an elementary or secondary school.

(3) TOBACCO PRODUCT.—The term "tobacco product" means cigarettes, cigars, little cigars, pipe tobacco, smokeless tobacco, snuff, and chewing tobacco.

SEC. 4. INCENTIVE GRANTS TO LIMIT YOUTH ACCESS TO TOBACCO PRODUCTS.

(a) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated $100,000,000 for each of the fiscal years 1992 through 1996 to enable the Secretary of Health and Human Services to make incentive grants to States, to be distributed in accordance with Part A of title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.) as such part exists on the date of enactment of this Act.

(b) LEGISLATIVE REQUIREMENT.—

(1) IN GENERAL.—To receive a grant under this section, a State shall enact legislation that prohibits—

(A) the sale of a tobacco product to a minor;

(B) the sale of a tobacco product in a vending machine, in accordance with regulations promulgated under paragraph (2), unless the presence of minors is not allowed on the premises where such machine is located; and

(C) the distribution of a free sample of a tobacco product.

(2) REGULATIONS.—The Assistant Secretary for Health of the Department of Health and Human Services, or the designee of such Assistant Secretary, shall promulgate regulations that prescribe where tobacco product vending machines may be placed under paragraph (1)(B).

(c) ENFORCEMENT AND COMPLIANCE.—

(1) BY STATE.—A State receiving a grant under subsection (a) shall ensure that the legislation referred to in subsection (b) is effectively enforced to achieve substantial compliance, as determined by the Assistant Secretary for Health of the Department of Health and Human Services, or the designee of such Assistant Secretary.

(2) REGULATIONS.—The Assistant Secretary or designee referred to in paragraph (1) shall promulgate regulations necessary to implement this section.

(d) ADDITIONAL RESTRICTIONS.—A State receiving a grant under subsection (a) may place restrictions on the sale or distribution of tobacco products to minors in addition to the requirements referred to in subsection (b).

SEC. 5. SMOKING EDUCATION AND INFORMATION.

Section 3 of the Comprehensive Smoking Education Act (15 U.S.C. 1341) is amended—

(1) in paragraph (5) by striking out "and" after the semicolon;

(2) in paragraph (6) by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(7) establish a comprehensive outreach program to inform individuals under the age of 18 about the health consequences of smoking.".

SEC. 6. INCENTIVE GRANTS TO PROHIBIT STUDENT SMOKING IN SCHOOLS.

(a) IN GENERAL.—There is authorized to be appropriated $100,000,000 for each of the fiscal years 1992 through 1996 to enable the Secretary of Education to make incentive grants, to be distributed in accordance with part A of chapter 2 title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2921 et seq.) as such part existed on the date of enactment of this Act.

(b) LEGISLATIVE REQUIREMENT.—To receive a grant under this section, a State shall enact legislation that—

(1) prohibits smoking by minors on elementary and secondary school buildings and grounds;

(2) prohibits smoking by minors on school buses; and

(3) requiring schools to establish smoking areas for adults that are separate from students, and to ensure adequate safeguards exist to protect students from exposure to smoke.

(c) ENFORCEMENT AND COMPLIANCE.—

(1) BY STATE.—A State receiving a grant under subsection (a) shall ensure that the legislation referred to in subsection (b) is effectively enforced to achieve substantial compliance, as determined by the Secretary of Education in consultation with the Secretary of Health and Human Services.

(2) Regulations.—The Secretary of Education, in consultation with the Secretary of Health and Human Services shall promulgate regulations necessary to implement this section.

(d) ADDITIONAL RESTRICTIONS.—A State receiving a grant under subsection (a) may place restrictions on the use of tobacco products in schools in addition to the requirements referred to in subsection (a). A State receiving funds under this section shall provide assistance under this section only to schools that are subject to State laws of the type described in subsection (b).

SEC. 7. INCREASE IN TAX ON CIGARETTES.

(a) RATE OF TAX.—Effective for each of the fiscal years 1992 through 1996, to provide funds for the Adolescent Tobacco Prevention Trust Fund established under section 8, subsection (b) of section 5701 of the Internal Revenue Code of 1986 (relating to rate of tax on cigarettes) is amended—

(1) by striking "$8" in paragraph (1) and inserting in lieu thereof "$8.50"; and

(2) by striking "$16.80" in paragraph (2) and inserting in lieu thereof "$17.85".

(b) FLOOR STOCKS.—

(1) IMPOSITION OF TAX.—On cigarettes manufactured in or imported into the United States which are removed before October 1, 1991, and held on such date for sale by any person, there shall be imposed the following taxes:

(A) SMALL CIGARETTES.—On cigarettes, weighing not more than 3 pounds per thousand, $.50 per thousand;

(B) LARGE CIGARETTES.—On cigarettes, weighing more than 3 pounds per thousand, $1.05 per thousand; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereon, of the length of each as one cigarette.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding cigarettes on October 1, 1991 to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be treated as a tax imposed under section 5701 of the Internal Revenue Code of 1986 and shall be due and payable on October 16, 1991, in the same manner as the tax imposed under such section is payable with respect to cigarettes removed on October 1, 1991.

(3) CIGARETTE.—For purposes of this subsection, the term "cigarette" shall have the meaning given to such term by subsection (b) of section 5702 of the Internal Revenue Code of 1986.

(4) EXCEPTION FOR RETAIL STOCKS.—The taxes imposed by paragraph (1) shall not apply to cigarettes in retail stocks held on October 1, 1991, at the place where intended to be sold at retail.

(5) FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (19 U.S.C. 81a et seq.) or any other provision of law—

(A) cigarettes—

(i) on which taxes imposed by Federal law are determined, or customs duties are liquidated, by a customs officer pursuant to a request made under the first proviso of section 3(a) of the Act of June 18, 1934 (19 U.S.C. 81c(a)) before October 1, 1991, and

(ii) which are entered into the customs territory of the United States on or after October 1, 1991, from a foreign trade zone, and

(B) cigarettes which—

(i) are placed under the supervision of a customs officer pursuant to the provisions of the second proviso of section 3(a) of the Act of June 18, 1934 (19 U.S.C. 81c(a)) before October 1, 1991, and

(ii) are entered into the customs territory of the United States on or after October 1, 1991, from a foreign trade zone,

shall be subject to the tax imposed by paragraph (1) and such cigarettes shall, for purposes of paragraph (1), be treated as being held on October 1, 1991, for sale.

(c) USE OF REVENUE.—The revenue collected under this section, and the amendments made by this section, shall be deposited in the Adolescent Tobacco Prevention Trust Fund established under section 8.

SEC. 8. ADOLESCENT TOBACCO PREVENTION TRUST FUND.

There shall be established in the Treasury of the United States an Adolescent Tobacco Prevention Trust Fund to be used by the Secretary of Health and Human Services and the Secretary of Education, subject to appropriations Acts, to provide funds for incentive grants covered under this Act and the amendments made by this Act.

APPENDIX B.—STATE LAWS RESTRICTING SMOKING IN PUBLIC PLACES

	Year	Arts/cultural facilities	Child care centers	Elevators	Government buildings	Gymnasiums/arenas	Health facilities	Interstate commercial transit	Jury/courtrooms	Meetings	Public places	Public transit	Restaurants	Restrooms	Retail/grocery stores	Schools	Shopping centers	Workplace (private sector)
Alabama																		
Alaska	1975	X	P	P	X	X	X		X	P		P	X		X	X		X
Arizona	1973	X		P	X	X	X				X	P				X		X[1]
Arkansas	1977		X		X		X								X[1]			
California	1976	X			X	X	X	X[2]		X		P	X		X	X		
Colorado	1977	X		P	X	X	X			X	X	P				X		
Connecticut	1973			P	X		X			X		P	X		X	X		X
Delaware	1960				X							P			X[3]	X		
D.C	1975			P			X			X		P	X		X	X		
Florida[4]	October 1985	X		P	X	X	X		X	X	X	P	X		X	X		X
Georgia	1975			P								P						
Hawaii	April 1987	X		P	X	X	X			X	X	P	X	X	X			X
Idaho	1975			P	X	X	X			X	X	P	X		X	X		
Illinois[5]	1989	X		P		X	X			X	X	P	X		X	X		
Indiana	1987				X		X									X		
Iowa[6]	July 1987	X		P	X	X	X	X		X	X	P	X		X	X		X
Kansas	July 1987	X		P	X	X	X		X	X	X	P	X	X	X	P		
Kentucky	1972															X		
Louisiana																		
Maine	1981	X			X		X		X	X		P	X		X	X	X	X
Maryland	1957			P	X		X	X				P			X			
Massachusetts	March 1988	X	X	P	X		X	X	X	X		P	X		X[3]	X		
Michigan	1968	X	P		X	X	X			X	X	P				X		
Minnesota	1975		X	P		X	X			X	X		X		X	X		X
Mississippi	1942											P						
Missouri																		
Montana	1979	X		P	X	X	X	X		X	X	P	X		X	X		X
Nebraska	1979					X	X			X	X	P	X		X	X		X
Nevada	1975	X	X	P	X		X	X				P			X[3]	X		
New Hampshire	1981	X	X	P	X	X	X			X	X	P	X		P	P		X
New Jersey[4]	1985	X		P	X	X	X				X	P	X		X	P		X
New Mexico	1985				X					X	X							X
New York	1975	X		P	X	X	X	X			X	P	X	X	X	X	X	X
North Carolina																		
North Dakota	April 1987	X		P	X	X	X			X	X	P	X			X		
Ohio	1981	X		P	X		X					P				X		
Oklahoma[4]	November 1987	X			X	X	X			X	X	P	X			X		
Oregon	1977			P	X	X	X			X			X		X	X		

APPENDIX B.—STATE LAWS RESTRICTING SMOKING IN PUBLIC PLACES—Continued

	Year	Arts/cultural facilities	Child care centers	Elevators	Government buildings	Gymnasiums/arenas	Health facilities	Interstate commercial transit	Jury/courtrooms	Meetings	Public places	Public transit	Restaurants	Restrooms	Retail/grocery stores	Schools	Shopping centers	Workplace (private sector)
Pennsylvania [7]	1977	X			X	X	X			X		P	X			X	X	
Rhode Island	1977	X		P			X					P	X		X[3]	X		X
South Carolina [8]	1937	X	X	P	X		X					P[1]				X		
South Dakota	1974	X		P			X		X			P				X		
Tennessee																		
Texas	1975	X		P			X	X				P				X		
Utah	1976		X	P	X	X	X	X	X	X	X	P	X		X	P		X
Vermont	1987				X											X		X
Virginia [5 9]	1990		X	P	X		X						X		X	X		
Washington	1985	X		P	X	X	X			X	X	P	X	X	X	P	X	
West Virginia	1913											P				X		
Wisconsin	1983	X		P	X		X				X	P	X		X	P		X
Wyoming	1989				X													

[1] Regulation includes school buses.
[2] Regulation prohibits smoking on all intra-state commercial transit.
[3] Regulation only governs grocery stores.
[4] Preempts local regulation.
[5] Preempts local regulation, but grandfathers existing ordinances.
[6] Preemption and restaurant provisions effective July 1, 1990.
[7] Preempts local regulation, but grandfathers Pittsburgh's ordinance.
[8] Effective August 1, 1990, except for public transit.
[9] Effective July 1, 1990.

Note.—X, smoking prohibited, except in designated areas; P, smoking prohibited.

APPENDIX H.—STATE AGE RESTRICTIONS FOR SALES OF TOBACCO PRODUCTS

State	Minimum age for cigaretts	Minimum age for Smokeless
Alabama	19	19
Alaska	19	19
Arizona	18	18
Arkansas	18	18
California	18	18
Colorado	18	18
Connecticut	18	18
Delaware	17	17
District of Columbia	16	16
Florida	18	18
Georgia	17	17
Hawaii	18	18
Idaho	18	18
Illinois	18	18
Indiana	18	18
Iowa	18	18
Kansas	18	18
Kentucky	[3] 16	[3] 16
Louisiana	([1])	([1])
Maine	18	18
Maryland	18	18
Massachusetts	18	18
Michigan	18	18
Minnesota	18	18
Mississippi	18	18
Missouri	([1])	([1])
Montana	([1])	([1])
Nebraska	18	18
Nevada	18	18
New Hampshire	18	18
New Jersey	18	18
New Mexico	([1])	([1])
New York	18	18
North Carolina	17	17
North Dakota	18	18
Ohio	18	18
Oklahoma	18	18
Oregon	18	18
Pennsylvania	[2] 18	[2] 18
Rhode Island	18	18
South Carolina	18	18
South Dakota	18	18
Tennessee	18	18
Texas	18	18
Utah	19	19
Vermont	17	17
Virginia	16	16
Washington	18	18
West Virginia	18	18
Wisconsin	18	18
Wyoming	([1])	([1])

[1] No statewide age limit.
[2] Effective February 14, 1990.
[3] Effective July 13, 1990.

Sources: State legislative libraries, 1990.
State departments of health, 1990.

APPENDIX K.—RESTRICTIONS ON TOBACCO PRODUCT SALES IN VENDING MACHINES

[States]

State	Sign posting	Restrictions on placement'	Total ban
Alaska		X	
Colorado	X		[1] X
Georgia	X		
Hawaii	X		
Idaho		X	
Indiana	X	X	
Maine		X	
Maryland	X		
Massachusetts	X		
Minnesota	X	X	
New Hampshire	X	X	
Rhode Island	X		
South Dakota	X		
Texas	X		
Utah	X	X	
Virginia	X		
Wisconsin	X	X	

[1] Smokeless tobacco products only.

By Mr. BRYAN (for himself and Mr. REID):

S. 562. A bill to require that the surplus in the highway account of the highway trust fund be available for expenditure, and for other purposes; to the Committee on Environment and Public Works.

USE OF EXCESS IN HIGHWAY TRUST FUND

Mr. BRYAN. Mr. President, I rise today to introduce a bill to eliminate one of the Federal Government's most blatant forms of budget chicanery—the continued misuse of highway user fees by the Federal Government.

Over the years, the American public has paid Federal gas taxes with the understanding that these taxes will be used to improve our transportation infrastructure. Unfortunately, the Federal Government has, for many years, withheld significant portions of these funds from the individual States. Given the infrastructure crisis our Nation currently faces, this type of Government policy is simply unconscionable.

Mr. President, the upcoming year will be a critical one for our national highway program. There will be many debates over apportionment formulas, State-Federal matching ratios, eligibility of projects, and a host of other important issues. One of the first issues we need to decide, however, is how much we will spend on the entire nationwide program. Today, I am introducing legislation which will require the Federal Government to spend the maximum amount on highways that can be supported by the highway account of the highway trust fund.

At the end of fiscal year 1991, the highway account of the trust fund will contain an unobligated balance of about $9 billion. These unobligated balances are funds that have been apportioned to the States, but that States have been unable to spend due to Federal obligation limitations. In addition, the projected revenues of the highway account, including both tax receipts and interest, can support a much higher level of spending than past years. In fact, when we consider both of these factors, the highway trust fund can support spending levels $13 billion higher over the next 5 years than the levels proposed by the administration. The legislation I am introducing today will require the administration to spend all of these available funds on highway improvements.

Under the legislation I am introducing today, every State will share in the spenddown of the trust fund. For example, my own State of Nevada would be allowed to spend an estimated $20 million per year for each of the next 5 years on highway improvements.

As we begin to consider a reauthorization of the Surface Transportation Act, we can be proud of our past accomplishments. In particular, the Interstate System is now almost complete, and has changed the face of our Nation. Sadly, however, we now risk losing our massive investment in the interstates. In 1988, according to the Department of Transportation, over 40 percent of the Interstate System was in poor or fair condition; 68 percent of urban interstate peak hour travel was

under congested conditions. The rest of our road systems are in no better condition. For example, 40 percent of our Nation's bridges are structurally deficient or functionally obsolete.

The Federal Government must not back away from its commitment to highway infrastructure. The maintenance and rebuilding of our Nation's roads are every bit as important to the national interest as their original construction. We collect billions of dollars in gas taxes from the American public every year to pay for our road systems, and it is time that we guarantee that every penny of these taxes are spent for their intended purpose.

By Mr. BRYAN:

S. 563. A bill to impose additional duties on the products of foreign countries if, and during such time as, such countries do not make sufficient contributions to the multinational military mobilization and operations being carried out in response to the invasion of Kuwait by Iraq; to the Committee on Finance.

PERSIAN GULF CONFLICT BURDEN-SHARING ACT

• Mr. BRYAN. Mr. President, the cease-fire in the Persian Gulf, announced by President Bush, is good news for our Nation and the world. The skill, the determination, and the bravery of our Armed Forces fill every American with pride. Under the able leadership of Secretary Dick Cheney, Chairman of the Joint Chiefs of Staff, Gen. Colin Powell, and Persian conflict commander, Gen. Norman Schwarzkopf, our forces have achieved a remarkably low cost victory.

While we grieve for the families of the soldiers lost, the remarkably low casualty rate is a blessing to those families of the returning servicemen and women.

As of this morning, an estimated 91 Americans have fallen in battle. This is the price Saddam Hussein's aggression has exacted from our people. The price of stopping aggression in this century has forced young American men and women to once again fight in far-off lands.

Our brave troops were not alone because of the skill with which President Bush and Secretary of State James Baker were able to fashion a strong, allied effort.

The allied coalition was composed of many Arab countries including Egypt and Saudi Arabia, as well as the small countries of the Perisan Gulf. Exiled Kuwait forces shouldered their share of the burden in liberating their country, and we all shared their joy with the raising of the Kuwaiti flag over Kuwait City.

Standing with American servicemen were our oldest allies, the British and French. The RAF Tornado pilots took on some of the most dangerous missions of the airwar with their low level attacks against Iraqi positions. As General Schwarzkopf explained, the famed British 1st Armored Division—the Desert Rats—played an integral role in his brilliant strategy. The 6th French Light Armored Division working with America's 82d Airborne had a crucial role in sealing off the Iraqi forces.

Under the able leadership of President Bush, the new world order has begun, and the rule of law has been given a significant boost. It would be a tragic beginning of the new world order, if some nations received a free ride, while others carried the load.

Conspicuously absent from the allied contingents in the Persian Gulf were any sign of Japanese or German forces. While America was putting its treasured and most precious product, our young men and women, in great danger, Japan and Germany held back. While we took the political risk, the Germans and the Japanese sat on the sideline. While the British and French Governments stood by us, and our troops, the Japanese and Germans ran for cover.

The American people will never forget who stood with us in the field of battle.

Secretary of State James Baker has done a yeoman's work in getting the world community to commit to financial support for Desert Storm. During the height of the crisis he elicited from the German Government a commitment of $6.5 billion. From the Japanese Government he managed to ferret a commitment of $10.7 billion.

To date, the United States has received a fraction of that commitment from Germany, $2.9 billion. To reach the total of $6.5 billion, Germany still needs to ante up $3.6 billion.

The Japanese, who will also derive great benefit from stability of oil prices as a result of the conflict in the Persian Gulf, have yet to honor their full commitment. The Japanese owe the United States $9.4 billion.

Therefore, to foster the contributions from these nations, I am introducing the Persian Gulf Conflict Burden-Sharing Act of 1991. This is a companion bill to one introduced in the House by Congressman JOHN DINGELL. The bill directs the President to determine within 60 days whether other nations in the allied coalition have made an adequate contribution to Operation Desert Storm. Should the President determine that a nation is not paying its fair share, he may impose a 20-percent ad valorem duty on all goods of that nation entering the United States.

This 20-percent duty bill being introduced today will put our allied partners on notice that there will be a price to pay for American protection. Our brave service men and women deserve no less for the benefit these countries will secure from their sacrifices.•

By Mr. WARNER (for himself, Mr. THURMOND, Mr. MCCAIN, Mr. WALLOP, Mr. LOTT, Mr. COATS, Mr. MACK, and Mr. SMITH):

S. 564. A bill to direct the Secretary of Defense to undertake the development and testing of systems designed to defend the United States and its Armed Forces from ballistic missiles; to the Committee on Armed Services.

MISSILE DEFENSE ACT OF 1991

Mr. WARNER. Mr. President, I rise to introduce the Missile Defense Act of 1991 on behalf of myself and my distinguished colleagues on the Armed Services Committee, Senators THURMOND, MCCAIN, WALLOP, LOTT, COATS, MACK, and SMITH. This legislation would allow the American public to at long last express their views through their elected Representatives in Congress, on whether the United States should now undertake development and testing to determine the feasibility of developing systems which could defend our Nation against ballistic missiles.

This legislation would allow the American public the right to voice their views on whether we should provide our country and our Armed Forces with a defense against ballistic missiles, whether we should ever again send forth men and women of the Armed Forces of this country to foreign shores without providing the technology to protect them in every possible way.

Mr. President, we could not, in my humble and respectful judgment, have achieved our objectives in the Persian Gulf without the support of the American public. They have become far more active as a consequence of this significant chapter of our history; far more active in informing themselves on weapons, weapons systems, and how the Armed Forces of the United States employs these systems both in offense and in defense. I think it is now time to ask them to formulate their own views on whether or not America should undertake a full range, without restriction by the ABM Treaty, the full range of research development and testing of missile defenses.

Mr. President, the devastation and the loss of life ensuing from ballistic missile attacks in the gulf was evident to the whole world. The Scud was a very basic missile, a very crude system. I myself saw remnants of that system together with three other colleagues when we traveled to the gulf but a short time ago.

The Scud, the infamous Scud, is not a military weapon in the true sense but a weapon that had one purpose alone—terrorism. It was certainly terrorism when it was inflicted upon Israel. I questioned the military value when it was inflicted upon our troops. Even then I think it was more in the category of terrorism.

The Persian Gulf war clearly demonstrated the threat posed to the men and women of the Armed Forces of the United States and the coalition forces today, tomorrow, and in the future, by the proliferation of ballistic missile technology and such related weapons of mass destruction.

According to the Director of the Central Intelligence Agency, William Webster, in testimony before the Congress of the United States, by the end of the century, the year 2000, between 15 and 20 nations—and those nations are in the category of just the developing nations—will possess the capability to manufacture and deploy some form of a ballistic missile.

If they cannot build them, they can buy them. They are openly available on the market. The Scud is available for sale on the market today, even as we speak.

He also testified to the Armed Services Committee that, by that time, at least six developing countries will have ballistic missiles with a range of 3,400 miles. Now that is the range that could be a direct threat to our Nation. If we look south beyond our borders and the instability in the Southern Hemisphere just in this last decade, the terrorism, the drug trade, it seems to me that we should raise a caution flag.

Mr. President, the concern of widespread ballistic missile proliferation is compounded by growing ethnic unrest and political instability in the Soviet Union. We already know that certain measures have been taken by the, although weakened, still central government to remove some of these weapons from certain geographic areas of the Soviet Union, and place them in areas where it is safer to ensure their control. But that unrest, that political instability, grows as I speak. The threat of an unauthorized or accidental launch of a ballistic missile cannot be discounted. In fact, I think it has to be very carefully considered.

While the demise of the Warsaw Pact represents a major positive change in the United States-Soviet relationship, the Soviet Union nonetheless remains at the present time the only country that has a nuclear and ballistic missile capability which threatens the very freedom of this country and that of our allies.

I am hopeful in the forthcoming defense budget that this body and that the Congress as a whole will recognize that while there has been a well-received diminution in the threat on the central front from conventional forces, in the strategic nuclear area of the Soviet budget there has been no let up. And I hope that the modernization program as recommended by the President in his message to the Congress of the United States will be respected and implemented in appropriate legislation.

Despite its enormous economic difficulties, the Soviet Union is continuing its relentless strategic offensive and defensive modernization program.

Mr. President, in looking at the international environment today, we should recognize that the ABM treaty of 1972 was negotiated under significantly different circumstances than the strategic situation the United States faces today. While the SDI Program has made remarkable progress in the research and development of technologies aimed at protection against ballistic missiles, that progress is being severely affected by the ABM treaty.

It is clear that the ABM treaty of 1972 prohibits the development and testing of ABM systems or components which are sea-based, air-based, space-based, or mobile land-based. These restrictions, as well as others, greatly impact the ability of this country to perform effective research on ballistic missile defenses, much less the testing and the development of such systems.

Mr. President, as our program is being conducted today and in the immediate years past, tests as part of missile defense research are unnecessarily complicated by this treaty and result in added risk in the program schedule and increased cost to the American taxpayers. In some cases, two or three tests are now required to carry out experiments when one test could accomplish the same objective—all due to the restrictions now imposed by the ABM treaty. More importantly, we will make any decision to build a certain system on analysis of the test data, not end-to-end testing as we do with other programs, all because again of the ABM Treaty.

Admittedly, the ABM Treaty allows for the development of ATBM's. But there are many questions associated with what kind of capability these systems can have to intercept tactical missiles. In the early 1970's, the U.S. initially, in my judgment, overcomplied with the ABM Treaty and placed constraints upon our researchers by not giving the original SAM-D Program, which was a predecessor of the famous, world-renowned Patriot Program, the capability for ATBM missions. That persisted for a number of years. But, fortunately, the Senate, this body, fought and won funding for the Patriot ATBM upgrade starting in 1985.

Mr. President, this bill does not force or commit Congress to make a decision about deployment of missile defenses, should it become law. It simply allows the United States to immediately undertake the development and testing of systems and components designed to defend the United States and its Armed Forces wherever deployed.

It would also allow the United States to develop and test sensors in space needed for battle management of ATBM systems in a theater, not unlike a theater where our forces tonight are concluding one of the most successful, one of the most courageous chapters in the annals of military history.

The Defense Support Program, or DSP, was critical in providing our Patriots with warning of a missile launch. But it did not, and it could not, provide direct battle management of Patriot interceptors. This is due in part to possible—I need further research in this and further declassification—restrictions in the ABM Treaty.

This bill is also not about the "broad" versus "narrow" ABM Treaty interpretation debate that we are all so familiar with. In other words, this is not an attempt to resurface that issue. Rather, it is about allowing the United States of America, the American people to conduct a development and testing program that will afford the people, the Congress, and the President with accurate and complete information regarding our capability to, someday, fully develop and deploy such a system with this information the President and the Congress can make that decision whether or not to go into production and to deploy missile defenses. That is the bottom line. Are we going to unleash American ingenuity, American technology, to provide the answers needed by the President, future generations, and future Congresses as to whether we should deploy defenses?

While the cold war may be over, the world has not yet become a more stable and peaceful place. Indeed, I think we will have to look back on this current chapter. It may well have caught many in our Nation by surprise. This current chapter came upon us very suddenly, at the very time Congress and the President were working together toward substantial 5-year reductions in our defense program. Those decisions were predicated on a threat situation which, in the June-July timeframe, did not take into account the extraordinary military operation, the extraordinary logistics operation, that we have just seen concluded by our allied forces.

We must ensure that our country can counter and respond to both current and emerging threats in this world. I cannot predict, nor can anyone else, what the future holds. But I certainly want the next generation of young Americans, should they be called upon by a President to go abroad, to be given the best protection that we can provide.

We must reach a consensus on the need for a ballistic missile defense program and address this treaty and address it now, if we are to start to provide that protection in the years to come.

It is worth repeating the words of Winston Churchill who, at the peak of the air defense debate in the 1930's, in Great Britain, said the following:

> I think it would be a great mistake to neglect the scientific side of purely defensive action against aircraft attack. Certainly,

nothing is more necessary, not only to this country but to all peaceloving * * * powers in the world * * * than that the good old earth should acquire some means of destroying the sky marauder.

Today the marauder, and tomorrow most certainly the marauder, is the ballistic missile. I am convinced we must now, more than ever before, plan for the inclusion of missile defenses in our military forces.

Let me draw the attention of my colleagues to another point. This Scud missile was a very crude device. Consequently, it was very cheap to manufacture.

I do not have the accurate figures, but my guess is that these Scuds, I think could be made for $100,000. But the United States of America had to spend almost $13 billion to develop and produce the best known defense today against that Scud missile—the Patriot.

With all due deference to aircraft taking out the launchers—the Patriot is the best existing defense to that missile. There is an enormous disparity between the ability of the developing nations to make these crude systems and the ultimate cost to the people who want to live in peace and defend themselves and their friends and allies.

I believe the American people will now insist that we must ensure that our forces deployed overseas have the best possible defense capability. They want the assurance that the Congress, working with the President of the United States, has given a free hand to those whose brains and whose foresight can devise those systems in this country. They want assurrance that we have unshackled them to go forward so our forces can be protected to the extent possible, together with the allies and the friendly territory that may well be associated with any future deployment.

My legislation would simply allow this country, the United States of America, the ability to conduct the development and testing necessary to assemble the facts which will from the basis for a future decision by a President and a future Congress as to the wisdom of providing for missile defense for our people here in this country and for the men and women of our Armed Forces.

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

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

S. 564

Be it enacted by the Senate and House of Representative of the United States of America in Congress assembled, That this Act may be cited as the Missile Defense Act of 1991.

SEC. 2. (a) Not withstanding any other provision of law (including the provisions of the ABM Treaty), the Secretary of Defense shall immediately undertake the development and testing of systems and components designed to defend the United States and its armed forces, wherever deployed, from strategic and tactical ballistic missiles.

(b) The systems and components which may be developed and tested under the authority of this section may include those which could be deployed either in a fixed or mobile mode and which could be land-based, sea-based, air-based or space-based and may include radars, launchers, interceptors and any other system or component capable of providing defense against ballistic missiles.

(c) Nothing in this section alters the rights of the United States to deploy anti-ballistic missile systems as provided for in the ABM Treaty.

(d) DEFINITION.—As used in this section, the term "ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialistic Republics on the Limitation of Anti-Ballistic Missiles Systems, dated May 26, 1972.

By Mr. WARNER (for himself, Mr. NUNN, Mr. THURMOND, Mr. COHEN, Mr. MCCAIN, Mr. WALLOP, Mr. LOTT, Mr. COATS, Mr. MACK, and Mr. SMITH):

S. 565. A bill to authorize the President to award a gold medal on behalf of the Congress to Gen. Colin L. Powell, and to provide for the production of bronze duplicates of such medal for sale to the public; to the Committee on Banking, Housing, and Urban Affairs.

AWARD OF CONGRESSIONAL GOLD MEDAL TO GENERAL COLIN L. POWELL

Mr. WARNER. Mr. President, I would like to address the Senate with respect to a second bill which I have sent to the desk.

Mr. President, my distinguished colleagues, the Senator from Mississippi, Mr. LOTT, a few days ago introduced a bill which I was privileged to cosponsor, along with others, which would provide for a Congressional Gold Medal to be given to General Schwarzkopf.

At the time I consulted with Mr. LOTT and others about that legislation, I indicated that it was my privilege, and I say that with great humility—to present to the Senate a comparable piece of legislation to honor the Chairman of the Joint Chiefs of Staff, Gen. Colin Powell, by awarding him, likewise, the Congressional Gold Medal. I do so on behalf of myself, the distinguished chairman of the Senate Armed Services Committee, Mr. NUNN, Mr. THURMOND, Mr. COHEN, Mr. MCCAIN, Mr. WALLOP, Mr. LOTT, Mr. COATS, Mr. MACK, and Mr. SMITH.

As I stated earlier, a separate bill, sponsored and previously introduced by Senator LOTT, which I have cosponsored, would provide for the award of the same medal to Gen. Norman Schwarzkopf, the commander of Central Command, and the acknowledged leader and hero of the coalition forces in the Persian Gulf.

After thorough research, I am convinced that the medals to be awarded on behalf of the Congress are the most appropriate form of recognition for these military leaders, General Powell and Schwarzkopf. Congress has awarded the gold medal in the past to such notable American military figures as George Washington, John Paul Jones and, in more recent times, to Generals Pershing, Marshall, Eisenhower, and McArthur, just to name a few. It is a very prestigious award.

An award is currently pending for Gen. Matthew Ridgeway as a result of legislation which the chairman of the committee, Senator NUNN, and I and others introduced in last year's defense authorization bill.

I am aware of proposals, however, by some, with the best of intentions, to give recognition to General Powell and General Schwarzkopf by recommending their promotion to the rank of general of the Army a five-star position. I should like to reflect on the history of previous actions by the Congress of the United States in bestowing the five-star rank as a basis for starting my preference for the gold medal rather than five-star recognition.

During World War I, Congress agreed to bestowing the title of general of the Army on Blackjack Pershing, the famed commander of United States forces in Europe, but curiously, throughout his career, his rank was maintained at just four stars.

The rank was approved by Congress during World War II for basically political and protocol reasons, not purely military.

The origins of the several titles which carried five star rank during World War II for our forces rest in history in Germany, the Soviet Union, and Great Britain, which had had for a number of years comparable ranks. And when, during the course of World War II, our commanders were required to work and, indeed, in some instances lead the forces of other nations, it became evident to the President and to the Congress that we required a five-star rank to give our generals equivalency in the performance of their duties with their counterparts in the Soviet Union and Great Britain.

We were forced to accede to the five-star rank so that these commanders could, I repeat, for protocol purposes, work on a basis in which they were equal.

