SENATE—*Thursday, March 14, 1991*

(Legislative day of Wednesday, February 6, 1991)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. Prayer will be led by the Senate Chaplain, the Reverend Dr. Richard C. Halverson.

PRAYER

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

Let us pray:

* * * *For there is no power but of God: the powers that be are ordained of God.* * * * *For he (the ruler) is the minister of God* * * * *for good.*—Romans 13:1, 4.

Almighty God, Lord of history, Ruler of the nations, as the euphoria of the past incredible weeks diminishes, the responsibility of government continues. And if anything, burden for the public good increases as the world awaits final resolution to the crisis in the Middle East. As the opportunity for American leadership is greater than ever, the implications for failure are more serious than ever. As confidence in our world leadership has been restored, the weight of that leadership responsibility is heavier than ever. In the light of these realities, grant to the Senators fresh awareness of their obligation to maintain national unity in diversity and to do their jobs with greater efficiency than ever. Help all in authority to realize anew their accountability to God from whom their authority comes, as well as through the sovereignty of the people.

Mighty God, rule in the hearts of Your servants as they dedicate themselves to the welfare of the Nation and the world.

In the name of the King of Kings we pray. Amen.

ORDER OF PROCEDURE

The PRESIDENT pro tempore. Under the order of yesterday, the Journal of the proceedings is approved. The time of the two leaders is reserved until later today. The time until 10:15 a.m. is for morning business and Senators may speak therein under the order. The time until 10 o'clock is under the control of the minority leader or his designee, and the time between 10 o'clock and 10:15 a.m. today is the time during which any Senator may speak.

Who seeks recognition?

Mr. SMITH addressed the Chair.

RECOGNITION OF SENATOR SMITH

The PRESIDENT pro tempore. The Senator from New Hampshire [Mr. SMITH] is recognized.

DESIGNATION OF SENATOR SMITH AS ACTING MINORITY LEADER

The PRESIDENT pro tempore. Without objection, the Senator will be the designee of the minority leader in control of the time up until 10 a.m.

Mr. SMITH. Thank you, Mr. President.

MORNING BUSINESS

Mr. SMITH. Mr. President, I ask unanimous consent that I may speak for 15 minutes as in morning business.

The PRESIDENT pro tempore. Without objection, the Senator may speak for 15 minutes.

Mr. SMITH. Thank you, Mr. President.

(The remarks of Mr. SMITH pertaining to the submission of Senate Resolution 82 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

The PRESIDENT pro tempore. The Senator from Montana [Mr. BURNS] is recognized.

Will the Senator please suspend? The remaining time under morning business will be under the previous order, which permits Senators to speak for not to exceed 5 minutes therein.

The Senator from Montana is recognized for 5 minutes.

Mr. BURNS. I thank the Chair.

(The remarks of Mr. BURNS pertaining to the introduction of S. 661 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. EXON addressed the Chair.

The PRESIDENT pro tempore. The senior Senator from Nebraska [Mr. EXON] is recognized for not to exceed 5 minutes.

DOD SUPPLEMENTAL AUTHORIZATION FOR OPERATION DESERT STORM

Mr. EXON. Mr. President, I rise today to support S. 578, the Department of Defense supplemental authorization for Operations Desert Shield and Desert Storm.

Since others who have spoken on this bill already have detailed the provisions of that bill, I will not go into any of the details, as they have been adequately explained. I just want to say S. 578 relates to the payment of the war and the benefits being proposed for military personnel.

I want to join my colleagues in praising the remarkable performance of our troops in routing Saddam Hussein's murderous, immoral army and liberating Kuwait. History will undoubtedly judge the Persian Gulf war as one of America's most resounding military victories.

The brave men and women who served in the Middle East, over 530,000 of them, deserve the Nation's most profound gratitude. The professional manner in which they performed their duties during the many months since arriving in the harsh climate of the region has collectively filled our country with pride. Through a finely crafted and well-executed allied war plan, and through the excellent implementation of that, casualties during the war were amazingly low.

However, our euphoria must be tempered by the solemn remembrance for those who did not return from the desert sands alive. For those courageous men and women, we salute them and thank them for their ultimate sacrifice, and our hearts go out to their families and loved ones as the Nation mourns. It mourns, also, the wounded and the casualties, and prays for their early recovery. It appreciates the sacrifices of our POW's and remains concerned about our MIA's.

With victory in hand, we must now turn our attention to our returning troops. This bill, in addition to establishing a method for payment of expenses incurred during Operation Desert Shield and Operation Desert Storm contains many new and expanded military benefits for the people who were there. We can do no less.

These benefits are an extension of America's gratitude for the sacrifices made by the men and women, active duty and reservists and guardsmen alike, who risked their lives in the fight against the tyranny of Saddam Hussein.

As a member of the Senate Armed Services Committee which reported out many of the benefits contained in S. 578, I believe it is important that our Nation extend to our troops more than the deserved celebrations and parades upon their return; their financial and personal needs must be addressed as well. In approving S. 578, the Senate will have gone a long way in making sure these needs are met once the fanfare has ended.

• 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

I thank the Chair. Mr. President, I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDENT pro tempore. There is 1 minute remaining in morning business. The Chair recognizes the Senator from Iowa [Mr. GRASSLEY].

EXTENSION OF MORNING BUSINESS

Mr. GRASSLEY. Mr. President, would it be in order to ask unanimous consent that morning business be extended?

The PRESIDENT pro tempore. It would be in order. What does the Senator suggest?

Mr. GRASSELY. I ask unanimous consent that morning business be extended until 10:30 under the same rules.

The PRESIDENT pro tempore. Is there objection? Hearing no objection, morning business is extended until 10:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Iowa is recognized.

Mr. GRASSLEY. I thank the Chair.

(The remarks of Mr. GRASSLEY pertaining to the submission of Senate Resolution 82 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

The PRESIDING OFFICER (Mr. KOHL). The Senator from Maine is recognized.

CONSIDERATION OF THE WARNER-NUNN AMENDMENTS

Mr. COHEN. Mr. President, I had intended to speak at some length on the two amendments that are pending to S. 578. I have been advised that there may not be a reason to debate those two amendments for any length of time because they might, in fact, not go to conclusion.

But let me just state for the record, at least during this period of morning business, that I think the amendments—and that is both the Warner and the Nunn amendments—ought to be rejected, if they are not in fact withdrawn at this point, for the prinicipal reason that they would, in my judgment, impede the consideration of this bill.

If we start to open this up to significant amendments, and I would consider both of those to be significant amendments, then we are going to have a proliferation of amendments on both sides.

Mr. NUNN. Will the Senator yield for just a brief observation? I hope the Senator will go ahead and give us his analysis of some of the substance of the amendments. I agree with him on the point he just made.

If the Senator from Virginia decides at some point that he will draw down his amendment, I certainly will take my amendment off, because I believe it would be better if we did not have the bill opened up to a lot of amendments. No matter what happens to either of these amendments, if either of them become part of this bill, I think we will have a lot of other amendments.

Mr. COHEN. I thank the Senator for his comments. I think the measure is premature. No. 1, we had no hearings; not a witness has been called on either side. I think an issue of this magnitude at least warrants and merits that kind of thoughtful consideration.

Furthermore, there has been no request, to my knowledge, from the administration for this measure or statement by the administration that it perceives the current restrictions contained in the ABM Treaty as unduly constraining the tests that are currently being carried out, and those they contemplate being carried out in the next year or so.

The administration has indicated that if it feels the restrictions of the traditional interpretation of the ABM Treaty are too onerous, members of the administration will consult with Congress. To my knowledge, there has been no such consultation; there has been no indication. If there were, I certainly would be very amenable to listening to their concerns and perhaps supporting changes that might be necessary.

But let me just very briefly, because my time is limited this morning, draw attention to what I found to be somewhat troubling, and that is, subsection b(4) of the major amendment, the Warner amendment, which states that "the Secretary of Defense should—should—undertake preparations for development and testing of (ABM) systems and components * * * even though some of the actual development and testing may not be permitted by the ABM Treaty."

Mr. President, this subsection is at best ambiguous and subject to interpretation regarding its relationship to current law. One interpretation would be that it contradicts current law. Current law states that while the Department of Defense may undertake such steps as paper studies, it may not—may not—undertake preparations such as acquiring long lead items for SDI development or testing unless the development or testing is consistent with the traditional interpretation of the ABM Treaty.

A sense-of-the-Congress amendment does not change the law, and it certainly cannot authorize a violation of the law, and yet one could interpret that this is precisely what this subsection would purport to do: You should violate the law even though you cannot do so. I find that very troubling because many of us like to consider ourselves to be advocates of law and order, and for us to take a position that could reasonably be interpreted to state that a member of the President's Cabinet ought to undertake conduct which is clearly and expressly prohibited by law seems to me to be inconsistent with that position.

I think it is important to start the debate—and I commend Senator WARNER for doing so—in the direction we have to move, or ought to move as far as providing for defense against limited attacks either by accident or by terrorist nations. But there has to be a right time and a right place and consideration of this legislation on the Senate floor is not, in my opinion, the right time or place to address either the Nunn amendment or the Warner amendment.

We will have plenty of opportunity. We ought to hold hearings, call witnesses, ask General Scowcroft and others to submit a lengthy examination of the complex issues involved, and then I think we would be prepared to go forward. But until that time arrives, I think it would be premature to consider either amendment, and both ought to be rejected if they are not withdrawn.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Dakota.

SUPPORT FOR S. 578

Mr. PRESSLER. Mr. President, I rise to support S. 578, the Operation Desert Storm supplemental authorization bill. As one who served in the Army in Vietnam, I applaud the warm reception our troops are receiving. My generation did not receive that same warm reception, but we join in giving a warm welcome home to the troops of Desert Storm.

The Korean war veterans did not receive such a warm welcome home. I hope they are honored along with Vietnam veterans in the various celebrations. Societies welcome home troops from wars in different ways, as has been illustrated since the 1950's. But I think we all rejoice that the troops from Operation Desert Storm are being welcomed home so warmly.

As we know, S. 578 provides an increase in the monthly imminent danger pay from $110 to $150 retroactive to August 1990. The legislation authorizes $20 million for child care assistance to military personnel serving on active duty. It also authorizes $30 million for education and family support services for families of military personnel on active duty, and it increases temporarily the ceiling on the amount of death gratuity pay from $3,000 to $6,000, retroactive to August 2, 1990.

Mr. President, our brave men and women in Operation Desert Storm have given our country effective and professional service. This bill will provide them and their families with benefits they have earned.

Mr. President, I am proud to rise in support of S. 578, the Operation Desert Storm supplemental authorization bill, and I urge its immediate passage.

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

ORDER OF BUSINESS

Mr. WARNER. Mr. President at some point, the managers would like to address the Senate with respect to pending amendments and the bill. We do, however, wish to accommodate other Members desiring to speak.

Parliamentary inquiry, Mr. President. What is the pending matter in the Senate now? It is my understanding it is morning business.

The PRESIDING OFFICER. Morning business until 10:30.

Mr. WARNER. At such time as 10:30 arrives, the Chair will recognize the managers.

I thank the Chair.

Mr. BINGAMAN. Mr. President, I wish to address the Warner amendment and the substitute that the Senator from Georgia has offered, and perhaps if morning business is about to expire, I guess I would ask unanimous consent that I be allowed to go ahead and complete my remarks before morning business concludes.

Is that permitted?

The PRESIDING OFFICER. Without objection.

Mr. WARNER. Mr. President, I apologize to my colleague. I was engaged in another matter here. I thought he sought recognition to address the Senate. The question is?

Mr. BINGAMAN. I would advise the Senator from Virginia, I had about 6 or 8 minutes of comments on the Warner amendment and the substitute amendment offered by the Senator from Georgia. I did not know if I should offer those now and ask unanimous consent that I be allowed to conclude those before morning business concludes, or if I should wait.

Mr. NUNN. If the Senator will yield, if I could make a suggestion. When we go off of morning business and get back on the bill, the bill is open to debate with no time agreements. The Senator could be recognized for whatever time he would like to take.

We do hope to move the bill along. I do not want to encourage a lot of amendments because what we would like to do is move this bill as rapidly as possible and finish it today.

I am told by the leadership that he plans to take up the Alexander nomination today for at least a couple of hours. So with that in mind, the Senator could make whatever comments he would like to make when the bill is up.