This is an important part of military culture. While the United States witnessed extraordinary leadership in the gulf war by officers and men and women of all ranks—I want to repeat that, officers and men and women of all ranks—the Chairman of the Joint Chiefs of Staff, General Powell, and the commander in chief of the Central Command, General Schwarzkopf, indeed merit special recognition. If approved by the Congress and awarded by the President, they would receive those gold medals not only for themselves but in recognition of the performance by their subordinates of all levels from flag rank to lance corporal.

For that purpose, today I am introducing a bill providing for a Congres-

sional Gold Medal for Gen. Colin Powell.

As I have already indicated, I have cosponsored similar legislation for General Schwarzkopf sponsored by Senator LOTT.

I hope that all my colleagues will join in our efforts to recognize these two great Americans as the truly great military leaders they are. The war in the Persian Gulf has focused the attention of the American people on the leadership that each of these outstanding military professionals has displayed in this most recent conflict and indeed, throughout their entire careers. It is almost by act of providence that this Nation was given the benefit of their services in this critical hour of our history.

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

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

S. 565

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

SECTION 1. FINDINGS.

The Congress finds that—

(1) General Colin L. Powell, the Chairman of the Joint Chiefs, the principal military advisor to the President, the National Security Council, and the Secretary of Defense has displayed an extraordinary degree of leadership, competence and professionalism fulfilling his statutory responsibilities throughout Operation Desert Shield and Operation Desert Storm.

(2) The leadership, competence and professionalism of General Powell and his subordinates, officers and non-commissioned officers, have instilled great confidence and pride in the Armed Forces of the United States which contributed significantly to the successful prosecution of the Persian Gulf War.

(3) General Powell and his subordinates brilliantly planned and coordinated at the National level the highly rapid and successful mobilization and deployment of more than one-half million men and women of the Armed Forces of the United States to the Persian Gulf region.

(4) General Powell's leadership and foresight were directly responsible for ensuring that sufficient military forces and logistics were committed to the foregoing operations in a timely manner to bring about a swift and decisive military victory with casualties and loss of life at levels so low as to be unprecedented in the annals of military operations by any nation.

(5) The superb coordination among allied forces and the unique and exceptional command arrangements which produced the highly effective chain of command within the allied coalition is directly attributed to the military competence, and extraordinary leadership of General Powell.

(6) As the principal military advisor to the President of the United States, the National Security Council, and the Secretary of Defense, General Powell's clear and far-sighted assessments, judgments and recommendations were invaluable and instrumental in the timely and decisive military actions directed by the President which resulted in Iraqi compliance with all United Nations resolutions related to the Iraqi invasion and occupation of Kuwait.

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The President is authorized to present, on behalf of the Congress, to General Colin L. Powell a gold medal of appropriate design in recognition of his exemplary performance as a military leader and advisor to the President in planning and coordinating the military response of the United States to the Iraqi invasion of Kuwait and the ultimate retreat and defeat of Iraqi forces and Iraqi acceptance of all United Nations resolutions relating to Kuwait.

(b) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury (hereafter referred to in this Act as the "Secretary") shall strike a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary.

SEC. 3. DUPLICATE MEDALS.

The Secretary may strike bronze duplicates of the gold medal struck pursuant to section 2, under such regulations as the Secretary may prescribe, and may sell such bronze duplicates at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

SEC. 4. NATIONAL MEDALS.

Medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS; PROCEEDS OF SALE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated not to exceed $30,000 to carry out section 2.

(b) PROCEEDS OF SALES.—Amounts received from sales of duplicate bronze medals under section 3 shall be credited to the appropriation made pursuant to the authorization provided in subsection (a).

By Mr. KASTEN:

S.J. Res. 85. Joint resolution authorizing and requesting the President to appoint Gen. Colin L. Powell and Gen. H. Norman Schwarzkopf, Jr., U.S. Army, to the permanent rank of general of the Army; to the Committee on Armed Services.

PROMOTION OF COLIN L. POWELL AND H. NORMAN SCHWARZKOPF, JR., TO GENERAL OF THE ARMY

Mr. KASTEN. Mr. President, one of the most important ways of evaluating a nation's character is to ask, "Who are the country's heroes?"

In America, we have always honored men and women who stood up for the rights of weaker people—who showed bravery in defense of people and of principles.

I'm talking about people like Theodore Roosevelt and Dwight Eisenhower—and about the young men they led in battle to defend the lives and liberties of others.

They are the heroes of America.

Today, we are adding a new chapter to the history of American heroism—a chapter entitled "The Liberation of Kuwait." Last week, tears of joy greeted the American soldiers who raised the flag of independence over Kuwait City.

Thanks to these heroes, the Kuwaiti people are free of Saddam Hussein. But they are not the only ones who have been liberated; the American people have been liberated as well.

Over the last 20 years, many Americans have been trapped in a maze of doubts about the morality of America's actions on the world stage. Is America a force for good in the world—or is it just another power-hungry empire?

The answer is clear—if we look at the record of America's past heroes.

What better illustration of our national character than the brave soldiers of D-Day. They stormed an impregnable fortress. They defeated a brutal enemy. They conquered a continent. And then—and then, they came home.

They came home because their job was done—the job of freeing Europe from the Nazis. Their tasks was not conquest—it was liberation.

What an eloquent testimony to what America is all about.

But to repeat that story is to speak in black and white. To be made effective in people's lives, the truth must be seen in color.

One of America's greatest writers said that example is the stained glass window of truth. The truth is that America is willing to standup for a small, defenseless country—because that is the right thing to do.

Now, what do we see in that stained glass window? We see the green dress uniform of Gen. Colin Powell. And we see the brown and tan camouflage uniform of Gen. H. Norman Schwarzkopf.

General Powell and General Schwarzkopf are serious men. They had a job to do—a job whose importance to our country is incalculable. They confronted head-on all the doubts, the fears, and the military obstacles. And they prevailed.

Both men have an unflinching devotion to principle and professionalism. It is their brilliance that has made victory possible at such an unexpectedly low cost.

The soldiers on the front were an effective fighting machine because they knew they could trust their leaders. Who could look at General Schwarzkopf and General Powell and not feel reassured about the conduct of the war—about the seriousness and high purpose of our forces?

With these two men, there is no nonsense or doubletalk. There is firmness in the right—and the means to defend the right.

Thanks to their leadership, the American people can once again look at their Armed Forces with unadulterated pride. Our soldiers did the right thing, and they didn't just do it well—they did it with excellence.

Their example will make our hearts glad—just as the example of the heroes of D-Day gladdened America in 1944.

And this brings me, Mr. President, to my specific reason for rising today.

How shall we honor these heroes of Operation Desert Storm, if not in the same way we honored the heroes of the past? Eisenhower, Marshall, Omar Bradley, Hap Arnold—these men were honored with the highest military rank our Nation can confer.

They were five-star generals.

Through their leadership, these generals liberated a continent and reshaped how Americans felt about America's role in the world.

Generals Powell and Schwarzkopf have given us a similar example for our own times. They remind us that we ought to be just as thankful for the American idea as the people of Kuwait are.

I am introducing today a joint resolution that would honor these men with a fifth star. For what they have done—to use Newsweek's phrase—"five stars ain't enough."

So let us add our heartful gratitude, that in America we can still find the kind of heroes we had in the past. And let us now move forward to give them the award—the five stars—that they so justly deserve.

Mr. President, I ask unanimous consent that the joint resolution be printed in the RECORD.

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

S.J. RES. 85

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to appoint, by and with the advice and consent of the Senate, Generals Colin L. Powell and H. Norman Schwarzkopf, Jr., United States Army, to the permanent grade of General of the Army.

SEC. 2. (a) An officer appointed in the grade of General of the Army pursuant to this joint resolution ranks above all other officers on the active-duty list or on active duty.

(b) Officers appointed in the grade of General of the Army pursuant to this joint resolution rank among themselves by date of rank. In the event that the appointments are made on the same date, the President shall designate the order of rank between such officers.●

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

S.J. Res. 86. Joint resolution designating April 21 through April 27, 1991, and April 19 through April 25, 1992, as "National Organ and Tissue Donor Awareness Week"; to the Committee on the Judiciary.

NATIONAL ORGAN AND TISSUE DONOR AWARENESS WEEK

● Mr. GARN. Mr. President, today I am introducing a joint resolution to proclaim April 21 through April 27, 1991, and April 19 through April 25, 1992, as National Organ and Tissue Donor Awareness Week. Congressman SID MORRISON will be introducing a companion resolution in the House of Representatives.

Many of my colleagues are familiar with my close connection to this issue of organ and tissue donation. For those who are not, in late 1986 I donated one of my kidneys to my then 26-year-old daughter, Susan Garn Horne. Sue had lost most of her renal function as a result of a long-time diabetic condition. As I look back, I felt some apprehension the night before the surgery. I was concerned for the consequences the surgery might hold for me. My only thoughts up to that point had been with Sue, and that she needed this surgery.

In realizing my own apprehension and fear, I now understand the fear that exists among those who, like me, are eligible to be living, related donors. They can't help but wonder what impact their donation might have on their own life. I did. However, I now know that the impact is minimal. What I do not understand, however, is why anyone would be reluctant to authorize the donation of any of their vital organs or transplantable parts after they are dead. Of what use are those parts to them then? What could they possibly have to fear?

That is why it is important for people to decide now, whether, in the event of a future tragedy, they are willing to be a donor, and letting their family know of their intentions. I am sure it is extremely upsetting to the loved ones of a deceased individual to have a medical professional ask if they would allow a particular organ or organs to be removed for transplantation purposes. This question could be avoided in many cases and a difficult situation made somewhat easier if the decision to be an organ donor had already been made.

I cannot help but believe that if people could understand the dire need for organ donors that now exists, enough of them would sign donor authorization cards and get "donor" stamped on their driver's license, that there would be an adequate supply of transplantable organs for those in need. For example, for each of the past several years, throughout the country, there have been from 12,000 to 26,000 brain-dead people. This is the criteria used for those individuals whose organs are suitable for transplantation. As of February 18, 1991, there are approximately 22,500 individuals on the national waiting list who need organ transplants. There is an adequate supply of transplantable organs. We need to get the word out, to educate people, on the issue of organ and tissue transplantation. So many lives can be saved.

People need to understand that they literally may give someone else the gift of life. There is simply no other thing I have ever done that has given me greater satisfaction, especially when I look at Sue today, and see what a significant difference receiving my kidney has made in her life and in the lives of her husband and two children.

What began as a personal struggle for Sue and for me became a positive crusade. What we viewed as the gift of a kidney, we now see as a gift of life and renewed vitality, and it is something we simply must continue to share with others.

By reviewing our personal feelings about organ donation, we will become more aware of the potential to improve and save other's lives. I am hopeful that as National Organ and Tissue Donor Awareness Week approaches, we will be leaders in spreading the word about giving the gift of life.●

ADDITIONAL COSPONSORS

S. 4

At the request of Mr. BENTSEN, the names of the Senator from New Jersey [Mr. BRADLEY] and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of S. 4, a bill to amend titles IV, V, and XIX of the Social Security Act to establish innovative child welfare and family support services in order to strengthen families and avoid placement in foster care, to promote the development of comprehensive substance abuse programs for pregnant women and caretaker relatives with children, to provide improved delivery of health care services to low-income children, and for other purposes.

S. 15

At the request of Mr. BIDEN, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 15, a bill to combat violence and crimes against women on the streets and in homes.

S. 24

At the request of Mr. MOYNIHAN, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 24, a bill to amend the Internal Revenue Code of 1986 to make permanent the exclusion from gross income of educational assistance provided to employees.

S. 50

At the request of Mr. SYMMS, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 50, a bill to ensure that agencies establish the appropriate procedures for assessing whether or not regulation may result in the taking of private property, so as to avoid such where possible.

S. 88

At the request of Mr. DURENBERGER, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 88, a bill to amend the Internal Revenue Code of 1986 to make permanent the deduction for health insurance costs for self-employed individuals.

S. 89

At the request of Mr. DURENBERGER, the name of the Senator from Hawaii [Mr. INOUYE], was added as a cosponsor of S. 89, a bill to amend the Internal Revenue Code of 1986 to permanently increase the deductible health insurance costs for self-employed individuals.

S. 140

At the request of Mr. WIRTH, the names of the Senator from Vermont [Mr. LEAHY] and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of S. 140, a bill to increase Federal payments in lieu of taxes to units of general local government, and for other purposes.

S. 144

At the request of Mr. MCCAIN, the names of the Senator from Washington [Mr. GORTON], the Senator from New York [Mr. MOYNIHAN], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 144, a bill to protect the natural and cultural resources of the Grand Canyon and Glen Canyon.

S. 146

At the request of Mr. THURMOND, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 146, a bill to amend title 28 of the United States Code to clarify the remedial jurisdiction of inferior Federal courts.

S. 156

At the request of Mr. CRANSTON, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 156, a bill to reform the international military education and training [IMET] program so as to empower civilians in the oversight and management of foreign militaries, and for other purposes.

S. 173

At the request of Mr. HOLLINGS, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 173, a bill to permit the Bell Telephone Companies to conduct research on, design, and manufacture telecommunications equipment, and for other purposes.

S. 190

At the request of Mr. GRAHAM, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 190, a bill to amend 3104 of title 38, United States Code, to permit veterans who have a service-connected disability and who are retired members of the Armed Forces to receive compensation, without reduction, concurrently with retired pay reduced on the basis of the degree of the disability rating of such veteran.

S. 199

At the request of Mr. GLENN, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 199, a bill to amend the Internal Revenue Code of 1986 to exclude from income the compensation received for active service as a member of the Armed Forces of the United States in a dangerous foreign area.

S. 205

At the request of Mr. GLENN, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 205, a bill to amend title 5, United States Code, to equalize the treatment of members of the Armed Forces of the United States and former employees of the Federal Government for purposes of eligibility for payment of unemployment compensation for Federal service.

S. 221

At the request of Mr. GLENN, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 221, a bill to require the Secretary of Defense to authorize members of the Armed Forces serving outside the United States under arduous conditions pursuant to an assignment or duty detail as a part of Operation Desert Shield to participate in a savings program for members of the Armed Forces assigned for permanent duty outside the United States.

S. 240

At the request of Mrs. KASSEBAUM, the names of the Senator from North Carolina [Mr. SANFORD] and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of S. 240, a bill to amend the Federal Aviation Act of 1958 relating to bankruptcy transportation plans.

S. 242

At the request of Mr. GLENN, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 242, a bill to amend the Ethics in Government Act of 1978 to modify the rule prohibiting the receipt of honoraria by certain Government employees and for other purposes.

S. 250

At the request of Mr. FORD, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of S. 250, a bill to establish national voter registration procedures for Federal elections, and for other purposes.

S. 256

At the request of Mr. DASCHLE, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 256, a bill to clarify eligibility under chapter 106 of title 10, United States Code, for educational assistance for members of the Selected Reserve.

S. 264

At the request of Mr. COCHRAN, the names of the Senator from Virginia [Mr. ROBB], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of S. 264, a bill to authorize a grant to the National Writing Project.

S. 265

At the request of Mr. THURMOND, the names of the Senator from New York [Mr. D'AMATO] and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of S. 265, a bill to establish constitutional procedures for the imposition of the death penalty for terrorist murders and for other purposes.

S. 269

At the request of Mrs. KASSEBAUM, the names of the Senator from Utah [Mr. GARN] and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 269, a bill to amend the Employee Retirement Income Security Act of 1974 to require an independent audit of statements prepared by certain financial institutions with respect to assets of employee benefit plans.

S. 284

At the request of Mr. LIEBERMAN, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 284, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of payments under life insurance contracts for terminally ill individuals.

S. 288

At the request of Mr. DIXON, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 288, a bill to establish a series of 8 Presidential primaries at which the public may express its preference for the nomination of an individual for election to the Office of President of the United States.

S. 297

At the request of Mr. HEFLIN, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 297, a bill requiring that the U.S. Postal Service study and report to Congress on ways to encourage mailers of second-class and third-class mail matter to use recycled paper.

S. 308

At the request of Mr. MITCHELL, the names of the Senator from Pennsylvania [Mr. SPECTER], the Senator from Mississippi [Mr. LOTT], and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of S. 308, a bill to amend the Internal Revenue Code of 1986 to permanently extend the low-income housing credit.

S. 310

At the request of Mr. PELL, the names of the Senator from Maryland [Ms. MIKULSKI] and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 310, a bill to provide for full statutory wage adjustments for prevailing rate employees, and for other purposes.

S. 315

At the request of Mr. KASTEN, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 315, a bill to amend the Internal Revenue Code of 1986 to increase to 100 percent and make permanent the deduction for health insurance for self-employed individuals.

S. 335

At the request of Mr. KENNEDY, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 335, a bill to provide relief for active duty military personnel serving in connection with Operation Desert Storm on obligations under the Robert T. Stafford Student Loan Program, to alleviate health care provider shortages resulting from hostilities, and for other purposes.

S. 341

At the request of Mr. HEINZ, his name was withdrawn as a cosponsor of S. 341, a bill to reduce the Nation's dependence on imported oil, to provide for the energy security of the Nation and for other purposes.

S. 349

At the request of Mr. BUMPERS, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 349, a bill to amend the Fair Labor Standards Act of 1938 to clarify the application of such Act, and for other purposes.

S. 352

At the request of Mr. GLENN, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 352, a bill to protect the rights of persons to due process of law and equal protection of the laws in guardianship proceedings.

S. 400

At the request of Mr. SYMMS, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 400, a bill to set aside tax revenues collected on recreational fuels not used on highways for the purposes of improving and maintaining recreational trails.

S. 401

At the request of Mr. DOMENICI, the names of the Senator from Iowa [Mr. HARKIN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Florida [Mr. MACK], the Senator from North Carolina [Mr. SANFORD], and the Senator from Missouri [Mr. BOND] were added as cosponsors of S. 401, a bill to amend the Internal Revenue Code of 1986 to exempt from the luxury excise tax parts or accessories installed for the use of passenger vehicles by disabled individuals.

S. 403

At the request of Mr. WALLOP, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 403, a bill to clarify the intent of Congress with respect to establishment and collection of certain fees and charges.

S. 405

At the request of Mr. MITCHELL, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of S. 405, a bill to amend the Harmonized Tariff Schedule of the United States to exclude certain footwear assembled in beneficiary countries from duty-free treatment.

S. 420

At the request of Mr. SARBANES, the names of the Senator from Illinois [Mr. SIMON] and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 420, a bill to increase to $50,000 the maximum grant amount awarded pursuant to section 601 of the Library Services and Construction Act.

S. 433

At the request of Mr. BUMPERS, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 433, a bill to provide for the disposition of certain minerals on Federal lands, and for other purposes.

S. 445

At the request of Mr. METZENBAUM, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 445, a bill to amend the provisions of the Occupational Safety and Health Act of 1970 relating to criminal penalties, and for other purposes.

S. 451

At the request of Mr. D'AMATO, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 451, a bill to amend the Internal Revenue Code of 1986 to make permanent the exclusion for amounts received under qualified group legal service plans.

S. 479

At the request of Mr. LEAHY, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 479, a bill to encourage innovation and productivity, stimulate trade, and promote the competitiveness and technological leadership of the United States.

S. 493

At the request of Mr. KENNEDY, the names of the Senator from California [Mr. CRANSTON], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of S. 493, a bill to amend the Public Health Service Act to improve the health of pregnant women, infants and children through the provision of comprehensive primary and preventive care, and for other purposes.

S. 511

At the request of Mr. DODD, the names of the Senator from Missouri [Mr. BOND], the Senator from Alabama [Mr. SHELBY], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of S. 511, a bill to establish programs to improve foreign instruction and to amend the Higher Education Act of 1965 in order to promote equal access to opportunities to study abroad, and for other purposes.

S. 520

At the request of Mr. LEAHY, for names of the Senator from Vermont [Mr. JEFFORDS], the Senator from Alabama [Mr. HEFLIN], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of S. 520, a bill to establish on a temporary basis a minimum basic formula price for the computation of Class I milk prices.

S. 523

At the request of Mr. SIMON, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 523, a bill to authorize the establishment of the National African-American Memorial Museum within the Smithsonian Institution.

SENATE JOINT RESOLUTION 16

At the request of Mr. THURMOND, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Mississippi [Mr. LOTT], and the Senator from California [Mr. SEYMOUR] were added as cosponsors of Senate Joint Resolution 16, a joint resolution designating the week of April 21-27, 1991, as "National Crime Victims' Rights Week."

SENATE JOINT RESOLUTION 18

At the request of Mr. SIMON, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of Senate Joint Resolution 18, a joint resolution proposing an amendment to the constitution relating to a federal balanced budget.

SENATE JOINT RESOLUTION 38

At the request of Mr. THURMOND, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of Senate Joint Resolution 38, a joint resolution to recognize the "Bill of Responsibilities" of the Freedoms Foundation at Valley Forge.

SENATE JOINT RESOLUTION 52

At the request of Mr. DECONCINI, the names of the Senator from Oregon [Mr. HATFIELD], and the Senator from California [Mr. SEYMOUR] were added as cosponsors of Senate Joint Resolution 52, a joint resolution to designate the months of April 1991 and 1992 as "National Child Abuse Prevention Month."

SENATE JOINT RESOLUTION 57

At the request of Mr. THURMOND, the names of the Senator from Alabama [Mr. SHELBY], the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of Senate Joint Resolution 57, a joint resolution to designate the month of May 1991, as "National Foster Care Month."

SENATE JOINT RESOLUTION 67

At the request of Mr. THURMOND, the names of the Senator from Florida [Mr. GRAHAM], the Senator from Wyoming [Mr. SIMPSON], the Senator from Hawaii [Mr. AKAKA], and the Senator from Washington [Mr. GORTON] were added as cosponsors of Senate Joint Resolution 67, a joint resolution to recognize and commemorate the centennial of the Immigration and Naturalization Service.

SENATE JOINT RESOLUTION 70

At the request of Mr. CHAFEE, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of Senate Joint Resolution 70, a joint res-

olution to establish April 15, 1991, as "National Recycling Day."

SENATE JOINT RESOLUTION 79

At the request of Mr. D'AMATO, the names of the Senator from Michigan [Mr. LEVIN], the Senator from Georgia [Mr. FOWLER], the Senator from Florida [Mr. MACK], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of Senate Joint Resolution 79, a joint resolution authorizing and requesting the President to designate the second full week in March 1991 as "National Employ the Older Worker Week."

SENATE CONCURRENT RESOLUTION 7

At the request of Mr. COCHRAN, the names of the Senator from California [Mr. SEYMOUR], the Senator from Utah [Mr. GARN], the Senator from Idaho [Mr. CRAIG], the Senator from Missouri [Mr. BOND], the Senator from Alabama [Mr. HEFLIN], and the Senator from Nevada [Mr. REID] were added as cosponsors of Senate Concurrent Resolution 7, a concurrent resolution urging the establishment of an international tribunal with jurisdiction to judge and punish Saddam Hussein for offenses committed against the citizens of Kuwait and Israel and against prisoners-of-war.

SENATE CONCURRENT RESOLLUTION 9

At the request of Mr. DECONCINI, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of Senate Concurrent Resolution 9, a concurrent resolution to encourage the Angolan Peace Talks.

SENATE CONCURRENT RESOLUTION 14—RELATIVE TO BEER EXPORTS TO CANADA

Mr. ADAMS (for himself, Mr. GORTON, Mr. KOHL, and Mr. KASTEN) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 14

Whereas the United States is the world's leading producer of beer;

Whereas Canada represents the second largest export market for American brewed beer;

Whereas, in 1990, the United States exported approximately 7 million cases of beer to Canada and imported more than 29 million cases of beer from Canada;

Whereas the Canadian provincial liquor control boards exercise monopoly power over the import and distribution of beer and limit access to Canadian markets through such unfair practices as "listing" requirements, "markup" policies, cost of service fees, and other restrictions on distribution and sales;

Whereas, in 1988, a panel of the General Agreement on Tariffs and Trade found that certain Canadian trade restrictions on alcoholic beverages, including beer, are contrary to the provisions of such agreement, and Canada agreed to accord national treatment to European Community beer;

Whereas Canada has violated the Free Trade Agreement with the United States by imposing new restrictions on the import of American brewed beer;

Whereas the 1990 National Trade Estimate Report by the United States Trade Representatives states that "Provincial liquor boards (including those of Alberta and British Columbia) discriminate against United States beer in the areas of listing, distribution, and pricing"; and

Whereas, in 1990, the two largest United States beer exporters to Canada filed petitions under Section 301 of the Trade Act of 1974 against the barriers to trade constructed by the Canadian provincial liquor control boards: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) the rights of the United States under the General Agreement on Tariffs and Trade and the United States-Canada Free-Trade agreement are being denied by Canada and that the Canadian provincial liquor control board's treatment of American brewed beer is unjustifiable and restricts United States commerce; and

(2) the United States Trade Representative should vigorously pursue dispute settlement on this matter under the General Agreement on Tariffs and Trade, and should impose restrictions on imports of Canadian beer or other products if Canada does no promptly eliminate the unjustifiable and restrictive treatment of American brewed beer by the Canadian provincial liquor control boards.

Mr. ADAMS. Mr. President, today along with Senators GORTON, KOHL, and KASTEN, I am submitting a concurrent resolution aimed at Canada's protectionist practices against American brewed beer.

The United States is the world's leading beer producer and Canada ranks as one of our largest export markets. However, the two-way trade statistics on beer indicate that United States breweries would be selling much more to Canadians were it not for the extremely protectionist trade policies and practices of their provincial liquor control boards. While Americans buy nearly 30 million cases of Canadian beer each year, United States brewers annually sell barely 7 million cases in a country that consumes 250 million a year. The problem here is not price or quality, as the success of the limited American beer sold in Canada testifies. The problem is Canada's trade barriers.

The resolution we are introducing is simple and straightforward. It supports the industry petitions, filed under section 301 of the 1974 Trade Act, which seek the elimination of Canadian trade barriers. The petitions were filed last year by the two largest United States beer exporters to Canada: Heileman Brewing and the Stroh Brewery. The Heileman group includes Rainier Brewing Co. in Seattle, WA, Lone Star in Texas, Carling National in Maryland, and Henry Weinhard in Portland, OR.

The resolution expresses the sense of the Congress that the rights of the United States under the General Agreement on Tariffs and Trade [GATT] and the United States-Canada Free-Trade Agreement are being denied by Canada, and that the practices of Canada's provincial liquor control boards are unjustifiable and restrict United States commerce. In accordance with the provisions of section 301, the resolution calls on the United States Trade Representative [USTR] to vigorously pursue dispute settlement through the GATT, and to impose restrictions on imports of Canadian beer or other products if Canada does not promptly eliminate these trade barriers.

As the president of Rainier Beer, Mr. Bruce Vaughan, stated in a recent letter:

> It's not easy exporting beer to British Columbia, or any of the other Canadian Provinces. Importation is monopolized by each of the Provincial Liquor Control boards, which limit the number of American beers that may enter and control the price at which they are sold. Many of the Provinces either reject all American beers or mark the price so high on those allowed, that consumer demand is quite limited.

This is not the first time an unfair trade case has been brought against Canada for its treatment of beer imports. More than 10 years ago, the European Community [EC] requested concessions on alcoholic beverage trade with Canada as a part of the Tokyo round of multilateral trade negotiations. When Canada failed to live up to its promised concessions, the EC sought consultations under the GATT. When consultations failed to produce a solution, the EC asked for a GATT dispute resolution panel. The panel, which took 3 years to study the matter, concluded in 1988 that certain Canadian trade restrictions on alcoholic beverages were contrary to the GATT. As a result, Canada agreed to accord national treatment to EC beer for purposes of listing and agreed not to increase any markup differential on the cost of EC beer.

Under the GATT, each contracting party has the obligation to accord similar treatment to the products of other contracting parties. American brewed beer is not being accorded the same treatment as EC beer, in clear violation of the GATT.

These practices also represent a violation of the United States-Canada Free-Trade Agreement. Under the FTA, Canada made a commitment not to impose any new restrictions on imported American brewed beer. However, since the entry into force of the FTA, the liquor control boards of all the Provinces, particularly those of Alberta, British Columbia, Manitoba, Ontario, Saskatchewan and the Atlantic Provinces, have instituted a host of new, discriminatory practices against American beer.

In Canada, each of the provinces exercises monopoly authority over the importation, distribution, and sale of beer through provincial liquor control boards. Each board acts independently, but there are a number of similarities in the discriminatory treatment of American beer. Access to the Canadian market is limited in three general ways: Listing requirements; markup

policies; and restrictions on distribution, such as limitation on points of sale.

Listing is the prerequisite to entry to the Canadian market. If a beer is not on the list, it cannot be sold in the province. Some provinces have written policy statements supposedly setting forth the criteria for listing, but more often than not listing is an arbitrary practice designed to protect the domestic industry from foreign competition.

In British Columbia [BC], for example, the number of listings awarded to American brewers is limited. Listing applications are decided only twice a year, and imported beers must pass a sales quota test or be delisted. Canadian beers are not subject to such a sales quota test. In British Columbia, Canadian beers have about 10 times the number of listings as American beers, or nearly 100 versus 11.

One of the more egregious practices is the markup policy, which limits price competition between American and Canadian beers. The markup is the difference in price between what the provincial monopoly pays for imported beer and what it charges upon resale to its customers. Ostensibly intended to cover the cost of handling and to provide a margin of profit, the markup on imported beer is higher than that on domestic beer. Recently, a new cost-of-service fee has been levied on American beer. This fee essentially sets a minimum floor price on imported beer. In each case where a cost-of-service fee has been imposed on imported beer, it has occurred after Canadian consumers increased purchases of lower priced American imported beer.

Imposed by Alberta in 1988, followed by British Columbia this year, the fee has drastically cut sales of American brewed beer in Canada. Before British Columbia instituted the cost-of-service fee, a six-pack of Rainier beer sold for $4.60. On January 1, 1991, the British Columbia Liquor Control Board imposed a $0.60 per six-pack fee, raising the price to $5.20. The lowest price for a domestic six-pack there is about $5.10.

For Rainier Brewing, the cost-of-service fee has had a devastating effect on sales. Prior to the imposition of the fee, Rainier sold about 400,000 cases per month in British Columbia alone. Since the fee was imposed, sales have plummeted to 3,000 cases per month, threatening American jobs and Rainier's entire British Columbia market.

Despite continued attempts by USTR to negotiate the elimination of these practices, the Canadians have resisted. USTR's 1990 National Trade Estimates Report again cited the actions of the provincial liquor control boards as protectionist.

I commend Ambassador Hills and her staff for taking the next step and requesting the establishment of a GATT dispute settlement panel to resolve the matter. Unfortunately, by the time the GATT panel reaches a decision this fall, it may be too late for American breweries to salvage any market share in certain provinces.

Our resolution seeks to expedite the GATT panel process as well as to strengthen the hand of the United States Trade Representative in negotiating an immediate end to Canada's unfair trade practices. Our resolution also places the Congress squarely on record in favor of strong mandatory action by USTR to enforce U.S. rights under trade agreements.

Mr. President, it is clear to me that the world's leading beer producer would be able to sell much more than 7 million cases a year in Canada if the country would remove its trade barriers. It is time for Canada to open its market. Elimination of Canada's protectionist practices will allow United States breweries to begin competing on equal footing, give Canadians a greater choice, and also help ensure American jobs. I urge my colleagues to join us in cosponsoring this resolution.

SENATE CONCURRENT RESOLUTION 15—RELATIVE TO CREATING NEW MARKETS IN THIRD WORLD COUNTRIES

Mr. SYMMS submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 15

Whereas the creation of new employment worldwide is increasingly needed to maintain stability as populations expand;

Whereas such job growth in the Third World would open vital new markets for the products and services of the advanced nations;

Whereas neither welfare-type aid nor the mere reduction of developing-country debt can, in itself, provide the basis for growth of the economies of those countries;

Whereas private direct investment is the principal way to bring about growth in the developing nations; and

Whereas private companies can be encouraged to seek opportunities in the Third World and fugitive capital can be induced to return home if it is made clear that the industrialized nations are united in a consistent policy of facilitating development: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the United States should make known and urge the other member nations of the Organization for Economic Cooperation and Development (OECD) to agree to pursue policies of growth-oriented assistance to such developing nations as may be deemed likely to show important expansion if certain circumstances are created;

(2) the United States should urge its OECD partners to meet, discuss, and adopt such measures of encouragement as may be necessary and practical;

(3) the United States should urge the other advanced nations to join with the United States in giving new positive signs of accepting importation of Third World products into their economies;

(4) the United States should ask the other advanced nations to encourage private direct investment in the Third World by their citizens;

(5) the United States should make it a condition of the actions in this concurrent resolution that only those selected Third World nations that give definite promises of full cooperation in this joint effort are to become partners in the program; and

(6) such cooperation should include "national treatment" for private direct investors, an undertaking to keep any protection of new industries as small and as brief as possible, and an agreement to listen attentively to advice of the OECD in the selection of new industrial or commercial projects, in the general management of the Third World nation's economy, and in the reassessment of its comparative advantages.

Mr. SYMMS. Mr. President, I am pleased to introduce a sense of the Senate resolution which strongly favors private direct investment in the Third World as a means of assuring our own economic growth and prosperity.

Over a 5-year period, my friend, Charles A. Cerami and a remarkable team of leaders from around the world have studied where the future of our economy lies: Free markets, and the exercise of private property rights unfettered by Government restraints. The world, whether advanced or not, suffers from a shortage of jobs. Experts estimate that 100 million new jobs a year will be needed to prevent the spreading violence we have observed in many places throughout the Third World.

Because U.S. employment is low at this time, we do not realize how fast our own job picture could change if our foreign markets suffer a decline in personal buying power.

The United States has the capability to prevent this, Cerami and his colleagues say in a book published by Praeger Publishers in New York and London. The book is titled, "An International Roundtable on World Economic Development," and I consider it a blueprint for prosperity because the 16 world leaders who have contributed to it are willing to act on their words.

There are chapters by Senator BILL ROTH, our distinguished colleague from Delaware, and our former colleague, Jack Kemp, now a member of President Bush's Cabinet. Other leaders included in this excellent study include two European foreign ministers, the secretaries general of two world organizations, Germany's present ambassador to Washington, our former Secretary of Agriculture John Block, former Commerce Undersecretary Lionel Olmer, and Dr. Francisco Aguirre, publisher of the Spanish-American newspaper Diario Las Americas.

The program outlined in the study would create employment and purchasing power where there is none today. It would create jobs and tax revenues here and among our allies and would

encourage expansion and stability for the 1990's and beyond.

There are several powerful points that everyone of these leaders—and all of us—agree on:

That the steady expansion of investment into new areas is important to our future.

That our governmental policies to encourage those investments must be steady enough to give businessmen the confidence to plan and act.

That investment and development are fields in which we have a massive advantage over the Soviets, and we should use it to build security.

And that developing nations wishing to take part in the growth program must bear their share of responsibility. Some of their economic systems need overhauling. They, too, must make changes. They, too, must give our Government confidence.

Mr. President, Senator ROTH stated the obvious with these words: "We have to get more countries on their fee, because you can't make much money selling to poor people."

Many developing nations are willing to do much of what the study suggests. Some Latin American nations that once considered our direct investments repugnant to their dignity, now insist that partnership is the best way to develop. Many Third World leaders no longer talk of being repaid for their difficult past, but of looking ahead to partnerships where our companies are guaranteed fair treatment equal to their own national companies.

This Sense of the Senate resolution is not about foreign aid. It is about hardheaded investment and growth. Nothing in this study requires huge Government outlays or new bureaucracies. The institutions are already in place. It is up to us to begin the process and let the business community know we are behind them 100 percent.

SENATE RESOLUTION 71—RELATING TO THE ESTABLISHMENT OF AN INTERNATIONAL MILITARY TRIBUNAL TO TRY AND PUNISH INDIVIDUALS INVOLVED IN WAR CRIMES DURING THE PERSIAN GULF WAR

Mr. SPECTER submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 71

Whereas the International Military Tribunal at Nuremberg held the initiation of a war of aggression to be "not only an international crime (but also) the supreme international crime differing only from other war crimes in that it contains within itself the accumulated evil of the whole;"

Whereas on August 2, 1990 and without provocation, Iraq initiated a war of aggression against the sovereign state of Kuwait;

Whereas the Charter of the United Nations imposes on its members the obligations to "refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state" and to "settle their international disputes by peaceful means;"

Whereas the leaders of the Government of Iraq, a country which is a member of the United Nations, did violate this provision of the United Nations Charter;

Whereas the Geneva Convention Relative to the Protection of Civilian Persons in Time of War (the Fourth Geneva Convention) imposes certain obligations upon a belligerent State, occupying another country by force of arms, in order to protect the civilian population of the occupied territory from some of the ravages of the conflict;

Whereas the public testimony of victims and witnesses has indicated that Iraqi officials violated Article 27 of the Fourth Geneva Convention by their inhumane treatment and acts of violence against the Kuwaiti civilian population, including women;

Whereas the public testimony of victims and witnesses has indicated that Iraqi officials violated Articles 31 and 32 of the Fourth Geneva Convention by subjecting Kuwaiti civilians to physical coercion, suffering and extermination in order to obtain information;

Whereas Article 146 of the Fourth Geneva Convention states that persons committing "grave breaches" are to be apprehended and subjected to trial;

Whereas "grave breaches" are defined to include: "willful killing, torture or inhuman treatment * * *, willfully causing great suffering or serious injury to body or health, taking of hostages and extensive destruction and appropriation of property, not justified by military necessity;"

Whereas both Iraq and Kuwait are parties to the Fourth Geneva Convention;

Whereas on several occasions the United Nations Security Council has found Iraq's treatment of Kuwaiti civilians violative of international law;

Whereas in Resolution 665, adopted on August 25, 1990, the United Nations Security Council deplored "the loss of innocent life stemming from the Iraq invasion of Kuwait";

Whereas in Resolution 670, adopted by the United Nations Security Council on September 25, 1990, it condemned further "the treatment by Iraqi forces on Kuwaiti nationals and reaffirmed that the Fourth Geneva Convention applied to Kuwait";

Whereas in Resolution 674, the United Nations Security Council demanded that Iraq cease mistreating and oppressing Kuwaiti nationals in violation of the Convention and reminded Iraq that it would be liable for any damage or injury suffered by Kuwaiti nationals due to Iraq's invasion and illegal occupation;

Whereas the Geneva Convention Relative to the Treatment of Prisoners of War (the Third Geneva or POW Convention) sets forth standards for the treatment of civilians and incapacitated combatants during times of hostilities;

Whereas Iraq is a party to the POW Convention;

Whereas there is evidence and testimony that Iraq violated articles of the POW Convention by its physical and psychological abuse of military and civilian POW's including members of the international press;

Whereas there is evidence and testimony that Iraq violated articles of the POW Convention by placing POWs in solitary confinement, failing to shelter POWs against air bombardment, and denying POW's contact with the outside world;

Whereas in Resolution 667, adopted on September 16, 1990, the Security Council expressed "outrage" at Iraq's abduction of several persons from diplomatic premises in violation of the Vienna Convention on Diplomatic and Consular Relations;

Whereas in violation of the Fourth Geneva Convention, Iraq did fire missiles on Israel with the intent of making it a party to war and with the intent of killing or injuring innocent civilians;

Whereas Iraq has inflicted grave risk to the health and well-being of innocent civilians in the region by its willful setting on fire of Kuwaiti oil wells and its willful spilling of oil into the Persian Gulf, resulting in the mass pollution of air and water;

Whereas for all of the above incidents, it is not a defense that an individual in committing such heinous acts under orders of higher government officials (International Military Tribunal (Nuremberg) Judgment and Sentences, 41 A.J.I.L. 171 (1946) "That a soldier was ordered to kill or torture in violation of international law of war has never been recognized as a defense to such acts of brutality.");

Whereas the Nuremburg tribunal provision which held that "crimes against international law are committed by men, not by abstract entities, and only by punishing individuals who commit such crimes can the provisions of international law be enforced" is as valid today as it was in 1946;

Whereas a failure to try and punish leaders and other persons for crimes against international law establishes a dangerous precedent and negatively impacts the value of deterrence to future illegal acts: Therefore be it

Resolved, That it is the sense of the Senate that the President should confer with Kuwait, other member nations of the Coalition or the United Nations to establish an International Criminal Court or an International Military Tribunal to try and punish all individuals involved in the planning or execution of the above-referenced crimes, including Saddam Hussein.

Mr. SPECTER. Mr. President, I am today submitting a resolution to encourage the President of the United States to join with the sovereign state of Kuwait, and other countries who are members of the U.N. coalition, to establish an international criminal court or an international military tribunal to try and punish all individuals, including President Saddam Hussein, who were involved in planning the execution of crimes against peace, war crimes, and crimes against humanity as defined under international law.

Mr. President, the international law on war crimes has been firmly established. We had experience following World War II with the Nuremberg war trials so that individuals are held responsible for war crimes, for atrocities, under the principle that an individual cannot seek an excuse that he or she acted under official orders.

Now that the gulf war has come to a conclusion there is a body of evidence sufficient at least to establish a prima facie case in a court of law that many in Iraq are chargeable with such war crimes, including the President of the nation, Saddam Hussein, and others in the Iraq revolutionary command council.

Mr. President, the war ended with the liberation of Kuwait without further action to try to take Saddam Hussein—or other Iraqi war criminals or those against whom allegations could appropriately be made—into custody. But we should not allow these atrocities to stand without the weight of international law being directed against them.

The resolution of the United Nations itself, No. 678, authorizing the use of force, was historic. And there must be a followup in terms of the pursuit of war criminals.

We have seen atrocities against citizens of Kuwait. We have seen violations against U.S. prisoners of war. We have seen violations against other U.S. citizens, hostages taken as human shields. We have seen some 39 Scud missile attacks against Tel Aviv, where there was absolutely no miltary purpose, aimed solely at civilian populations.

If we allow this conduct to stand without tough international law enforcement action, then we will be condoning such conduct. We will be taking a significant step backward from the forceful action taken by the international community at the Nuremberg trials.

Mr. President, it was not possible to move ahead beyond the United Nations mandate to liberate Kuwait. It may well be the events in Iraq today will result in the nation of Iraq ousting President Saddam Hussein and ousting the Iraqi revolutionary command council.

It may be that there will be a way to take Saddam Hussein and others, against whom allegations of war crimes can appropriately be made, into custody. If that is not possible, Mr. President, then I suggest that Saddam Hussein and others be tried in absentia. That is a principle to try them even though they are not present. It is a principle from the Nuremberg war trials. It is a principle in American jurisprudence. If an individual flees, or may not be taken into custody after an indictment has been brought under United States law, that individual may be tried in absentia.

This kind of a war trial will document the atrocities and the crimes so that there would be no doubt in anyone's mind, especially those Iraqis who were most fervently in support of Saddam Hussein, that it was an unjust war, that there were atrocities, and that there should be no mantle of heroism.

Preferably Saddam Hussein and others, and any defendant, should be tried in person with an opportunity for them to defend themselves in accordance with the principles of Nuremberg or the principles of U.S. jurisprudence.

Mr. President, I ask unanimous consent that a memorandum from the Congressional Research Service dated December 3, 1990, be printed in the RECORD.

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

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

CONGRESSIONAL RESEARCH SERVICE,
Washington, DC, December 3, 1990.

AMERICAN LAW DIVISION MEMORANDUM

Subject: International Law Applicable to Iraq's Invasion and Occupation of Kuwait and to the Subsequent Response by the International Community.

Author: David M. Ackerman.

This is in response to your request for information on the implications of international law with respect to Iraq's invasion and occupation of Kuwait. You asked for specific information on how international law has been violated by Iraq and on the implications of international law for the legality of the response by the international community of nations. This memorandum responds to these questions in order.

ALLEGED IRAQI VIOLATIONS OF INTERNATIONAL LAW

Iraq's invasion of Kuwait and its actions in the wake of that invasion have given rise to numerous charges of violations of international law. While no forum has weighed those charges in an adjudicatory setting, the allegations that appear to have a substantial basis in fact would seem to include at least the following:

(1) Aggression against Kuwait: It is not yet settled whether international law proscribes all use of military force in the relations of States, other than in self-defense. The International War Crimes Tribunal at Nuremberg held the initiation of a war of aggression to be "not only an international crime (but also) the supreme international crime differing only from other war crimes in that it contains within itself the accumulated evil of the whole."[1] Moreover, the Charter of the United Nations imposes on its members the obligations to "refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state" and to "settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered."[2] Some commentators, however, argue that the numerous modern instances of the aggressive use of force in the relations of States cast doubt on whether that principle has become a binding norm of international law.[3]

In any event, both Iraq and Kuwait are members of the United Nations. Thus, at the very least, Iraq's invasion of Kuwait would seem to have violated the provisions of the UN Charter quoted above.[4]

(2) Annexation of Kuwait: Historically, the annexation of territory by a victorious State through military conquest has given rise to legal title.[5] That is no longer the case, however, with respect to territory acquired through the threat or use of force in violation of the UN Charter. As noted above, the Charter forbids Member States from using force or the threat of force against the territorial integrity of other States (Article 2(4)). The United Nations has at times acquiesced in the annexation of territory or the acquisition of statehood through the use of military force.[6] But nonetheless, it is "universally accepted" that "international law requires states not to recognize or accept a 'territorial acquisition resulting from the threat or use of force.'"[7]

Iraq announced its annexation of Kuwait on August 8, 1990. On August 9 the Security Council unanimously adopted Resolution 662 holding that the "annexation of Kuwait by Iraq under any form and whatever pretext has no legal validity, and is considered null and void" and calling upon all States and international organizations "not to recognize that annexation, and to refrain from any action or dealing that might be interpreted as an indirect recognition of the annexation." Under Article 25 of the UN Charter, that decision by the Security Council is binding upon all Members of the UN.

(3) Treatment of Kuwaiti citizens: The Geneva Convention Relative to the Protection of Civilian Persons in Time of War[8] (the Fourth Geneva Convention) imposes certain obligations upon a belligerent State occupying another country by force of arms in order to protect the civilian population of the occupied territory from some of the ravages of the conflict. Nationals in an occupied territory are required to be "humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity" (Article 27). Women are to be "especially protected against any attack on their honor, in particular against rape, enforced prostitution, or any form of indecent assault" (Article 27). Civilians may not be subjected to physical or moral coercion in order to obtain information (Article 31), nor may they be subjected to "any measure of such a character as to cause the[ir] physical suffering or extermination" (Article 32). They may not be taken hostage (Article 34) or "used to render certain points or areas immune from military operations" (Article 28). Civilian populations in an occupied territory may not be subjected to "individual or mass forced transfers" or to deportation to the territory of the occupying power (Article 49). The occupying power may not destroy private real or personal property except as "rendered absolutely necessary by military operations" (Article 53), nor may it requisition foodstuffs and medical supplies "except for use by the occupation forces and administrative personnel" (Article 55). Individuals accused of crimes are to be afforded due process (Article 71–76). If individuals are interned, they are to be afforded "every possible safeguard as regards hygiene and health" (Article 85), daily food rations "sufficient in quantity, quality, and variety to keep (them) in a good state of health" (Article 89), sufficient clothing (Article 90), and medical inspections at least

[1] "International Military Tribunal (Nuremberg) Judgment and Sentences," 43 *American Journal of International Law* 168 (Jan., 1949), quoted in von Glahn, *Law Among Nations* (1986), at 589.

[2] United Nations Charter, Chap. I, Art. 2(3) and 2(4). *See, e.g.*, American Law Institute, *Restatement of the Law: The Foreign Relations Law of the United States* (1987), §102, Comment *k* and §905, Comment *g* (hereinafter *Restatement*).

[3] *See, e.g.*, von Glahn, *Law Among Nations* (1986), pp. 583–607.

[4] The UN Security Council on August 2, 1990, held the invasion to constitute "a breach of international peace and security" in Resolution 660, the first of the eleven resolutions it has adopted on the matter.

[5] von Glahn, *supra*, at 322.

[6] Indonesia's annexation of East Timor in 1975, *e.g.*

[7] *Restatement, supra*, §202, Reporter's Note 5, at 82, quoting the Declaration on Principles of International Law Concerning Friendly Relations and Cooperation among States in Accordance with the Charter of the United Nations, G.A. Res. 2625, 25 U.N. GAOR Supp. No. 28 at 121.

[8] 6 U.S.T. 3516.

monthly (Article 92). Persons committing what are defined by the Convention as "grave breaches" are to be apprehended and subjected to trial (Article 146). "Grave breaches" are defined to include any of the following acts committed against those protected by the Convention: "willful killing, torture or inhuman treatment . . ., willfully causing great suffering or serious injury to body or health, unlawful deportation or transfer or unlawful confinement of a protected person, compelling a protected person to serve in the forces of a hostile Power, or willfully depriving a protected person of the rights of fair and regular trial prescribed in the present Convention, taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly" (Article 147).

Both Iraq and Kuwait are parties to this Convention. Press reports, thus, of Kuwaiti civilians being executed, men being beaten during interrogations, women being raped, and babies being removed from hospital incubators, as well as accounts of widespread looting of Kuwaiti homes, businesses, warehouses, hospitals, and indusrial sites, the deportation of Kuwaiti civilians from Kuwait, and the deliberate destruction of civil records on the population of Kuwait[9] suggest that a number of these provisions may have been violated. Indeed, on several occasions the Security Council has found Iraq's treatment of Kuwaiti civilians violative of international law. In Resolution 665, adopted on August 25, 1990, the Security Council deplored "the loss of innocent life stemming from the Iraqi invasion of Kuwait." In Resolution 670, adopted on September 25, 1990, it condemned further "the treatment by Iraqi forces of Kuwaiti nationals, including measures to force them to leave their own country and mistreatment of persons and property in Kuwait" and reaffirmed "that the Fourth Geneva Convention applies to Kuwait and that as a High Contracting Party to the Convention Iraq is bound to comply fully with all its terms and in particular is liable under the Convention in respect to the grave breaches committed by it, as are individuals who commit or order the commission of grave breaches." In Resolution 674, adopted on October 29, 1990, the Security Council condemned "the actions by the Iraqi authorities and occupying forces . . . to mistreat and oppress Kuwaiti . . . nationals . . ., such as the destruction of Kuwaiti demographic records, the forced departure of Kuwaitis, the relocation of population in Kuwait and the unlawful destruction and seizure of public and private property in Kuwait"; reaffirmed the language of the previous Resolution regarding the applicability of the Fourth Geneva Convention to Kuwait and the liability of Iraq under that Convention for any grave breaches of the Convention; demanded that Iraq cease mistreating and oppressing Kuwaiti nationals in violation of the Convention; and reminded Iraq that it would be liable for any damage or injury suffered by Kuwaiti nationals and corporations due to its invasion and illegal occupation of Kuwait. Finally, in Resolution 677, adopted on November 28, 1990, the Security Council condemned Iraq's efforts "to alter the demographic composition of the population of Kuwait and to destroy the civil records maintained by the legitimate government of Kuwait."

(4) Treatment of third country nationals: Customary international law imposes on all States certain obligations with respect to the treatment of aliens resident within their boundaries. These obligations include the duty to provide such aliens reasonable police protection, to afford them the equal protection of the laws, and to respect those rights articulated in the international law of human rights as belonging to all citizens and not just to citizens.[10] Although the latter category of rights is still developing, it appears to include the following rights set forth in the International Covenant on Civil and Political Rights: the right to life (Article 6); the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment (Article 7); the right not to be subjected to arbitrary arrest or detention (Article 10); the right to leave any country (Article 12); and the right not to be discriminated against on the grounds of race, color, sex, language, religion, political opinion, national or social origin, property, birth, or other status (Article 26). The Convention permits some of these rights to be compromised for compelling reasons of national security, but it allows no derogation from the rights set forth in Articles 6 or 7 (Article 4).

In addition, selected provisions of the Fourth Geneva Convention described above would seem applicable to the third country nationals in Iraq and Kuwait.[11] Most important, the Convention flatly prohibits "the taking of hostages" (Article 34). Although the provision is part of a section of the Convention that sets forth the "Status and Treatment of Protected Persons,"[12] it is not, unlike the other articles, worded as applicable only to protected persons. Moreover, the provision appears applicable not only to third country nationals in Kuwait but also those in Iraq.

As noted above, Iraq is a party to the Fourth Geneva Convention on Civil and Political Rights. Thus, its actions in preventing third country nationals from leaving Iraq and Kuwait, subjecting them to arbitrary arrest and detention, and taking some of them hostage and using them as human shields appear to be in violation of its obligations under these Conventions as well as under the customary law regarding the treatment of aliens. The Security Council has voiced these concerns in several resolutions. In Resolution 664, adopted on August 18, 1990, the Council expressed concern "for the safety and well being of third state nationals in Iraq and Kuwait," recalled "the obligations of Iraq in this regard under international law," and demanded that "Iraq permit and facilitate the immediate departure from Kuwait and Iraq of the nationals of third countries" and that "Iraq take no action to jeopardize the safety, security or health of such nationals." In Resolution 666, adopted on September 13, 1990, the Council reiterated its concern that "Iraq has failed to comply with its obligations . . . in respect of the safety and well-being of third State nationals," reaffirmed that "Iraq retains full responsibility in this regard under international humanitarian law including, where applicable, the Fourth Geneva Convention," and called on Iraq to comply with the previous Resolution. In Resolution 667, adopted September 16, 1990, the Council reiterated that "Iraq is fully responsible for any use of violence against foreign nationals," specifically demanded that Iraq release all foreign nationals seized in the embassies in Kuwait, and again demanded that Iraq comply with the previous Resolution. In Resolution 670, adopted on September 25, 1990, the Council again condemned Iraq's "holding of third State nationals against their will." In Resolution 674, adopted on October 29, 1990, the Council again expressed "grave alarm over the situation of nationals of third States in Kuwait and Iraq" and demanded that "the Iraqi authorities and occupying forces immediately cease and desist from taking third-State nationals hostage (and) mistreating and oppressing . . . third-State nationals" and demanded that Iraq "immediately fulfill its obligations to third-State nationals in Kuwait and Iraq . . .," that "Iraq permit and facilitate the immediate departure from Kuwait and Iraq of those third-State nationals . . . who wish to leave," and that "Iraq ensure the immediate access to food, water and basic services necessary to the protection and well-being of . . . nationals of third States in Kuwait and Iraq."

(5) Closure of embassies in Kuwait and treatment of diplomatic and consular personnel: International law affords broad protection to the conduct of diplomatic and consular relations. The Vienna Convention on Diplomatic Relations[13] obligates States receiving a diplomatic mission to "accord full facilities for the performance of the functions of the mission" (Article 25); provides that the premises of the missions, its archives and documents, its official correspondence, and the diplomatic bag are inviolable and obligates the receiving State "to take all appropriate steps to protect the premises of the mission against any intrusion or damage . . ." (Articles 22, 24, and 27); mandates, subject to national security constraints, freedom of movement and travel for members of the missions (Article 26); and provides that the person of the diplomatic agent "shall be inviolable" and immune from any form of arrest or detention (Article 29). That inviolability and immunity attaches as well (for most purposes) to the members of the family of a diplomatic agent and the administrative and technical staff of the mission together with their families (Article 37). In instances of an armed conflict, the receiving State is obligated to "grant facilities in order to enable persons enjoying privileges and immunities . . . and members of the families of such persons . . . to leave at the earliest possible moment," including the provision of "the necessary means of transport for themselves and their property" (Article 44).

The Vienna Convention on Consular Relations[14] provides similar, although in some instances less complete, privileges and immunities for those with consular status and their families. In addition to provisions analogous to those detailed above, the Convention commands that consular officers be afforded free communication with citizens of their countries and access to any of their

[9] *See* Los Angeles Times, Sept. 2, 1990, at A1; Christian Science Monitor, Sept. 7, 1990, at 19 and Nov. 26, 1990, at 19; Wall Street Journal, Nov. 13, 1990, at A22 and Nov. 14, 1990, at A13; and Financial Times, Nov. 5, 1990, at 3.

[10] *Restatement, supra* (Vol. II), §711, pp. 186–87.

[11] The Convention affords its broadest protection to persons defined as "protected persons", *i.e.*, "those who, at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals" (Article 4). But that status is not available to third party nationals whose States maintain diplomatic relations with the State in whose hands they are held.

[12] Part III of the Convention, 6 U.S.T. at 3536 *et seq.*

[13] 23 U.S.T. 3227.

[14] 21 U.S.T. 77.

citizens who are arrested or otherwise detained (Article 36).

In the case of *United States of America* v. *Iran*,[15] it might be noted, the International Court of Justice stressed the "fundamental character" of these diplomatic and consular privileges and immunities and stated that they are not "merely contractual obligations established by the Vienna Conventions of 1961 and 1963 but also obligations under general international law."[16]

Iraq and Kuwait are parties to both Vienna Conventions. Thus its demand that all foreign embassies and consular missions in Kuwait be closed, denial of diplomatic and consular status to those whose nations refused to comply, refusal to permit some diplomatic and consular personnel and their dependents to leave Iraq, forcible seizure of several embassies in Kuwait and the blockade of others, the abduction of several persons with diplomatic status and of foreign nationals from embassy premises, and refusal to permit diplomatic and consular personnel to have access to persons detained may well put it in violation of these two Conventions and of customary international law. In Resolution 667, adopted on September 16, 1990, the Security Council expressed "outrage" at Iraq's violation of diplomatic premises in Kuwait and its abduction of several persons from those premises, termed those acts and the others detailed above to constitute "a new escalation of its violations of international law," strongly condemned Iraq's "aggressive acts against diplomatic premises and personnel," demanded that Iraq comply with its obligations under the two Vienna Conventions and international law, and demanded that Iraq provide full protection in the "safety and well-being of diplomatic and consular premises in Kuwait and Iraq and take no action to hinder the . . . missions in the performance of their functions, including access to their nationals . . ." In Resolution 674, adopted on October 29, 1990, the Council reiterated its "grave alarm" over Iraq's treatment of diplomatic and consular missions and demanded that Iraq comply with the Vienna Conventions and international law, that basic services, food, and water be restored to the diplomatic and consular missions in Kuwait, that Iraq rescind its orders for the closure of the missions and the withdrawal of the immunity of their personnel, that Iraq protect the safety and well-being of diplomatic and consular premises and personnel in Kuwait and Iraq and take no action to hinder the performance of their functions, and that such personnel be given access to their nationals.

(6) Failure to comply with Security Council decisions: Article 25 of the United Nations Charter provides that "(t)he Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter."

The Security Council has adopted 12 resolutions subsequent to Iraq's invasion of Kuwait and has called on Iraq to rectify all of the violations of international law noted above. Iraq's refusal to date to comply would seem to violate its obligations as a member of the United Nations under Article 25.

INTERNATIONAL LAW AND THE RESPONSE OF THE UNITED STATES AND THE INTERNATIONAL COMMUNITY

International law imposes on all States a duty of responsibility for any violations of international law, and gives to other States and to international organizations, if appropriate, a right to seek and obtain appropriate remedies for such breaches. As the Restatement puts it: "A state is responsible to other states, and to some extent to international organizations and private persons, for breach of its duties under international organizations and private persons, for breach of its duties under international law or agreement. It is subject to remedies for these violations, including diplomatic claims, in some circumstances judicial remedies, action by international organizations, and selfhelp by the victim state or its supporters."[17]

International law and the institutions of the international community are not so fully developed as to set forth with precision what is legally permissible in responding to a particular State's breach of its international obligations. A central consideration in the current situation, however, is the role being played by the United Nations. The UN Charter grants to the Security Council the "primary responsibility" for the maintenance of international peace and security.[18] In the exercise of that responsibility the Council is authorized by the Charter to investigate any situation "likely to endanger the maintenance of international peace and security" (Article 34), to make recommendations on how a dispute should be settled (Article 36), and, if it finds there has been a breach of the peace or act of aggression, to determine what measure are necessary to restore international peace and security (Article 39). Under the latter authority the Council may employ both military and non-military measures, as follows:

Article 41

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communications, and the severance of diplomatic relations.

Article 42

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as many be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

As noted above, the Charter obligates all Members of the UN "to accept and carry out the decisions of the Security Council" (Article 25).

In the past the Security Council has frequently been unable to perform the functions assigned it by the Charter because of the inability of the permanent Members of the Council to agree on a course of action. That is not the case in the present situation. Thus, the decisions of the Security Council to date have drawn upon all of the provisions of the Charter noted above. In Resolution 660 of August 2, 1990, the Council made the basic decision that the Iraqi invasion of Kuwait constituted a breach of international peace and security, condemned the invasion, demanded that Iraq withdraw, and recommended that Iraq and Kuwait attempt to negotiate their differences. In Resolution 661 of August 6, 1990, the Council reinforced those decisions by calling on all States to impose economic sanctions on Iraq and to protect the assets of the legitimate government of Kuwait. In Resolution 662 of August 9, 1990, it responded to Iraq's announced annexation of Kuwait by terming it of "no legal validity" and calling on all States not to recognize the annexation. In Resolution 664 of August 18, 1990, it responded to Iraq's refusal to permit third country nationals to leave and to its orders that all embassies in Kuwait be closed and that diplomatic immunity be withdrawn from the personnel of any embassy that did not close by calling upon Iraq to rescind those orders and to permit the immediate departure of third country nationals. In Resolution 665 of August 25, 1990, it authorized the maritime forces enforcing the trade embargo with Iraq to employ "such measures * * * as may be necessary." In Resolution 666 of September 13, 1990, it refined the embargo called for by Resolution 661 with respect to food and medical supplies. In Resolution 667 of September 16, 1990, it responded to Iraq's forcible seizure of third country nationals from several embassies in Kuwait and its quarantine of others by condemning the acts and demanding release of those seized and protection for embassy functions and personnel. In Resolution 669 of September 24, 1990, it took cognizance of the difficulties the economic sanctions on Iraq were creating for some countries. In Resolution 670 of September 25, 1990, it reaffirmed the illegality of Iraq's actions and clarified that the trade embargo applied to all means of transport, including aircraft. In Resolution 674 of October 29, 1990, the Council called again upon Iraq to comply with its previous Resolutions, stressed that Iraq was responsible under international law for any loss, damage, or injury it caused as a result of its invasion and illegal occupation of Kuwait, and called upon all States to collect information regarding claims against Iraq. In Resolution 677 of November 28, 1990, the Council condemned Iraq's efforts to alter the demographic composition of Kuwait and to destroy all civil records maintained by the legitimate government of Kuwait. Finally, in Resolution 678 of November 29, 1990, the Council noted Iraq's "flagrant contempt" for the Council's previous resolutions and authorized all States, after January 15, 1991, "to use all necessary means to uphold and implement Security Council Resolution 669 and all subsequent relevant resolutions and to restore international peace and security to the area."

These measures adopted by the Security Council pursuant to its authority under the UN Charter give the sanction of international legality to actions taken pursuant to them. It might also be noted that at least "until the Security Council has taken measures necessary to maintain international peace and security," the UN Charter also recognizes the right of a State to act in self-defense if it is the victim of an armed attack, both by unilateral measures and measures taken collectively with other States (Article 51). Thus, a mantle of legality may also attach to measures taken by Kuwait and other States individually or collectively in response to Iraq's aggression either before the Security Council acted or, perhaps, even apart from the Council's decisions. Under international law such measures must generally conform to considerations of necessity and proportionality. That is, they must be necessary in order to resolve the matter in

[15] 19 I.L.M. 553 (1980).

[16] *Id.*, at par. 62, p. 567.

[17] Restatement, supra (Vol. I), §206, Comment e, at 94.

[18] UN Charter, Chapter V, Article 24(1).

dispute, and they must be proportional to the severity of the violation.[19]

I hope the above is responsive to your request. If we may be of additional assistance, please call on us.

DAVID M. ACKERMAN,
Legislative Attorney.

Mr. SPECTER. Mr. President, while this memorandum did not encompass all of the events of the war, it is a good statement of legal principle, and it contains a recitation of quite a number of points of international violations and war crimes.

Mr. President, I further ask unanimous consent that a summary dated February 28, 1991, of Scud missile attacks against Israel be printed in the RECORD, which summarizes some 39 missile attacks. It documents two individuals killed directly by those attacks; 12 additional deaths from using gas masks, heart attacks, and choking; 200-plus injured; and some 1,644 families being evacuated from Tel Aviv and Ramat Gan as a result of these Scud attacks.

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

STATISTICS ON MISSILE SCUD ATTACKS ON ISRAEL

39 missile attacks.

2 killed directly by attacks.

12 additional deaths from using gas masks incorrectly, heart attack from fear, or choking.

200+ injured.

1644 families were evacuated from Tel Aviv and Ramat Gan as a result of Scud attacks.

SCUD MISSILE ATTACKS ON ISRAEL

The following is an unofficial summary of the Scud missile attacks on Israel, based on IDF spokesman accounts as published in Israeli newspapers.

WEEK ONE

First attack: Friday, 1.18.91, 02:00 hours. Eight missiles are fired at Israel. 12 people suffer light to moderate injuries. One of the missiles fell on a two-story residential building in the Tel Aviv area; another fell on a factory. A third missile hit a structure near Haifa.

Second attack: Saturday, 1.19.91, 07:20 hours. Four missiles are launched at Israel, three of them fall and explode. 16 people lightly injured by fragments. One missile fell in the center of the country near a residential building, another fell near the Tel Aviv Exhibition grounds and a third fell on the shelter of a public building.

WEEK TWO

Third attack: Tuesday, 1.22.91, 20:30 hours. A Scud missile hits Ramat Gan. Three die of heart attacks, 96 injured, 6 of them seriously. A two-story home collapses and many other buildings are heavily damaged. 400 apartments are damaged. A Patriot missile hit a Scud missile, but did not prevent it from dropping.