Mr. WARNER. Mr. President, if the Senator from Virginia could advise the Senate, after consultation with the majority leader and the Republican leader, and with my distinguished colleague, the chairman, it is the intention of the Senator from Virginia to seek to bring down his amendment, withdraw it, the purpose being that this bill must be acted upon today in order that this package of benefits can be made available at the earliest possible time for those beneficiaries, primarily those in the Armed Forces of the United States.

I will at some point in time give the reasons why I think it is time to bring this amendment down, and then advise the Senate with respect to my intentions in the future.

I would think from a parliamentary standpoint it would be desirous for the Senator from Virginia to give brief comments with respect to the reasons why the amendment will be taken down at this time, followed by, I understand, the amendment of the Senator from Georgia, which would likewise come down. Then the floor would be open for such comments as other Senators may wish to make about this and other matters as they relate to the bill.

So I join with the chairman in assuring our colleague, and fellow Members of the Senate Armed Services Committee, that he will be given the time he deems necessary to address this issue.

MARGARET THATCHER

Mr. ROTH. Mr. President, last Friday one of America's true friends and allies offered a speech that we cannot allow to go unnoticed. Former British Prime Minister Margaret Thatcher used the occasion not only to offer her vision for the future of democracy, but to outline in inspiring detail the indigenous strengths of the United States of America.

The speech is effective for the fact that it climbs above partisan politics to illuminate the undeniable virtues of democracy—virtues that were reflected in Mrs. Thatcher's service to her country and the world.

We sometimes forget the tremendous initiatives she implemented in Great Britain to restore not only the ecomomy, but that great nation's sense of confidence. Her commitment to free market principles is well known, as is the resurgence of economic growth that followed as she privatized large sections of the state.

Likewise, our own Nation is grateful for her strong commitment to transatlantic ties, especially the special relationship shared between our two countries. We are grateful for her unwavering support in our own efforts in the Persian Gulf, in the INF Treaty, and in encouraging the Eastern bloc to tear down their walls.

Mr. President, Margaret Thatcher was Great Britain's longest serving Prime Minister in this century. She is as well qualified as anyone to help our global community—especially the democratic industrial nations in that community—to chart a bold and productive course for the future. In her speech last Friday, she did just that, and I ask unanimous consent that the speech be printed in the RECORD in its entirety.

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

A VISION FOR THE WEST ASCENDANT

(Former British Prime Minister Margaret Thatcher delivered this address last Friday at a Washington luncheon for conservative leaders hosted by the National Review and co-sponsored by the Heritage Foundation, American Enterprise Institute, Hoover Institution and Manhattan Institute. Introductory salutations omitted.)

We have before us today the opportunities created by two great victories:

President Reagan's victory over communism in the Cold War and President Bush's victory over aggression in the Gulf.

Both those victories were hard won. They required courage, the vision to see what was possible when others could not, and the persistence to fight through to a full and final conclusion.

Very few leaders possess that combination of qualities. But in the Gulf war, President Bush has showed leadership of the very highest order.

He built a grand coalition of 28 allies; he assembled overwhelming force from around the world; he gave full backing to a brilliant military concept which produced one of the greatest feats of arms with the fewest casualties in history; and he helped lay the foundations of future stability in the region. We can truly say, as [Prime Minister William] Pitt said in 1804:

"Amid the wreck and misery of nations, it is our just exaltation that we have continued superior to all that ambition or that despotism could effect; and our still higher exaltation ought to be that we provide not only for our own safety but hold out a prospect for nations now bending under the iron yoke of tyranny of what the exertions of a free people can effect."

But that victory was not won solely in the last six months. It was the culmination of a decade's achievement:

The military buildup of the 1980s.

The recovery of America's and the West's self-confidence.

Thru technological advance that created the Patriot missile and the Apache attack helicopter.

And the revival of our economies that made these miracles possible.

Someone once said that "the past is another country—they do things differently there." It is difficult today to conjure up the despairing and defeatist atmosphere of the post-Vietnam '70s. But in those days, the West was on the decline and on the defensive.

Our defenses were neglected. The Soviet Union steadily reinforced its military superiority.

Our allies felt abandoned. They felt they could no longer rely on a hedonistic West. We coined the cynical joke: "Lose a country, gain a restaurant."

In the battle of ideas, we had all but ceased to aim at furthering freedom and had settled for containing communism.

This political weakness only mirrored deeper weaknesses in our societies. Every such crisis is ultimately a crisis of the spirit.

We knew we had lost time, lost nerve and lost ground.

THE '80S, A NEW DIRECTION

So, as the '80s began, we in the United States and Britain set out in a new direction.

We wrestled with the challenge of reviving our economies.

We rebuilt our shattered defenses.

We faced up to the threat of a Soviet empire at the peak of its military might, made still more dangerous by knowledge of its own economic weakness and social fragility.

We made it clear that arms control would proceed on the basis of genuine equality of weaponry between East and West—or not at all. The Soviet Union built up its SS-20s. We deployed cruise and Pershing missiles. The result—the first ever agreement to reduce nuclear weapons.

When the Soviet Union said that Germany could only be united if it left NATO, President Bush and I stayed firm. The result—a reunified Germany fully within NATO.

At home we liberated enterprise and cut taxes producing higher living standards, more jobs and the spread of ownership.

Capitalism made our peoples prosperous at home and enabled us to feed the hungry abroad. Socialism by contrast, proved the road to poverty and serfdom.

As Eastern Europe emerges from the darkness, the truth is now fully known, and told even by communists:

Behind statistics boasting of bumper crops, food rotted.

As economic-growth rates soared on paper, people queued for hours to buy goods that a Western supermarket couldn't even give away.

As five-year plan followed five-year plan, command economies turned out products that no one wanted to buy and created an environment in which no one wanted to live.

But the world was strangely reluctant to observe these facts.

A World Bank report praised the Romanian economy for achieving high rates of growth from the early '50s on. A perceptive economist whose name is not unknown to you, Alan Walters, calculated backward from the current Romanian living standards to show that if these figures had been accurate, the Romanian people would have all been dead in 1950.

Since then, the life has drained out of communism entirely. And with it, the heart went out of socialism.

Make no mistake. These communist regimes were not some unfortunate aberration, some historical deviation from a socialist ideal. They were the ultimate expression, unconstrained by democratic and electoral pressures, of what socialism is all about:

State ownership at the expense of private property.

Government control at the expense of individual enterprise.

The pursuit of equality at the expense of opportunity for all.

In short, the state was everything and the individual nothing.

I freely acknowledge that socialists and statists often begin by finding injustices and wanting to remove them. But they go on to the notion that only state ownership and state regulation can solve such problems. You can only believe that by ignoring the lessons of history, the lessons of politics and the lessons of economics. After the experience of this century and the testimony of Eastern Europe, intellectual irresponsibility on this scale is also moral irresponsibility.

We knew that communism was spiritually bankrupt, and we said so. We knew that the Stalinist system would always produce misery and tyranny but could never produce prosperity, and we said so.

We knew that "captive nations" under communism wanted and deserved to be free, and we said so. We even dared use the phrase "captive nations."

And the more we told the truth, the more we restored our own peoples' self-confidence and the hopes of those still living under tyranny.

In the decade of the '80s, Western values were placed in the crucible and they emerged with greater purity and strength. So much of the credit goes to President Reagan. Of him it can be said, as [19th century British Prime Minister George] Canning said of Pitt, he was the "pilot that weathered the storm."

The world owes him an enormous debt and it saddens me that there are some who refuse to acknowledge his achievement.

For the whole world changed:

The Cold War was won without a shot being fired.

Eastern Europe regained its freedom; its people elected democratic governments and they announced their intention to leave the Warsaw Pact.

The Berlin Wall came down, and Germany was reunified within NATO; she and Japan, the vanquished nations in the Second World War, prospered mightily and ironically became the creditors in the new world of peace.

A weakened Soviet Union was compelled by the West's economic and military competition to reform itself; a new, more realistic and clearsighted leadership came to the top.

Glasnost was launched, perestroika was started and we saw the beginnings of democratic politics.

As the Soviet Union abandoned its revolutionary role in the world, the United Nations became a more effective forum for active diplomacy.

And the United States once again became the pre-eminent power in the world.

These are great and for the most part beneficial changes. They have been confirmed by the progress of the Gulf war in which America led, Britain and France have helped militarily; together with many Arab nations; Germany and Japan have contributed financially, the United Nations has given its blessing, and the Soviet Union, while pursuing her own diplomatic course at times, never quite departed from the U.N. resolutions she had originally supported.

A new world means new problems and the need for new approaches. How do we deal with the crisis in the Soviet Union? How do we reshape NATO in the post-Cold War World? How do we preserve and strengthen the economic foundations of the Western alliance? How do we defend Western interests elsewhere and extend stability beyond the West in the aftermath of the Gulf War? In my view, we shall tackle all of these problems more effectively, as we won the Gulf War, by the tested policy of Western unity, based on the firm U.S. leadership of sovereign nations in alliance.

NATIONHOOD/EAST-WEST

But not every change in recent months has been for the better.

In the Soviet Union there is accumulating evidence that progress toward reform has been slowed, possibly halted. Dark forces of reaction are on the rise. At such a time, it is vital that *all* those committed to reform should not falter. No doubt some reformers never expected reform to extend to multiparty democracy and a free economy. "But no man can fix the boundaries of the march of a nation." And divisions among reformers now would only hand victory to the hard liners, whom I, at least, refuse to call conservatives. The Soviet people have not gone so far to have the prize of freedom and genuine democracy wrested from their grasp.

But the task of reforming and liberalizing the Soviet Union is a far more difficult one than any of us had supposed a few years ago.

How do you persuade people brainwashed by egalitarian propaganda that inequities are the side-effect of rising prosperity for all? How do you tell them that higher living standards can only be attained at the short-term price of higher unemployment? And how do you do any of this while the demoted bureaucrats, the discredited politicians and all those who flourished under totalitarian mediocrity are out to undermine everything you do?

I am often asked: Can we still do business with Mr. Gorbachev?

We should not underestimate the future reforming zeal of a man who allowed Eastern Europe to grasp its freedom; who has begun the withdrawal of Soviet troops; accepted arms reduction for the first time; and cut support for communist insurgencies across the world. We have to go on doing business with him. In the same way, he has to do business with the democratic reformers if he is to succeed.

The pessimists among you will perhaps reply that the Soviet leader embarked on reform so as not to be left behind by the military buildup and economic progress of the West in the 1980s. I am the last person—or maybe the second to the last person—to deny that these played a major role in Mr. Gorbachev's calculations. We had an economy driven by information technology: he had an economy fueled by vodka!

And the very realism that prompted these reforms will persuade him to step up liberalization, if he can, when the present slowing of perestroika pushes the Soviet economy further into crisis, as it must.

Perhaps it does not really matter whether the optimists or the pessimists are right. Because optimism and pessimism dictate the same policy. If Mr. Gorbachev remains a reformer at heart, as I believe, he will privately welcome Western pressure for reform and employ it against the hard-liners. If he himself has succumbed to the hard-liners, as others believe, the West's pressure will push him too in the direction of reform.

So what kind of reform should we be seeking for these people who have rejected a false ideology but have not yet learned the ways of freedom?

It is fashionable in some circles to argue for credits for the Soviet Union. But to give large credits to fill shops will not help to build the necessary structures of liberty; they would be dissipated quickly, leaving an increasing burden of debt.

Any assistance to the Soviet Union must, therefore, be granted only in response to practical economic reforms. Helping the present structures will only keep reform at bay. We must instead encourage the dispersal of power from Moscow to the republics. Five Soviet republics are now negotiating for such a dispersal of power—let us hope those negotiations succeed.

Second, we have to stress to the Soviets just how essential private property is to freedom. History teaches that human rights will not long survive without property rights; nor will prosperity be achieved without them.

Nor is freedom secure without independent courts and a rule of law. Here we have experience and knowledge totally denied to people who have grown up in a totalitarian sys-

tem. Perhaps we should consider extending the know-how funds for the Soviet Union to go towards developing an independent judiciary.

We must also draw the Soviet Union closer to the institutions of the international trading and payments system. Associating the Soviet economy more closely with these will, over time, help to transform that economy internally. Their rules will help promote sound money, competition and genuine trade. No economy will prosper if it is strangled by regulations and bureaucrats.

So, let us say to Mr. Gorbachev that he can count on our help when he makes reforms. But the reverse of this is that any evidence of a return to repression must prompt from the West a swift and effective response. The constant raising of human rights cases in the Soviet Union over many years, especially since the Helsinki accords, did undoubtedly have an effect—we must remember that lesson and act upon it.

In particular, we cannot overlook or condone the disgraceful abuses of those rights which we have seen in the Baltic States. These states were seized by the Soviet Union not by law but by fraud and violence. That seizure has never been regarded as legal by the West. We fully support the right of the Baltic States to determine their own future. We must make it clear to the Soviet Union that it is not a question of whether they will be free—but only of when they will be free. And they *will* be free.

NATO AND DEFENSE

There are signs that the Soviet Union is failing to fulfill either the letter or the spirit of the terms of the treaty for reduction of conventional forces in Europe, signed in Paris. And there are signs of pressure by the Soviet military to reassert its position.

Moreover, the re-emergence of tension and uncertainty on Europe's eastern border ought to remind NATO's Continental European members both that international dangers can rarely be predicted and that sustained commitment is necessary to deal with them.

We must never forget that it is NATO—because it is strong defense which underpins that peace with freedom and justice that we in the West enjoy and now have the opportunity to extend to others.

NATO has been uniquely successful in maintaining liberty. It is not just a military alliance but an alliance in defense of a way of life. NATO must not be discarded.

It is in the interests of Europe that the United States should continue to play that dominant role in NATO to which we have been accustomed. Indeed, as was demonstrated in the Gulf, for the assistance that Britain and other powers gave, only one nation has the power to defend freedom and security in the world today. That is and for the foreseeable future [will] remain the United States.

The pursuit of a new defense role for the countries of Europe is much discussed. It is certainly true that, within NATO, the European countries should make a greater contribution.

The European countries should also be prepared to take a more active military role in response to events outside NATO's present area. Germany's interpretation of its constitution has so far prevented it making a military contribution. But a full commitment to the defense of international freedom and stability requires risking life as well as treasure.

NATO has been a great success. We should be wary of creating new institutions to replace or complement its unique and indispensable role. Perhaps the most extraordinary suggestions yet to come out of Brussels is that the disunity and halfheartedness of most European nations during the Gulf crisis demonstrate the need for a united European foreign and defense policy. A new structure, even if it were necessary, can never be a substitute for will. Any arrangements which denied Britain and France sovereign control of their foreign and military commitments, especially determining these vital questions by a majority vote, would almost certainly have excluded Anglo-French forces from the Gulf—or at least long delayed their arrival and limited their number. In those grim early days after Iraq's invasion, America would have been left to stand alone. And it is far from certain that, even if after prolonged deliberations, the European Community would have contributed military assistance. The methods of compromise which underpin such decisions would almost certainly have left Europe on the sidelines.

For many years, successive American governments believed that progress toward a United States of Europe would relieve America of the burden of defending freedom. That hope, alas, turned out to be greatly exaggerated. Moreover, this kind of geopolitical grand strategy should be regarded with the greatest skepticism. If a European superstate were to be forged, it would almost certainly develop interests and attitudes at variance with those of America. We would thereby move from a stable international order with the United States in the lead to a more dangerous world of new competing power blocs. This would be in no one's interest, least of all America's.

So NATO must remain the principal defense organization of the West: Instead of seeking to supplant it, we should aim to adapt and extend it to meet the challenges of the post-Cold War world.

ENLARGING NATO'S ROLE

Our first step should be to enlarge its political role. This great trans-Atlantic partnership should not confine itself to matters of defense but should extend its discussions into other political and economic areas. This would be of benefit to countries on both sides of the Atlantic.

Second, those Eastern European countries which have left the Warsaw Pact should be given a new, special status in NATO—something short of full membership but well beyond mere observer status. Perhaps France has pointed the way in this respect. Such a new status could be an added source of stability in a traditionally unstable area and reassure these countries in troubled times. Even in periods of warmer relations, you can have a chilly spell.

Third, I believe that NATO's role should be extended to threats which are out-of-area. When I addressed the NATO Council at Turnberry last June, I warned that: "There is no guarantee that threats to our security will stop at some imaginary line. With the spread of sophisticated weapons and of military technology to areas like the Middle East, potential threats to NATO territory may originate from outside Europe."

Within two months, Saddam Hussein had invaded Kuwait. Fortunately, although there was no coordinated NATO response, several NATO nations acted vigorously to ensure that aggression did not pay.

Saddam Hussein has been defeated.

But Iraq is not alone in acquiring the technology and power to turn regional conflict into global crisis. Defense Secretary Richard Cheney has reminded us that:

"By the year 2000, more than two dozen developing nations will have ballistic missiles, 15 of those countries will have the scientific skills to make their own, and half of them either have or are near to getting nuclear capability as well. Thirty countries will have chemical weapons and 10 will be able to deploy biological weapons."

This means that the NATO countries under America's leadership must be in a position to deter aggression by these countries and, if it occurs, to make a swift and devastating response.

Strong defense will continue to be necessary—and costly. For technology does not stand still. It was the coalition's technological superiority which, with the courage of our fighting men, enabled us to defeat the world's fourth-largest army after just four days of ground war. For myself, I believe we must keep up the rate of technological advance which gave us the Patriot missile and which will give us SDI [Strategic Defense Initiative].

All too often after wars, democracies rush to cut back defense and increase domestic public spending. The end of the Cold War led to a similar reaction. It is time to consider whether the plans to reduce spending on defense should be revised. Resolve is not enough; you must have the military capability, too.

Perhaps, the single most important point to be made today is that the only real peace dividend is, quite simply, peace. Our generation has enjoyed it because of the investment of billions of dollars and pounds in defense.

So the first way to ensure that freedom prevails is to defend it—principally through NATO.

But no less important is the second means—the maintenance of world prosperity, founded upon an open system of free trade. And if there are risks to our security, the risks today to the open trading system are just as great.

Let us remember that the West's postwar prosperity could never have been achieved without the orderly framework of free trade provided by the GATT [General Agreement on Tariffs and Trade]. Our response to the stock market crash of 1929 was rising protectionism which transformed it into a catastrophic economic depression, slashing world trade in manufactured goods by some 40 percent—and all but undermining the credibility of capitalism itself. By contrast, our response to the world recession of the early 1980s was to resist protectionist pressures. Free enterprise and open trade duly swept us into years of unparalleled prosperity.

Yet the temptation to erect or retain tariff and other barriers is understandable. Managing trade through a network of bilateral agreements and tariff barriers has superficial political attractions. But in the long term, it would make home industries less efficient; consumers pay more for less choice; and condemn the Third World to lower living standards by denying them markets.

It would serve no purpose for me now to attribute blame for the failure, so far, of the Uruguay Round of the GATT. We might both be embarrassed by the degree of our agreement. Anyway, I have had a thing or two to say about this at European Councils.

But the dangers to free trade are now greater than for 40 years. And paradoxically, they have been increased by the end of the Cold War. Solidarity on these matters between the United States and Western Europe in the face of the threat of communism has inevitably waned—and with it the will to

compromise in the common economic interest.

Of course, people are impatient after four years of negotiations in the GATT. However, if there is evidence of a real and urgent comment to reach a settlement and more time is needed, it should be given. Some of the best agreements have been reached after the clock has stopped.

It would be a tragedy if the GATT talks were to fail because the U.S., the Cairns Group and the European Community could not reach an agreement on cutting farm subsidies. We cannot expect the Third World to agree to what the West wants—protecting intellectual property rights and liberalizing services—when we deprive them of their main export market, agricultural commodities, and hence of the funds to improve and diversify their economies.

The stakes are high. If GATT should fail, we would gradually drift into a world of three powerful, protectionist trade blocs—based on America, Europe and Japan—engaged in mutually destructive trade wars. That would not only threaten world prosperity, but it could also damage the common sympathy vital to defense ties across the Atlantic.

We should be moving in precisely the opposite direction. Europe and North America, staying within GATT rules, should move steadily to cut tariffs and other trade barriers between them. In the short term, special provision would have to be made for the more difficult problems like agriculture; and over the decades, we would create a free trade area in embryo across the Atlantic. It would be the greatest concentration of wealth and skills in history, encompassing 58 percent of the world's GNP, and it would be a force for free trade rather than a restraint upon it. The very size and prosperity of the group would give it enormous influence in setting liberal rules for open world trade. The inclusion of America would reassure [against] the fears, whether justified or not, of some European countries about German economic dominance. And, above all, it would provide the economic underpinning for NATO and its out-of-area role. It is a visionary prospect, but we need a distant star to steer by.

The European Community's response to the challenges and opportunities of free trade will be crucial.

Europe is now at the crossroads. Amid the apparently technical arguments on monetary union, institutional change and social dimension, a struggle is under way for Europe's future.

Only recently, perhaps, has America begun to recognize that it too has a stake in the outcome. A democratic Europe of nation-states could be a force for liberty, enterprise and open trade. But, if creating a United States of Europe overrides these goals, the new Europe will be one of subsidy and protection.

The European Community does indeed have a political mission. It is to anchor new and vulnerable democracies more securely to freedom and to the West. This is what happened after the end of authoritarian rule in Spain, Portugal and Greece. So the offer of full Community membership must be open to the countries of Eastern and Central Europe just as soon as democracy and the free market have taken root. In the meantime, we must strengthen links of trade, investment and culture.

The false political mission which some would set for the European Community is to turn it into an inward-looking and protectionist United States of Europe. A Europe in which individual nations each with its own living democracy would be subordinated within an artificial federal structure which is inevitably bureaucratic. A community lacking a common language can have no public opinion to which the bureaucrats are accountable.

Americans and Europeans alike sometimes forget how unique the United States of America is. No other nation has been built upon an idea—the idea of liberty. No other nation has so successfully combined people of different races and nations within a single culture. Both the Founding Fathers of the United States and successive waves of immigrants to your country were determined to create a new identity. Whether in flight from persecution or from poverty, the huddled masses have, with few exceptions, welcomed American values, the American way of life and the American opportunities. And America herself has bound them to her with powerful bonds of patriotism and pride.

The European nations are not and can never be like this. They are the product of history and not of philosophy. You can construct a nation on an idea; but you cannot reconstruct a nation on the basis of one. You have only to consider the consequences of trying, as did the architects of the French Revolution of 1789, to reconstruct France on the basis of a slogan. Alas, it was not "liberty, equality and fraternity" which were the result. In exactly the same period the Americans have lived under one Constitution, our French friends notched up five. A Punch cartoon has a 19th-century Englishman asking a librarian for a copy of the French constitution only to be told: "I am sorry, sir. We do not stock periodicals."

It is in this light that we should consider the attempt which is being made to create a European Superstate. That aspiration has many origins—some noble, some cynical, some just naive. But, in any case utopian aspirations never made for a stable polity. Political institutions cannot be imposed if they are to endure. They have to evolve and they have to command the affection, loyalty and respect of populations living under them. The kind of Europe which all of us—on both sides of the Atlantic and, not least, in the countries of Central and Eastern Europe so recently emerged from the thrall of communism—must see is no less visionary and far more practical than the alternative. Our kind of Europe, of sovereign states proud of their national identity, enjoying the prosperity which free enterprise brings, a force for open trade, democracy and liberty, would look outward to the world where freedom must be defended and extended. And when we look westward, we see not threatening rivals but staunch friends with common purposes. That's my vision of a European future.

MIDDLE EAST/U.N.

Whether it is in Europe or the wider world, we have to know clearly what we should expect from international institutions. The Gulf War posed a sudden, dramatic challenge to the international community. Indeed, "The Gulf" was hardly on our agenda until the sudden invasion of Kuwait on Aug. 2 last year. Yet, since then, the Gulf has dominated all else.

The war is now over and we are working to build a secure and lasting peace. It is precisely the right time both to look again at the issues which have so long divided the peoples of the Middle East and to take stock of the future role of the United Nations.

It is not for others to come up with precise formulas for solving the problems of the Middle East. Agreement will only come from painstaking and persistent negotiation between the peoples involved. An international conference could play a part in this—not to arbitrate, but its members could provide advice on the preparation of an agenda, the development of proposals, the framing of security agreements and the course of diplomacy.

I believe that six items among others should be on our agenda for peace in the Middle East:

First, the Gulf must be protected as an international seaway. Our navies will have to stay there and those from the European countries must take a bigger and more prominent share of the duty.

Second, military equipment and supplies may need to be prepositioned in the area, both to deter further aggression and to enable the rapid deployment of Western troops should that deterrent fail.