Fourth attack: Wednesday, 1.23.91, 22:00 hours. A Scud missile is launched at the Haifa area and is intercepted by two Patriot missiles. There were no injuries, but in many apartments, windows were shattered.

Fifth attack: Friday, 1.25.91, 18:00 hours. Eight Scud missiles are fired at Israel. One man is killed and 45 are injured, one seriously and three moderately. Several Patriot missiles were fired at and hit some of the Scud missiles. Two Scuds directly hit adjacent neighborhoods in the Ramat Gan area. A two-story house collapsed and a family was rescued from the rubble. 144 apartments were heavily damaged and some 400 others were lightly to moderately damaged.

Sixth attack: Saturday night, 1.25.91, 22:00 hours. Four Scud missiles were fired at Israel and were intercepted by Patriots. Three of the Scuds were fired at Haifa and their debris caused windows to shatter in several northern settlements. The fourth Scud was launched at the Dan region and was intercepted without causing any casualties or damages.

WEEK THREE

Seventh attack: Monday, 1.28.91, 21:00 hours. A Scud missile was fired at Israel and landed near the village of Dir Balut in the territories. No injuries or damages were caused.

Eighth attack: Thursday, 1.31.91, 18:00 hours. A Scud missile was launched at Israel and hit the territories. No injuries or damages were caused.

Ninth attack: Saturday night, 2.2.91, 20:30 hours. A Scud missile was fired at Israel and hit an unsettled part of area "Hey". No injuries or damages were caused.

Tenth attack: Sunday morning 2.3.91, 01:40 hours. A second Scud missile was fired and fell, like the earlier one, in area "Hey". No injuries or damages were caused.

WEEK FOUR

Eleventh attack: Friday night, 2.8.91, 02:40 hours. A Scud missile was fired at Israel and hit a neighborhood in the center of the country. 25 residents were injured, two of them moderately. Over 400 apartments were damaged in the attack.

Twelfth attack: Monday evening, 2.11.91, 18:52 hours. A Scud missile was fired at Israel and landed in an uninhabited area in the center of Israel. No injuries or damages were caused.

Thirteenth attack: Tuesday morning, 2.12.91, 01:30 hours. A Scud missile was fired at Israel and hit a residential area in the center of the country. 6 residents are injured. One house is completely destroyed and windows in dozens of other homes are shattered. According to the U.S. State Department spokeswoman, the missile landed near the residence of Defense Minister Moshe Arenas.

WEEK FIVE

Fourteenth attack: Saturday night, 2.16.91, 20:05 hours. Two Scuds were launched in a coordinated attack. For the first time, one lands in the south of the country in an open area. Parts of the other one fall into the sea in the north of the country. No injuries or damages were caused by either missile.

Fifteenth attack: Tuesday night, 2.19.91, 20:00 hours. A Scud missile was fired at Israel and landed in an open area in the center of the country. No injuries or damages were caused.

WEEK SIX

Sixteenth attack: Saturday night, 2.23.91, 18:50 hours. A Scud missile was fired at Israel from western Iraq and landed in an unpopulated area in the center of the country where it caused a fire to break out. No other damages or injuries were caused.

Seventeenth attack: Monday morning, 2.25.91, 03:37 hours. A Scud missile was fired at Israel from western Iraq and landed in an unpopulated area in the south of Israel. No damages or injuries reported.

Eighteenth attack: Monday morning, 2.25.91, 05:36 hours. Second Scud missile attack of the morning. A Scud missile was fired at Israel from western Iraq and landed in an unpopulated area in the south of Israel. No damages or injuries reported.

Unofficial estimates of damages and casualties:

39 SCUD missiles fired at Israel.

Two people killed by a missile.

12 additional deaths resulted indirectly from missile attacks.

More than 200 persons injured in missile attacks.

1,644 families evacuated in Tel Aviv and Ramat Gan.

Property damaged includes 4,095 buildings, 3,991 apartments and residential buildings, 331 public institutions, 17 educational institutions and 54 businesses.

Mr. SPECTER. Mr. President, I wish to advise my colleagues that I may call this resolution for a vote at any time in the immediate future, because it is my view that there ought to be a forceful statement made by the U.S. Senate putting everyone on notice. Actually, President Bush put Saddam Hussein and other Iraqis on notice back in October 1990. But this is a course of conduct which ought to be followed and we ought to make a very forceful statement by this body, the U.S. Senate, in support of this resolution.

I thank the Chair, and I yield the floor.

SENATE RESOLUTION 72—RELATIVE TO AMERICAN SMALL BUSINESS INVOLVEMENT IN REBUILDING KUWAIT

Mr. KASTEN (for himself, Ms. MIKULSKI, Mr. LIEBERMAN, Mr. BOND, Mr. BOREN, Mr. SEYMOUR, Mr. KERRY, Mr. DIXON, Mr. BURNS, and Mr. LEVIN) submitted the following resolution; which was referred to the Committee on Small Business:

S. RES. 72

Whereas Kuwait is liberated and is once more in the hands of the Kuwaitis;

Whereas Kuwaiti citizens are once again in control of their own destiny;

Whereas much damage has been done to Kuwait, its infrastructure, its environment, and its industrial capacity;

Whereas reconstruction of Kuwait's economy is desperately needed;

Whereas American small businesses have expressed interest in helping the Kuwaitis rebuild their country; and

Whereas small businesses lack the resources to hire lobbyists, international consultants, and former diplomats to represent their interests, and promote their products and services in Kuwait: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the United States Government should be actively involved in promoting American small businesses to help rebuild Kuwait;

(2) the Administrator of the Small Business Administration, the Secretary of Commerce, the Secretary of Defense, and the Secretary of State should cooperate in providing assistance to American small busi-

[19] Restatement, supra (Vol. II), §905, Comments a, c, and d, at 380-382.

nesses seeking to become involved in the rebuilding of Kuwait; and

(3) the Administrator of the Small Business Administration should conduct a public information campaign using local and national offices to advise American small businesses about becoming involved in the rebuilding of Kuwait.

Mr. KASTEN. Mr. President, I rise today with my colleagues Senator MIKULSKI and Senator LIEBERMAN to introduce a resolution expressing the sense of the Senate that American small business should be involved in rebuilding Kuwait.

Iraq's brutal occupation has left Kuwait's economy in shambles. Much damage has been done to Kuwait, its roads and bridges, its environment and industry. Reconstruction is desperately needed. Damages are estimated to be between $60 and $100 billion.

Because of the special friendship forged between our two countries, the Kuwaiti Government intends to give American businesses a major role in the reconstruction. Seventy percent of the initial contracts to provide emergency water, sewer, and telephone service went to American businesses. There is an expectation that American businesses will see a similar percentage of the much larger "Brick and Mortar" contracts soon to come.

Rebuilding Kuwait is going to demand ingenuity. The greatest ingenuity our country has to offer comes from American small business.

Smaller firms, by definition, lack the financial resources needed to hire lobbyists, international consultants, and former diplomats to represent their interests and promote their products and services.

We believe, Mr. President, the United States Government should be actively involved in promoting American small businesses to help rebuild Kuwait. This resolution directs the Small Business Administration, the Departments of Commerce, Defense and State to cooperate in providing assistance to American small businesses seeking to become involved in the rebuilding.

The Commerce Department has already taken a significant first step by creating the Gulf Reconstruction Center where United States companies can bid for reconstruction work in Kuwait. The intention of this resolution today isn't to micromanage the Government's response—but rather to encourage the Government to take into account the needs of small firms. We want the Federal Government to cooperatively use existing resources to promote American small business.

For many people, the Federal Government in Washington is foreign, complex, and frustrating. Small business owners don't know who to call for help. Generally, entrepreneurs don't have the time or money necessary to locate the appropriate source of information. Small businesses stand the chance of getting lost in the shuffle. We must prevent that from happening.

We believe it is important for the Gulf Reconstruction Center to work in tandem with the Small Business Administration. The Gulf Reconstruction Center should be a place where small businesses can turn to for help communicating with Government agencies, like the Army Corps of Engineers, who are heavily involved in reconstruction.

We would also like to see a central information center where small businesses can get lists of products and services the Kuwaitis need, export assistance and local contacts. The U.S. Small Business Administration should use its district offices to publicize appropriate information on a local level.

I encourage my colleagues to join me in cosponsoring this resolution.

AMENDMENTS SUBMITTED

RESOLUTION TRUST CORPORATION FUNDING ACT

HARKIN (AND KOHL) AMENDMENT NO. 23

Mr. HARKIN (for himself and Mr. KOHL) proposed an amendment to the bill (S. 419) to amend the Federal Home Loan Bank Act to enable the Resolution Trust Corporation to meet its obligations to depositors and others by the least expensive means, as follows:

On page 2, line 11, strike "$30,000,000,000" and insert "$15,000,000,000".

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

SEC. . PRESIDENTIAL PROPOSAL OF FUNDING OPTIONS.

(a) IN GENERAL.—Any request to the Congress for Resolution Trust Corporation funding in addition to sums provided by this Act shall be accompanied by a set of proposals from the President that detail—

(1) funding options for raising additional revenues sufficient to offset such request that—

(A) minimize the economic burden of such request on low-, moderate-, and middle-income taxpayers; and

(B) improve the efficiency of the operations of the Resolution Trust Corporation and the sale of assets at fair market prices upon closure of a savings association due to insolvency;

(2) a system of budgetary accounting for Resolution Trust Corporation outlays that accurately reflects such outlays' impact on the Federal budget deficit; and

(3) recommendations for improving—

(A) the accountability of the Resolution Trust Corporation to the Congress; and

(B) the overall efficiency of Resolution Trust Corporation operations.

NOTICES OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee will hold a confirmation hearing on the nomination of James F. Hoobler to be inspector general of the Small Business Administration. The hearing will take place on Wednesday, March 6, 1991, at 2 p.m., in room 428A of the Russell Senate Office Building. For further information, please call John Ball, staff director of the Small Business Committee at 224-5175.

SUBCOMMITTEE ON WATER AND POWER

Mr. BRADLEY. Mr. President, I would like to announce for the public that a field hearing has been scheduled before the Subcommittee on Water and Power of the Senate Committee on Energy and Natural Resources to receive testimony on S. 484, the Central Valley Project Improvement Act.

The hearing will take place March 18, 1991, beginning at 9 a.m. in room 1138—auditorium—of the State Office Building, 107 S. Broadway, Los Angeles, CA.

Due to the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the printed hearing record is welcome to do so. Those persons wishing to submit written testimony should mail five copies of the statement to the Subcommittee on Water and Power, U.S. Senate, 364 Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact Tom Jensen, counsel for the subcommittee at (202) 224-2366 or Anne Svoboda at (202) 224-6836.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Subcommittee on Science, Space, and Technology of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on March 5, 1991, at 2 p.m. on S. 272, the High-Performance Computing Act.

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

COMMITTEE ON ARMED SERVICES

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet in executive session on Tuesday, March 5, 1991, at 10 a.m. to mark up an original bill related to the fiscal year 1991 Operation Desert Storm supplemental request, to include personnel related legislation, various measures referred to the committee (S. 270, S. 281, S. 283, S. 325, S. 334, S. 384, H.R. 586) and to act on certain pending civilian nominations (Mr. Gambino and Mr. Case).

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

ADDITIONAL STATEMENTS

BERNARD F. BRENNAN AND MONTGOMERY WARD

• Mr. DIXON. Mr. President, I rise today to honor a great Illinoisan and American, Bernard F. Brennan, chairman and chief executive officer of the Chicago-based Montgomery Ward & Co. Under Bernard's dynamic leadership, Montgomery Ward has continued to be one of America's most prosperous corporations.

However, Mr. Brennan's leadership credentials are not limited to financial matters. Bernard Brennan has enhanced Montgomery Ward's reputation for public service with its increased community involvement and helping hand attitude. The company has been a major supporter of the Boy Scouts, YMCA, tutoring programs and many more.

This spirit has culminated in Ward's "Better Than a Letter" program. Designed to assist American families in communicating with their loved ones in the gulf, the concept of "Better Than a Letter" program was born. Within weeks, major suppliers joined Montgomery Ward's program and donated over 2 million dollars' worth of televisions, camcorders, VCR's and tapes to American service men and women serving through the Persian Gulf.

Mr. Brennan understood the need for our brave sons and daughters to be able to frequently communicate with their family and loved ones. It became a priority at Montgomery Ward. Together with the USO, they were able to provide much needed comfort for those serving us overseas. They further set up screening rooms in all of their stores across the country for families to record and play tapes if they did not have the equipment available.

Montgomery Ward has also set up canisters in each of their stores, further raising much needed money to fund USO supported activities.

I rise today to salute Bernard Brennan and Montgomery Ward. Bernard and Montgomery Ward are truly a great Chicago company providing leadership, compassion, financial support, and most important, their time in contributing to a better Chicago, a better Illinois, a better United States of America, and a better and more peaceful world in which to live.

It is truly an honor and a privilege to represent fine Illinoisans like Bernard Brennan.•

OVERSIGHT ON POW/MIA MATTERS

• Mr. SMITH. Mr. President, I rise this afternoon to call attention to a troubling matter which is hindering congressional oversight on POW/MIA matters relating to the Vietnam conflict.

Like many of my colleagues, I have committed myself during the last 7 years to working with the executive branch to resolve the fate of more than 2,200 missing United States military personnel from Vietnam, Laos, and Cambodia.

This past December, after meetings with Defense Department officials to discuss recent events on POW/MIA matters, I decided I would like to attend a meeting of our government's POW/MIA Interagency Group [IAG]. Mr. President, for the record, I would first like to explain exactly what this IAG group is.

The Department of Defense publishes a POW/MIA Fact Book in which the IAG is described as follows:

> United States Government policy regarding the POW/MIA issue is coordinated through the POW/MIA Interagency Group [IAG]. Membership in the IAG includes the Defense Department, the White House National Security Council [NSG] staff, the State Department, the Joint Staff, the Defense Intelligence Agency [DIA], the National League of POW/MIA Families, and House and Senate staff members from the respective Foreign Affairs and Foreign Relations Committees. The IAG develops policy concerning the POW/MIA issue and assesses current efforts, while evaluating new initiatives and approaches to enhance resolution.

It so happens, Mr. President, that on the morning of this IAG meeting in December, my office received a phone message from the State Department saying that Bob Smith, a Member of the U.S. Senate, would not be allowed to attend this interagency meeting. Upon receiving this message, I phoned Deputy Secretary of State Lawrence Eagleburger to inquire further. Like me, Mr. Eagleburger at first seemed puzzled and promised to look into the matter. A short while later, my office received a call from the State Department telling me that Mr. Eagleburger had decided to refuse me the opportunity to attend the IAG meeting. Imagine that: staff members from the Senate are supposedly members of the IAG Group, yet a Senator himself cannot attend the meeting.

Mr. President, I find it very disturbing that Members of Congress have been shut out of this interagency group. Whoever made this decision should realize that excluding the Congress from these meetings will only add to a growing public perception that our Government is not doing everything possible to account for our missing service personnel.

I know many of my colleagues continue to hear from constituents who are outraged over the way the POW/MIA issue has been handled by the executive branch. Mr. President, I will shortly be introducing a resolution to establish a Senate Select Committee on POW/MIA Affairs which will remain in existence until we have achieved the fullest possible accounting of our missing men and women. In short, our constituents expect us to exercise close congressional oversight on this issue, and I believe we have an obligation to do so.

We settled for no less in the gulf war, and rightfully so. These same standards must apply to Vietnam and past wars where hundreds of soldiers, known to have been in captivity, were never released or accounted for.

Mr. President, it has often been said that the answers to the POW/MIA dilemma lie in Hanoi, not Washington. I agree that the answers are in Southeast Asia, but I would point out to my colleagues that the resolve to aggressively seek out these answers must come from Washington.•

BUSH'S DOUBLE STANDARD ON HUMAN RIGHTS

• Mr. DECONCINI. Mr. President, since the brutal June 3, 1989 massacre in Beijing's Tianamen Square, millions of people throughout the world have supported the protesters' desires for democracy and freedom. It is outrageous that the Bush administration has not demonstrated stronger support for this democratic movement. Rather than advocating their cause, President Bush has virtually closed his eyes to human rights abuses in China and has done little to help these students. Instead, he has callously attempted to bury this human rights issue under the shifting sands of the gulf war. He has shouted to the world the egregious human rights violations of Saddam Hussein and his brutally bloody aggression against the people of Kuwait—and rightly so. Yet, he has uttered barely a whisper about Gorbachev's aggression in the Baltics and China's arrests and sentencing of its pro-democracy demonstrators. This double standard on human rights is unacceptable. This hypocrisy can not be allowed to continue.

Recently, the two inspirational masterminds behind the Tianamen Square protest were sentenced to 13 years in prison. Wang Juntao, an editor, and Chen Ziming, an economist, were sentenced for showing no willingness to cooperate with the Chinese Government. This punishment seems lenient compared to others meted out to the protesters. Since the Tianamen Square rally, many of the students have been arrested, tried, and executed for merely voicing their desire for freedom and democracy. Some activists have died while being detained in prison, sometimes under bizarre and unexplained circumstances which may have involved torture and beatings. Why has the Bush administration not called for an investigation of these reports?

Unfortunately, the administration has virtually turned a blind eye towards the abuses of the Chinese Government since the Tianamen crackdown. In June 1989, the administration barred a number of exchanges with

China in retaliation for the massacre, but this appears to have been a mere formality. Last spring, the Bush administration wanted to renew China's most-favored-nation trade status. Together with the majority leader and many of my colleagues, I tried to prevent this renewal. But President Bush succeeded. Meanwhile, officials in China have continued with new trials, without reprimand from our Government. While our country has been focusing on the events in the Middle East, it has uttered hardly a word about the situation in China. The State Department, while expressing concern over these trials, has not backed up its words with resolute actions.

How can we wage a war against Iraq in part for its violations of basic human rights, and yet disregard what is happening to the Chinese democratic movement? Human rights are human rights—it should not matter which nation is violating them. The right to voice one's opinion as guaranteed by our Constitution is a right which we hold dear. If we can fight a war because of Iraq's violations, we should at the very least address China's violations with demonstrable concern.

The Chinese Government has supported, or at least not opposed, the U.N. resolutions against Iraq. Perhaps this is why the Bush administration has treated China so carefully. Yet, there have been reports in the Christian Science Monitor that China apparently agreed to sell arms to Iraq after it voted to condemn Iraq's actions. Despite its endorsement of the U.N. embargo, the fact that it would consider selling weapons to Iraq through a third country is abominable—especially as U.S. soldiers were preparing to die in the gulf. What was President Bush's reaction—a deafening silence, unfortunately.

Unbelievably, the sanctions that were imposed on China as a result of the Tianamen massacre, have recently been lifted. We need consistency in our human rights policy. President Bush has not taken any stand against these trials or deaths, nor has his administration strongly condemned China's flagrant disregard for human rights. We cannot allow the problems in the Middle East, as grave as they are, to let us lose sight of the fact that the Chinese are sending peaceful people to prison for promoting democracy. China's policy must end. The longer the Bush administration delays any action, the more innocent people will be jailed, tortured, and executed, and the more visible his silent double standard will become.●

TRIBUTE TO FRANK FAT

● Mr. SEYMOUR. Mr. President, I rise today, to honor a great American. The man of whom I speak is Frank Fat.

This American's contributions to the business and professional community are matched only by his commitment to the Chinese immigrant population. He is a bright light in President Bush's thousand points of light, and his dedication to the United States is highlighted by the establishment of the Frank Fat Foundation. The goals of the foundation—better education and greater understanding between Chinese and American people—are aspirations that provide an excellent example of how an individual can have a positive impact on one's community.

I salute Frank and all of his years of hard work and dedication. It is my hope that many will follow his example in turn making the world a better place.●

BUDGET SCOREKEEPING REPORT

● Mr. SASSER. Mr. President, I hereby submit to the Senate the most recent budget scorekeeping report for fiscal year 1991, prepared by the Congressional Budget Office under section 308(b) of the Congressional Budget Act of 1974, as amended. This report serves as the scorekeeping report for the purposes of section 605(b) and section 311 of the Budget Act.

This report shows that current level spending is under the budget resolution by $1.7 billion in budget authority, and under the budget resolution by $1.3 billion in outlays. Current level is $1 million above the revenue floor in 1991 and over the 5 years, 1991–95.

The current estimate of the deficit for purposes of calculating the maximum deficit amount is $325.7 billion, $1.3 billion below the maximum deficit amount for 1991 of $327 billion.

The report follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, DC, March 4, 1991.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1991 and is current through March 1, 1991. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Budget Enforcement Act of 1990 (Title XIII of P.L. 101-508). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated February 21, 1991, there has been no action that affects the current level of spending or revenues.

Sincerely,

ROBERT D. REISCHAUER,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 1ST SESS. AS OF MAR. 1, 1991

[In billions of dollars]

	Revised on-budget aggregates [1]	Current level [2]	Current level +/− aggregates
On-budget:			
Budget authority	1,189.2	1,187.5	−1.7
Outlays	1,132.4	1,131.1	−1.3
Revenues:			
1991	805.4	805.4	.....
1991–95	4,690.3	4,690.3	.....
Maximum deficit amount	327.0	325.7	−1.3
Direct loan obligations	20.9	20.6	−.3
Guaranteed loan commitments	107.2	106.9	−.3
Debt subject to limit	4,145.0	3,369.6	−775.4
Off-budget:			
Social Security outlays:			
1991	234.2	234.2	.....
1991–95	1,284.4	1,284.4	.....
Social Security revenues:			
1991	303.1	303.1	.....
1991–95	1,736.3	1,736.3	.....

[1] The revised budget aggregates were made by the Senate Budget Committee staff in accordance with section 13112(f) of the Budget Enforcement Act of 1990 (title XIII of Public Law 101–508).

[2] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. In accordance with section 606(d)(2) of the Budget Enforcement Act of 1990 (title XIII of Public Law 101–508) current level excludes $1 billion in budget authority and $1.2 billion in outlays for Operation Desert Shield; $.1 billion in budget authority and $.2 billion in outlays for debt forgiveness for Egypt and Poland; and $.2 billion in budget authority and outlays for Internal Revenue Service funding above the June 1990 baseline level. Current level outlays include a $1.1 billion savings for the Bank Insurance Fund that the committee attributes to the Omnibus Budget Reconciliation Act (Public Law 101–508), and revenues include the Office of Management and Budget's estimate of $3 billion for the Internal Revenue Service provision in the Treasury-Postal Service appropriations bill (Public Law 101–509). The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 1ST SESS., SENATE SUPPORTING DETAIL, FISCAL YEAR 1991 AS OF THE CLOSE OF BUSINESS MAR. 1, 1991

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues	.....	.....	834,910
Permanent appropriations and trust funds	725,105	633,016	.....
Other legislation	664,057	676,371	.....
Offsetting receipts	−210,616	−210,616	.....
Total enacted in previous sessions	1,178,546	1,098,770	834,910
II. Enacted this session: Extending IRS deadline for Desert Storm troops (Public Law 102–2)	.....	.....	−1
III. Continuing resolution authority	.....	.....	.....
IV. Conference agreements ratified by both Houses	.....	.....	.....
V. Entitlement authority and other mandatory adjustments required to conform with current law estimates in revised on-budget aggregates	−6,307	799	.....
VI. Economic and technical assumption used by committee for budget enforcement act estimates	15,000	31,300	−29,500
On-budget current level	1,187,482	1,131,113	805,409
Revised on-budget aggregates	1,189,215	1,132,396	805,410
Amount remaining:			
Over budget resolution	.....	.....	.....
Under budget resolution	1,733	1,283	1

Note: Numbers may not add due to rounding.●

THE GREAT IMBALANCE

● Mr. MACK. Mr. President, I request that the following two editorials from the February 17, 1991, edition of the Orlando Sentinel be included in the RECORD.

These articles adequately portray the situation that exists between Florida

and the Federal Government. Many States are donor States to the Federal Government. Yet many Floridians are asking why is Florida consistently the largest donor State of all 50 States.

I encourage all of my colleagues to read these editorials, especially as we begin work on the reauthorization of the Surface Transportation Act. As you read these articles, please keep in mind that Florida grew by one-third during the last decade. Efforts will have to be made to correct current formulas which take away valuable dollars to the very States that need them the most.

The articles follow:

FLORIDA SLIGHTED ON ROADS

Florida had been shortchanged on federal highway money long enough to hope for a break in President Bush's big new transportation plan.

We didn't get it. But there's better news: The proposed formula for divvying up the dollars is unpopular with so many groups that Congress is bound to change it.

The administration started out right, complying with a request from Florida and other states: Reduce the more than 60 cumbersome highway program categories that money has been granted under.

There will be only two now. Money that comes down from Washington will be either for the National Highway System or the state and urban system. Nice cut.

But wait. The fed's priorities in dividing the highway money are badly skewed.

About 70 percent of a proposed $87.17 billion for the next five years would go to the 150,000-mile national system. Roughly 30 percent would go to the 700,000-mile state and urban system.

Shouldn't those percentages be reversed, considering the mileages involved? Well, not necessarily. A 50-50 split wouldn't be bad, as state highway officials suggest. And with luck, Congress will aim for something in that vicinity.

In their proposal, the feds made matters worse by resorting to mathematical sleight-of-hand, as they so often do. They claim, for example, that Florida would get $517 million the next financial year. That's a considerable increase, they claim, over this year's $402 million.

But wait yet again. This year, Florida actually got about $584 million, because of a plan designed to make sure a state gets a certain minimum of the gasoline tax dollars it sends to Washington. The feds have chosen to ignore this, and next year that plan dies. So next year, Florida would end up getting less money than this year, not more.

And while we're at it, let's take a closer look at how much of our gas tax money we get back from Washington. It could be less than 53 cents on the dollar this year.

How come? Because Florida is what the feds call a "donor state." We're forced to give some of our tax money to states that supposedly need it worse than we do. Like those out West, with lots of road miles but few drivers to pay gasoline taxes.

Yes, there are some good points to Mr. Bush's transportation plan. For instance, it gives local and State governments more flexibility in using transportation dollars for mass transit. Florida governments desperately need that flexibility, and it's a recognition by Mr. Bush that this nation shouldn't be so dependent on the automobile.

But you can't do much for mass transit if you don't get enough dollars. Overall, this proposal needs serious work.

* * * AND OTHER FEDERAL DOLLARS

Florida gets the short end of the federal tax stick in more ways than losing so much of its gasoline tax money to other states.

No other state loses as great a percentage of all its federal taxes. That's particularly unfortunate when the state taking the biggest hit has as much growth and as many problems as Florida does.

The accompanying chart shows that Florida sends $1.64 to Washington for every dollar it gets back. Not even big-growth states like Texas and California have it as bad.

Where does the difference go? Well, every state can't expect to get back dollar for dollar, else there wouldn't be money for defense and other federal requirements.

But the needs-of-poorer-states rule comes into play here, just as it does with gasoline taxes. We lose money so states like Alaska, the Dakotas, Montana, Mississippi and West Virginia can get around twice what they pay in.

This formula needs adjusting, too. Florida's not rich enough to be quite so generous. Too many of our own social, highway, education, penal, health and other problems are crying for solutions.

THE GREAT IMBALANCE

Floridians pay far more in federal taxes than the state gets back in federal dollars. For every dollar the state receives from Washington, Floridians have sent $1.64 in taxes. Here's a comparison with states that get the most federal benefit.

	Sent to Washington	Received back from Washington
Florida	$1.64	$1
Montana	.52	1
North Dakota	.52	1
South Dakota	.51	1
Alaska	.48	1
Washington, DC	.24	1

Source: Tax Foundation.•

THE DEPARTMENT OF ENERGY'S NATIONAL LABORATORIES

• Mr. BINGAMAN. Mr. President, the Committee on Energy and Natural Resources has within its jurisdiction oversight of the Department of Energy's national laboratories. These laboratories are an important part of the Department's research and development program and a significant national asset. Over the past 40 years, the laboratories have played an important role in the development of nuclear power and energy technologies; and in the design, development, and production of nuclear weapons. Two of these laboratories are within the State of New Mexico—Los Alamos National Laboratory and Sandia National Laboratory—and they are an important asset to the State as well.

In July 1990, the Subcommittee on Energy Research and Development, chaired by Senator FORD, held a hearing on the role and future mission of the Department's national laboratories. This is an important issue for consideration by the subcommittee and one that will likely receive additional attention in the 102d Congress.

I had the opportunity to chair a portion of the July hearing before the subcommittee. At that time, several witnesses requested the opportunity to submit additional remarks and have them included in the record of the hearing. Unfortunately, the additional remarks submitted by Dr. Alvin Trivelpiece, Director of the Oak Ridge National Laboratory, were inadvertently excluded from the printed hearing record. These additional remarks—which were written in a question and answer format—are most informative, and I would urge my colleagues to read them. For the benefit of my colleagues, I ask that these remarks be printed in the RECORD at this time.

The material follows:

ROLES AND MISSION OF THE DEPARTMENT OF ENERGY'S NATIONAL LABORATORIES, JULY 25, 1990

(By Alvin W. Trivelpiece, Director, Oak Ridge National Laboratory)[1]

Senator BINGAMAN: Dr. Trivelpiece, in his opening remarks Senator Ford asked several questions concerning the structure of the national laboratories. The Subcommittee would be interested in your response to these questions because of the unique perspective you can offer as the Director of the Oak Ridge National Laboratory and as a former Director of the Department of Energy's Office of Energy Research. What are your views on these subjects?

Dr. TRIVELPIECE: Thank you very much, Senator, for the opportunity to respond to Senator Ford's questions. It is reasonable to examine the structure of the laboratories from time to time and, given the recent reduction in world tensions, the time is now right for such an examination. The Department of Energy and its laboratories have been central players in the development of nuclear power, energy technology development, nuclear medicine; and in the design, development, and production of nuclear weapons from the time of their inception under the Atomic Energy Commission to the present day. The national laboratories are an integral part of this complex.

Senator Ford asked. "Should we restructure the lab system to better coordinate R&D among the laboratories? I do not believe that the existing structure of the Department of Energy's laboratories is outdated. However, as with any system that has been in place for a long time, it is appropriate to examine what it is doing, how it is performing its role, and whether it could be improved. "Every effort should be made to avoid any duplication of taxpayer resources that are supported at the laboratories. The Department of Energy's Assistant Secretary for Defense Programs coordinates activities among the national defense laboratories, Sandia, Lawrence Livermore, and Los Alamos National Laboratories, and the weapons manufacturing complex. The Department's Office of Energy Research manages the three multiprogram laboratories represented at today's hearing, Lawrence Berkeley, Pacific Northwest, and Oak Ridge, and the two other national labs, Argonne and Brookhaven.

[1] Operated by Martin Marietta Energy Systems, Inc., for the U.S. Department of Energy under Contract No. DE—AC05-84OR21400.

At the height of the energy crisis, the multiprogram laboratories had the flexibility to dedicate much of their efforts to design new approaches to conserving energy. In more recent times, these laboratories have responded to recent departmental initiatives in the areas of high temperature superconductivity pilot centers, technology transfer, and education.

In addition to its multiprogram laboratories, the Department of Energy also manages a number of single program laboratories which are world-class institutions in their own right. I mentioned Ames Laboratory in my prepared testimony. Others of these single program, very distinguished laboratories include the Fermi National Accelerator Laboratory, which explores elementary particle physics to broaden the understanding of the basic structure of matter. Although the primary program area at Fermi is high-energy physics, the Fermi linear accelerator is used in cancer therapy, and the Laboratory has become involved in medical radiation therapy. The Princeton Plasma Physics Laboratory conducts research in magnetic fusion energy using a Tokomak fusion reactor. This R&D effort is aimed at using fusion energy as a safe, economical, and environmentally acceptable method of generating electricity. The Solar Energy Research Institute conducts basic and applied research in areas pertinent to solar and renewable energy resources. Current research focuses on photovoltaics, wind energy conversion, biochemical conversion, alcohol fuels, energy from waste, buildings energy management, and thermal energy storge. Finally, the Stanford Linear Accelerator Center is dedicated to experimental and theoretical research in particle physics and the development of new techniques in high-energy accelerators and elementary particle physics.

The programs of the Office of Energy Research are, in fact, well coordinated by the programmatic offices in the Department of Energy and in the institutional planning process. Each multiprogram laboratory, in concert with the Department of Energy, participates in an annual planning cycle. In this action major new initiatives are proposed and evaluated, major laboratory issues are discussed, and planned programmatic objectives are evaluated. To guide the laboratories, the Department also reviews each of their major planning documents, conducts an annual on-site review at each laboratory, and reviews and approves each laboratory's final institutional plan. These on-site visits are especially useful in that they give laboratory staff the opportunity to explain to the Department's managers first hand the exciting activities they are pursuing. They also provide the opportunity for a face-to-face exchange between laboratory management and the Department's representatives to discuss the long-term trends and implications for future laboratory operations.