Third, arrangements must be made to safeguard the security of Kuwait. For who will be prepared to invest the enormous sums required to rebuild Kuwait, unless security is properly guaranteed? I believe a United Nations force policing a demilitarized zone would be right for this purpose.

Fourth, there is the question of biological, chemical and nuclear weapons. We must be satisfied by observation that Iraq's have been destroyed. We should have sanctions against supplying them with equipment that could be used for that purpose. And Iraq's territory must be open to rigorous inspection to ensure that production has not begun again.

Fifth, countries which engage in aggressive war cannot expect to be allowed freely and quickly to build up their military strength. We must take steps to ensure that the advanced weapons of war are withheld from Iraq, which has, twice in 10 years, invaded the territory of neighboring Islamic states.

Finally, there is the Palestinian question, so long encased in suspicion and hostility. It can only be tackled by direct negotiation with the representatives of the Palestinian people. But those leaders who supported Saddam Hussein do not come to seek equity with clean hands. One favorable development is that the Soviet Union is now playing a very different role than in the past. So some of the fears that a Palestinian state—even though part of a confederation with Jordan—would be prey to communist subversion, have receded. But we can well understand Israel's concern for secure borders and indeed the concern of all states in the area for a system of regional security.

The United Nations was tested by the crisis in the Gulf. And it came through with an enhanced reputation. The permanent members of the U.N. Security Council worked together for the first time since 1945 to defeat aggression—and not for one resolution but for 12.

But the U.N. resolution had to be enforced by the actions and commitment of individual countries—both America and her NATO allies and the other Arab countries of the region which saw their interests threatened by Saddam Hussein's aggression. This combination of international authority by the United Nations and enforcement by the United States and other sovereign countries may well prove to be the best model for future contingencies. A U.N. armed force, operating under the instructions of a U.N. committee representing the interests of opposed countries, would be paralyzed and helpless.

The counterpart to increased United Nations authority is for all of its members to take seriously their obligations under the

charter. It is no good individual states condemning abuses of human rights abroad if they do not practice freedom at home.

FREEDOM AND THE FUTURE

There can be no better time or place to consider the future of our nations than here—at the heart of the Free World. The role of practical statesmen in any age is to create or adapt political structures for prosperity and peace. Today, I have suggested how this may now be done—in NATO, in the GATT, in the Soviet Union, in Europe and in the United Nations.

But true statesmanship in a free country must be measured by more than that. It requires an unswerving commitment to make the sovereignty of justice prevail. It requires an ability to inspire others with the rightness of a cause. It requires strong arms and great hearts.

We look to America for these things. And we do not look in vain.

After victory in the Cold War and in the Gulf, we face a still nobler, still more challenging task—to advance the reign of freedom and free enterprise throughout the world. It is now, more than ever, America's destiny, supported by her faithful friends—and no friends are truer than her friends in Britain—to press ahead with that endeavor.

In the words of President Abraham Lincoln:

"Let us strive on to finish the work we are in."

THE FEDERAL PROGRAM PERFORMANCE STANDARDS AND GOALS ACT

Mr. ROTH. Mr. President, today I would like to begin a series of commentaries on the long overdue need to establish measurable performance goals for Federal programs, and on the legislation I have introduced to do that—S. 20, the Federal Program Performance Standards and Goals Act of 1991.

As we have just witnessed in the amazing success of Operation Desert Storm, a well-defined, clearly stated objective is a prerequisite of a successful program. Lt. Gen. Thomas Kelly called it "the first principle of war," but it is really the first principle of good government.

All of us in the Congress have shared the frustration at our seeming inability to get a handle on waste and mismanagement in Federal programs, and on the continued inability of those programs to solve the problems they are intended to address.

Now admittedly, there are often fundamental differences of opinion expressed in this Chamber as to whether a particular matter is a Federal responsibility, or whether we can afford a particular program. But surely, after that debate is over, and the votes are cast, if a program is created—whether it be a defense program, or a social program—we should all want it to work. If we are going to spend the money, we should all want to get full value for the tax dollar—regardless of how we voted in the first instance.

Political commentators often argue that the American public wants government programs on the one hand, while opposing new taxes to pay for them on the other. This is claimed to be hypocracy on the part of the public, but I do not believe that is a fair characterization. Rather, I think it is a reflection of a strongly held belief by the tax payers that we are not getting full performance from the dollars we are already spending.

I believe the public is right. In fact, I think we all acknowledge that there is a lot of validity to that view. The question is, what to do about it.

We can begin by understanding why the problem exists. It is because when Congress creates and funds a program, rarely does it specify a well-defined goal for that activity. Unlike Operation Desert Storm, there is no clearly stated objective—no performance standard—by which to measure a successful and effective use of public funds. We debate program inputs—how much money should we spend—but we do not debate program outputs—what measurable results do we expect. It should be little wonder, then, when we encounter performance problems.

The Federal Program Performance Standards and Goals Act (S. 20) is designed to fill in this big missing piece in the Federal management puzzle. The legislation would require three things.

First, that measurable performance goals be developed for all Federal programs, and that every agency file an annual performance report—showing what was actually accomplished versus the planned goals for the past year, and for each of the 3 previous years.

Second, that programwide performance goals be incorporated directly into the Federal budget for major expenditure categories. This is what changes a budget from being largely a political document, into a real policymaking and management tool.

And third, that the Congress itself be required to specify measurable performance goals for the programs it creates and funds. We spend the money, so it just makes sense that we should say what we expect to achieve with that money. Many Federal programs are poorly focused, because it is not clear specifically what Congress wants accomplished—and that just invites waste and inefficiency.

These three reforms are all the more important now, because of the spending caps imposed by the recent budget agreement. Under that agreement, domestic programs will compete with each other for additional funds. To expand one will mean cutting another, the same as with defense programs. This means that it is now vital that we know which programs really are effective and efficient, and which are not—so that we can make sound resource allocation decisions.

Mr. President, in the coming days, I will more fully explain the urgent need for this legislation, the broad base of nonideological support for it, how State and local governments have already begun to adopt these practices, and how we might develop measures of program quality, efficiency, and effectiveness for Federal programs. In the meantime, I would welcome the additional cosponsorship of any interested Senator.

ARMS SALES

Mr. BUMPERS. Mr. President, yesterday, I watched President Bush and Prime Minister Mulroney jointly sign an agreement dealing with acid rain. This has been an extremely important thing with Canada for a long time. Obviously, they consider the United States' coal-burning utilities as the culprit in the acid rain problem in Canada and, unhappily, they are precisely right.

I have heard it said that the agreement yesterday was more pro forma for publicity purposes than anything else, but if it does not have much teeth in it, it at least continues to dramatize this problem that Canada has.

First, I must say, I do not think the United States has been very forthcoming or accommodating to a really serious problem that Canada has been talking about for many years. It sort of spoiled the well in our relationships. I think now that that agreement has been signed, at least that will be an embryonic beginning to doing something substantive in solving Canada's problem.

No. 2, as we know, President Bush and Prime Minister Mulroney had a joint press conference. President Bush said something about, in the future, we must be more careful about the countries we sell arms to, but he was correctly saying that we are not going to cut off arms sales to everybody.

Mr. President, I have stood here behind this desk for I do not know how many years talking about the absolute absurdity, the insanity, of continuing—not just us, but the Soviet Union, the French, the British, the Italians, the Brazilians, and Eastern Europe—the insanity of our continuing to sell the most sophisticated weaponry we have to every two-bit dictator in the world who is willing to starve his people to buy those weapons, such as Saddam.

So, while I applauded what President Bush said yesterday, and I agreed with President Bush's statement, Prime Minister Mulroney followed that with a really cogent point, I thought, and that is, virtually every weapon Saddam had, was purchased from the five permanent members of the Security Council: The United States, Soviet Union, France, China, and Great Britain.

I had the pleasure of spending a day at the United Nations back in Decem-

ber and had lunch with the five Ambassadors to the United Nations representing those five permanent Security Council members. As we went round robin among about five Senators having lunch with these five Ambassadors, when it came my time to speak, I said, "Gentlemen, you have a golden opportunity." The war had not even started at that time. but I said, "You have a golden opportunity because the people of the world are becoming more aware than ever before of what we have been doing with these arms sales to Third World nations, and we ought to be convening representatives of all the arms exporting nations right now."

I hope that our President will take leadership in this and decide in a meaningful, enforceable way to stop selling Hawk missiles, for example, to countries like Jordan and Kuwait and Stinger missiles to Bahrain.

When Saddam Hussein went into Kuwait, he captured 300 Hawk missiles that we had sold Kuwait. But the happy circumstance is that that is a sophisticated weapon and his people never could make it operational. But if they had had time to learn to use the Hawk missile, the most sophisticated antiaircraft weapon in the world, there would be a lot more dead American pilots.

The only Air Force Saddam Hussein had, really, was a whole bunch of Mig's, and they turned out to be irrelevant, but he did have 75 Mirages that he had bought from France. As Bryan Mulroney said, all that weaponry he had he bought from the permanent members of the Security Council.

Now, let me ask you this question rhetorically. What if Saddam Hussein had also invaded Bahrain, population 700,000? Bahrain is a nice, peaceful country, I suppose, but what on Earth are we doing selling them Stinger missiles? We debated here for years about whether to give Stinger missiles to the Mujahidin in Afghanistan. I resisted that for a very long time, and I finally came around to believing that we ought to do it because I thought if they could start knocking down Soviet helicopters and Soviet airplanes, that war would come to an end. That is not the only reason it came to an end. It came to an end because Gorbachev said they could not afford it anymore. But it also came to an end because the Stinger missile was so effective against Soviet air power.

But then do you know what happened to those Stinger missiles? The first thing that happened is a bunch of them fell into the hands of the Iranians, and so far as I know they still have them. But what if Saddam had invaded Bahrain and captured all the Stinger missiles we had sold them? That is not complicated like the Hawk missile. The Hawk missile batteries are extremely complex, using radars and so on. Any high school kid can fire a shoulder-fired Stinger missile, and it is a lethal weapon. If Saddam Hussein had 300 or 400 of those, we would have lost still more American pilots.

Mr. President, I have taken more time than I had intended. But as I have simply said on this floor, in great frustration I might say, dozens of times, when on Earth are we ever going to realize that our weapons last longer than our friendships? Every time we engage in these sales, we regret it. We left Vietnam the third most powerful nation on Earth with all the American equipment we abandoned there.

What is the point of us spending billions of dollars to develop these high technology weapons, because that has always been the big edge we had over the Soviet Union. Eisenhower made the decision many years ago to build small, accurate nuclear-warhead-carrying missiles instead of those gigantic, bulky, inaccurate things the Soviet Union was making. It was a wise decision. It was wise then, and it is wise now. But it is not wise to ask the American taxpayers to put up billions of dollars to build things like the Patriot missile, the Tomahawk cruise missile, the HYDRA-70's, the MLRS's, the F-16's, the F-17's, the Harriers, the F-117's, and then transfer those weapons to every Tom, Dick, and Harry in the world, where they can and often are used against us.

So I would just say to the President—and I am not lecturing because I think the President agrees with me—I think every war has its own unique lessons. Prime Minister Mulroney brought it home so dramatically yesterday, this lesson which is unique in this war, and that is everybody in the coalition that is a permanent member of the Security Council was guilty of having contributed to this swaggering dictator's confidence that he could cause us a lot of grief.

Mr. President, I yield the floor.

INTERNATIONAL ARMS TRAFFICKING

Mr. ROTH. Mr. President, we have all applauded the end of the war in the Persian Gulf—a war which, under the leadership of President Bush, was admirably executed by the coalition forces. The men and women who fought for us, and their families, deserve our enduring gratitude.

But there is more work to do as we grapple with the intricacies of the current situation in the Middle East and as we attempt to ensure the establishment of a stable and lasting peace in this strategically vital area.

During the prelude to hostilities in the gulf, as well as during the actual fighting, there was a great deal of legitimate concern about whether Saddam Hussein would employ chemical or biological weapons, as well as speculation about whether he had been able to produce a nuclear weapon. Thankfully, none of these fears were founded. Similarly, Saddam Hussein's Scud missiles proved to be overrated as strategic weapons and were not militarily significant in the face of Patriot missile defenses.

The Congress and the executive branch have devoted a great deal of the time and effort to establishing controls on the proliferation of nuclear weapons, chemical and biological weapons, and ballistic missiles. The success thus far of such efforts can be debated, and there is obviously further work to be done. What cannot be debated is an almost total lack of coordinated effort both at home and abroad on limiting proliferation of conventional weapons. We need to do something about that. After all, Saddam Hussein would never have become the offensive threat that he did if he had not been able to acquire thousands of tanks, artillery pieces, armored personnel carriers, antiship missiles and other powerful conventional weapons.