As Director of the Office of Energy Research, Senator, I was initially astonished by the way in which the laboratories cooperate and collaborate so that they do not duplicate efforts. One example of this cooperation is the extensive network of user facilities throughout the Department that is considered a shared resource. Numbering over 60, including 13 at the Oak Ridge National Laboratory, these user facilities are used by researchers not only from national laboratories, but also from universities and industries, and in some instances, from around the world.

Senator BINGAMAN: Dr. Trivelpiece, your mention of the user facilities prompts me to ask about the role that Oak Ridge National Laboratory has in the economic development of the region. Is there significant interaction between the Laboratory and other institutions in the Southeast?

Dr. TRIVELPIECE: Many companies have located to the Oak Ridge area based on the concomitant accessibility of the Laboratory's resources. Within the past year, the Laboratory's user facilities and our technology transfer initiatives have resulted in Hertel, Cercom, and Coors Ceramics deciding to locate manufacturing facilities here. This will, of course, bring several hundred new jobs to the area.

On the education front, Oak Ridge National Laboratory and The University of Tennessee, Knoxville cooperate in so many activities that the President of the University refers to the Laboratory as his "sister campus." There are two joint ORNL/UTK graduate programs, in biomedical sciences and in ecology. The biomedical sciences program is located in ORNL's Biology Division and has awarded more than 120 doctoral degrees and 20 master's degrees since its beginning in 1965. The Graduate Program in Ecology is affiliated with our Environmental Sciences Division. Since its beginning in 1969, 90 doctoral and 150 master's degrees have been granted. Both of these programs also involve postdoctoral appointments at ORNL. Collaboration between ORNL and UTK has evolved over the years, culminating in 1984 in the Science Alliance. The oldest and largest of Tennessee's Centers of Excellence, the Science Alliance was established with the support of the Tennessee Higher Education Commission. The cornerstone of the Alliance is the Distinguished Scientists program whose purpose it is to attract scientists of significant stature to the region to strengthen regional R&D activities. The distinguished scientists participating in the program are in such areas as particle physics theory, nuclear engineering, computational sciences, and polymer chemistry. These scientists hold a tenured full professorship at UTK and an appointment as a senior research scientist at ORNL. The Distinguished Scientist Program has worked so well that we are working on a "Collaborating Scientist Program" to attract scientists and engineers with a rising national stature and reputation. Another important aspect of the Science Alliance is the Summer Research Fellows Program. This activity brings 100 of the nation's most promising undergraduate science students to the University where they work for ten weeks with researchers at the University and the Laboratory.

Cooperation in the funding of large projects has allowed both ORNL and the neighboring universities to obtain research facilities during times of stiff competition for construction dollars. Our first cooperative effort followed the completion of the Holifield Heavy Ion Research Facility. Dedicated in 1980, this structure is the equivalent of a 15-story building and makes possible extensive exploration of the behavior of nuclear matter. As a user facility, it is open to researchers throughout the scientific community, including universities, research centers, and industry. It was soon discovered that besides experimental facilities, visiting scientists need other accommodations, like office space, sleeping accommodations on site for use during experiments, and individual space for longer-term visitors. To satisfy these needs, the Joint Institute for Heavy Ion Research was built. Funding was provided by The University of Tennessee, Vanderbilt University, and ORNL through the Department of Energy.

A similar cooperative agreement has been reached on the Grammasphere project. This facility will be for nuclear physics research and will allow the study of gamma rays with greater resolution than present equipment can manage. The University of Tennessee and Vanderbilt University have each pledged $100,000 in matching funds, and the state of Tennessee has pledged $800,000 for this project. A panel Department of Energy panel has recommended that if the project is to be built, it should be built at ORNL. Funds for the construction of the Grammasphere are included in the Department's FY 1991 budget. The monetary support provided by these institutions of higher education and the State of Tennessee is a significant indicator of the high regard for ORNL in the region.

During the past several years, a number of southern universities and the Oak Ridge National Laboratory have convened several meetings concerning the development and expansion of high energy physics in our region. These meetings have been driven in part by the Superconducting Super Collider project and by a true desire to play a meaningful role in the new physics to be provided by the accelerator facility. Out of these meetings emerged the Southern Association of High Energy Physics, which is now chartered under the Oak Ridge Associated Universities. In addition, the Laboratory is maintaining close ties with the Southeastern University Research Association. SAHEP has also acknowledged ORNL's strategic location and facilities of ORNL, as well as the importance of having ORNL play one of the focusing roles in the region.

Senator BINGAMAN: In your prepared testimony, you discussed the licensing of inventions. Does the Laboratory consider technology transfer a significant part of its mission? And, to expand on that, could you be more specific as to what Lab-developed technologies have been licensed and to what companies? Can Oak Ridge National Laboratory point to any companies and say that these are Laboratory spinoffs?

Dr. TRIVELPIECE: Senator, in 1987, Robert Solow of the Massachusetts Institute of Technology received the Nobel Prize in Economics for his formulation of a model illustrating how technological advances could spur greater per capita production. In an interview shortly after the announcement of the award, he said "What I got interested in was the question of what makes a modern industrial economy grow . . . we owe it all to the growth of science and technology." Professor Karl-Goran Maler of the Stockholm School of Economics and a member of the Nobel selection committee said that, "Solow showed us that in the long run it is not the increase in quantity that is so important. It is the increase in quality through better technology and increased efficiency. Better technology will be the engine for increased growth." This is something scientists and engineers have known for years: the technologies developed at the Department of Energy laboratories have an important role to play in the economic well-being of our nation.

Each laboratory has its successes in licensing technologies for use in the private sector. At ORNL, for example, silicon carbide whisker reinforced ceramics technologies have been licensed by ten companies: American Matrix; Advanced Composite Materials which has 2 licenses; Dow Chemical; GTE Valenite; High Velocity; Iscar; Cercom; Hertel; Kennametal; and Keramont. The servomanipulator and the fiber-optic luminoscope have each been licensed twice

by, respectively, Remote Technology and Environmental Systems. Ontario Hydro has licensed the radioactive material shipping design. The ceramic gripper assembly has been licensed by Instron, the anaerobic waste treatment system by Anflow, and the novel ternary ceramic alloy by 3M. Other licensed technologies include nickel aluminides have been licensed by five companies: Hoskins (Armada Corp.), Armco, Cummins Engine, Metallamics, and Valley Todeco. The motor signal analyzer has been licensed by Wyle Labs, Predictive Maintenance Inspection, Performance Technologies, and Spectrum Technologies. The ultrasonic ranging data telemetry system has been licensed to Chemrad, and the Finnigan Corp. has licensed an explosives sensor. Du Pont has licensed the radioiodinated maleimides and B-Tec, the technology for identifying different species of honey bees. The triple-effect absorption chiller has been licensed by Trane Company and the Apache Corporation. Abaxis has licensed the blood rotor, and Coors Ceramics the gelcasting method of making complex ceramic shapes. A soil corer/sampler technology has been licensed to Associated Design and Manufacturing Company and Scintillation Technologies has licensed the iridium generator. The solvent extraction technology has been licensed to Analytical Bio-chemistry Labs and NATCO. SEMATECH has the license for the microwave plasma source for etching, and Sorrento Electronics for the groundwater Cerenkov radiation detector.

The entrepreneurial spirit is alive and well in Oak Ridge. Over the years, the ORNL staff have started many companies related to their work here. One of Oak Ridge's first major spinoff companies, ORTEC, was founded in 1960 by a small group of ORNL scientists. Originally a manufacturer of nuclear radiation detectors invented at ORNL, ORTEC is now a wholly owned subsidiary of EG&G and an international supplier of radiation detectors and related electronic processing instruments. Radiation measurement systems manufactured by ORTEC in Oak Ridge were used in Europe and the Middle East to inspect food products for hazardous levels of radioactive contamination following the Chernobyl reactor accident. Another ORNL scientist, Edward Fairstein, launched Tennelec, also in 1960. Tennelec manufactures nuclear radiation monitoring and measurement instrumentation. In 1977, Tennelec was purchased by David Coffey, a former ORNL scientist who had previously incorporated a start-up company called The Nucleus. The product line of The Nucleus includes a variety of multichannel analyzers, computer-based gamma spectroscopy systems, nuclear medicine and clinical diagnostic instruments, and x-ray fluorescence analyzers. Among other ORNL entrepreneurs is Harold Schmitt, one of the original founders of ORTEC. Schmitt was also involved in the founding of several other companies, including Environmental Sciences (a licensee of ORNL technology) and Pic-Air, an Oak Ridge die casting firm, to name two. Schmitt co-founded Atom Sciences with ORNL scientist Sam Hurst in 1980, to commercialize the Laboratory's developments in resonance ionization spectroscopy.

Scientist-entrepreneur Hurst has demonstrated that scientists can play a significant role in steering the development of products for the private sector without giving up their scientific careers. While at ORNL, he founded Elographics, an Oak Ridge company that manufactures computer peripheral devices, including the "touch screen" invented by Hurst for computer terminals. In 1985, using Small Business Innovation Research funding, he co-founded another company, Pellissippi International, to turn basic science results into products. During it first year of operation, this company received four SBIR grants, two of which supported further development of ORNL technology.

Second-generation spinoff companies are also contributing to local economic growth. Computer Technology & Imaging, a manufacturer of positron-emission-tomography scanners and cyclotrons for medical diagnosis, is a spinoff of EG&G/ORTEC. Integrated Systems, one of more than a dozen spinoffs of Technology for Energy Corporation (a 1975 ORNL spinoff firm), specializes in integrated computer-based systems for electric utilities and the nuclear power industry. Another local licensee and a 1980 ORNL spinoff firm, Remote Technology Corporation, is commercializing the advanced servomanipulator. This technology enhances the firm's product line by providing specialized robotic equipment to replace human workers in hazardous environments. In 1985, Anflow, Inc. was formed by ORNL staff to manufacture and market an ORNL-developed anaerobic, fixed-film, bioreactor wastewater treatment system.

Other ORNL spinoffs include American Magnetics, Inc., which custom designs and fabricates superconducting magnets and cryogenic accessories; Ridge Metals, Inc., a precision machine shop that fabricates components for special applications; Oak Ridge Research Institute, which conducts biomedical research and develops environmental monitoring and biological waste treatment systems; Delta M, Inc., which manufactures small-diameter, high-quality thermocouples and instruments for measuring level, flow, and heat flux; Computational Systems, Inc., which develops and manufactures software and hardware systems for stress analysis and preventive maintenance; Telerobotics International, Inc., which designs and develops hardware and software for robotic systems; Oxyrase, which produces an oxygen-reducing enzyme system; and Electro-Optics Laboratory, Inc., which makes improved laser equipment for medical uses. Two ORNL-spinoff companies build tracking devices and market Africanized bee detectors: B-Tec and Electronic System Unlimited. Another ORNL spinoff, Microwave Materials Tech., Inc., is involved with microwave processing technologies.

Senator BINGAMAN: You have already discussed a bit the fact that the Department of Energy has both single program and multiprogram laboratories. Senator Ford asked about the feasibility of restructuring the laboratories around a single purpose and having lead laboratories for individual projects. What would you consider to be the advantages and disadvantages of this approach?

Dr. TRIVELPIECE: A key strength of the Department of Energy is its programmatic managers who, over the years, have guided programs so as to avoid duplication. A recent example of this coordination is the location of the 2-GeV light source at Lawrence Berkeley Laboratory, the 6-GeV light source at Argonne National Laboratory, and the Advanced Neutron Source at Oak Ridge National Laboratory, which we hope will be funded soon. Duplication of these devices around the nation clearly would not be appropriate. By picking these locations for the projects, some revitalization of the scientific facilities at the nonweapons laboratories is accomplished. These were clearly created as "centers of excellence" because the specific nature of the facilities capitalized on existing strengths at these laboratories.

Within the Department's broad spectrum of laboratories, each of its single mission laboratories, for instance Stanford, Princeton, and Fermilab, has the distinction of housing a significant research apparatus that is unique in the world. The great strength of its multiprogram laboratories lies in their interdisciplinary activities. And, as you well know, many of today's major scientific issues require a multidisciplinary approach. Other major scientific institutions, such as those at universities, are typically more narrowly focused. They have not been as adept at engaging in research that involves interdisciplinary interactions. The ability to bring together collections of outstanding individuals with equally outstanding skills in many areas of science, technology, engineering, mathematics, and the social sciences is an asset unique to the national laboratories that allow them to apply themselves to major problems of national interest. A recent example would be the cold fusion phenomenon. ORNL and each of the other laboratories each put together teams of some of their best staff to better understand the science behind the headlines. One of the principal witnesses in Congressional hearings, ORNL's Mike Saltmarsh, provided some of the early data indicating that the cold fusion bandwagon might be moving too rapidly.

One other example of the program direction by Department of Energy program staff involves decisions made in the Office of Energy Research during my tenure there. There was a stage in the fusion program when each of several laboratories, Oak Ridge, Princeton, Livermore, and Los Alamos, had a low-density toroidal, high-density toroidal, and mirror program. It was the opinion of several program managers that the pace of the actual research was proceeding slowly. The decision was made to assign a specific element of the research to each institution: Livermore would do mirrors. Los Alamos would do high density toroidal, and Princeton and Oak Ridge would do tokomaks. We shifted the money accordingly. There were screams from the folks in the field, but this was the right thing to do. It is appropriate for program staff at DOE to make such a decision. It would be inappropriate for the staff to dictate the specifics of the research, such as the use of a particular microwave interferometer to measure plasma density.

If you think of modern science as being mostly interdisciplinary, which it is, then creating single program laboratories to practice multiprogram science is not cost effective. Exceptions to this would be rare, like Princeton, where the laboratory has a long history of and experience in plasma physics and fusion.

Senator BINGAMAN: What do you regard the role of Oak Ridge National Laboratory to be?

Dr. TRIVELPIECE: The basic role of ORNL is to support the nonweapons missions of the Department. In doing this, the Laboratory conducts applied research and engineering development in support of DOE's programs in fusion, fission, conservation, fossil, and other energy technologies. It performs basic research in selected fields of the physical and life sciences. The Laboratory also provides services to the Department of Energy including the conception, construction, and operation of national scientific user facilities and the production of isotopes. We fully support the Department's educational initia-

tives, the transfer of new technologies to American industry and are responsive to the Department's environmental, safety, and health concerns.

Senator BINGAMAN: In your testimony, you mentioned many significant achievements not only to Oak Ridge National Laboratory but also of the other Department of Energy facilities. What do you see as being the national challenges that the national laboratories could respond to over the long term?

Dr. TRIVELPIECE: The DOE laboratory system has served the Department and the nation well in the past. These laboratories represent the largest collection of scientific talent and research facilities in the country, if not the world. The scientific power with which these laboratories and their capabilities invest our nation is essential to the United States in meeting the challenges we face in the next few years. These challenges fall into three categories: energy, environment, and competitiveness.

Energy as an issue will grow in importance in the United States and worldwide. First, world energy production and consumption will continue to rise; this increase will, in the main, be driven by the developing countries. The impacts the increase in consumption will have on energy prices and the environment will focus attention on conservation and non-fossil energy supply and use technologies. The United States faces falling reserves of gas and oil, increased oil imports, higher energy prices, and a shortfall in electric capacity by the mid 1990s. These factors add up to the need for increased emphasis on energy research and development by the Department of Energy and its national laboratories.

As world population increases and becomes more affluent, the potential for global environmental change grows ever larger. Right now global warming and ozone layer depletion are the more pressing environmental concerns. Yet, these are only examples of the broader environmental implications of a growing world economy. I am convinced that global environmental issues will become even more important in the future than they are today. But, unless we improve our knowledge base relative to global environmental processes, we will be woefully ill-prepared to develop and implement national and international policies to deal effectively with an increasingly complex collection of environmental problems. Much more fundamental research is required if we are to have the understanding needed to respond intelligently to future environmental issues. I believe the DOE's laboratory system is the key to obtaining this knowledge base.

The international competitiveness issue is, in my judgment, one of the most pressing problems facing this country. It is not just a passing fad. It is a structural problem with large scientific and technical components and no quick fixes. Many things need to be done to ensure our future international competitiveness. We need to strengthen our educational system by placing special emphasis on scientific and technical education. We need to continue to replenish our reservoir of basic scientific knowledge. And we need to do a better job in helping American industry translate new knowledge gained from advances in science and technology into commercially useful products and processes. Secretary of Energy Watkins has directed that the national laboratories take on the mission of helping the United States become more competitive through technology transfer and through contributions of time and talent to scientific and technical education. In some ways, this challenge is more difficult than the Manhattan Project, which gave birth to the national laboratories nearly a half century ago. It is difficult because it requires fundamental changes in the relationships between industry, universities, and government. In particular, the traditional sharp boundary between industry and government will need to be altered as it becomes necessary for the nation to call upon all of its intellectual resources—universities, industry, and national laboratories—to work together toward a common goal.

Senator BINGAMAN: What trends do you foresee at the Oak Ridge National Laboratory for meeting the challenges posed by these issues of national concern?

Dr. TRIVELPIECE: I look forward to the next decade as being one of the most productive and exciting periods in the history of the Laboratory. It will be a period of revolutionary change in many of the areas of science and technology in which ORNL is involved. It will also be a period of considerable challenge. Reflecting national trends, the three themes I mentioned earlier, energy, environment, and international competitiveness, will dominate the ORNL environment during the next several years, as well.

Because of the challenge to aid our competitive posture, collaborative research, centered around major user facilities, will become a very important component of the Laboratory's intellectual output. Already ORNL hosts over 2300 guest researchers each year. By the turn of the century, we expect that number to double. Much of the increased collaboration with outside researchers will be associated with the expansion of the twelve existing user facilities and the addition of new facilities. Major new user facilities we hope to put in operation over the next decade include the world's most powerful research reactor, the Advanced Neutron Source, the Center for Biological Sciences, the Materials Science and Engineering Complex, and the Advanced Control Test Operation. The Advanced Neutron Source alone is expected to accommodate 1000 users annually.

As another element of the competitiveness mission, the Laboratory will expand its already substantial educational programs. The present educational activities encompass over 30 programs involving precollege, undergraduate, graduate, and postgraduate students and faculty. I am particularly enthusiastic about the potential for our precollege program. If the nation is to regain its leadership in international commerce, we need to influence the nation's best and brightest young people to pursue scientific and technical careers. That is the aim of the Laboratory's Ecological and Physical Sciences Study Center, which attracted 16,000 precollege students last year. The Center gives students the opportunity for hands-on learning in the physical and life sciences.

To a growing extent, the exceptional scientific and technical developments coming from ORNL are being translated into new American products, markets, and jobs. The catalyst for this expansion of evoluation in the Laboratory's traditional role of technology developer is an aggressive technology transfer program, one which recognizes the importance of face-to-face interaction between ORNL researchers and their industrial counterparts. The technology transfer program really got going in 1985. As of mid-year 1990, the Laboratory had in place 45 licensing agreements with American industry. The cumulative product sales associated with these agreements is $30 million and growing rapidly. ORNL has established itself as a leader in technology transfer, and we plan to continue that leadership in the future.

In April 1990, the Office of Technology Assessment issued the report "High-Temperature Superconductivity In Perspective." I feel the Department of Energy's efforts in this research topic noteworthy. ORNAL has been extremely successful in attracting industry participation into its High Temperature Superconductivity Pilot Center program. In two years, 15 licenses for joint research have been signed. This program has provided increased flexibility and streamlining of the business interface between the Department and U.S. industry to enable cooperative R&D on the technology development and applications of these materials. The end result will be accelerated commercialization of this important technology.

Senator BINGAMAN: What do you envision the future direction of energy technologies to be?

Dr. TRIVELPIECE: The future emphasis of energy R&D at ORNL will be on energy efficiency improvements and nonfossil energy supply techologies.

The Laboratory will continue to conduct the nation's largest and most diverse R&D program in conservation and renewable energy. The current program emphasizes research on high-temperature materials, R&D on advanced electric power transmission and distribution systems, technologies for increasing the efficiency and economical use of energy in buildings and industry, and energy storage. Renewable energy R&D focuses on techniques to reduce the cost and increase the productivity of woody and herbaceous biomass in many regions of this country and in developing nations.

Energy supply technology development at ORNL will continue to concentrate on fusion and fission. The energy released when light elements are "fused" offers mankind the potential for a limitless source of energy. ORNL plays an important role in the international quest to transform this potential into reality. The Laboratory's long-term strategy for fusion is to strive for scientific and engineering excellence in a broad program emphasizing technology and materials. In particular, work will continue relative to advances in toroidal confinement, plasma heating, fueling systems, superconducting magnets, first-wall and blanket materials, and applied plasma physics. ORNL's nuclear fission activities support DOE's civilian nuclear power program and provide technical assistance to the New Production Reactor Program. Planned future directions for ORNL in fission energy R&D include assuming lead roles in developing modular high-temperature gas-cooled reactor technology, nuclear fuel reprocessing, and reactor safety research. The Laboratory will also support all other reactor concepts through its work on strategic nuclear technologies including advanced instrumentation, control, and automation; robotics and teleoperations; and high-temperature materials and structural design.

In response to Senator McClure's remarks, I believe that the nation is ill-served if the Department of Energy laboratories were to substitute for private sector R&D or enter into competition with the private sector for commercializing new energy or environmental technologies. The nation is well served with the improvements in the technology transfer process that Congress has enacted and the Department of Energy has implemented. Industry-laboratory interaction is important for our national com-

petitive posture. The cooperative research and development agreements that are implemented as part of the National Competitiveness Technology Transfer Act of 1989 will serve as excellent foundations for future interactions.

Senator BINGAMAN: I am aware of the strong basic science programs at your institution. What do you foresee as their long-term direction?

Dr. TRIVELPIECE: The Laboratory will maintain vital programs in both the physical and the life sciences. The science programs serve two important purposes: they add to the storehouse of fundamental knowledge, and they create a strong scientific base of support for the Laboratory's technology programs.

Areas of research in the physical sciences will include materials; computations; robotics and intelligent systems; and atomic, nuclear, and high energy physics. The goal of the ORNL materials program is to continue as a world leader in high temperature materials development and in solid state physics, including surface research, preparation of new materials, advanced materials processing, and neutron scattering. Advances in neutron scattering research depend heavily on our building the Advanced Neutron Source. Our already strong materials science efforts will be strengthened further by the construction of the future Materials Science and Engineering Complex. In computations research on parallel processing will continue to be one area of emphasis. Research topics in robotics and intelligent systems will include teleoperations and autonomous systems with man-machine symbiosis as the ultimate goal. In physics, the addition of new instruments to the Holifield Heavy Ion Research Facility will make ORNL the world center for nuclear structure research into the next century. This user facility provides world-class opportunities for nuclear structure research for investigators from across the nation. It is also an important national facility for promoting undergraduate and graduate education in nuclear physics.

The life sciences—biology and environmental sciences—will continue to grow as essential elements of the Laboratory's research programs. In biology, the plan is to build on the core areas of mammalian genetics, radiation carcinogenesis, and protein engineering. In addition, multidisciplinary research in structural biology and genome mapping will be expanded. The proposed new Center for Biological Sciences will provide important new research tools for the ORNL staff, as well as users from universities and industry.

In the environmental sciences, the broad goal is to retain the Laboratory's status as one of the world's premier ecological-environmental research centers. The environmental sciences program will cover both energy-related environmental issues and global science. An important program objective is to study and understand the interactions among physical and chemical agents with living organisms, including the ultimate consequences of these interactions for humans and the environment. Global environmental studies will be directed toward gaining the fundamental understandings needed to deal intelligently with the major global change issues, including global warming. One of the goals of these studies is to provide practical input to these decision makers for making technology and policy decisions.

Senator BINGAMAN: How would you summarize the role of neutrons in the national and international R&D arena? Why is the Advanced Neutron Source important to our competitiveness?

Dr. TRIVELPIECE: To be technologically pre-eminent, we need to dominate materials. Almost everything we use for fabrication, maintenance, and protection, and a substantial portion of what we eat, is made from a synthetic or processed material. Amazingly often, that synthesis or process has been improved over the past few decades because of our increasing ability to modify natural processes on a finer and finer scale. When this industrial evolution began, neutrons and x-rays were still being used to study atoms. In the intervening period, we have learned to use these tools to study increasingly larger objects. In the past decade or so, the size range that can be studied using neutrons and x-rays has finally overlapped with the most important size range for industry. Neutrons and x-rays are often complementary, but for most practical applications, neutrons have a decisive and often unique advantage. One reason is that it is difficult to use x-rays to study light materials, which are usually of the greatest technical importance. Aerospace materials are the obvious cases where weight must be minimized, but lighter automobile components, for example, help reduce our energy bill, as well. Another advantage to using neutrons is the need to study pieces of material large enough to be representative, preferably under end-use conditions. This is easy with neutrons, but the difficulty ranges from hard to hopeless with x-rays. Plastics are one of the most important materials where present understanding and future development are intimately linked to neutron research. If you've ever tried to tear the paper-thin foil of an airline peanuts bag at other than the precut starting point, then you have experienced first hand the importance of this research.

Today's R&D problems are sufficiently complicated that no single technique is likely to solve them. It is possible that a particular technique, using neutrons such as in the instances I just mentioned, may provide a breakthrough in fundamental understanding that will allow progress to be made across the board. The problems are often cross-disciplinary; thus, one specific feature of neutron user centers has made them remarkably fruitful for attacking such problems. Although neutron experiments tend to be essentially "small science," of the type found in university laboratories, the need for a centralized neutron source brings all types of neutron experimentalists together at one site. Many of the best results have come from the meetings of people who would not normally interact professionally and who subsequently have found new ideas in common.

Neutrons are used for a wide variety of applications beyond materials research. These uses extend from fabricating silicon for use in computer chips to therapeutic medical radioisotopes. Geologic maps of strategic minerals were constructed using data obtained from neutron activation analysis. The research reactors at ORNL are a resource shared by universities, national laboratories, and industries throughout the country. The fundamental scientific studies that were once the exclusive domain of neutron research are still performed, more widely than ever, but they now take place beside nondestructive testing of oil drills, pipelines, aircraft wings, and jet engines. Neutrons are being used to search for expanded reserves of petrochemicals and strategic minerals, which helps to guarantee our future industrial independence, and for trace element analysis of soil, which helps to guarantee our present and future food supply. To quote D. Allan Bromley, "Neutrons have had a revolutionary impact on much of science and technology."

The United States can take great pride in the invention, at the Oak Ridge National Laboratory, of reactor-based neutron research. Evidently, we showed the rest of the world the importance of this field all too well. In recent years, the lessons learned in this important research field have been applied more extensively overseas than at home. For the past fifteen years, the 1989 Nobel Laureate in Physics, Norman Ramsey, has had to go to Europe to continue the neutron research he once performed in this country. Our facilities have not kept pace with new developments. Researchers in Japan are preparing for the start up of their newest research reactor. In Malaya, new neutron facilities are being built because of the practical importance of neutron scattering to understanding rubber. Investments in new facilities, such as the Leon Brillouin Laboratory in Paris, has given Europe a commanding lead in neutron research. An investment in facility upgrades has additionally benefited Europe by providing a training ground for the many new scientists entering the field. New advances in neutron technology are now being exported from Europe some thirty years after this country's most recent research reactor was designed. Thirty years ago, Japanese cars were almost unknown; color television was a novelty; and ball-point pens leaked. The technology behind fiber-tipped pens and polymer-based mechanical pencils was still awaiting the understanding that would come from neutron-based studies of these materials. Imagine what your workplace would be like if your most essential equipment were thirty years old, now imagine trying to recruit staff. If we do not rejuvenate this field soon, a later injection of capital of any amount may still fail in increasing our competitive posture. We will no longer have enough scientists trained in neutron science, and other countries will advance still further in the time required to train them.

The Advanced Neutron Source at the Oak Ridge National Laboratory will be the world's most exciting center for neutron research. It will allow us to regain the lead that we lost to western Europe a decade ago, and it will attract a new generation of researchers while it serves the needs of the present generation. The center piece of the ANS will be the finest research reactor ever built, designed using every advance made since the designing of our last generation of research reactors, to ensure safe and reliable performance. Projections are that 1000 scientists and engineers annually will use the 30 instruments that the ANS will provide for experiments on materials and for basic nuclear science. The neutron analytical facilities incorporated into this facility will permit extremely sensitive and precise chemical analysis of environmentally important chemicals and pollutants. The ANS is the top scientific priority at Oak Ridge National Laboratory. This reflects the importance that the Department of Energy, the National Academy of Sciences, and others attach to the project as an essential element of our national R&D strategy.

Senator BINGAMAN: Would you expand on the capabilities you are planning for the future ORNL Materials Science and Engineering Complex? Why is this facility needed at Oak Ridge National Laboratory?

Dr. TRIVELPIECE: The Materials Science and Engineering Complex will consolidate a

number of existing ORNL programs and incorporate new buildings and facilities that will enhance collaborative interactions in materials science. The Complex will include a new Solid State Sciences Building, a Center for Advanced Microstructural Analysis, a Center for the Study of Advanced Materials, and an Office of Guest and User Interactions. The plan for this Complex addresses identified national, regional, and local needs for materials R&D, and the support it will give our rapidly expanding user programs and technology transfer activities. The existing Office of Guest and User Interactions will be sited in the Complex to coordinate the initiative of the Southeastern Universities Research Association to encourage joint materials research activities with ORNL by establishing a university/industry presence at the Complex.

The Materials Science and Engineering Complex also meets a critical need to replace deteriorated buildings and to alleviate severe crowding in current materials facilities at the Laboratory. To elaborate, the need to replace substandard Solid State Division laboratories has been recognized for decades, and during this time their condition has considerably worsened. The Solid State Sciences Building will satisfy the need for modern solid state laboratories at substantially lower cost than refurbishing existing structures to meet present environmental, safety, and health, and OSHA standards. The Microstructural Analysis Center is our response to the need for buildings to house the next generation of instrumentation, characterized by its vibration-sensitive electron optics. This new building will also bring together under one roof a full range of modern microanalytical instrumentation.

The Complex will not only provide Oak Ridge National Laboratory with a much-needed replacement and expansion of its materials R&D facilities, but it will also provide the cooperative environment that will enhance R&D effectiveness and promote technology transfer. Materials science and engineering is among the most rapidly developing areas of science, and it is also an area that is vital to the future competitiveness of the United States in the international marketplace. Over the past decade, it has become increasingly clear that the need is not only for cutting-edge research but also for close cooperation among universities, industries, and national laboratories to shorten the time it takes to carry ideas from inception to the marketplace. Materials R&D is the cornerstone of high technology, and ORNL has one of the strongest materials programs among the Department's national laboratories. Indeed, our programs in high temperature alloys, ceramics, composites, and superconductors are unparalleled successes. The Materials Science and Engineering Complex is a recognition of the requirement to both perform and exploit materials R&D in the changing conditions of the 1990s.

Universities and colleges in the southeastern United States have numerous innovative materials R&D programs that collectively span a broad range of disciplines from materials chemistry to materials physics and materials engineering and testing. During the last few years, the Southeastern Universities Research Association and the Oak Ridge Associated Universities have explored ways to simplify and encourage joint materials research activities with Oak Ridge National Laboratory.

As a result of the SURA materials science workshop and other organizational meetings between SURA and ORAU, the establishment of a campus-like presence at the Laboratory in the form of a Center for the Study of Advanced Materials has been proposed as a means to increase the materials impact of member universities. The Center would develop broadly based scientific initiatives in materials science and engineering that would reflect the special talents, facilities, and capabilities present in the Southeast. These initiatives would address nationally significant problems important to both the Department of Energy and the university participants whose solutions would transcend the capabilities of a given institution. A proposal is being developed for the Center for the Study of Advanced Materials to support the ongoing research and graduate education programs of the southeastern universities by (1) providing a site at Oak Ridge National Laboratory where students and faculty could be located while participating in joint research; (2) utilizing the Laboratory's user facilities and staff; (3) holding workshops; and (4) benefitting in numerous other ways from the enhanced interaction with other university/industry and national laboratory researchers. The Center will make the whole spectrum of materials science and engineering opportunities at the Laboratory more accessible to southeastern institutions and will provide positions for visiting scholars, faculty, and graduate students for research and study.

Another part of the proposed Materials Science & Engineering Complex, the Solid State Sciences Building, will allow the consolidation of research activities now located in 15 separate buildings. Providing approximately 100 offices and 40 laboratories for state-of-the-art materials research, this new facility will replace aging structures which cannot be upgraded to either accommodate modern research or comply with environmental, safety, and health standards at acceptable costs.

The Center for Advanced Microstructural Analysis will be a national resource for the user community. As microanalytical instrumentation becomes more sensitive, performance of these devices is limited not by the instruments themselves but by the environment in which they are situated. Electromagnetic fields, building vibrations, and even low levels of acoustic noise can degrade performance. Most of our existing facilities were designed as general-purpose laboratories, with little attention being paid to the environmental issues that now restrict performance. The Center for Advanced Microstructural Analysis will provide a state-of-the-art site for the microanalytical instrumentation available at ORNL, including analytical and high-resolution electron microscopes, atom probes and field ion microscopes, surface analysis instrumentation, x-ray diffraction equipment, and mechanical property microprobes.