For me, a particular point of immediate concern is the disposition of the arms left behind in Iraq and Kuwait. I hope we learn a lesson from history. In the last war in which this country was involved, many weapons and over 150,000 tons of ammunition were left behind in Vietnam. Some of this may have rusted away in the jungles, but much of it has been set out on the tables of the hawkers in the international arms bazaar, to be delivered to the highest bidder, and has turned up in countries as far away as El Salvador. We cannot allow a similar situation to occur with the weapons involved in the Persian Gulf conflict. The disposition of these armaments cannot be haphazard or go unmonitored. I have heard reports that Soviet arms captured in Iraq and Kuwait will be given to Syria and that other weapons left behind by coalition forces will be divided up by the Gulf States. Who is going to make these decisions? What types and amounts of weapons will be involved? Will there be a careful accounting? These decisions need to be considered carefully. Let's not repeat the mistakes of the past and provide more material for the black market arms bazaars or, inadvertently start a new round in the Middle East arms race.

The problem of managing stockpiles of old or surplus arms is not unique to the Persian Gulf, but exists elsewhere in the world. What, for example, will be done with the stockpiles of weapons and ammunition left behind in Germany by the Soviet and former East German armies? The problem is a global one, and will require coordinated, multilateral efforts to effectively combat it.

Recent hearings of the Permanent Subcommittee on Investigations, on which I serve as ranking minority

member, examined the links between arms trafficking, mercenaries and drug cartels. During the course of these hearings, we heard from more than one witness that powerful conventional weaponry is readily available on the black market and that circumvention of the existing—and, I must add, inadequate—regulations is commonplace. Equally disturbing, we also heard that nobody has a clear idea of the dimensions of the international arms trade. The phase "arms bazaar" is apt. Without better knowledge of the situation, how can we hope to control it?

We need to take some necessary first steps: We must attempt to define the dimensions of the conventional arms trade, identify the players, and illuminate the loopholes in the existing regulatory framework. And then, we—the United States, our friends and allies and others—must work together cohesively and corporately toward a solution—toward control and management of the arms trade.

In making this exhortation, I recognize and share the concerns of many knowledgeable people that unilateral attempts by the United States to limit arms sales are unlikely to succeed. Moreover, every country has the right to self defense and sufficient weaponry to maintain that defense. Concurrently, however—and the two goals are not opposed—we must work multilaterally to prevent uncontrolled and irresponsible arms trading. We did not attain victory in the gulf unilaterally, and we cannot begin to control the proliferation of conventional arms unilaterally. The United States must take the initiative in rallying the support of her allies for a concerted, cohesive, and coordinated effort to address the immediate aftermaths of the Persian Gulf war, and in the longer term, to work together to make the words "arms bazaar" an anachronism of the past.

WILLIAM L. BROWN, JOHNSTON, IA, A TRUE SCIENTIST AND PIONEER

Mr. HARKIN. Mr. President, on March 8, Dr. William L. Brown, one of Iowa's—indeed the world's—leading agricultural scientists passed away at his home in Johnston, IA. With the help and comfort of his wife, Alice, Dr. Brown had struggled for over a year in his battle with emphysema.

Bill Brown was a truly exceptional man. Throughout a long career, he developed literally hundreds of special friendships, friendships based upon his kindness and untiring generosity. I am among the many nonscientists privileged to have known Bill Brown as a friend. He had a rare facility for patiently explaining complex scientific issues and challenges in a way any lay person could fully understand.

Dr. Brown will be remembered as a man always willing to encourage, and help others extend the reach of their visions. He was a scientific pioneer, and played a vital role in the development of many plant breeding methods. The early corn varieties released by Pioneer during Dr. Brown's years as the company's scientific director set the genetic stage for the explosion that has occurred in Iowa's agricultural productivity over the last three decades. We all should remember, and take pride in the fact that the world's first Green Revolution unfolded during the 1950's and 1960's in the corn and soybean fields of the Midwest, a revolution made possible in large part by the new varieties developed by genetic pioneers like Bill Brown.

A LIFELONG COMMITMENT TO PRESERVING PLANT GERMPLASM

Throughout his career, Bill Brown spoke eloquently to the need for expanded efforts to collect, characterize, and preserve plant germplasm—the genetic heritage mankind depends on most fundamentally for food, renewable fuels, and fiber. But he also matched rhetoric with action, steadily expanding the germplasm-related efforts of Pioneer Hi-Bred International, both in the United States and worldwide.

He also patiently argued for increasing government commitment and attention to the preservation of genetic resources, a cause he pursued tirelessly for 30 years with great effectiveness all over the world.

The germplasm Bill Brown helped, in one way or another, to collect and preserve is now one of mankind's dearest treasures, a treasure of unimaginable value to a world increasingly aware of the limits of its natural resources and the value of its biological heritage. Drawing upon this germplasm, plant breeders around the world have made steady progress.

This germplasm has made it possible for scientists to develop hundreds of higher yielding varieties of dozens of crops. As the era of biotechnology unfolds around the world, this rich array of germplasm will become even more essential in global efforts to satisfy humankind's need for food, fuel, and fiber. This capacity to tap a rich and broad genetic base is the legacy of Bill Brown to the plant breeders of the world, a legacy of immeasurable value to all humankind now and in perpetuity.

Among his many honors and contributions to the Nation, Dr. Brown was elected to the National Academy of Sciences in 1980, and was appointed in 1983 as the first Chairman of the National Academy of Sciences' Board on Agriculture. During 6 years as the Chairman of the academy's Board on Agriculture, Bill Brown and his colleagues on the Board issued a series of influential reports that have already proven far reaching in their impact.

These reports address the necessity of, and methods for, preserving plant genetic resources; the tremendous opportunities to advance the productivity and sustainability of agriculture through biotechnology; options to improve the effectiveness of soil and water conservation systems and policies; opportunities to enhance the nutritional attributes of animal products; the need for a more rational, science-based approach to the regulation of pesticides; and, the agricultural research and education needs of the Nation.

It was at Bill Brown's suggestion that the academy started in 1984 a project on the role of alternative farming systems on the productivity and sustainability of American agriculture. This study, which took 4 years to complete, led in 1989 to the release by the academy of "Alternative Agriculture," one of the most influential and widely read agricultural reports ever issued.

In addition to challenging an entire industry to reassess many of its fundamental tenets, "Alternative Agriculture" provided critical guidance to the Congress as we were drafting the 1990 farm bill. The report's recommended approach to deal with water quality problems served as the basis for the legislation I authored establishing the new Agricultural Water Quality Incentives Program, the 1990 farm bill's most significant new conservation program.

Bill Brown was never bothered by the notion of sustainable agriculture, and in fact could not understand why so many of his scientific colleagues and so many farmers found the concept somehow threatening. As a scientist that understood the biological basis of all agriculture, Dr. Brown believed that the fundamental concepts behind sustainable agriculture were not only sound, but essential for American agriculture to effectively address food safety and environmental concerns, while continuing to move ahead, as we must, in pursuit of increasingly productive farming systems.

We owe a great debt of gratitude to Bill Brown for his leadership, and patience, in bringing the stature and scientific insights of the academy to the study of the sustainability of American agriculture.

I believe one of the reasons Bill Brown was so interested in the scientific basis of sustainable agriculture is his extensive travel and broad scientific background. During his career, he had several chances to travel in China, and developed a well-informed, sincere respect for the biological and ecological sophistication of many of China's traditional farming methods and systems. Indeed, he bristled whenever American agriculture leaders lightly ridiculed the backward ways of Chinese agriculture.

He liked to draw upon the lessons of Chinese agriculture in putting into perspective the enormous challenges facing farmers in Iowa and throughout America. Dr. Brown would point out that, despite amazing accomplishments over the last five decades in more than doubling average per acre yields, Midwestern farmers have been working the rich prairie soils of the Midwest for just over 100 years, and had one of the Earth's richest wells of native fertility to draw upon. He sometimes challenged farm audiences to think about what it was going to take for American agriculture to match the amazing accomplishment of Chinese farmers, who have sustained high levels of crop yields for over 2,000 years.

SCIENTIFIC AND BUSINESS LEADERSHIP

During his scientific career, Bill Brown focused on the evolutionary development of maize genetics, and tirelessly supported public and private efforts to collect, characterize, preserve, and share maize germplasm—indeed germplasm of all major agronomic plants. His efforts spanned a distinguished 40-year career with Pioneer Hi-Bred International, including 21 years devoted to science, followed by 19 years of scientific and leadership positions. He served as president of Pioneer Hi-Bred from 1975–76, president and chief executive officer (1976–79), chairman and CEO (1979–81), and finally as chairman of the board (1981–84).

Dr. Brown was elected to the National Academy of Sciences in 1980; has served on innumerable NAS committees, in addition to his chairmanship of the Board on Agriculture; and has received many scientific honors. In recent years, Dr. Brown worked tirelessly to establish and sustain Diversity magazine, the only international journal linking plant breeders, plant scientists, and others interested in the preservation of genetic resources around the world.

Bill Brown has clearly been Diversity's patron saint, and took great pleasure when, in 1990, Diversity magazine was awarded the Soviet Union's N.I. Vavilov Medal for contributions to the preservation of global genetic resources.

For years to come, Bill Brown's vision of the path toward sustainable, productive, and just agricultural systems will continue guiding and challenging individual scientists and research institutions worldwide. But for Bill's friends, and I count myself among them, Bill's charm, his gentle but firm way of sharing ideas and broadening a person's field of vision, will be sorely missed.

ANTIBALLISTIC MISSILE SYSTEMS

Mr. LIEBERMAN. Mr. President, the stunning success of the Patriot has shown that antiballistic missiles can play an important role in defending our troops and our allies' cities from short-range missiles. None of us will ever forget the sight of Patriots streaking across the dark skies of Saudi Arabia and Israel to seek out and destroy the Iraqi Scuds. The crew members of the Patriots, and those who built them, will always have our gratitude.

At the same time, it is important to keep the Patriot in perspective. Its success proves only that ground-based missiles can protect troops and cities against small-scale attacks from inaccurate and relatively slow, short-range missiles like the Scud. Clearly, more sophisticated versions of the Patriots are needed, with longer ranges, greater power to demolish targets, and greater ability to handle more attacking missiles. These versions of the Patriot should be designed primarily to protect U.S. forces abroad and friendly nations that are already threatened by short-range missiles like the Scud.

The Third World threat to the continental United States, however, must be kept in perspective. Only the U.S.S.R. and China, among potentially hostile powers, have long-range missiles that can reach the United States today. And no Third World country is likely to have this capability within the next decade. Iraq, for example, was able to reach Tel Aviv only by lightening the Scud's warhead; its ability to reach Europe, let alone the United States, is far down the road.

If there is a more immediate Third World threat, it probably comes from countries or terrorist groups that may smuggle weapons of mass destruction into the United States in such things as containers or small boats. Counterterrorism methods and devices are the antidote to this, of course, not an ambitious antiballistic missile system.

Nor does the success of the Patriot strengthen the case for an expensive strategic defense initiative aimed against a massive Soviet attack. The likelihood of such an attack—which has never been high—has never been lower. Whatever Gorbachev's faults, he is a more enlightened leader than previous Soviet politicians, and the entire Soviet regime is consumed with its internal problems. And our nuclear deterrent—the Tridents, B-52's, B-1's, and land-based missiles—remains effective.

The success of the Patriot also does not mean that we should abrogate the Antiballistic Missile Treaty, which already allows for 100 groundbased antiballistic missiles. This treaty has helped to prevent an expensive arms race. If the United States, for example, had spent enormous sums on antiballistic missiles systems to protect the continental United States, we might not have had adequate resources to fund our conventional forces that operated so well in Iraq.

Moreover, an ambitious system probably would not have been effective since it could always be overwhelmed by a massive Soviet attack. Technically, it is highly unlikely to stop enough of these missiles to prevent catastrophic damage.

An expensive antiballistic missile arms race would also create enormous apprehension on the side that was lagging behind the other. The trailing side might reason that if the leading side perfected an ABM system, it could use it as part of an offensive attack. That is, an attacker could launch a massive first strike and then defend itself against whatever retaliation took place with its own ABM system. Thus, defensive ABM systems can have an offensive effect.

Mr. President, the Patriot has shown that ground-based tactical missile systems have an important role to play in defending our troops, our friends, and, perhaps, in the longer term, our homeland from some forms of missile attacks. But its success does not mean that we should embark on a crash course to perfect an ambitious antiballistic missile system that would probably be ineffective, destabilizing, and premature. We must build upon the Patriot's accomplishments, but not distort our other defense and arms control policies in the process.

RETIREMENT OF RICHARD STOLZ

Mr. LEAHY. Mr. President, I rise today to honor my friend Dick Stolz, who retired recently from the Central Intelligence Agency.

Dick was born in Dayton, OH, and graduated from Amherst College. After 3 years in the Army, he joined the CIA in 1950. Dick served his country well in various European posts throughout the cold war and at CIA headquarters during and after the Vietnam war until he left the Agency the first time in 1981.

I got to know Dick very well in the late 1970's and early 1980's during my tenure on the Intelligence Committee. I came to respect and admire him as an example of the best our intelligence services can produce. There is nothing of the "cowboy" about Dick. An Iran/Contra caper would be outside his ken. He epitomizes the careful, calm intelligence operator who understands, accepts, and respects the limitations democracy imposes on intelligence activities.

I recall sitting in Dick's home in one of his European postings, watching the first shuttle takeoff on his television set and talking about world events. It was one of those unrehearsed and off-the-record conversations that remains in my mind because of the professionalism and dedication he reflected.

When William Webster took over as CIA Director after William Casey's death, he brought Dick Stolz back to the Agency as his head "spymaster." As Deputy Director of Operations he presided over some of our Nation's most delicate intelligence operations

at a time of dramatic change around the world.

Mr. President, last month, Dick Stolz was awarded the Distinguished Intelligence Medal, the CIA's highest honor. Few have deserved this accolade more than Dick. I want to congratulate him and thank him for his 35 years of service to his country.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business has now expired.

DEPARTMENT OF DEFENSE DESERT STORM SUPPLEMENTAL AUTHORIZATION AND MILITARY PERSONNEL BENEFITS ACT

The PRESIDING OFFICER. The Senate will resume consideration of S. 578 which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 578) to authorize supplemental appropriations for fiscal year 1991 for the Department of Defense for Operation Desert Storm, to provide military personnel benefits for persons serving during Operation Desert Storm, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Warner amendment No. 30, to express the sense of Congress regarding the development and testing of ballistic missile defense systems.

(2) Nunn amendment No. 31 (to Amendment No. 30), to provide for enhanced research, development, test, and evaluation relating to ballistic missile defense.

Mr. BINGAMAN. Mr. President, I rise in opposition to the amendment offered by the senior Senator from Virginia. This amendment, which effectively puts the Congress on record that the U.S. Government should unilaterally jettison the ABM Treaty for no good reason, should be rejected out of hand.

There is no reason to vote for this amendment at this time, and every reason to reject it. The goal of this amendment is not to provide better protection to our troops deployed overseas or to our allies or to the United States against modest ballistic missile threats. That can be done, and certainly for short-range missiles done better, within the constraints of the ABM Treaty, or with very modest changes in the treaty's numerical limits that could be mutually agreeable with the Soviet Union. The target of this amendment is the United States-Soviet strategic arms control process.

We can and should develop better theater missile defenses. That is not the issue the Senator from Virginia is addressing. The Congress last year provided $398 million for such defenses, almost triple the administration's request. The Congress is providing very strong support for procurement of Patriot missiles in the supplemental and under Senator NUNN's substitute amendment we would show even stronger support. I suspect that the much larger request in fiscal year 1992 for theater missile defenses will win broad support in the Congress.

None of this requires any change in the ABM Treaty. Such missiles as Patriot, ERINT, THAAD, and Arrow all are completely compatible with the treaty, as are their sensors, both ground based and geostationary space based.

The administration is trying to sell Brilliant Pebbles as a theater missile defense. This is frankly ludicrous. Brilliant Pebbles cannot engage short-range missiles at all since they don't rise high enough above the upper atmosphere. The simple countermeasure of depressing the trajectory of intermediate-range missiles would make Brilliant Pebbles' job close to impossible because of the heating of its sensors in the upper atmosphere. I would ask unanimous consent that a recent article by Richard Garwin which goes into great detail on this point be printed in the RECORD at the end of my remarks.

I would also point out that a fleet of a thousand Brilliant Pebbles could be overwhelmed by a large enough barrage of intermediate-range missiles launched simultaneously.

The bottom line is that if you want to protect our troops deployed abroad or our allies from short- and intermediate-range ballistic missiles, you don't need the Warner amendment.

What about protecting the United States? The first question is against what? Everyone, including Senator WARNER and the administration, appears to agree the answer is not against the Soviet Union. That job is too hard. A thousand pebbles would easily be overwhelmed by the Soviet arsenal and by Soviet antisatellite capabilities.

So the administration has now set the threat to be engaged as Third World intercontinental ballistic missiles. The number of Third World nations which will have intercontinental ballistic missiles capable of reaching the United States in the next decade or two is very small. And the number of intercontinental missiles they would have is in turn very small. The Warner amendment acknowledges this in its findings.

If the threat is a very small number of missiles of very modest capability without MIRV's and decoys and other countermeasures, missiles which by the way would be very vulnerable to preemptive strikes by our forces, then ABM Treaty compatible ground-based defenses can do the job without reenergizing a strategic arms race with the Soviet Union. We again do not need the Warner amendment. At the most we may need very modest changes in the treaty's numerical limits that might well be mutually agreeable with the Soviet Union.

Many of us who have supported ballistic missile defense funding over the past 8 years have been trying to point the SDI program in a direction that would be sustainable. We want to support ballistic missile defense programs that are technically sound, that are affordable, that are aimed at real threats, and that would not terminate the United States-Soviet arms control process and rekindle the United States-Soviet arms race. The Nunn substitute points us in that sustainable direction.

The Warner amendment on the contrary points us toward confrontation at home and abroad. Its purpose is poltics, not defense. Its key assumption is that development, testing, and deployment of space-based defenses, the latest being Brilliant Pebbles, should be the centerpeice of our program. That assumption is entirely unwarranted.

It is striking to me that despite the strong congressional guidance in last year's defense authorization bill that the administration should emphasize the mature, ground-based treaty-compliant defenses and go slow on space-based weapons, the administration once again chose confrontation in its allocation of SDI funds. It cut back funding for ground-based weapons and sensors, funding which Senator NUNN's amendment would restore, while throwing $392 million at Brilliant Pebbles, $63 million more than the request. Yet, these pebbles are technically immature. The only Brilliant Pebbles test conducted thus far was a failure because no telemetry was received. They are likely to be enormously costly, despite the ever decreasing cost estimates from the Pentagon. They are irrelevant to much of the real threat we face, even if they work. Their real target would be the Soviet Union and the arms control process. The Soviets would likely make the same sort of worst-case analysis of Brilliant Pebbles capabilities which has driven the strategic arms race for 45 years. They will develop both Asat's to shoot the Brilliant Pebbles down and gear up their own ballistic missile production lines, about the only product where the Soviets have shown themselves quite capable of competing despite the woes of their economy.

If we take the route proposed by Senator WARNER, we are headed toward greater vulnerability for this Nation, not less.

I urge my colleagues to vote down the Warner amendment and support the Nunn substitute. We did not fight the Persian Gulf war to jettison arms control. The American people want arms control, not only with the Soviet Union, but in the regions of instability around the globe. The centerpiece of the New World Order is hopefully not going to be a new arms race.

The right response is for us to reenergize our efforts to build an effective multilateral missile nonproliferation regime, to work for regional arms control agreements, and to develop affordable, technically mature defenses to counter the real threats we face. The Warner amendment is the wrong response. It should be soundly rejected.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I now ask that the amendment of the Senator from Virginia be withdrawn. That will bring the amendment of the Senator from Georgia with it.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

The amendment (No. 30) was withdrawn.

Mr. WARNER. Mr. President, yesterday I had adequate opportunity to express my views to the Senate regarding the intentions of this Senator, and indeed many others, simply to get the Congress of the United States on record in the sense-of-the-Congress resolution in support of the President of the United States.

I think it is imperative that we move forward in these arms control negotiations which have been under way for over 5 years. I personally think it would be a very helpful step for our President, as negotiator under the Constitution, to have the support of the Congress of the United States. I fully intend to continue, as do many other Senators, to press this point at such times as we deem opportune.

The reasons for taking it down today are quite simple. Senator NUNN and I, Senators GLENN and MCCAIN and many other Senators, have worked very hard with our leadership to prepare a package of benefits for the men and women of the Armed Forces. Deservedly they should receive these as early as possible. Given the fact that we are due to go out on a recess period next week, the fact that there is a very large delegation of Senators departing this evening, practically speaking this bill must be addressed today, and, hopefully, the companion bill, offered by the chairman of the Senate Appropriations Committee, the distinguished Senator from West Virginia, can likewise be acted upon today so that these matters can be quickly concluded on our return.

Mr. President, at this time I yield the floor.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I thank my colleague from Virginia. I think in the overall scope of things, even though from my perspective a vote on these two amendments would be perfectly appropriate and probably instructive now, I think it would send the right signal—if the vote moves in the direction that I hope it would move, toward my amendment in lieu of the Warner amendment—to the head of the SDI office about allocations, and about the priorities in terms of the Senate of the United States at least.

We do not know how the vote would come out. I do not have a vote count. Nobody knows who is going to win these matters. I do believe there is strong sentiment here to move forward with the ground-based systems. I think there is strong sentiment to make sure that we do not, in the quest for something that will not be ready until after the year 2000, take away money which is being used now for systems that have near-term application against limited attack, against accidental war, against third country attack, and against unauthorized launch, which is what I think the priorities of the Congress should be and the priority that the President at least indicated that he might be moving toward in his State of the Union Address.

Mr. President, for the benefit of Senators who may not have been able to follow our proceedings on this measure last night, I will recap it briefly. Yesterday evening Senator WARNER offered an amendment to this bill that would express the sense of the Congress that the President should negotiate, within the next 2 years, "an agreement which would clearly remove any limitation on the United States having effective defenses against ballistic missiles."

As I mentioned last night, it is not entirely clear whether this means the removal of treaty restrictions on development and testing or the removal of all treaty limits, including its limit on ABM deployments. There are all sorts of questions here that we would have to get answers for from our military and intelligence, whether the Soviets may be prepared to move out more readily than we are. This is not a one-way street. When you remove restrictions on America, you also remove restrictions on the Soviet Union. The Soviets have already deployed an ABM system around Moscow and could be in a position to break through in this area quicker than we could in some categories, particularly if SDIO continues to push things that are not going to be ready until, at the very best, after the year 2000 and diminish the importance of the systems that have near-term application.

There are all sorts of questions that I think need to be answered. As I told my friends from West Virginia last night I think we will be getting answers to a lot of these questions in the next 2 or 3 months in the course of our subcommittee and full committee deliberations on SDI and other related programs. We are going to be in a much better position to address this issue in 2 months, 6 or 8 weeks, than we are now in terms of the answer to the questions, and we will have a chance to hear from the administration.

It is my feeling that the head of SDI has not completely communicated with the President since his State of the Union as to the direction in which the President wants this program to move. But I may be off course on that. I am not sure whether that dialog has taken place. It is clear to me the President has a nearer term type priority than the program budgets reflect in SDI, particularly since SDIO is cutting the near-term programs and emphasizing Brilliant Pebbles, which is going to be much further down the road.

For all of those reasons, I proposed a substitute amendment, cosponsored by Senator HEFLIN, Senator SHELBY, Senator DIXON, Senator BINGAMAN, Senator LEVIN, and Senator KENNEDY, that would provide the necessary funding for two responsible missile defense initiatives that build on the lessons in the gulf war.

First, the substitute amendment authorizes $224 million for additional Patriot procurement. This funding is taken from appropriated funds for the fiscal year 1991 Army missile procurement account that we have determined are available. So there is no net increase to last year's defense budget with my substitute amendment.

This Patriot procurement will be used to begin placing Patriots in storage for our maritime prepositioned ships that are anchored around the world so the United States' rapid deployment forces, responding to regional crises, have early protection against future Scud missiles or other similar threat.

Second, the substitute amendment adjusts the SDIO Director's 1991 funding allocations to restore $218 million in cuts to four ground-based treaty compliant ABM ground-based interceptor and radar programs that could be available in the near term protection of the U.S. homeland against long-range ballistic missiles fielded by some future Saddam Hussein.