The Office of Guest and User Interactions facilitates guest and user access to collaborative research facilities at the Laboratory by disseminating information about designated user facilities; identifying user facility and other opportunities for collaborative research; providing assistance with the access and approval procedures required for visits to Oak Ridge National Laboratory; negotiating legal agreements on research interactions; and assisting visitors with local needs such as transportation and housing. Supporting 13 user facilities at the Laboratory, which are important components of the Department's mission, this Office handles more than 2,300 visits annually. This number is expected to double in over the next 10 years.

Senator BINGAMAN: You mentioned the proposed Center for Biological Sciences. What functions would this facility serve?

Dr. TRIVELPIECE: For more than four decades, our Biology Division has steadily expanded the frontiers of life science. The work there began with studies of the biological effects of radiation and then continued with pioneering methodologies for radiation and chemical risk assessments. More recently, efforts have been focused on exploring the most basic life processes, including genetic replication and repair and protein structure/function relationships. In the next century we have the opportunity to unlock the detailed secrets of DNA and the human genome and, along with them, the secrets, causes, and cures of many of our gravest human health problems, including birth defects, developmental abnormalities, and many forms of cancer. Today's research tools are tomorrow's hope for better chemotherapies, high-yield biomass for food and energy, and new ways of diagnosing and treating genetic disorders. By establishing the Center for Biological Sciences, ORNL will continue to play a pivot role in advancing these exciting frontiers. The facility will be structured, physically and organizationally, to promote accessibility, collaborative research, and user interaction. As a result, the Center itself will become a powerful new tool for bringing ORNL's expertise to life.

The Center for Biological Sciences will bring together several key components, allowing new interactions and synergies. These include a Transgenic Mouse Facility, Macromolecule Mapping and Engineering Facility, a Bioprocessing Research Facility, a Mouse Breeding Center for Human-Disease Models, and an expanded Graduate School of Biomedical Sciences.

The Transgenic Mouse Facility will be a world-class center for producing and breeding new mutant mouse strains. We are the world's leader in producing transgenic mice with insertional mutations, that is, mutations triggered by inserting foreign DNA "markers" into mouse zygote chromosomes. Some transgenic mice exhibit mutations that can be correlated with disease-producing mutations in humans. By developing many lines of transgenic mice, ORNL's breeding center will give researchers throughout the world powerful tools for deciphering the structure and function of the human genome.

As a user facility, Macromolecule Mapping and Engineering Facility, coupled with ORNL's existing research reactors and the planned Advanced Neutron Source, will allow researchers from universities and other institutions to probe the three-dimensional structure of proteins and other complex hydrogen-containing molecules. It will shed light on protein function, through studies of "designer proteins," created by genetic engineering. This facility will reveal a new level of molecular detail, inaccessible to x-ray techniques and beyond the reach of today's neutron scattering equipment.

The Bioprocessing Research Facility develops advanced bioreactor systems to convert biomass into fuels and chemicals: to turn conventional fossil fuels into clean burning liquids and gases; and to treat solid, liquid, and gaseous wastes. By bringing the Laboratory's biological researchers and analytical equipment into closer contact with this user facility, we will forge strong new bonds, both within the Laboratory and with additional guest researchers.

In addition to breeding transgenic mice, the new Center will house a Mouse Breeding

Center for Human-Disease Models. These mutant strains, including strains mutated by radiation and chemicals, will provide animal models for exploring serious human diseases, including skeletal deformities, kidney disease, some forms of diabetes, and immune system malfunctions, including AIDS and arthritis.

For nearly a quarter century, the Graduate School of Biomedical Sciences, a collaborative program with The University of Tennessee, has trained some of the nation's brightest biological researchers. Graduates of this school have gone on to direct major laboratories, head corporate and university research departments, and earn national level science awards. Five of the Laboratory's seven National Academy of Sciences members have come from the Biology Division. In keeping with Secretary Watkins' science education initiative, the new Center for Biological Sciences will greatly improve the accessibility of the Laboratory's research facilities and allow for expanded educational opportunities. The biologists at the Oak Ridge National Laboratory represent a rare educational resource, one that we are committed to sharing with the scientists of tomorrow.

The Mouse House at ORNL, the world's foremost center for genetics research, is an irreplaceable international resource and in urgent need of better facilities. This facility and all of the Biology Division's other facilities are badly aged, energy inefficient, and increasingly difficult to maintain. A continuing drain on resources, these facilities pose an increasingly serious threat to our ability to sustain high-caliber biological research. The Center for Biological Sciences will allow us to take critical steps both toward protecting our research investment and toward meeting Secretary Watkins' environmental compliance goals.

The talent and experience of the Biology Division represent one of the leading life sciences resources anywhere in the Department of Energy's national laboratory complex and, indeed, for some specialties, anywhere in the world. The many contributions these researchers have made to our fundamental understanding of the most basic life processes have more than justified the investments made over the past four decades. However, to position ourselves to apply these resources to the challenges and opportunities of the next century—the workings of the human genome, the causes and cures of tragic disease, the mechanisms of genetic damage and genetic repair, better ways to feed and fuel the world—we must make an ongoing investment in them.

Senator BINGAMAN: The Department of Energy and the Oak Ridge National Laboratory have studied the health and environmental effects of various energy facilities and energy technologies. I understand that several recent reports have recommended changes in standards on limits of exposure to ionizing radiation. Could you discuss the need for research in this area?

Dr. TRIVELPIECE: The July 6, 1990, session on the National Energy Strategy focused on energy and public health. In his prepared statement, Secretary Watkins referred to the current practice of assessing risk: "It's a fair question as to whether the current practice of quantitative risk assessment adequately exposes the many assumptions that are part of any risk analysis." The two studies that you refer to, Senator, are directly related to the concerns of the Department of Energy. The United Nations Scientific Committee on the Effects of Atomic Radiation issued a report in 1988 entitled "Sources, effects, and risk of ionizing radiation." This year, the National Academy of Sciences National Research Council Committee on Biological Effects of Ionizing Radiation issued the report "Health effects of exposure to low levels of ionizing radiation." In these reports, risk estimates are considerably higher than those issued by UNSCEAR in 1977 and by BEIR in 1980. Based on these new studies and those of other groups, it is expected that recommendations will soon be made to reduce permissible doses.

Several issues will affect the new risk estimates. The first question to arise based on data from high dose and dose-rate exposures, by what factor should estimates be reduced to estimate risks from exposures to low doses or doses at low rates? A much greater understanding of time-dose relationships is required before accurate and cost effective estimates can be made.

A second issue involves models used in radiation risk estimation. Current risk estimates are based on atomic bomb survivor data and must be extrapolated to the U.S. and other population groups. The type of model used in other calculations makes a significant difference in the risk estimates for a population group. It will be many years before epidemiological data will indicate which risk projection model is more appropriate.

Estimates of the risk resulting from exposure to radiations such as neutrons and heavy ions, which are important for deep space missions, must come from experimental animals because there are no appropriate human data. A method of extrapolating across species is a sensible goal, and radiation is the carcinogenic agent that offers the best hope of developing an acceptable method. The major advantage of using radiation is that there are data for humans, mice and dogs so that any proposed method of cross-species extrapolation can be tested. If decisions about the carcinogenicity of chemicals continues to be based on experimental animals, a method of extrapolating risk is essential if any quantitative risk is to be obtained.

The study of external radiation carcinogenesis also has application in the study of biological mechanisms. These studies can provide knowledge of DNA damage and the repair of chromosome aberrations. The need for animal experiments to improve radiation protection standards is vital. This is another example of research that will be supported in the proposed Center for Biological Sciences.

Senator BINGAMAN: In his opening remarks, Secretary Watkins mentioned the national need for research in environmental restoration. How could Oak Ridge National Laboratory assist the national effort to better understand the phenomena associated with both environmental restoration and waste management?

Dr. TRIVELPIECE: In the last few years, the magnitude of the environmental restoration effort directed toward cleanup of our nation's contaminated sites has increased dramatically. Vast economic and personnel resources are being and will continue to be devoted to this issue. There are some cases that can be addressed within available technology so progress can be achieved within a short time. There are many other cases, however, in which our level of understanding of the complex systems associated with remediation of the relevant disposal sites and the environmental behavior of wastes is either nonexistent or poorly developed. In either case, an appropriate base of knowledge is needed to develop solutions. This demands foresight in identifying future needs, as well as a relatively long-term commitment toward research directed at fundamental science issues related to environmental restoration. Goals for this effort are laid out in terms of decades rather than a few years. Leadership in this area of basic R&D must rapidly evolve and must integrate multidisciplinary science into a focused program that strives to develop the fundamental knowledge base that will be required to ensure that all national efforts at environmental restoration are being successfully undertaken, are cost-effective, and are environmentally safe. Basic R&D support today will help ensure timely and cost-effective technologies for tomorrow.

The basic R&D challenge is yet to be developed for addressing several broad objectives that represent the foundation of a sophisticated understanding of long-term needs for environmental restoration. We need to understand better the physical and chemical factors that control the movement of radioactive, hazardous, and mixed wastes in the subsurface and surface water systems. We must also develop the capability to quantitatively model contaminant behavior. New remediation technologies—physical, chemical, or biological—must be developed for environmental restoration. In addition, they should be accompanied by recommendations for future waste management. The impact of remediation technologies on human and environmental health must be assessed, also, and new models developed and validated for assessing the health and environmental risks associated with previous disposal operations. Finally, performance assessments and post-remediation technologies and capabilities must be developed, as well.

These broad objectives will demand a wide variety of technical disciplines, and a highly interactive structure in which to operate. For instance, significant emphasis must be placed on modeling capabilities, including those related to geochemistry and hydrology, as well as to risk analysis. The interactive relationships between wastes of different types and natural processes of varying nature must be studied. These studies should emphasize microbial transformations that can be used in remediation, as well as other biological parameters that can effectively serve as risk and performance assessment evaluators. Inherent in this initiative will be the need for enhanced computational ability and the use of artificial intelligence and expert systems to aid restoration decisionmaking. Basic research issues important to the waste R&D effort will change as technologies develop and as new problems are encountered.

This initiative is necessary because it focuses specifically on issues that require a relatively long lead time and that are directed toward resolving a pressing national problem. Basic research is important if the Department of Energy's environmental restoration efforts, as well as those of other government agencies, are to be effective. As time passes, I expect that increased attention will be given to this need. The time is right for the nation and the Department of Energy to take advantage of the multidisciplinary expertise and experience in waste R&D at the Oak Ridge National Laboratory. The setting of this Laboratory provides a unique opportunity for field testing projects running the gamut from characterization to remediation.

Because the cost of remediating environmental insults is high, a vigorous R&D pro-

gram is needed to minimize cleanup costs, to quantitatively understand the risks posed by the contaminated sites, and to help establish remediation priorities. At ORNL, the purpose of our waste R&D initiative is to research, develop, and demonstrate advanced technologies that will significantly reduce the costs of environmental restoration and waste management while meeting requirements of public acceptability.

One component of this program is to determine methods and develop techniques for identifying and characterizing the wastes and waste sites associated with the various Department of Energy operations, particularly those within the eastern half of the United States. As part of this characterization effort, more useful, cost-effective tools need to be developed that will facilitate our response to compliance requirements at minimal cost. These include modeling hydrologic systems and developing advanced field measurement, sensing, and data analysis techniques. The Ultrasonic Ranging and Detection System, developed at the Laboratory, has been successfully transferred to industry. Effective modelling requires greater understanding of contaminant behavior and its response to remediation techniques. A large cost of any remediation effort is the required qualitative and quantitative analysis. Improved and cheaper analytical techniques should be developed that are in situ and real time. Field-oriented methods that allow both site and contaminant characterization with minimal cost and health impact are necessary.

A second component of the applied waste R&D initiative involves assessing existing waste management methods and evaluating, developing, and demonstrating new potentially effective technologies for waste treatment. Some of these potential effective technologies may currently be in use in other industries, but they have not been considered for application to waste management. These technologies will be needed to address the three frontiers of restoration and waste management: the cleanup of existing sites, better techniques for handling wastes currently being generated, and process modifications to minimize future waste generation. Several technologies are currently being evaluated for these purposes, along with their potential for future development. Bioremediation and biotechnology may provide organisms that fix, degrade, detoxify, or accumulate organic and selected inorganic species either in situ or in process. Bioindicators may continuously monitor environmental quality. Robotic systems and remote technology may enhance environmental restoration and waste management operations. These waste-handling techniques would remove workers from contact with hazardous materials, increase the speed and productivity of operations, and reduce life cycle costs of these operations. Waste reduction in volume or toxicity may be achieved by developing waste minimization technologies ranging from fundamental chemical reactions to engineering and process design. Advanced separation technologies would improve waste concentration efficiency and effectiveness.

While these technologies are to some extent already developed, additional refinement is necessary to be cost-effective in addressing a wider range of waste problems. It is expected that there will be significant industrial involvement in this program, particularly in the demonstration phase. With the impressive record of Oak Ridge National Laboratory in technology transfer, close working relationships are anticipated both within and outside the Department of Energy community.

At any site undergoing cleanup efforts, there are two frequently asked questions. How clean is clean? At what level of contamination is toxicity negligible? These questions are directly related to risk. Successful support of our national remediation efforts depends on the fundamental knowledge base provided by basic research. It will take decades to complete remedial investigations, feasibility studies, and actual site remediation at Department of Energy and other government sites. It is the management of health and environmental risks that is of primary concern to the owners of the contaminated sites and the funders of the remediation efforts. Achievement of a given level of compliance is not the sole criterion. Fundamental operational questions of risk and risk management require new approaches that are generated by basic research, along with the application of site-specific human health and ecological effects data bases for model development, validation, and uncertainty analysis.

Concern over a lack of qualified, trained scientists and engineers to solve future problems has led to an increased emphasis on education within the Department of Energy. The Oak Ridge National Laboratory is responding to this concern by developing joint research projects with major universities and historically black colleges and universities to encourage students to study in fields of waste management.

Senator BINGAMAN: You've mentioned your educational programs several times in your comments today. Your educational efforts appear to be multifaceted across the educational spectrum. Would you please describe some of the educational programs conducted at Oak Ridge National Laboratory this summer? I also understand, Dr. Trivelpiece, that you are the chairman of the Mathematical Sciences Education Board. What role does this group have in national education?

Dr. TRIVELPIECE: Thank you for your kind acknowledgment, Senator. The educational programs at the Oak Ridge National Laboratory are part of the Department of Energy's effort to arrest the trend toward fewer numbers of United States students in science and engineering.

From June 13 to July 3, the first National Teacher Enhancement Program was conducted in Oak Ridge under a three-year, $2 million National Science Foundation grant. Oak Ridge National Laboratory administers this grant on its own behalf and on behalf of four other Department of Energy laboratories—Fermi, Argonne, Brookhaven, and Livermore. Forty-six elementary-level teachers and principals from ten East Tennessee counties participated in this three week session. More than 25 area teachers as well as ORNL research staff members, acted as resource persons.

Under the May 19, 1990, Department of Energy Memorandum of Understanding with the Appalachian Regional Commission, activities were initiated with two pilot science education programs in July for 17 middle and high school students and 3 teachers from school systems in southwest Virginia. These hands-on learning experiences were based on the curriculum of our Ecological and Physical Sciences Study Center. Governor Wilder of Virginia said that "Forging linkages to organizations within other states in math and science education is an excellent beginning to accomplish the goals we governors set at the National Governors Conference in February." We at ORNL concur.

In June, Oak Ridge hosted the semiannual meeting of the Science and Technology Alliance that links the Oak Ridge, Los Alamos, and Sandia national laboratories with three minority institutions: the Ana G. Mendez Foundation in Puerto Rico, North Carolina A&T State University, and New Mexico Highlands University.

Participation in the American Chemical Society's Project SEED, the Summer Educational Experience for the Disadvantaged, was expanded this summer to include 17 high-school students. They hold ten-week summer research appointments at the Laboratory. This number included seven Hispanic SEEDs who are also outstanding students from the Mendez Foundation's precollege program in Puerto Rico. They were accompanied by two supervising teachers, who also had full-time research assignments. Ten SEED students from East Tennessee also had experiences here that culminated in a formal research report or presentation. Puerto Rican participation and support were part of our efforts with the Mendez Foundation under the Science and Technology Alliance.

Under the Laboratory's Memorandum of Understanding with the University of Puerto Rico, a one-week hands-on precollege study program was conducted from June 25 to July 3 in Oak Ridge for 17 Puerto Rican students and two teachers. The one-week program included an opportunity for interaction with the Hispanic SEED students here on summer-long research appointments.

Our core program in the precollege area, the Ecological and Physical Sciences Study Center, served some 16,000 youth and adults during the September 1989 to June 1990 academic year. This number represents a 60% increase from the total of 10,000 participants during the previous year. The Study Center offers more than 20 different half-day, hands-on study experiences, both for visiting groups and through classroom visits from the the Center's staff.

A total of 40 elementary- and secondary-level teachers participated in this year's eight week Summer Teacher Research Program at ORNL. This total more than triples the number of appointees at the Laboratory under the Department of Energy's nationally administered Teacher Research Associates program. Additional support for teachers has been provided through several sources: the Laboratory's research divisions, the Department's waste management education initiative, initial Department monies for Project SMART, Science/Math Action for Revitalized Teaching, local monies to support minority teachers under the STAR Program, Summer Teachers As Resources, and the first appointment under a new initiative to provide national laboratory research experience for prospective teachers during their undergraduate or graduate study.

Oak Ridge National Laboratory hosted its third Department of Energy High School Science Honors Workshop for 50 U.S. and 7 foreign students from July 7 through July 21. Eleven previous Laboratory honors workshop participants also held summer-long research appointments in our Environmental Sciences Division. The intensive two-week experience featured hands-on, small group participation in 15 research projects on environmental topics, each with a Laboratory staff scientist as mentor. The students also participated in mock public hearings that examined problems at the interface between science and public policy. These topics in-

cluded global climate change, radon, and hazardous and radioactive waste management.

A precollege science education venture, the Saturday Academy of Computing and Mathematics, is set to be offered for the first time this fall. The 10 week program, set to begin in October, initially will be limited to 30 students and teachers from six selected Oak Ridge and Knoxville area schools. In June, a group of the prospective teacher participants reviewed the program outline and provided comments and suggestions on its initial implementation. They provided strong support for both the concept and its value as a challenging enrichment activity for their most outstanding students. We intend to expand the Academy concept to include other subjects, such as physical and materials science and biphysics.

Working through the newly organized Clinch River Environmental Studies Organization, the 130-acre Anderson County Wildlife Sanctuary is being developed as an environmental study site by three area school systems. Money provided by the Department of Energy's Waste Management Education Initiative has helped to support initial survey and curriculum development activities at the site. This has been accomplished through a program of "student environment problem grants," which enabled upper-level students to develop and carry out research projects during the spring and summer. Two supervising teachers were supported under our Summer Research Program. On-site study experiences for class groups from the participating schools are to begin this fall.

The Service Academy Research Associate program brings science, mathematics, and engineering majors from military academies to the Oak Ridge National Laboratory to work with staff scientists in a research environment for from two to six months. This summer three undergraduate and six graduate students are participating. Other programs include the Science and Engineering Research Semester for college undergraduates and the Nuclear Engineering Training Program for top students at historically back colleges and universities.

To respond to the second part of your question, the Mathematical Sciences Education Board was created in 1985 by the National Research Council to stimulate and coordinate national reform of mathematics education. In its first major publication, "Everybody Counts: A Report to the Nation on the Future of Mathematics Education," the Board sets forth a compelling argument for fundamental mathematics education changes starting in kindergarten. The Board is a coalition of national leaders from the mathematical sciences, education, government, parent groups, and the corporate sector. The Board will work toward a consensus on the goals of mathematics education and will promote national standards. Structures for facilitating change will be established, and prototypes of content and instruction will be developed. The Board will report to the nation on the status of mathematics education and will define a national strategy for implementing change.

The Mathematical Sciences Education Board is engaged in a wide variety of activities in its efforts to improve mathematics education at all levels and for all students. Several of these activities are well advanced, such as coordinating the work of professional organizations that are developing professional teaching standards, as well as a national strategy for reaching out to groups that are traditionally underrepresented in the mathematical sciences. The Board is disseminating the results of international comparisons of mathematical achievement and creating materials that encourage young children to be successful in mathematics. A national network of state-level mathematics coalitions is being established, and mathematics education is being promoted as a priority concern for a wide range of national organizations. The Board is beginning to organize a national corporate council to link business and industry with the reform movement in mathematics education. Also, U.S. schools are beginning to adopt successful international practices in mathematics education.•

SOCIAL SECURITY EARNINGS TEST

• Mr. MACK. Mr. President, the Social Security earnings test is a ridiculous penalty on working seniors who want to continue to work but can't because the earnings test won't let them. The earnings test is a 56-year-old law that limits Social Security beneficiaries ages 65–69 from earning more than $9,720 annually. Beyond that, $1 of Social Security benefits is taken away for every $3 in wages earned. This is ridiculous. The earnings test needs to be repealed—now.

A local newspaper in Fort Myers, FL, called the Senior News, began a letter writing campaign in November 1990. So far I've received 423 letters from outraged seniors all over southwest Florida urging a repeal of the Social Security earnings test. The letters I received illustrate the seriousness of this issue and how badly seniors want the earnings test repealed.

Seniors want to play a vital role. Let us work quickly to repeal the Social Security earnings test. The following are two of the letters I received that exemplify the hardship the earnings test places on our Nation's senior citizens:

PORT CHARLOTTE, FL,
October 15, 1990.

DEAR REPEAL C/O SENIOR NEWS. In regard of my sixty-fifth birthday I am now collecting Social Security and working part-time. I am in good health and an experienced carpenter in all phases of building. If it was not for my allowance that I would make, I would be able to work full time. I have worked steady for fifty years in the carpentry business. It is not right that I should be penalized for my income. Also that I was born in the notch years I am penalized twice.

I understand that most Americans work over seven months for taxes alone with no benefits to the medium earners.

Also I think the government could take a lot of the dead wood off the top of the governmental pile, the ones that could well afford to fend for themselves. I have not heard of any of our politicians saying anything about their 60 or 70 percent raises they voted themselves a few years back.

Please repeal of Earnings Restriction Law.

Sincerely,

WYLIE A. PORTER.

NAPLES, FL,
October 2, 1990.

DEAR SENATOR MACK. I'm 65 and working harder than I ever have, 76 hours a week and to have to give back a part of my Social Security is a disgrace. We need a repeal, of the Earnings Test.

J. MESSMER.

I urge my colleagues to support legislation to repeal the Social Security earnings test.

DISPLACED HOMEMAKERS

• Mr. McCAIN. Mr. President, if we as a nation are going to continue to compete in the highly competitive global market, we must call on all our citizens to do whatever they can to keep America No. 1. All our citizens, working together to do their part, will be needed in this effort. But the Federal Government must do its part also.

To bring this issue closer to home, and no pun is intended, last year the Congress authorized money for job training for displaced homemakers. I supported this authorization. However, Congress, mistakenly I believe, failed to appropriate any funds for this program.

Displaced homemakers should be given every opportunity to continue to be productive. In most cases, with a small amount of training, these women are able to enter the work force and become model employees. Mr. President, this is surely a wise use of the taxpayer's dollars.

Mr. President, I hope that this issue will soon be considered by the full Senate and I urge my colleagues to support this important program.•

BLACK HISTORY MONTH ESSAY

• Mr. RIEGLE. Mr. President, Black History Month allows us to reflect on the critical role black Americans have played in building our Nation. Although Black History Month has just ended, we must remember the lessons of our past as we address the challenges we continue to face in removing all barriers to equal opportunity for all citizens.

It is especially important for our young people to learn the rich history of black Americans. Over the past month, students from 75 high schools in Wayne, Oakland, and Macomb Counties completed in an essay contest on "The Value of an Education Within the Context of Black History Month."

Today, Noell Houseworth, a ninth grade student at Cass Technical High School in Detroit was named the winner. Her essay is a moving account of the courage of those who integrated our schools, and of the need to renew our commitment to education.

I ask that this essay be printed in the RECORD.

WON'T LET NOBODY TURN ME AROUND

Gloria Ray, Terrance Roberts, Melba Pattilo, Elizabeth Eckford, Ernest Green, Minnijean Brown, Jefferson Thomas, Carlotta Walls and Thelma Mothershed. The Little Rock Nine. Who are they? Where are

they? Look up their names in the encyclopedia and you can't even find them. They aren't a famous rap group, they weren't even on the starting line up for the Green Bay Packers. Why even bring them up? After all, they never signed a million dollar contract, nor did they ever appear on the Oprah Winfrey show. So, who cares?

The time was 1957, the place Little Rock, Arkansas. The nine were teenagers who took a journey of 100 yards from the street to the doors of all white Central High school. It was a journey lined with National Guardsmen, angry whites, the Governor of Arkansas, the Klu Klux Klan and attack dogs. It was a journey supported by the blood of their ancestors, those who felt segregation was wrong, the President of the United States and the Constitution. These nine Black teenagers walked this long 100 yards for a chance to be educated. It was not at a swanky prep school, or at a school that offered a great academic program that would ensure their future success. They walked the 100 yards to enter the doors of a school that could only boast of being totally segregated. The nine unknowns were hand picked from a pool of 60 applicants. Willingly, they accepted the task of obtaining equal education for Blacks. They, in their own way, began a long journey into history that many of us seem to have forgotten.

School drop out rates among Blacks nationally is 15%. The drop out rate of Black males in urban areas is 45%. Blacks are completing high school unable to read. These are the headlines of the 90's. How different they are from the days when nine teenagers were willing to die for a right to be educated.

Our path to the doors of institutions of learning have been paved by the blood of slaves who sought and obtained the Emancipation Proclamation. It is cushioned by the 1954 Supreme Court decision of Clarice Brown versus the board of education, in which the Supreme Court justices said, "Education is perhaps the most important function of state and local governments". They said that denying children educational opportunities based upon race is wrong. The doors of those institutions were opened by the freedom riders of the 50's who were jailed, beaten and murdered when they demonstrated to abolish the ugly face of segregation.

Unlike the Little Rock Nine, our journey down those 100 yards is not as difficult, as frightening, or as heart felt. We must however overcome the feeling that the struggle is over. We, the teenagers of today, must dedicate ourselves to overcome new obstacles that have been placed before us. We must commit ourselves to obtaining a quality education, we must overcome the pressures that would cause us to walk away from our schools without completing our education, we must prove those people wrong who believe Blacks can only excel in sports, we must become competitive with whites in all facets of life, we must dispel the thoughts of those who count us out as a lost generation.

Our generation must rekindle the words and deeds of the freedom riders of the 50's and of the Little Rock nine, "Won't Let Nobody Turn Me Around."•

CRIME CONTROL PROPOSALS

• Mr. CRAIG. Mr. President, yesterday, Attorney General Richard Thornburgh presented a number of crime control proposals to the law enforcement summit on violent crime. I urge my colleagues to support those proposals.

The Attorney General spoke about the need for the comprehensive crime bill proposed by the President. He called for tougher sentences for firearms violators. He also announced that the Federal Government is prepared to spend $12 million to improve the accuracy of criminal records.

There are many well-meaning individuals among us who think crime can be controlled by locking up all the guns in America. Mr. President, they are wrong. And they are hurting law enforcement, not helping it, as long as they focus on the tools of the criminal and not the tools needed by law enforcement They are hurting law enforcement, not helping it, as long as they demand that officers stop fighting crime and instead spending their time conducting background searches on innocent gun purchasers.

Mr. President, Attorney General Thornburgh understands this. That's why he did not just talk about crime as an issue yesterday—he delivered a tough, workable, sensible action plan to fight crime.

I commend the Attorney General and the administration, and encourage my colleagues to support their efforts.•

COMMEMORATING BLACK HISTORY MONTH

• Mr. McCAIN—

> They ask but the rights which are theirs by God's universal law, and which are the natural outgrowth, the logical sequence of the condition in which the legislative enactments of this nation have placed them. They appeal to you and to me to see that they receive that protection which alone will enable them to pursue their daily avocations with success and enjoy the liberties of citizenship on the same footing with their white neighbors and friends.

Mr. President that was a statement made before this great body on March 16, 1870, by the Honorable Hiram Revels, Republican Senator from the State of Mississippi. Mr. Revels was the first African-American to be seated by the Senate. He made this statement during a fierce debate regarding the seating of the Georgia delegation during the reconstruction era. I rise today to pay tribute to Mr. Revel and to the many other African-Americans who have helped so significantly to enrich American history.

Mr. President, the month of February is a special time for African-Americans. In 1976, Congress designated February as Black History Month. It is a time to celebrate a rich and proud history of achievement over adversity.

As we take time to celebrate the accomplishment of Black Americans this month, let us keep in mind that we still have a long way to go to achieve true racial equality. But as we work toward that day, let us be guided by our reflections on the milestones of black history that have made America a more just society.

We remember those who paid the ultimate price for freedom during our Nation's times of war and domestic turmoil. We remember Crispus Attucks whose life was first to be taken in the Revolutionary War and the more than 5,000 African-American soldiers who served during the Revolutionary War and fought for freedoms that they would not realize for more than 100 years after the battle had ended. From the 38,000 African-American soldiers who lost their lives in the Civil War, to the courage our soldiers are displaying in the Persian Gulf today, African-Americans have revealed the "last full measure of their devotion" to their country.

Inexcusably, many African-Americans have been disenfranchised from the mainstream of society. Black history in this country has been largely undocumented. Nowhere is this more true than in the southwest, where the extraordinary lives of many African-Americans have gone unheralded.

Despite the obstacles of racism and poverty, many African-Americans have contributed substantially to the progress of the Nation. The history of my State of Arizona's has been vastly affected by the achievements by African-Americans.

Arizona's history is centered on the folk heroes of the Old West, the Indians, cowboys, pioneers, and soldiers. African-Americans played a large role in this western tradition. They were the Buffalo Soldiers, adorned with the name by the Kiowa, Cheyenne, and Apache tribes who fought them. Arizona was grateful for the protection of the brave soldiers of the all black 9th and 10th Cavalry as well as the 24th and 25th Infantry, stationed at Fort McDowell and Fort Huachuca.

These units, created in 1866, scouted 34,420 miles of Western desert and plain, laid hundreds of miles of new roads and telegraph lines, protected mail coaches, guarded the Mexican border, and protected settlers. Eleven African-American soldiers were awarded Medals of Honor during the western campaign. Two of the most memorable were Sgt. Benjamin Brown and Cpl. Isiah Mays. They served in the 24th Infantry Division, and their gallantry in action was displayed in a fierce fight with outlaws who had robbed an army payroll. Brown was shot in the stomach and continued to fight until wounded in both arms. Both were honored for their bravery in the fight.

One the most well known African-Americans Soldiers in the Arizona frontier was Lt. Henry O. Flipper. In 1877, Lt. Flipper was the first African-Americans to graduate from West Point. He was recognized as an accomplished engineer as well as a skilled ne-

gotiator in the conclusion of a border agreement between the United States and Mexico.

Lieutenant Flipper's military career was not without controversy. He was dishonorably dischrged after being falsely accused of actions unbecoming an officer. Despite suffering the undeserved ignominy of a dishonorable discharge, Lieutenant Flipper remained in the southwest to enrich the lives of many more Americans. And in 1976, he was exonerated posthumously by the Army Board for the Correction of Military Records. He now occupies a distinguished place in American history unblemished by mistakes that were not his.

Mr. President, there have been regrettable moments in Arizona history which set us back in our march to a more just and equal society. In 1912, the Arizona State constitution established a legal system of segregation. The constitution required separate public facilities such as bathrooms and drinking fountains. It also established a segregated school system which hadn't existed in Arizona prior to this constitution. Although it was not strictly enforced, it was another unnecessary indignity that African-Americans had to bear in Arizona.

Despite obstacles to their advancement, African-Americans played a meaningful role in the development of Arizona. Dr. Winston C. Hackett, a graduate of Fisk University, established the Booker T. Washington Memorial Hospital in 1916. The Hospital served all races of the Phoenix area. Hackett remained for the rest of his life a prominent civic leader in the community.

In 1919, the Phoenix Advancement League was formed by entrepreneuers Samuel Bayless and C. Credille. This organization was a forerunner to the NAACP in Phoenix. The League fought segregation and bigotry through changes in the law. By 1922, other branches were active in Tucson, Flagstaff, Bisbee, and Yuma.

Although the early history of African Americans in Arizona was fraught with difficulties, it was also ennobled by their triumphs over adversity. Because our history is so rich with the achievements of African-Americans, I must take this opportunity to apologize to those whose accomplishments I have failed to mention. African-Americans history is the history of a people who fully represent the meaning of the American spirit. Despite extreme adversity, despite the persistent degradation of racism and racist laws, African-American experience in Arizona is marked chiefly by persistence and success.