My amendment makes no net increase in the 1991 SDI total of $2.89 billion. The $218 million that the substitute amendment adds to these four treaty compliant near-term programs is freed up by making across-the-board cuts of 9 percent in the other SDI accounts.

A little history here: In last year's defense authorization and appropriations acts, Congress reduced the President's SDI request by 35 percent, from $4.46 billion to $2.89 billion. However, in the February 4, 1991, letter to the Congress announcing its allocation of the 1991 funding, SDIO cut the four ground-based treaty compliant interceptor and radar programs by over 50 percent while increasing Brilliant Pebbles by 20 percent above the requested level.

There may be reasons for this. I cannot foreclose the possibility that Direc-

tor Cooper had good reasons for this. We do not know what those reasons are now. We will be hearing from him in the next 4 or 5 or 6 weeks.

I hope to personally spend some time with him to get his thinking on all of these programs. But at the moment it appears we are forsaking near-term possibilities in the interest of something that will not be ready for at least 10 years.

The Nunn substitute restores the four ground-based treaty compliant interceptor and radar programs to the funding level originally requested by the President in his fiscal year 1991 request.

As I explained to my colleagues last night, in my view at this juncture, it is not the ABM Treaty that is standing in the way of providing the American people with a credible deployment option for limited strikes in the next 5 to 10 years. By limited, I mean accidental or unauthorized launches or third country ballistic missile launches, the SDIO preoccupation with the longer term and the less technically mature Brilliant Pebbles program.

What SDI has shown with its funding allocation report is that it is prepared to leave America undefended to the long-range ballistic missile attack throughout the 1990's, in order to concentrate its funding on a space-based option that, if successful, will not be ready until the next century. That is where the funding is going.

That is not what the President indicated in his speech were his priorities, but that is where the money is being spent.

Secretary Cheney, on the other hand, warned that the long-range missile threat to our country from Third World nations will be very clear and manifest well before the turn of the century.

In summary, what SDIO is doing is deferring, deliberately, ground-based programs that could be available in the near term in the name of pursuing much longer space-based options.

The Warner amendment does not address this problem. The Senator from Virginia has expressed his great concern about this third country problem, but his amendment does not address the problem, and the problem has to be addressed by looking at the funding of the program. The substitute amendment would do that.

Mr. President, I am grateful that the Senator has seen fit to withdraw his amendment, not because I do not think a vote would be healthy and instructive, but because I think it would be. I believe he has made the prudent, responsible decision here. If we are going to be able to move this bill today, there is not doubt in my mind that we have to ward off amendments.

I know the leadership will be coming out with a benefits amendment in a few minutes, and that is one that the Senator from Virginia, the Senator from Arizona [Mr. MCCAIN]; the Senator from Ohio [Mr. GLENN]; myself and many others, such as Senator LEVIN, have worked on for a long time. I hope we can pass that leadership amendment and that then we will be able to urge our colleagues to take their amendments, as worthy as they may be, and defer those to another bill, so that we can move this bill out, so that when the Senator from Virginia and the Senator from Kentucky get to the Middle East some time tomorrow, they will be able to tell the troops that this bill passed, that the funding is in place, and that these very important benefits for the men and women who served, as well as their families, will be available.

I thank the Senator from Virginia for his responsible course of action. As he always does, he has taken, I think, the action that is in the best interest of the institution.

Mr. WARNER. Mr. President, I appreciate the sentiments expressed by my good friend, the chairman, and I hope that at some point in the future, I can be associated with him on a joint resolution that would at least put the Senate on record as supporting the President in his efforts of some 5 years. Those efforts, which I think should be resumed with a stronger vigor, can receive a stronger impetus, if this Congress of the United States joins the executive branch and the legislative branch together. That is the purpose.

My good friend and colleague and fellow member of the committee, the Senator from Maine [Mr. COHEN] has raised a technical point this morning for which I will place an explanation in the RECORD. It is well taken. At no point in this sense-of-the-Senate are we encouraging a member of the President's Cabinet either to violate the ABM treaty or to violate the law of the land which, at this pioint, is the Levin-Nunn amendment. That amendment expires on September 30, 1991, and this Senator, and others, will encourage the Senate to renew it. But that is a battle for a later date.

So, Mr. President, what the Senator from Virginia needs now is time, time to go to the American public. I want this issue discussed on the village greens of every community in the United States, as to why this Nation is restraining its scientific and industrial base for moving forward with testing and research only, not deployment, testing and research only, to provide deterrence, to provide protection for the men and women in the Armed Forces, should they ever be deployed again in a hostile theater. Other nations are doing it; why can the United States of America not do it?

I, frankly, think that the Soviets—as was stated by the Vice President here recently—will see it in their interest, because they also are subject to the proliferation and the risks associated with the proliferation of ballistic missiles worldwide. This is probably one of the greatest challenges to mankind today, to see whether or not we can stop this proliferation of these frightful weapons, which are basically weapons of terrorism, as opposed to military weapons.

I think it would be a healthy step for the United States to unleash, unfetter, and allow its industrial and scientific base to go out and determine if in fact there is a body of fact or if there are instruments which can perform to interdict these missiles in some manner, to protect not only Americans and American troops, but our allies and our friends.

The President has the right to do this now, and he is doing it. I simply ask that this institution go on record recognizing this threat as a growing one to ourselves, our friends, and our allies, and to join with the President and go forward.

Mr. President, this debate will move from this Chamber to the village greens of this country, and I predict that once the people of the United States grasp this fact, they will communicate with their elected representatives, and we will see progress in the direction of the purpose of this amendment.

Mr. NUNN. Will the Senator yield?

Mr. WARNER. Yes.

Mr. NUNN. The Senator mentioned that the President is already moving in this direction, and I think that our arms control negotiation for some time has indeed asked the Soviets to give more flexibility in the ABM area. I ask the Senator, though, is it not correct that the President would have the opportunity, if he chose to, to take a look at the provision in the ABM Treaty, if he ever felt, as the Senator from Virginia feels, that that treaty is impeding our ability to defend ourselves and is exposing the American people to danger. He has a right to give 6 months notice and eliminate any obligation under the treaty; is that not the case?

Mr. WARNER. Mr. President, the Senator is correct. The ABM Treaty does provide for withdrawal upon 6 months notification to the Soviets.

Mr. NUNN. There is nothing in the treaty that keeps the President, if he sees danger, from taking steps to protect the American people; and whether it is next year, next month, or next week, he can take that step, and if he believes the ABM Treaty is eliminating any programs to protect the American people, there is nothing to keep him from taking that step; is that correct?

Mr. WARNER. Mr. President, that is correct. Again, 6 months' notice is the only requirement. I point out that it is not the intention of this amendment or sense of Congress to abrogate the entire treaty. There are certain provisions—the deployment provision has some mutual benefit. I am saying that

we ought to support our President, as he tries to negotiate more flexibility, such that our industrial and scientific base, which has exhibited remarkable talent here, particularly in the quick fixes of the Patriot, could perhaps devise a better means to deter and defend against this category of weaponry.

Mr. NUNN. Will the Senator agree that one of the ways we can best protect the people is to accelerate those people that would be available in the next 10 or 12 years?

Mr. WARNER. Mr. President, if you recall, during the course of the deliberation in the Senate Armed Services Committee, I offered an amendment to do many of the things that the Senator has here in his second-degree amendment. At that time, the Senator said, if the Senator from Virginia will take that amendment now, we will consider it on the floor. Am I not correct?

Mr. NUNN. Well, the Senator offered the amendment in the committee that basically required the President to breach the ABM Treaty.

Mr. WARNER. I am talking about the amendment to augment the funding for the Patriot system. The Senator said he wished a clean bill in the committee.

Mr. NUNN. The Senator's amendment is different from this one. I support that. It is a technology development part of the Patriot. This is a procurement part. These are two different amendments. I support the Senator's amendment.

Mr. WARNER. I will support many of the features of the Senator's amendment. I say, in the spirit of good humor, that he is rearranging the deck chairs here. In the SDI Program, I do not think we want to do that either. That is another reason to bring it up.

Mr. NUNN. The Senator from Maine is correct when he said we need more time to deliberate on this issue. That point, I think, is pretty clear to everyone.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I ask the Senator from Virginia if he will yield.

Mr. WARNER. Yes.

Mr. McCAIN. First of all, if we are going to carry on this extended debate, I would like to continue it. I was under the impression we were not going to drop the Senator's amendment.

Mr. WARNER. Mr. President, the Senator is correct.

Mr. McCAIN. If we are going to continue this debate, I wish to seek recognition on my own time and I have extended remarks and views on this issue. I would be more than happy to do that, but I would like to know if we are intending to drop this at this point.

Mr. NUNN. Will the Senator yield for a brief question?

Mr. WARNER. The amendment has been withdrawn.

Mr. NUNN. The substitute also has been withdrawn. The Senator from Arizona has given us incentive to sit down and go to other things.

Mr. McCAIN. I have no further questions.

PRIVILEGES OF THE FLOOR

Mr. WARNER. Mr. President, I ask unanimous consent to allow Nancy Pomerleau of my staff to have floor privileges during the task force proposal to provide certain benefits for returning Persian Gulf troops. This staff member has been invaluable to this Senator and other Senators and she originated certain of the concepts for the increasing life insurance program, increasing the dollar value to the beneficiaries. I would like very much to have her be given floor privileges.

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

Mr. LEVIN. Does the Senator from Virginia still have the floor?

Mr. WARNER. I do.

Mr. LEVIN. Will the Senator yield for a question on the amendment which has just been withdrawn?

Mr. WARNER. I yield.

Mr. LEVIN. I have no desire to have extended debate either. I agree with the Senator from Arizona, the amendment has been withdrawn. I have lengthy remarks, but I am not going to make them either, based on the remarks last night about this. The Senator from Virginia raises a very significant issue in his sense-of-the-Congress resolution.

Mr. WARNER. I thank my good friend and colleague.

Mr. LEVIN. It is, indeed, worthy of debate. It has always been the possibility, I believe, if there were a mutual move toward defenses on the part of the United States and Soviet Union that that could enhance stability and indeed contribute to the security of both nations. So I am not one that immediately disregards much of the language in the resolution that the Senator was offering.

I happen to disagree with parts of it because it commits us or appears to commit us to a unilateral withdrawal from the ABM Treaty in the event that negotiations do not lead to modifications. It is that unilateral breach of the ABM Treaty and commitment thereto by this Congress as reflected in this resolution that I object to, not the general concern that the Senator raised about defenses and the possible contributions to the defense assistance to the stability of the world and the security of America.

In that regard, my question is: Specifically, in paragraph 5 of the resoluton it states that if the agreement to modify the ABM Treaty is not negotiated between the President and the Soviet Union, within the period described as a 2-year period, then the President should make a determination under all the circumstances as to whether or not continuing U.S. adherence to the ABM Treaty is in our national interest. I believe I am reading that correctly.

Mr. WARNER. Mr. President, the Senator is correct, and I bring to his attention presently that is that authority which was cited by the distinguished chairman in the treaty.

Mr. LEVIN. Exactly right. But is it not true that the President's determination at that time could reflect the status of the START negotiations as to whether or not we have succeeded in reducing offensive weapons, which is related to the question of defenses because there is obviously a relationship? A country that faces an increased defense may want to increase its own offense, if it is not part of the negotiated regime.

My question though is this: The President 2 years down the road, were he to make that determination, would know what the outcome of the START negotiations is, or at least the status relative to offensive weapons and also know the status of reform efforts inside the Soviet Union and the impact of any unilateral withdrawal by us on those reform efforts by some inside the Soviet Union. Is it not true that under this language the President would make that determination on whether it is in the national interest to stick to ABM 2 years down the road, but we basically are making that determination as a Congress in this resolution?

Mr. WARNER. Mr. President, that is not the intent of this resolution. I thank the Senator for giving me the opportunity to clarify that.

I shall also clarify one other phrase in here which the distinguished Senator from Maine brought to my attention this morning. I will do that as part of the RECORD so as not to further delay the proceedings.

Paragraph 5 simply says, "It is our desire as an independent body to receive from you in no less than 2 years' time your own judgment as to the interest of our country in continuing with any one or all of the provisions of the ABM Treaty," and of course at that time the President would take into consideration all the developments in START, CFE, and such other negotiations and events as may be relevant to the determination.