I was to recognize today, some contemporary Arizona heroes. Dr. Lincoln Ragsdale who, after serving the United States in the all black 99th Fighter squadron in World War II, known as the Tuskegee Airmen, settled in Phoenix and is now a prominent businessman. When the civil rights movement came to Arizona, Dr. Ragsdale, as well as the Rev. George Benjamin Brooks and others, were there on the western front of the civil rights movements.

Another of our State pioneers is my friend and long time confidant, Judge Cecil Patterson, who 13 years ago was appointed to the Superior Court of Arizona. He was most recently chosen to head our State Attorney General's Department of Human Services and Civil Rights.

I would like also to mention the achievements of Donald Tucker, the first African-American ever to be named U.S. Marshal for the District of Arizona.

All of these distinguished individuals have established themselves as role models, not only to the African-American community, but to all Arizonans.

Accomplishments by individuals within the minority community not only serve as examples of determination and achievement but also as a reminder that we must continue to move forward to enact policy that will empower African-Americans to stake their claim to the American dream. It is our duty to create and maintain an atmosphere in which creativity and determination is rewarded through equal opportunity for all members of society.

However, it is important to remember that changes in law are not enough. The most difficult, and the most important change must take place in the hearts and minds of all men and women. The constitution states that all men are created equal. The Constitution is not only a legal and a moral injunction, but a call to conscience.

I believe that Black History Month is an example of how this country can celebrate the uniqueness of one of its many cultures. However, Black History or the history of any of our Nation's peoples shouldn't be remembered just 1 month a year. As Americans we should realize that our society is composed of many coultures. Our religion, politics, science, arts, industry and agriculture are the work of a multitude of cultures all united by their attraction to the universal appeal of our nation ideal—the desire to live free and prosperous lives. The great success of our democratic experiment is the direct consequence of a multicultural heritage. Though we are many, we are one.

Mr. President, I have explained what Black History Month means to me. I would also like to enter into the RECORD statements from some of the African-Americans that I admire and respect. I contacted Judge Cecil Patterson and U.S. Marshal Donald Tucker and asked them to share with us their thoughts of what this month means to them. I ask that their statements be included in the RECORD following the conclusion of my remarks.

Finally, Mr. President, I want to say a few words about one of the greatest figures in Black history, Dr. Martin Luther King. For the all too brief time he was among us, Dr. King was our moral compass. He pointed us back in the direction of our founding principles. His guidance was delivered with love and without malice to anyone. His advocacy responded forcefully to his often malicious and violent opponents, but without using the methods used so cruelly against him. He knew that the violence inflicted on him and on his race did not reflect the real character of America, but were symptoms of a nation at risk of losing its virtue. He called us back from the precipice of that near catastrophe. That is why Dr. King is a hero to me.

I know that all the dimensions of Martin Luther King's American dream are not yet realized. I know that every day, in every community in America, injustice has its advocates. But we are much farther along "the torturous road from Montgomery" than we were the day he died. Let us use the celebration of this month, and the memory of this gentle man's unsurpassed humanitarianism, to complete the journey and get over to the promised land.

The statements follow:

STATEMENT OF U.S. MARSHAL DONALD TUCKER

As I reflect on Black History Month, I am reminded of the story about a Black woman, that scrubbed floors and worked as a domestic maid, to earn enough money to send her son to college. When she went with him to college on that first day, her son was denied admittance because of his grades, educational background and the feeling he couldn't compete with the other students. The Black woman got on her knees and begged the college president to give her son a chance. The college president told this proud Black woman, that she need not get on her knees because if her son had just a small portion of the character and determination that she displayed, he would allow him to be admitted into his university.

Several years later, the college president was approached as he was walking through the airport by a tall, well dressed, young Black man. After a general conversation the young Black man reminded the college president of the day his mother begged him to let her son into his university. The young Black man thanked the college president and before walking away he stated that he was the top pilot for a major airlines. As the young Black man was walking away, the college president thought to himself "Don't tell me what a Black person can't do if someone just gives them a chance". That Black woman is an integral part of Black History and a legacy for all, not just Blacks, but Whites, Hispanics, Indians, etc.

Blacks since the days of slavery have struggled and gone against seemingly insurmountable odds to not only survive but to change our society. Blacks such as George Washington Carver, Martin Luther King, General Chappie James, Barbara Jordan, Shirley Chisholm, have all made a mark in the history of this country. How can Black Americans and this whole country not be

proud of General Colin Powell during this crucial time in history.

As the Black U.S. Marshal from Arizona, I am extremely proud to follow in the foot steps of the first Black U.S. Marshal for this country, Fredrick A. Douglas, District of Columbia, 1877–1881, who said "without struggles, there is no progress".

As Black Americans, we must continue to build on the legacy of our Fathers and Mothers and continue to help build this country to its infinite greatness, because without the contributions of Black Americans throughout our history, this country wouldn't be where it is today.

I join in the celebration of Black History Month, February 1991, and hope all races of men, women and children of this country attempt to understand each other and our histories so that our future, as one peoples, will not only be insured, but enhanced.

STATEMENT OF THE HONORABLE CECIL PATTERSON

It is a time to reflect on your heritage and history, a time to look at your forebearers experiences, and a time to get strength from your cultural heritage. It is a source of strength and pride reinforced through an expanding knowledge. This reflection is a process, a continuing growth as a part of a very prominent group in the United States as well as growth as an individual. In Arizona the effort requires greater focus because of the smaller number of Blacks. But, the quality of our celebration is second to none. The focus on our accomplishments, the abundance of our heritage, the celebrations of our triumphs are strong as it would be where there are larger numbers of Blacks residing. Art, music, literature, and politics all intertwine to carry out the richness of our legacy.●

TRIBUTE TO LANCE CPL. FRANK C. ALLEN

● Mr. AKAKA. Mr. President, the war in the Persian Gulf has come to an end, and I think it is only fitting that we pay a final tribute to one of Hawaii's own, Lance Cpl. Frank C. Allen.

Hawaii buried a brave and courageous man at Punchbowl, the National Cemetery of the Pacific. He was a family man and a friend to many, and he was Hawaii's first son to be killed in the Persian Gulf conflict. His death brought home the stark realities of war, and we share in the profound sense of loss felt by Corporal Allen's family and friends.

Frank Allen exhibited the highest sense of patriotism and gave unselfishly to make the world a safer place. He was a valiant and honorable man whose sacrifice will not be forgotten. He gave the greatest contribution anyone can give to protect world freedom. Words cannot replace this devastating loss, but history and time will forever honor Corporal Allen and individuals like him.

The people of Hawaii and the Nation are grateful for the dedication and commitment Corporal Allen and other brave Americans have given to this country. We share the sorrow being felt by family and friends who have lost loved ones in the Persian Gulf.

Mr. President, I wish to extend my condolences and deepest sympathies to the family and friends of Corporal Allen. My thoughts and prayers are with them in their time of grief.●

REGARDING BUILDING HEIGHT LIMITATIONS IN THE DISTRICT OF COLUMBIA

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of Senate Joint Resolution 84, regarding building height limitations in the District of Columbia, and that the Senate then proceed to its immediate consideration; that the resolution be deemed read a third time and passed and the motion to reconsider be laid upon the table.

The joint resolution (S.J. Res. 84) was deemed read a third time and passed, as follows:

S.J. RES. 84

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby disapproves of the action of the District of Columbia Council described as follows: The Schedule of Heights Amendment Act of 1990 (D.C. Act 8–329), signed by the Mayor of the District of Columbia on December 27, 1990, and transmitted to Congress pursuant to section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act on January 15, 1991.

JOINT SESSION OF CONGRESS

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 83, regarding a joint session of Congress now at the desk.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution, (H. Con. Res. 83) providing for a joint session of the Congress to receive a message from the President of the United States.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 83) was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AUTHORIZATION TO APPOINT A COMMITTEE TO ESCORT THE PRESIDENT INTO THE HOUSE CHAMBER FOR THE JOINT SESSION AT 9 P.M., WEDNESDAY, MARCH 6, 1991

Mr. RIEGLE. Mr. President, I ask unanimous consent that the President of the Senate be authorized to appoint a committee on the part of the Senate to join with a like committee on the part of the House of Representatives to escort the President of the United States into the House Chamber for the joint session to be held at 9 p.m., Wednesday, March 6, 1991.

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

AUTHORIZING TESTIMONY OF PRESENT AND FORMER EMPLOYEES OF THE SENATE

Mr. RIEGLE. Mr. President, on behalf of the majority leader and the distinguished Republican leader, Mr. DOLE I send to the desk a resolution to authorize testimony by present and former Senate employees and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 73) to authorize the Senate Financial Clerk and other present and former Senate employees to testify in the case of *United States* v. *Darrell A. Tomblin,* et al.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, on March 18, the trial in the case of United States versus Darrell A. Tomblin, et al., is scheduled to begin in the U.S. District Court for the Western District of Texas. One of the three defendants in the case is Glen Mauldin, who from 1983 through 1988 served as an employee of the U.S. Senate. The indictment, which was handled down in September 1989 alleges, in part, that between November 1987 and November 1988 the defendants conspired "[t]o corruptly obtain the influence of the office of a U.S. Senator to influence decisions by the Government of the United States to benefit various business plans of the Defendants."

Prior to the indictment in 1989, the Joint Leadership Group authorized during a recess of the Senate, pursuant to Senate Resolution 490 of the 97th Congress, the production of several Senate financial records in response to a grand jury subpoena. Now, in preparation for trial, the Department of Justice has caused subpoenas to be issued for the testimony of a number of present and former Senate employees. One of the subpoenas is to the financial clerk of the Senate for testimony in his

capacity as the custodian of the Senate financial records previously produced to the grand jury.

Although the present subpoenas ask only for testimony, the resolution that follows also would authorize the production of additional documents, if the need arises.

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

The resolution (S. Res. 73) was agreed to.

The preamble was agreed to.

The resolution with its preamble, reads as follows:

S. RES. 73

Whereas, in the case of United States v. Darrell A. Tomblin, et al., Cr. No. SA-89-CR-249, pending in the United States District Court for the Western District of Texas, the United States has obtained subpoenas for the testimony of Stuart F. Balderson, the Financial Clerk of the United States Senate, for the testimony of other present Senate employees, and for the testimony of former Senate employees;

Whereas, by the privileges of the Senate of the United States and rule XI of the Standing Rules of the Senate, no evidence under the control or in the prossession of the Senate can, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that the provision by Senate employees of information acquired in the course of their official duties is needful for the promotion of justice, the Senate will take such action thereon as will promote the ends of justice consistently with the privileges and rights of the Senate: Now, therefore, be it

Resolved, That Stuart F. Balderson, the Financial Clerk of the United States Senate, and other present and former employees of the Senate are authorized to testify and produce records in the case of United States v. Darrell A. Tomblin, et al., except as to matters for which a privilege should be asserted.

Mr. RIEGLE. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER (Mr. KERREY). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ORDER OF PROCEDURE

Mr. RIEGLE. Mr. President, I ask unanimous consent that when Senator WARNER is recognized to address the Senate today, that at the conclusion of his remarks the Senate stand in recess, as under the order, until 9:30 a.m. Wednesday, March 6, 1991.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. 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. WARNER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WARNER. I understand the Senate is now in morning business and the Senator from Virginia may send to the desk a bill and ask that it be printed.

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. Mr. President, I send to the desk a bill and ask that it be printed.

The PRESIDING OFFICER. The bill will be appropriately referred and printed in the RECORD.

Mr. WARNER. I thank the Chair.

(The remarks of Mr. WARNER pertaining to the introduction of S. 564 and S. 565 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

ORDERS FOR TOMORROW

Mr. RIEGLE. On behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m., Wednesday, March 6; that following the prayer, the Journal of the proceedings be approved to date; that the leaders' time be reserved for their use later in the day; and there then be a period for morning business not to extend beyond 10:10 a.m.; and that during morning business, Senator GORE be recognized for up to 20 minutes; and Senator PRYOR be recognized for up to 15 minutes; and that Senators be permitted to speak therein.

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

Mr. RIEGLE. Mr. President, as a reminder to Senators, tomorrow at 10:10 a.m., the Senate resumes consideration of S. 419 with 20 minutes for debate remaining on the Harkin-Kohl amendment, with a vote to occur on or in relation to the amendment at 10:30 a.m.

RECESS UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 9:30 a.m., Wednesday, March 6.

Thereupon, the Senate, at 7:07 p.m., recessed until Wednesday, March 6, 1991, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate March 5, 1991:

DEPARTMENT OF DEFENSE

DONALD JAY YOCKEY, OF CALIFORNIA, TO BE UNDER SECRETARY OF DEFENSE FOR ACQUISITION, VICE JOHN A. BETTI, RESIGNED.

IN THE COAST GUARD

THE FOLLOWING REGULAR AND RESERVE OFFICERS OF THE U.S. COAST GUARD ARE NOMINATED TO BE PERMANENT COMMISSIONED OFFICERS IN THE GRADES INDICATED:

To be lieutenant commander

KARL E. SANDERS
RICHARD L. BOOTH

To be lieutenant

DAVID J. TALLON
BRUCE P. DALCHER
NGUYEN Q. HA
ROBERT J. SIDDALL
MICHAEL MCCORMICK
DOUGLAS B. DILLON
WILLIAM L. MAJORS
GERALD A. GREEN
CAROLYN M. DELEO
CHRISTOPHER D. BREWTON
CHRIS A. NETTLES
LIA E. DEBETTENCOURT
JOHN G. HORNBUCKLE
MARK J. METOYER
RICHARD E. PETHERBRIDGE
KENNETH D. RICKABAUGH
RHONDA F. GADSDEN
BRUCE G. BAKER
CRAIG A. LINDSEY
ROBERT E. SCHOEN
RODNEY M. GADSDEN
KIMBERLY J. NETTLES
GREGORY S. BENNET
GLEN B. FREEMAN
WILLIAM H. RYPKA

To be lieutenant (junior grade)

WILLIAM J. MILNE
GLENN F. GRAHL, JR.
GREGORY W. BLANDFORD
WILLIAM E. THOMPSON
DOUGLAS C. LOWE
THOMAS M. MIELE
ANTHONY T. FURST
MATTHEW T. BELL, JR.
LAWRENCE E. COOK
DUANE R. SMITH
MARC D. STEGMAN
DELMAR S. SPIVEY
KEVIN K. KLECKNER
WILLIAM G. HISHON
JAMES A. MAYORS
LARRY A. RAMIREZ
GEORGE R. ANDRUSS
BENJAMIN A. EVANS
GWYN R. PATTERSON
ALBERT K. SMITH
GEOFFREY L. ROWE
RANDY L. MOSENG
THOMAS C. HASTINGS, JR.
JOHN M. SHOUEY
NORMAN L. OMELIA
EDWARD R. WATKINS
WILLIAM S. STRONG
MARK E. MATTA
STEVEN S. BECKERMAN
RICHARD C. JOHNSON
DOUGLAS W. MILLER
JAMES O. FITTON
SALVATORE G. PALMERI, JR.
TERRY D. CONVERSE
JERRY S. YOSBURGH
MARK D. RIZZO
REYNALDO E. QUIROZ
JAMES N. KOSHAR
THOMAS M. FARRELL
MARK C. RILEY
SPENCER L. WOOD
SUSAN D. HARGIS
AMY L. EZELL
ANDREW P. COLE
JAMES L. ADAMS
CHRISTOPHER E. AUSTIN
RANDALL A. PERKINS, III
RICHARD R. JACKSON, JR.
TIMOTHY B. O'NEAL
ROBERT P. MONARCH
PAUL D. LANGE
EDWARD J. HANSEN, JR.
DONALD J. MARINELLO
PAUL E. FRANKLIN
HARRY A. ALLEN
CHARLES A. MILHOLLIN
STEVEN A. SEIBERLING
DENNIS D. DICKSON
SCOTTIE R. WOMACK
TIMOTHY M. FITZPATRICK
WILLIAM L. HARPER
KENNETH B. HODGSON
TIMOTHY N. SCOGGINS
GAVIN W. WENTE
HENRY M. HUDSON, JR.
MICHAEL J. KELLY
MARK C. JESSEN
FRANK D. GARDNER
JEFFREY W. JESSEE
RALPH MALCOLM, JR.
DONALD N. MYERS
SUSAN L. PAPUGA
JOHN K. LITTLE
JAMES E. HAWTHORNE, JR.
SAMUEL WALKER, VII
PATRICA A. WALTHERS
RUSSELL G. LOCKEY
GORDON A. LOEBL
THOMAS E. CRABBS
JOSEPH J. LEONARD, JR.
STEVEN D. STILLEKE
DOUGLAS J. CONDE
THOMAS D. COMBS, III
WILLIAM R. CLARK
BEVERLY A. HAVLIK
THOMAS H. FARRIS, JR.
TIMOTHY E. KARGES
ROCKY S. LEE
MICHAEL D. NORTHCUTT
WILLIAM C. TIGHE
DAVID SELF
CURTIS A. SNODGRASS
RANDY C. TALLEY

To be chief warrant officer, W4

HARDY D. JONES

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR PROMOTION IN THE U.S. AIR FORCE, UNDER THE PRESIDENTIAL PROMOTION POLICY FOR ASTRONAUTS WITH DATE OF RANK TO BE EFFECTIVE WITH SENATE CONFIRMATION.

LINE OF THE AIR FORCE

To be colonel

CARL J. MEADE, [redacted]

THE FOLLOWING NAMED OFFICERS FOR PERMANENT PROMOTION IN THE U.S. AIR FORCE, UNDER THE PROVISIONS OF SECTION 628, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

LINE OF THE AIR FORCE

To be colonel

MICHAEL G. KING, [redacted]
KYLE W. RENSLER, [redacted]

To be lieutenant colonel

SALVATORE ALFANO, xxx-xx-x...
RICHARD L. DRUCKENBRODT, xxx-xx-x...
RUDY C. LEIMBACH, xxx-xx-x...
DAVID R. SPENCE, xxx-xx-x...
CRAIG L. VARA, xxx-xx-x...
DALE E. WRISLEY, xxx-xx-x...

To be major

EDWARD R. BEZDZIECKI, xxx-xx-x...
LYNN R. HELMERS, xxx-xx-x...
NEIL J. KLAPTHOR, xxx-xx-x...

THE FOLLOWING OFFICER FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531, WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE OFFICER BE APPOINTED IN A GRADE HIGHER THAN CAPTAIN.

BRETT J MCMULLEN, xxx-xx-x...

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR PROMOTION TO THE GRADE INDICATED UNDER THE PROVISIONS OF ARTICLE II, SECTION 2, CLAUSE 2 OF THE CONSTITUTION OF THE UNITED STATES OF AMERICA:

To be lieutenant colonel

CHARLES D. GEMAR, xxx-xx-x...

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE. THESE OFFICERS ARE ALSO RECOMMENDED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE.

MEDICAL CORPS

To be lieutenant colonel

MARSHALL V. C. DRESSEL, xxx-xx-x...

To be major

ALDA F. COSSI, xxx-xx-x...
STEPHEN A. RUBIN, xxx-xx-x...
LORING W. RUE, xxx-xx-x...
THOMAS TZIKAS, xxx-xx-x...
MICHAEL J. WILSON, xxx-xx-x...

IN THE NAVY

THE FOLLOWING NAMED ASTRONAUT FOR PROMOTION TO THE PERMANENT GRADE OF CAPTAIN UNDER THE PROVISIONS OF ARTICLE II, SECTION 2, CLAUSE 2 OF THE CONSTITUTION OF THE UNITED STATES OF AMERICA.

To be captain

CDR. FRANK L. CULBERTSON, JR., U.S. NAVY xxx-xx-xxxx x...

IN THE AIR FORCE

THE FOLLOWING CADETS, UNITED STATES AIR FORCE ACADEMY, FOR APPOINTMENT AS SECOND LIEUTENANTS IN THE REGULAR AIR FORCE, UNDER THE PROVISIONS OF SECTIONS 9353 (B) AND 531, TITLE 10, UNITED STATES CODE, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

RICHARD E. AARON, xxx-...
MICHAEL A. ABAIR, II xxx-x...
DAVID R. ACKERSON, xxx-...
TIMOTHY M. ADAMS, xxx-...
DAVID L. AKIN, xxx-...
FRANK D. ALBERGA, xxx-x...
LAURA M. ALEXANDER, xxx-...
CHRISTOPHER S. ALLEN, xxx-...
DANA G. ALLEN, xxx-...
CRAIG ALLTON, xxx-...
BRYAN D. AMUNDSON, xxx-...
MICHAEL L. ANAYA, xxx-...
BRADFORD T. ANDERSON, xxx-...
BRIAN A. ANDERSON, xxx-x...
JEFFREY A. ANDERSON, xxx-...
JOHN T. ANDERSON, xxx-...
KEVIN C. ANDERSON, xxx-x...
THOMAS M. ANDERSON, xxx-x...
WILLIAM D. ANDERSON, JR xxx-x...
ADOLPHUS W. J. ANDREWS, xxx-x...
MICHAEL T. ANDREWS, xxx-...
DOUGLAS ANNANIE, xxx-...
HAROLD A. ARB, xxx-...
GEOFFREY B. ARING, xxx-...
JAMES P. ARMAGNO, xxx-x...
DIRK K. ARMBRUST, xxx-x...
STEPHEN W. ASTOR, xxx-...
ANTHONY D. BAADE, xxx-...
CHRISTOPHER J. BADEN, xxx-x...
ANNA L. BAILEY, xxx-...
CHRISTOPHER M. BAIR, xxx-x...
LOIS A. BAIRD, xxx-...
JOHN C. BAKER, xxx-...
MATTHEW S. BAKER, xxx-x...
MICHAEL A. BALDINI, xxx-...
RUSSEL W. BALKA, xxx-...
BRIAN K. BANKS, xxx-...
SCOTT D. BANKS, xxx-...
PRIDE E. BARKER, xxx-x...
JOHNNY L. BARNES, II xxx-x...
WALDEMAR F. BARNES, xxx-x...
VINCENT L. BARRETT, xxx-x...
RAYMOND M. BARROWS, JR xxx-...
KIMBERLY A. BASHAM, xxx-...
JOHN D. BASKIN, JR xxx-x...
TONY D. BAUERNFEIND, xxx-x...
PAUL E. BAUMAN, xxx-x...
WILLIAM A. BAUMHOFER, xxx-...
DEAN R. BEACH, xxx-...
RALPH L. BEAM, xxx-x...
LESLIE A. BEAVERS, xxx-x...
MICHAEL W. BECK, xxx-...
LANE E. BEENE, xxx-...
JAMES J. BEIERSCHMITT, xxx-x...
RICK J. BELANGER, xxx-x...
DAVID S. BELL, xxx-...
JEFFREY T. BENDER, xxx-x...
HAROLD S. BENNETT, xxx-...
AARON K. BENSON, xxx-...
MARK W. BERES, xxx-...
PETER M. BERG, xxx-...
TIMOTHY P. BERGMANN, xxx-x...
BRIAN C. BERNETT, xxx-...
DEEDEE B. BERTHIAUME, xxx-...
MARTA L. BERTOGLIO, xxx-x...
SARA A. BEYER, xxx-x...
KENNETH T. BIBB, JR xxx-...
MICHAEL J. BIBEAU, xxx-...
JOHN R. BINDER, III xxx-...
RHETT L. BINGER, xxx-x...
JAMES M. BISHOP, xxx-x...
EDWARD P. BLACK, xxx-...
SEAN M. BLACK, xxx-x...
JAMES R. BLACKBURN, III xxx-x...
CRAIG M. BLACKWELL, xxx-...
MICHAEL S. BLADES, xxx-x...
KEVIN E. BLANCHARD, xxx-...
MICHAEL R. BLANK, xxx-...
SEVERIN J. BLENKUSH, II xxx-x...
HANS W. BLEY, xxx-...
STEVEN J. BLEYMAIER, xxx-x...
WILLIAM J. BLITT, JR xxx-x...
DANE W. BLOCK, xxx-...
ROBERT M. BLOCK, xxx-...
MARK E. BLOUNT, xxx-...
PATRICK K. BOBKO, xxx-x...
ANTHONY J. BOFFA, xxx-x...
JEFFREY L. BOLENG, xxx-x...
MATTHEW D. BONAVITA, xxx-...
CLARK D. D. BONEN, xxx-x...
SEAN A. BORDENAVE, xxx-...
ROBERT W. BORJA, xxx-...
JOHN H. BORN, xxx-...
SEAN C. BOSELY, xxx-...
JAMES P. BOSTER, xxx-x...
CHRISTOPHER R. BOW, xxx-...
ERIK C. BOWMAN, xxx-...
JAY A. BOYD, xxx-...
ROBERT A. BOYER, xxx-x...
STEVEN W. BRAHM, xxx-...
JASON C. BRANTLEY, xxx-...
MICHAEL W. BRAUCHER, xxx-x...
NATHAN S. BRAUNER, xxx-...
JASON J. BRAWKA, xxx-...
STEVEN J. BRENNAN, xxx-...
BARRY L. BREWER, xxx-...
BLAKE D. BREWER, xxx-x...
LIANE V. BREWER, xxx-...
JONATHAN B. BRIDGES, xxx-...
DONALD J. BRIEN, xxx-x...
BRIGHAM K. BRIGGS, xxx-x...
BRIAN D. BRINDLE, xxx-...
RICHARD M. BRINER, xxx-...
CASEY L. BRITAIN, xxx-x...
MICHAEL T. BROCKEY, xxx-x...
KENDALL B. BROOKS, xxx-...
VERLON L. BROOKS, xxx-x...
WILLIAM E. BROOKS, xxx-...
FORREST E. BROWN, III xxx-x...
JEFFREY S. BROWN, xxx-...
LISA F. BROWN, xxx-x...
ANDREW H. BRUCE, xxx-...
MARK A. BRUNWORTH, xxx-...
STEPHEN M. BUCHANAN, xxx-x...
KELLY R. BUCK, xxx-...
RICK A. BUGADO, xxx-...
QUANG BUI, xxx-...
KURT W. BULLER, xxx-...
JASON M. BUNCH, xxx-x...
JAIME S. BURCHAM, xxx-x...
WILLIAM E. BURCHETT, xxx-x...
GREGORY A. BURGER, xxx-...
STEVEN C. BURGH, xxx-x...
SHARON K. BURNETT, xxx-...
MARK A. BURNETTE, xxx-x...
JOEL J. BURNIAS, xxx-...
GEOFFREY D. BURNS, xxx-...
SCOTT C. BURNS, xxx-...
JOSEPH E. BURSHNICK, xxx-x...
JOEL E. BURT, xxx-...
CHRISTOPHER R. BUSHMAN, xxx-...
CHARLES J. BUTLER, xxx-...
LEON G. BUTLER, xxx-...
PATRICK E. BUTLER, xxx-...
RAHN H. BUTLER, xxx-x...
ROBERT T. BUTZ, xxx-...
GARY A. BYNUM, xxx-...
KEVIN A. CABANAS, xxx-...
ANGELA M. CADWELL, xxx-x...
CALLIE J. CALHOUN, xxx-...
MICHAEL J. CALLENDER, xxx-...
CARL M. CAMERON, xxx-...
DOUGLASS J. CAMPBELL, xxx-...
MANUEL J. CANDELARIA, xxx-...
FELIX R. CARABALLO, xxx-x...
KEVIN P. CARLIN, xxx-x...
CHERIANNE M. CARLISLE, xxx-x...
TODD M. CARLSON, xxx-x...
STEVEN C. CARNEY, xxx-x...
WILLIAM D. CASEBEER, xxx-x...
DAVID D. CHAPMAN, xxx-...
MARK D. CHEAK, xxx-...
MARK C. CHERRY, xxx-...
ROBERT J. CHEVALIER, xxx-...
MICHAEL A. CHINLUND, xxx-...
THOMAS S. CHOI, xxx-...
MARK K. CIERO, xxx-...
GREGORY M. CINDRICH, xxx-...
JOHN D. CINNAMON, xxx-x...
HEIDI L. CIZAN, xxx-x...
PATRICK I. CLANCY, xxx-...
DANIEL P. CLARK, xxx-x...
JAMES D. CLARK, xxx-x...
JERRY A. CLARK, xxx-...
MICHELLE P. CLARK, xxx-x...
RICHARD A. CLARK, xxx-...
JAMES A. CLAVENNA, xxx-x...
HARRY M. CLAWSON, xxx-...
HAROLD M. CLAY, JR xxx-x...
JAMES D. CLEET, xxx-...
JAMES R. CLUFF, xxx-...
TIMOTHY P. K. COGER, xxx-...
GREGORY D. COLBY, xxx-x...
CHRISTOPHER B. COLLETTI, xxx-x...
KRISTOPHER D. COLLEY, xxx-x...
JOSEPH D. COLLINS, xxx-x...
DAVID M. CONRAD, xxx-...
NOAH C. CONRAD, xxx-...
JOHN L. COOK, xxx-...
WILLIAM L. COOK, xxx-...
DAVID A. COOPER, xxx-...
JOHN J. COOPER, xxx-x...
WAYNE A. COOPER, xxx-...
DAVID A. CORBY, xxx-...
J. H. CORMIER, II xxx-x...
CHRISTOPHER R. CORTEZ, II xxx-x...
MICHAEL A. COSSA, xxx-x...
SCOTT A. COTOIA, xxx-...
PATRICK K. COTTER, xxx-x...
TIMOTHY S. COULON, xxx-x...
RODNEY P. COUSINS, xxx-x...
RONALD S. CRAIG, xxx-...
CHRISTOPHER E. CRAIGE, xxx-...
JOSEPH L. CRAMPTON, JR xxx-x...
JASON A. CRANDALL, xxx-...
PAUL R. CRANDALL, xxx-...
JASON R. CREECH, xxx-x...
KEVIN C. CRONK, xxx-x...
JOHN E. CULTON, III xxx-...
MARGARET A. CUNDIFF, xxx-...
TRACY A. CUNNINGHAM, xxx-...
DANIEL B. CURRY, xxx-x...
SHANNON G. CURRY, xxx-...
JOSEPH E. CWIK, xxx-x...
MICHAEL T. CZARNECKI, xxx-...
THOMAS D. DAACK, xxx-...
KENNETH J. DALFONSO, xxx-...
TODD A. DALTON, xxx-...
DAVID M. DAMRATH, xxx-...
JONAS J. DANDREA, xxx-x...
CHRISTOPHER J. DARCY, xxx-x...
JEFFREY W. DAVIES, xxx-x...
ANTHONY S. DAVIS, xxx-...
JOHN E. DAVIS, xxx-...
ARTHUR R. DAWKINS, xxx-...
AMY M. DAYON, xxx-...
DAVID S. DEAMES, xxx-...
DEREK W. DECLOEDT, xxx-...
CHRISTOPHER P. DECOLLI, xxx-x...
LISA A. DEGENHART, xxx-...
DOUGLAS D. DEMAIO, xxx-...
DAVID J. DENIZ, xxx-...
JOHN J. DERESKY, xxx-...
JAMES B. DERMER, xxx-x...
MICHAEL J. DESYLVA, xxx-x...
LANCE P. DEVIN, xxx-...
DOUGLAS C. DEVINE, xxx-x...
PETER R. DIAZ, xxx-x...
CHRISTOPHER J. DIDIER, xxx-x...
JULIE C. DIEDRICH, xxx-x...
ARIC J. DIMEFF, xxx-x...
DAWN L. DISHNER, xxx-...
DAVID L. DOBBS, xxx-...
LEON W. DOCKERY, JR xxx-x...
FRANCIS T. DOIRON, xxx-x...
PATRICK H. DONLEY, xxx-...
JAMES H. DONOHO, xxx-...
KIM A. DORNBURG, xxx-...
ROBERT L. DOTSON, xxx-...
TRAVIS J. DOWNING, xxx-...
BRIAN A. DOYLE, xxx-x...
MICHAEL D. DOYLE, xxx-...
DAVID S. DRICHTA, xxx-...
MICHELLE M. DUBOIS, xxx-x...
SANDY R. DUNLOW, xxx-...
ELIZABETH C. DUNN, xxx-...
JAMES S. DUNN, JR xxx-x...
JAMES P. DUTTON, xxx-...
MATTHEW C. EAGER, xxx-...
DANIEL J. EDWARDS, xxx-x...
JAMES D. EISNER, xxx-...
KENNETH P. EKMAN, xxx-...
STEFAN V. ELING, xxx-...
TARA A. ELLIS, xxx-...
JOYCE A. ELMORE, xxx-...

FARRIS M. ELNASSER, xxx-x...
CHARLES H. EMBS, xxx-...
JEFFERY T. ENGLEHART, xxx-x...
ANDREW H. ENGLISH, xxx-x...
ROBERT R. ERICKSON, xxx-...
TODD C. ERICSON, xxx-x...
MATTHEW P. ESPER, xxx-x...
BRADFORD R. EVERMAN, xxx-x...
MICHAEL T. EYLANDER, xxx-...
LOURDES M. FALLACE, xxx-x...
MICHAEL R. FARMER, xxx-...
ROY P. FATUR, xxx-...
ROBERT B. FAUBER, xxx-...
HILARY K. FEASTER, xxx-x...
KELLY K. FEDEL, xxx-...
KEITH N. FELTER, JR, xxx-x...
DEDRA K. FERGUSON, xxx-x...
SCOTT M. FERRARA, xxx-x...
DAVID A. FEWSTER, xxx-...
MICHAEL R. FICK, xxx-...
FRANK A. FIGG, xxx-x...
JOSEPH E. FINNEGAN, xxx-x...
MARC A. FISHER, xxx-x...
STEVEN B. FISHER, xxx-x...
MARK B. FLANDERS, xxx-x...
DEREK D. FLETCHER, xxx-x...
DANIEL E. FLYNN, xxx-x...
RICHARD A. FOGLE, xxx-x...
ANDREW C. FOLTZ, xxx-...
DANIEL J. FONTE, JR, xxx-x...
STEPHEN J. FOWLER, xxx-x...
SHARI L. FOX, xxx-...
TERRY J. FRADY, xxx-x...
ELIZABETH A. FREDERICK, xxx-...
DALE L. FRENCH, xxx-x...
HEATHER A. FRIES, xxx-x...
GEORGE A. FRITTS, JR, xxx-x...
GREGORY W. FRITZ, xxx-x...
JAY R. FROHNE, xxx-...
PETER J. FRY, xxx-x...
JEANETTE M. FULMER, xxx-x...
NOEL D. FULTON, xxx-...
JEFFREY M. GALLAGHER, xxx-x...
DANIEL B. GAMMELL, xxx-x...
DAVID J. GARCIA, xxx-x...
PETER A. GARRETSON, xxx-...
DENNIS W. GARRETT, xxx-...
BRENDAN L. GARRITY, xxx-x...
MICHAEL R. GARTRELL, xxx-...
JEFFREY S. GAST, xxx-x...
KURT H. GAUDETTE, xxx-x...
JEFFREY R. GAUSER, xxx-x...
LYNNETTE J. GAWELL, xxx-...
JOSEPH C. GAY, JR, xxx-x...
DANIEL J. GERDES, xxx-x...
GINA M. GERVAE, xxx-x...
MICHAEL S. GINGRAS, xxx-...
WAYNE T. GLADDEN, xxx-x...
WILLIAM O. GLASCOE, III, xxx-x...
BRIAN T. GOAZIOU, xxx-x...
REGINALD O. GODBOLT, xxx-...
GUILLERMO R. GONZALEZ, xxx-...
OHN GORDON, xxx-...
CHRISTOPHER S. GOUGH, xxx-...
CHRISTOPHER G. GOURDINE, xxx-...
ROY M. GOZUM, xxx-...
WILLIAM R. GRACE, xxx-...
DION D. GRAHAM, xxx-...
MAX E. GRANNAN, xxx-x...
ELLIOT H. GRAVES, xxx-x...
LAURA M. GRAY, xxx-...
KATHY J. GREEN, xxx-...
KEITH GREEN, xxx-x...
DANIEL O. GREENE, xxx-...
TIMOTHY G. GREMINGER, xxx-x...
KYLE D. GRESHAM, xxx-...
ROBERT J. GREY, JR, xxx-x...
JAMES J. GRIESER, xxx-x...
RICHARD W. GRIFFIN, xxx-...
GEORGE H. GRIFFITHS, JR, xxx-x...
PAUL M. GRIMM, xxx-x...
MARK E. GROTELUESCHEN, xxx-...
BRIAN S. GRUBER, xxx-...
ROBIN L. GUILL, xxx-...
DAVID M. GUILLEN, xxx-...
RALPH E. GUTIERREZ, xxx-x...
DAVID R. GYURE, xxx-...
CLIFFORD M. GYVES, xxx-...
WILLIAM J. HAAG, xxx-...
ROBERT P. HAATAJA, xxx-...
WENDY J. HACKER, xxx-x...
JOHN C. HACKETHORN, II, xxx-...
CURTIS R. HAFER, xxx-x...
PETER S. HAGIS, xxx-...
CAROL L. HAHN, xxx-x...
PETER T. HAHN, xxx-...
GEORGE H. HALLEY, xxx-x...
JOHN D. HALLGREN, xxx-x...
PATRICK J. HALLINAN, xxx-...
HENRY G. HAMBY, IV, xxx-...
SHAYNE M. HAMEL, xxx-x...
PHILLIP T. HAMILTON, xxx-x...
SCOTT D. HAMILTON, xxx-...
BRIAN J. HAND, xxx-x...
BRIAN S. HANDSHOE, xxx-...
JAMES G. HANLEY, xxx-x...
MATTHEW C. HANSEN, xxx-...
RICHARD A. HARDEMON, xxx-x...
GREGG A. HARDISON, xxx-x...
KEVIN B. HARMON, xxx-x...
KIMBERLY J. HARMON, xxx-x...
SANDRA L. HARRINGTON, xxx-...
CINDY L. HARRIS, xxx-x...
SCOTT A. HARRIS, xxx-...
DEXTER F. HARRISON, xxx-x...
JEFFORY D. HARRISON, xxx-x...
MARC B. HARTFORD, xxx-...
MARTIN L. HARTLEY, JR, xxx-x...
CHRISTINA M. HARVEY, xxx-x...
KRISTEN A. HASER, xxx-...
D. L. HASTINGS, xxx-x...
BERNARD J. HATCH, III, xxx-x...
THERESA B. HATTEMER, III, xxx-x...
ROBERT L. HAUG, xxx-x...
STACEY T. HAWKINS, xxx-...
ROBERT F. HAYES, xxx-x...
BRIAN S. HEAGY, xxx-x...
JASON J. HEALEY, xxx-x...
JASON P. HEASLIP, xxx-x...
STEVEN M. HEDDEN, xxx-...
BRET D. HEEREMA, xxx-x...
TODD D. HEGY, xxx-...
CHRISTOPHER J. HEMMER, xxx-x...
RANDALL R. HENGGELER, xxx-x...
SUZANNE C. HENKE, xxx-...
BRIAN K. HENLEY, xxx-x...
THOMAS G. HENRY, xxx-x...
JEFFREY A. HENTZ, xxx-x...
DANIEL J. HERNANDEZ, III, xxx-x...
STEVEN HERNANDEZ, xxx-x...
BRYAN A. HERRICK, xxx-x...
BRIAN A. HIBBELN, xxx-x...
WILLIAM H. HICKMAN, xxx-x...
GARY L. HIGGINBOTHEM, JR, xxx-...
THOMAS E. HIGHSMITH, xxx-...
MICHAEL D. HIGHT, xxx-...
BRIAN A. HILL, xxx-x...
CHRISTOPHER D. HILL, xxx-x...
DON E. HILL, xxx-x...
THAD B. HILL, xxx-x...
MICHAEL R. HINSCH, xxx-x...
ANDREW C. HIRD, xxx-x...
LOUIS W. HISEL, JR, xxx-x...
JOHN C. B. HO, xxx-x...
JAMES C. HODGES, xxx-x...
MARK J. HOEHN, xxx-x...
MARK G. HOELSCHER, xxx-x...
MICHAEL R. HOGUE, xxx-x...
STEVE M. HOLLIS, xxx-...
ERIC S. HOLT, xxx-x...
ELIZABETH J. HOPPEY, xxx-x...
MARK A. HOPSON, xxx-x...
BLAIR A. HORTON, xxx-...
THOMAS J. HOULE, xxx-...
ERIK C. HOUSTON, xxx-...
CHRISTOPHER B. HOWARD, xxx-x...
KEVIN A. HOWARD, xxx-...
MICHAEL J. HOWER, xxx-...
BRYAN K. HUBBARD, xxx-x...
LARS R. HUBERT, xxx-x...
LANE R. HUMPHREYS, xxx-x...
CHRISTOPHER R. HYLAND, xxx-x...
MICHAEL A. INZONE, xxx-...
MATTHEW C. ISLER, xxx-x...
BRYAN W. ISLEY, xxx-x...
WALTER T. JACKSON, III, xxx-x...
SCOTT D. JACOBS, xxx-...
THOMAS E. JAHN, xxx-x...
STEVEN F. JAMISON, xxx-x...
THOMAS N. JENSEN, xxx-x...
RICHARD O. JOCHUMS, xxx-x...
ANTOINE D. JOHNSON, xxx-...
BRENT D. JOHNSON, xxx-x...
BRIAN K. JOHNSON, xxx-x...
JAMES L. JOHNSON, xxx-...
LYLE P. JOHNSON, xxx-x...
MARK B. JOHNSON, xxx-...
MICHAEL R. JOHNSON, xxx-x...
DAVID L. JONES, xxx-...
FRANCISCO S. JONES, xxx-...
JOSHUA H. JONES, xxx-...
ODETTE K. JONES, xxx-...
SCOTT R. JONES, xxx-...
JOHN M. JOST, xxx-x...
EDWARD L. JULINE, III, xxx-x...
KIMBERLY A. JULINE, xxx-...
BENJAMIN C. KAM, JR, xxx-x...
ANNE M. KANAKKANATT, xxx-...
JOHN P. KARA, xxx-...
SHANNEN M. KARPEL, xxx-...
THOMAS S. KASYCH, III, xxx-x...
MICHAEL R. KAZLAUSKY, II, xxx-x...
COLIN J. KEEN, xxx-x...
DAVID S. KEESEY, xxx-x...
KEVIN M. KEITH, xxx-...
SARA L. KELLER, xxx-...
CHERYL L. KELLNER, xxx-x...
KEITH D. KELLY, xxx-x...
TIMOTHY P. KELLY, xxx-x...
KATHLEEN D. KENNEDY, xxx-x...
KEVIN G. KENNELLY, xxx-...
ANDREW H. KERKMAN, xxx-...
JAMES H. KERR, xxx-x...
DERRICK V. KEYS, xxx-...
BRIAN J. KILIAN, xxx-...
PETER O. KING, xxx-x...
WILLIAM A. KINNISON, JR, xxx-x...
TODD A. KINROSS, xxx-...
JOHN H. KINSMAN, xxx-...
LISA M. KITE, xxx-x...
GORDON J. KLINGENSCHMITT, xxx-...
BRIAN J. KLUTE, xxx-...
PAUL K. KNABENSHUE, xxx-x...
KATHRYN A. KNIGHT, xxx-...
DAVID J. KNOLMAYER, xxx-x...
KY M. KOBAYASHI, xxx-x...
THOMAS E. KOLKEBECK, xxx-x...
LEISA J. KOLLARS, xxx-x...
CHRISTOPHER N. KONECNY, xxx-x...
STEPHANIE A. KONIECZNY, xxx-x...
NICHOLAS G. KOOTSIKAS, xxx-x...
KIMBERLY L. KORTUM, xxx-x...
DONALD M. KOSTECKI, JR, xxx-...
KELLI B. KRAMER, xxx-x...
ROBERT J. KRAUS, xxx-x...
ANDREW R. KREIS, xxx-...
BRADLEY K. KREMER, xxx-x...
RICHARD L. KRUPP, xxx-...
THOMAS A. KRUPP, xxx-x...
MARK A. KRUSE, xxx-...
ROBERT J. KUBESH, xxx-x...
STUART H. KURKOWSKI, xxx-...
TODD W. KUSTRA, xxx-...
JAMES L. KWASNY, xxx-x...
DAVID E. LALONE, II, xxx-x...
JEFFREY A. LAMPE, xxx-x...
JEFFREY A. LANDRETH, xxx-x...
KENT A. LANDRETH, xxx-...
KIMBERLI J. LANE, xxx-x...
CHRISTOPHER T. LANGLOIS, xxx-x...
MICHAEL B. LAROCCO, xxx-x...
JOHN M. LARSON, xxx-...
TROY M. LARSON, xxx-x...
JAMES A. LASCODY, xxx-...
MATTHEW A. LASLEY, xxx-...
STEVEN B. LATHAM, xxx-x...
JOSEPH G. J. LAVILLE, xxx-x...
MICHAEL C. J. LAWRENCE, xxx-...
RYON E. LAYSER, xxx-...
CHRISTINE LEADER, xxx-...
CHRISTOPHER C. LEE, xxx-x...
IDA M. LEE, xxx-...
MICHAEL K. LEE, xxx-x...
CASEY K. LEGLER, xxx-x...
GLEN H. LEHMAN, xxx-...
MICHAEL A. LEHNHARDT, xxx-...
RENE M. LEON, xxx-x...
SCOTT E. LEONARD, xxx-x...
MELISSA J. LEOS, xxx-x...
RICHARD M. LESAN, xxx-...
ANDREW J. LESHIKAR, xxx-...
TODD J. LEVINE, xxx-x...
DOUGLAS R. LEWIS, xxx-...
RODNEY D. LEWIS, xxx-...
ROMERO LEWIS, xxx-...
JASON A. LIEF, xxx-x...
WILLIAM A. LIESS, xxx-...
STEPHANIE LIND, xxx-x...
DEREK S. LINDEN, xxx-x...
JOSEPH C. LINDEN, II, xxx-x...
MARK E. LINDOW, xxx-...
BRIAN W. LINDSEY, xxx-x...
LINDA E. LINGG, xxx-x...
MARK A. LIVELSBERGER, xxx-x...
GARY L. LIVINGSTON, xxx-...
PAUL LOCKWOOD, xxx-...
SEAN M. LOGAN, xxx-...
SIGURD A. LOKENSGARD, xxx-...
ANDREA M. LONG, xxx-...
JEFFRY LONG, xxx-x...
THOMAS E. LOPEF, xxx-x...
GARVIN L. LOUIE, xxx-...
TODD R. LOUNSBURY, xxx-...
RICHARD G. LOUTHAN, xxx-x...
JAMES P. LOVE, xxx-x...
CLIFTON E. LOVELACE, xxx-x...
CHRISTOPHER A. LOWRY, xxx-...
JAMES M. LUCAS, xxx-...
INGALISA LUNDY, xxx-...
CHRISTOPHER D. LUPLOW, xxx-...
CHAD W. LUSHER, xxx-...
JAMES E. LYNCH, xxx-...
BELINDA M. LYONS, xxx-...
MARK J. MACDONALD, xxx-...
CHARLES E. MACLAUGHLIN, xxx-...
STEPHEN S. MACLEOD, xxx-...
SHERRE M. MACLIN, xxx-x...
BRIAN K. MADDOCKS, xxx-x...
LAURIE A. MAHER, xxx-...
RUSSELL C. MAJOR, xxx-...
GEOFFREY A. MAKI, xxx-...
MARK A. MALDONADO, xxx-x...
DANIEL G. MALLES, xxx-x...
CHRISTOPHER R. MANN, xxx-x...
CHAD M. MARIEN, xxx-x...
MAX M. MAROSKO, III, xxx-x...
ERIC E. MARSHALL, xxx-x...
BRIAN K. MARTIN, xxx-...
COREY J. MARTIN, xxx-x...
GLEN J. MARTIN, xxx-x...
MARTHA M. MARTIN, xxx-x...
MICHAEL J. MARTINDALE, xxx-...
JOHNNIE MARTINEZ, xxx-x...
DANIEL K. MARUYAMA, xxx-x...
BRIDGET E. MATHIESON, xxx-...
STUART L. MATTHEWS, xxx-...
TODD E. MAY, xxx-x...
CHRISTOPHER J. MAYERLE, xxx-x...
GLENN P. MAYES, xxx-x...
TIMOTHY S. MCCAFFERY, xxx-...
ROGER B. MCCLAY, xxx-x...
ERNEST K. MCCLURE, xxx-x...
CHASE P. MCCOWN, xxx-...
COLLEEN C. MCCRARY, xxx-...
DIANE L. MCCULLION, xxx-...
JAMES D. MCCUNE, xxx-...

DORWARD J. MCDONALD xxx-x...
JASON C. MCDONALD xxx-...
MITCHELL J. MCDONALD xxx-...
SEAN C. MCFARLAND xxx-x...
MATTHEW E. MCGEE xxx-x...
DONALD A. MCLAUGHLIN xxx-...
ADAM J. MCLEAN xxx-x...
SCOTT T. MCLEAN xxx-x...
RONALD K. MCMINN xxx-...
EARL F. MCMORRIS xxx-...
JOHN K. MCNULTY xxx-x...
JOHN R. MELLOY xxx-x...
ROBERT R. MELTON xxx-x...
LEIGH MEROLA xxx-...
TIMOTHY M. MESERVE xxx-...
RUSSELL W. MICHAUD xxx-x...
JENNIFER L. MILLER xxx-x...
MARTIN D. MILLER xxx-...
THOMAS A. MILLER xxx-...
JOHN R. MINER xxx-...
JENNIFER L. MITCHA xxx-x...
ANTHONY M. MITCHELL xxx-...
JOSEPH P. MOEHLMANN xxx-x...
ERIC L. MOELLER xxx-...
MARC O. MOELLER xxx-...
THOMAS W. MOHR xxx-...
EDWARD D. MONAREZ xxx-...
TIMOTHY W. MONARSKI xxx-...
ROBERT M. MONBERG xxx-x...
EDWARD L. MOODY, JR xxx-...
JEFFREY J. MOORE xxx-x...
STEVEN P. MORAES xxx-...
THOMAS P. MORENO, II xxx-...
SAMANTHA L. MORGAN xxx-x...
BENJAMIN J. MORLEY xxx-...
ERIC MOYER xxx-...
JENNIFER M. MRAZ xxx-x...
GREGORY J. MUELLER xxx-x...
TERRY L. MUELLER xxx-x...
DANIEL R. MUIR xxx-x...
JOSEPH L. MULI xxx-x...
ELIZABETH L. MUNSON xxx-...
TIMOTHY I. MURPHY xxx-x...
CHANTAL M. MURRAY xxx-...
MICHAEL W. MURRAY xxx-x...
MURRAY N. NANCE, JR xxx-...
JOSEPH M. NAUMAN xxx-x...
JEFFREY A. NEAL xxx-x...
MARCUS A. NEAL xxx-x...
ERIC W. NELSON xxx-x...
STACEY L. NELSON xxx-...
TODD M. NELSON xxx-x...
BRIAN M. NEWBERRY xxx-x...
MICHAEL T. NEWMAN xxx-...
HOANG T. NGUYEN xxx-...
STEPHEN A. NIERMAN xxx-...
TIMOTHY G. NIX xxx-x...
KENNETH W. NORRIS xxx-...
STEPHEN E. NOVAK xxx-...
DEREK M. OAKS xxx-x...
MATTHEW W. OBRIEN xxx-x...
JAMES J. OCONNELL xxx-...
DANIEL J. OCONNOR xxx-...
BRENDON M. ODOWD xxx-...
ESME I. OHSHITA xxx-...
DAVID E. OKEEFFE xxx-x...
MARK E. OLDFORD xxx-...
KENNETH G. ONEILL xxx-x...
BRIAN J. OROURK xxx-x...
JESSICA L. ORTON xxx-x...
DANIEL L. ORTWERTH xxx-...
JEROME P. OSURMAN xxx-...
JOHN E. OURADA xxx-x...
CHRISTOPHER R. PADBURY xxx-...
JAMES E. PARCO xxx-...
CHRISTOPHER D. PARENT xxx-x...
MICHAEL P. PARENT xxx-x...
FRANK J. PATRINOSTRO xxx-...
ERIC D. PATTEN xxx-x...
SCOT D. PATTISON xxx-x...
DAVID L. PAVIK xxx-...
RYAN B. PAYAUYS xxx-...
TOMMY L. PEASLEY xxx-x...
JONATHAN T. PECE xxx-...
STEPHEN R. PECK xxx-...
RICHARD S. PEEKE xxx-x...
VERNIE W. PENDLEY xxx-x...
KAREN M. PEREZ xxx-x...
WILLIAM E. PERIS xxx-...
ANTHONY M. PERKINS xxx-x...
CARLENE M. PERRY xxx-x...
BRIAN S. PETERSON xxx-x...
ERIK A. PETERSON xxx-...
TOLAND A. PETRAITIS xxx-...
GARY S. PETTIJOHN xxx-...
PATRICK W. PHILLIPS xxx-x...
CRAIG R. PIERCE xxx-...
BRIAN G. PIKE xxx-...
JURGEN E. PLITT xxx-x...
WILLIAM G. POINTER xxx-x...
GREGG P. POINTON xxx-...
MOLLY A. POLKA xxx-...
BETHELLEN E. PONT xxx-...
MICHAEL R. POPOVICH xxx-...
DIRK G. PORATH xxx-x...
JONATHAN P. PORIER xxx-...
EDWARD W. PORTA xxx-x...
PAUL D. POWELL xxx-x...
MARK S. POWERS xxx-...
WILLIAM E. PRICE, JR xxx-x...
HEATHER L. PRINGLE xxx-x...
MICHAEL R. PROCHKO xxx-x...

ANDREW M. PUGH xxx-x...
MICHAEL C. PURALEWSKI xxx-x...
ANGELA M. PURICHIA xxx-...
RICHARD A. J. PURINTON xxx-...
KEVIN P. QUAMME xxx-x...
DAVID M. QUICK xxx-...
PAUL J. RADES xxx-x...
RONALD R. RAE xxx-x...
ESTEBAN L. RAMIREZ xxx-...
ROBERT R. RAMOS xxx-...
CHARLES R. RANDALL xxx-...
SUSAN H. RANK xxx-x...
TIMOTHY J. RAPP xxx-x...
BRYAN D. RAU xxx-...
JOHN P. RAU xxx-x...
NANCY M. RAVENSBERGEN xxx-...
KEVIN J. RAYMOND xxx-x...
VANESSA L. REBELLO xxx-...
AMY L. REECY xxx-x...
AARON T. REED xxx-...
JOSEPH P. REED xxx-x...
RHONDA K. REICHEL xxx-...
COLIN P. REILLY xxx-...
MICHAEL D. REINER xxx-x...
PATRICK J. RHATIGAN xxx-x...
MITCHELL D. RICHARDSON xxx-x...
JULIANNA E. RICKERT xxx-x...
THOMAS RIEDEL xxx-...
ARNOLD F. RIEDER xxx-...
JOHN M. RIORDAN xxx-x...
JEFFERY D. RITCHIE xxx-x...
TRAVIS G. ROBERTS xxx-x...
JAMES T. ROBINSON xxx-x...
RAYMOND S. ROBINSON, II xxx-x...
ROBERT L. K. ROE xxx-x...
DOUGLAS M. ROGERS xxx-...
DIANE L. ROMAGLIA xxx-...
DANIEL R. ROMANZO xxx-x...
ARTURO D. ROMERO xxx-x...
PETER E. ROSBOROUGH xxx-...
RAUNN M. ROSS xxx-x...
JOSEPH R. ROTH xxx-...
ROXANNA E. ROWLETT xxx-x...
JOSEPH W. RUBLER xxx-x...
GLENN E. RUHL xxx-...
NATHAN A. RUMP xxx-...
ERIK K. RUNDQUIST xxx-...
TIMOTHY M. RUNNETTE xxx-...
ANDREW J. RUSSELL xxx-...
MARIA RUTKOWSKI xxx-x...
SCOTT B. RYAN xxx-...
THOMAS A. SAGE xxx-x...
RUSSELL O. SAKAI xxx-x...
SCOT E. SALMINEN xxx-x...
MICHAEL K. SANDER xxx-x...
ROBERT L. SANDS xxx-x...
DARYL A. SASSAMAN xxx-...
ANDREW M. SASSEVILLE xxx-x...
RANDALL J. SAUER xxx-...
VANESSA E. SAVAS xxx-x...
MICHAEL E. SAYLOR xxx-x...
DAMON E. SCARBOROUGH xxx-...
JOHN J. SCHAEFER, II xxx-x...
SCOTT J. SCHEPPERS xxx-x...
DANIEL E. SCHEUERMANN xxx-...
EDWARD A. SCHINDLER xxx-x...
CHARLES F. SCHLEGEL xxx-...
JAMES B. SCHLUMPBERGER xxx-x...
DAVID E. SCHOBEL xxx-x...
DARLENE P. SCHULTZ xxx-...
GREGORY L. SCHUMACHER xxx-x...
KURT D. SCHUSTER xxx-...
CHRISTOPHER A. SCHWARTZ xxx-x...
PHILIPP V. SCHWEIZER xxx-x...
EARL S. SCOTT xxx-x...
GREGORY A. SCOTT xxx-x...
JOHN M. SCOTT, II xxx-x...
GREGORY M. SCRIVNER xxx-x...
BRETT M. SCRUM xxx-x...
TAUNI A. SEARCY xxx-x...
JAMES R. SEARS, JR xxx-x...
JEFFREY A. SEMINARO xxx-x...
WED O. A. SENDAYDIEGO xxx-...
TOBIAS R. SERNEL xxx-...
DOUGLAS K. SERSUN xxx-x...
JAMES K. SEVICK xxx-x...
STEPHEN P. SHARPE xxx-x...
MICHAEL M. SHEIKH xxx-...
CATHERINE R. SHELDON xxx-...
ANDREW D. SHELTON xxx-...
MICHAEL S. SHEPPARD xxx-...
JON R. SHERECK xxx-...
JAMES D. SHERIDAN xxx-x...
STEPHANIE W. SHIELDS xxx-x...
JOHN F. SHIRTZ xxx-...
WHITNEY A. SIEBEN xxx-x...
DAVID L. SIEGRIST xxx-x...
ERIC S. SIEGRIST xxx-x...
BARRY I. SILBER xxx-...
ANDREW M. SIMMONS xxx-...
JAMES R. SIMMONS, JR xxx-x...
SHANNON C. SIMMS xxx-x...
DAVID M. SIVINSKI xxx-...
GERARD M. SKIBINSKI xxx-...
KENNETH R. SKILLERN, JR xxx-x...
JULIE A. SLAWSON xxx-x...
JEFFREY P. SLEVIN xxx-x...
BRET R. SMITH xxx-...
BRIAN A. SMITH xxx-...
BRYAN D. SMITH xxx-...
CHRISTOPHER E. SMITH xxx-x...
HONI L. SMITH xxx-...

JOSHUA W. SMITH xxx-...
KAREN L. SMITH xxx-x...
KELLY D. SMITH xxx-...
MARCUS P. SMITH xxx-x...
MICHAEL F. SMITH xxx-x...
NATHAN E. SMITH xxx-x...
STACY W. SMITH xxx-...
STEVEN P. SMITH xxx-x...
CHRISTOPHER S. SNEED xxx-x...
NELSON B. SNYDER, II xxx-...
DOUGLAS T. SOHO xxx-...
THOMAS J. SOLZ xxx-x...
RANDALL G. SPARKS xxx-x...
MICHAEL L. SPENCER xxx-...
CHRISTOPHER M. SPIGELMIRE xxx-x...
SARA J. SPOSATO xxx-...
EDMOND V. STACK xxx-x...
CHRISTOPHER J. STANGER xxx-x...
MARK J. STEELE xxx-x...
KATHLEEN R. STEHLIK xxx-x...
JOSEPH R. STEISS xxx-x...
DEBORAH A. STEPHEN xxx-x...
MICHAEL J. STEVENS xxx-x...
ERNEST T. STEWART xxx-x...
JASON S. STEWART xxx-...
MICHAEL F. STEWART, JR xxx-x...
KAREN D. STOFF xxx-...
RICHARD T. STOFFEL xxx-x...
LEROY A. STRAIN xxx-...
ROBERT A. STRASSER xxx-x...
MICHAEL D. STRATTON xxx-...
EDWARD F. STREHLE xxx-...
DONALD V. STRICKLAND xxx-...
CHRISTOPHER B. SULLIVAN xxx-x...
SCOTT M. SULLIVAN xxx-...
THADDEUS A. SUMMERS xxx-...
JOHNNY R. SUTTON xxx-...
DAVID E. SUZUKI xxx-x...
KAREN E. SUZUKI xxx-x...
RICHARD P. SVOBODA xxx-...
KRISTINE L. SWAIN xxx-...
MARC A. SWINNEY xxx-...
BARTZ R. SYKES xxx-x...
TRACY R. SZCZEPANIAK xxx-...
JAMES E. SZEPESY xxx-x...
GERALD P. SZYBIST xxx-x...
SABRINA J. TAIJERON xxx-x...
RONNIE L. TATE xxx-...
CARSON L. TAVENNER xxx-...
BRADLEY C. TEBRUGGE xxx-...
PETER W. TELLER xxx-x...
SCOTT A. THATCHER xxx-x...
FRANK M. THEER xxx-x...
KEVIN C. THERRIEN xxx-...
THOMAS J. THIBAULT xxx-x...
TROY S. THOMAS xxx-x...
MICUL E. THOMPSON, JR xxx-...
STEPHEN M. THOMPSON xxx-...
BLAKE T. TIBBETTS xxx-x...
RODNEY F. TODARO xxx-...
JOHN M. TOKISH xxx-x...
GEORGE W. TOMBE, II xxx-...
CHARLES A. TOMKO xxx-...
MARTHA J. TORRENS xxx-...
STEVEN B. TREADWELL xxx-x...
HAROLD F. TREFFEISEN xxx-x...
AARON D. TROXELL xxx-x...
MARK W. TRUE xxx-...
JAMES S. TUCKER, II xxx-x...
DOYLE C. TURNER xxx-x...
KELLY I. UCHIMURA xxx-x...
TODD M. VALENTINE xxx-...
ERIC J. VANBALEN xxx-...
KEVIN M. VANDEWATER xxx-...
KENNETH P. VANEYK xxx-x...
COLEY J. VAUGHAN xxx-...
JOHN E. VAUGHN xxx-...
DANA G. VENENGA xxx-x...
MICHAEL T. VENERDI xxx-x...
MICHAEL C. VENERI xxx-x...
JOHN E. VICE, II xxx-...
LISA M. VIERTEL xxx-...
JAY A. VIETAS xxx-x...
LUIS M. VILLANUEVA xxx-...
PAUL A. VILLEM xxx-...
ANNA L. VINCENTI xxx-x...
PHILIP P. VU xxx-x...
JOHN W. WAGNER xxx-...
JULIANA M. WALKER xxx-x...
TERRY A. WALKER xxx-...
ANGELA L. WALLACE xxx-...
DOYLE T. WALLS xxx-...
JUSTIN R. WALRATH xxx-...
PAUL B. WALSKI xxx-...
ALLAN M. WANSKY xxx-...
JEFFREY R. WARD xxx-x...
LINDA S. WASHBURN xxx-x...
RONALD K. WATROUS xxx-x...
JENNY S. WATSON xxx-...
JONATHAN A. WATSON, JR xxx-...
PAUL J. B. WATSON xxx-x...
ERIC G. WAXVIK xxx-x...
RODNEY A. WEAVER xxx-...
CHARLES W. WEBB, JR xxx-x...
STEPHEN R. WEBB, II xxx-x...
MICHAEL C. WEE xxx-...
NANCY E. WEISS xxx-...
KYLE J. WELD xxx-...
RICHARD K. WELLS xxx-...
DIEGO M. WENDT xxx-x...
ANDREAS K. WESEMANN xxx-...
DEREK A. WEST xxx-x...

MONA D. WHEELER xxx-...
LEIGH A. WILBANKS xxx-...
MICHAEL D. WILBURN xxx-...
MARK R. WIERT xxx-...
BRIAN H. WILLIAMS xxx-...
LAURA L. WILLIAMS xxx-...
RICHARD E. J. WILLIAMSON xxx-x...
BERNARD L. WILLIS, II xxx-...
MARGO T. WILLOUGHBY xxx-x...
ANDREW C. WILSON xxx-...
GEORGE M. WILSON xxx-x...
MICHAEL P. WINKLER xxx-x...
BRIAN E. WISH xxx-x...
EDWARD C. WOLD xxx-...
JOHN M. WOLFORD xxx-x...
MICHAEL M. WOLLET xxx-x...
ROBERT H. WOLVERTON xxx-x...
MICHAEL E. WOOD xxx-...
RICHARD G. WOOD xxx-...
DARRYL L. WOODS xxx-x...
DAVID J. WOOTEN xxx-...
DONNIE L. WOOTON xxx-...
COREY A. WORMACK xxx-...
WILLIAM J. WOSILIUS xxx-...
GLENN O. WRIGHT xxx-...
VICTOR V. WRIGHT xxx-x...
BENJAMIN L. WYBORNEY xxx-...
CHRISTOPHER E. YATES xxx-x...
STEVEN J. YOUD xxx-x...
DOUGLAS A. YOUNG xxx-...
WILLIAM E. YOUNG, JR xxx-x...
DONALD J. W. YU xxx-...
KENNETH C. Y. YU xxx-...
DANIEL N. ZDROIK xxx-x...
ERIC J. ZEEK xxx-...
DAVID H. ZEITOUNI xxx-...
DANIEL C. ZUBRYD xxx-x...
THOMAS C. ZYROLL, JR xxx-...