Mr. LEVIN. Another question: Despite other language in this resolution and other language on the floor by the Senator and others, it is not the intent then of this resolution for the Congress now to say that it is our determination that if negotiations on amendment of the ABM Treaty fail that it is in the national interest of this country to withdraw from the ABM Treaty; it is not the intention to put the Congress on record in saying that in this resolution?

Mr. WARNER. Mr. President, the purpose of the resolution is simply to say the Congress wants to support the President. We hope he would achieve certain goals. The amendment is in no way intended to force Congress or the administration to make a decision now as to what should be done 2 years henceforth.

Mr. LEVIN. Or what the national interest is?

Mr. WARNER. No; I think it is very much in our national interest.

Mr. LEVIN. No, no. If the negotiations fail—if I could pursue this for one moment—if the negotiations fail to modify the ABM Treaty, is it the intent of this resolution to say it is then in our national interest to withdraw from the ABM Treaty?

Mr. WARNER. Mr. President, I personally think, and I have tried to phrase it in here, that it is in our national interest to get on with the testing and the development of such systems as may more successfully defend ourselves and deter the use of these ballistic missiles. But I think it is properly within the constitutional province of the President to undertake these negotiations.

To answer the Senator's question, I would want to await the outcome of the negotiations to see if in good faith the Soviets endeavor to reach a meeting of the minds with the President, but that period of time should not be indefinite. An effective and fiscally sound missile defense program cannot be developed and tested under the current terms of this ABM Treaty, even in the near term, however. That is all I am saying.

Mr. President, I thank the Chair and I thank the Senator.

Mr. LEVIN. I thank the Senator.

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

Mr. SPECTER. I thank the Chair.

Mr. President, I commend my distinguished colleague from Virginia, Senator WARNER, for offering this amendment. I believe that it is a subject which has to be examined. And I thank my distinguished colleague from Michigan for his clarifying questions with respect to the ABM Treaty; because as I read the Warner amendment it does not seek to stake out a congressional position, or Senate position, to eliminate the ABM Treaty, but to reexamine the issue of defense and to call for the President to consider what our course should be in the future and report back to Congress.

There have been some very startling developments with the Patriot missile's ability to intercept Scud missiles in the gulf war, and the distinguished Senator from Virginia has moved with dispatch to focus the attention of the Senate on these very important issues.

My own view is that we ought to be focusing more on defense. The mutually assured destruction doctrine has not made sense for a long time, and that the ABM Treaty which has precluded the defense against missiles for the United States and a defensive system for the Soviet Union. This arrangement has had some limitations right along, but we have stayed with it. However, there is a new era present when Third World countries have threatening missile systems, as we have seen with the development of the missile systems by Iraq. So that this is an issue which ought to be reconsidered.

The question about the ABM Treaty is something that has to be considered jointly by the United States and the Soviet Union, and the Warner amendment, as I read it, does not call for a withdrawal of the ABM Treaty or its abolition but it is something that both the United States and the Soviet Union ought to address in an effort to come to some agreement in a way to stabilize the world situation and to move ahead with arms control.

There has to be some taking into account of the missile threat posed by Third World countries. So as we consider this issue I think it is very important that our focus be on this issue and the Warner amendment has moved in that direction.

Mr. President, I recall the speech by President Reagan. Actually, it was in his debate with Mr. Mondale in the 1984 campaign when President Reagan suggested that the United States should proceed with the strategic defense initiative in a context of sharing United States scientific research with other nations, including the Soviet Union.

Back on September 17 of 1987, when I had an occasion to travel to Philadelphia with President Reagan for the bicentennial celebration, I asked him about the comment which he had made in that debate with Mr. Mondale. President Reagan said that it was his hope that the research which the United States would achieve from the strategic defense initiative would be shared, and it was his vision and his goal and his ideal to see to it that the defense mode ought to be available to every country to eliminate the possibility of missile attack.

Mr. President, the wanton actions of Saddam Hussein have sent a sobering message to the world on the vital need for free nations to be able to defend themselves against ballistic missile attacks. The obvious lesson is that we can no longer rely on offensive military prowess alone to deter threats to our populations. The cowardly Scud attacks on Israel's civilian population have changed the climate for military planners. Our strategic doctrine—limited primarily to the Soviet threat—is becoming outdated in the face of new threats from countries such as Iraq. This threat is not one that will likely diminish as other Third World countries are developing significant ballistic missile forces and will likely pose new threats to regional stability in the not too distant future.

If there is a positive lesson to be learned from Iraq's nefarious actions, it is that antitactical ballistic missile defense [ATBM] can and do work. On January 18 when the United States Army shot down an Iraqi Scud missile aimed at the United States airbase in Dharan, Saudi Arabia, the theoretical debate over whether missiles can shoot down missiles was resolved.

Also factoring in this debate was the successful test intercept by a single stage rocket system of an unarmed ICBM in a space orbit. This proved that the successes of the Patriot can be repeated at higher altitudes and against more numerous and much more elusive targets such as the MIRV'd heavy ICBM's in the Soviet arsenal. The successful test of this first ERIS launch provides much more reason for optimism on the whole SDI program.

Thus, if we can build upon these recent successes and judge the merits of SDI on objective, nonpartisan terms, we can offer our country feasible options on missile defense. But first, we must abandon the antediluvian notion that SDI is a star wars futuristic concept that will create world instability and give rise to an expansion of offensive threats. On the contrary, if technology can be judged as it relates to applicable real world threats—such as those posed by the global proliferation of more advanced ballistic missiles—I am confident that we will all come to understand the utility of these critical SDI technologies for world stability and our own survival. To prove that this is the case, just ask the people enduring the Scud missile attacks if the defense against ballistic missiles is science fiction that is too proactive.

Our scientists have made great progress during the past 7 years since the concept for SDI was first announced in 1983 despite the fiscal limitations imposed upon the SDI program. As we are now witnessing in the gulf, our military technology has advanced rapidly over the last few years and this is an opportune juncture to explore new strategic options.

We are now at a point in history where it is incumbent upon our Government to make a decision on how best to meet the strategic challenges that face us in a rapidly changing and uncertain global environment. Although the Patriot air defense system has been of tremendous value in our current situation, it is only a first step into a new era of SDI defenses. The Patriot was originally intended to shoot down aircraft and not missiles and was adapted to intercept relatively slow flying Scuds. As a point-defense system, Patriot has limited capabilities. However, Patriot has proven invaluable in saving civilian lives and has served

as a proof of concept that missile defenses are practical and necessary.

To counter more advanced missiles such as the SS-21's and SS-23's and newer generations of ballistic missiles that will likely be procured by Third World countries, the United States should pursue an accelerated strategy of developing multilayered SDI defenses capable of intercepting all types of missiles at various altitudes and ranges.

According to CIA Director William Webster, 15 nations other than the United States and U.S.S.R. are acquiring ballistic missiles, many that are already more advanced than Scuds. Eventually several Third World countries will have the ability to launch missiles capable of reaching the United States. The Chinese have made available CSS-2 intermediate range missiles with a range of 1,900 miles to Third World buyers and Iraq recently demonstrated its ability to launch a three-stage 48-ton rocket. As much as we try to control the proliferation of missiles to these Third World nondemocratic countries, there is little doubt that they will obtain more advanced missile forces and capabilities in the future. The best option to control the rampant ballistic missile threat is not only by treaties and nonproliferation agreements, but by SDI.

In his State of the Union speech on January 29, President Bush stated what should be the objectives of the SDI Program:

> Let us pursue an SDI Program that can deal with any future threat to the United States, to our forces overseas and to our friends and allies.

I believe that we must make a decision now to develop SDI missile defense technologies that will keep the world safe into the next century. SDI offers us the means to make the world a more stable place and fulfills a fundamental component of our Government's primary obligation to protect the people.

I fully supported the administration's request for $4.6 billion for SDI in fiscal year 1991 to keep the SDI Program viable and was extremely disappointed when some of my colleagues voted to slash the budget to $2.89 billion and undermine the program by delaying some of the most promising technologies, such as Brilliant Pebbles.

President Bush and Secretary Cheney made SDI a priority in our national security strategy and argued strongly in favor of a robust SDI Program. The recent gulf crisis proved that their unheeded calls for a great SDI Program are correct. I believe that it is essential that Congress reconsider the importance of the SDI Program and put partisan differences behind us in the interest of national security. We need to address the strategic challenges ahead from a position of strength and security not from panic and temporary quick fixes.

Because of the advent of fesible SDI technologies such as the Arrow, THAAD, HEDI, ERINT, and Brilliant Pebbles, we now have the ability to develop a multilayered, low-cost, technologically feasible, and highly effective defense against ballistic missiles.

There are a variety of benefits we can derive from the further development of these technologies. Some of the major implications include: the enhancement of our strategic deterrent vis-a-vis the Soviet Union; provision of an insurance policy against unauthorized or accidental launches of ballistic missiles; protection against Third World or rogue terrorist threats; and inducement for, and stability factor in, arms control; and a catalyst for keeping America economically competitive and on the threshold of innovative spinoff technologies.

SDI has the potential to become the product and success story of American innovation. The same American ingenuity and resourcefulness that landed a man on the Moon, can provide America with the capability to defend ourselves from chemical, biological, and nuclear missiles.

SDI technologies are basically categorized in three areas: space-based interceptors, ground-based interceptors, and theater defense programs. The combination of space, theater, and ground-based systems will allow for the interdiction of short-range intermediate-range and intercontinental ballistic missiles. The strategic defense initiative director, Ambassador Henry Cooper has termed this concept of combining ground- and space-based systems as GPALS for global protection against limited strikes.

The most promising of the space-based technologies is called Brilliant Pebbles. Basically, this notion consists of constellations of about 1,000 electronically advanced, highly maneuverable satellites that could track and collide with launched missiles. We have had the ability to track and detect missiles for over 30 years and this technology utilizes these capabilities. General Monahan, former Director of the Defense Department's Strategic Defense Initiative Organization [SDIO] already has announced that the technology is at hand for the Brilliant Pebbles space-based protection system.

The concept for Brilliant Pebbles is relatively simple. These interceptors would be about 1 meter long and weigh about 100 pounds when fully loaded with fuel. The Pebbles would be deployed individually or in groups by expendable launch vehicles and dispersed about 250 nautical miles high in orbits around the globe. The pebbles would have the capability to detect, track, and then collide into ballistic missiles, destroying them by nonnuclear means by sheer impact.

SDI theater defense programs are of particular interest against the backdrop of the current use of Iraqi Scuds. The Patriot has already played an important role in demonstrating the viability of this type of technology. Reports indicate that the Ground-Based Interceptor Program [GBI], the High-Endoatmospheric/Exoatomospheric Defense Program [E2I], the Theater High Altitude Area Defense [THAAD], and the Extended Range Interceptor Technology called ERINT are very promising and have proven capable in experiments and demonstration tests.

Of special interest in the theater defense arena is the joint United States-Israeli antitactical ballistic missile program called Arrow. The Arrow was designed to intercept short- and medium-range missiles that pose an immediate threat to Israel and our forces in the region. Vice President QUAYLE stated that Arrow is one of the most promising programs in development and is further along toward deployment than anything else in the United States.

The Arrow missile, which has a range of over 40 miles and flies at 2,500 mph or 10 times the speed of sound, was recently tested and proved successful as a missile intercept. The cooperative Arrow project reached its first goal in time and within budget and is a good example of the benefits that can be derived by matching United States and Israeli scientists in developing state-of-the-art technologies.

In view of the recent Iraqi Scud attacks, the Arrow project has taken on new urgency and significance. The Arrow missile will be able to target Scuds and more advanced missiles at a higher altitude and with a greater footprint or area covered—10 times more extensive than that of the Patriot—thereby reducing the dangers from chemically or biologically equipped warheads and lessening the risks from damage caused by falling missiles intercepted at a lower altitude.

It is imperative that the United States continue this commitment to the Arrow project and proceed along the memorandum of agreement that has served United States and Israeli planners until this stage. I urge Secretary Cheney to proceed along the same guidelines delineated in the original memorandum of agreement. The Congress has expressed its desire for funding and development of this cooperative Arrow Program and for it to proceed to its next stage the United States must adhere to the spirit and intent of the agreement. The Arrow combined with a less capable Patriot point defense would serve as an excellent layered defense in future battle scenarios.

Although theater defense is of immediate concern, SDI has many other implications to our future national security doctrines on a global basis. In a

world of increasing uncertainty, we can no longer rely on the obsolete notion of mutually assured destruction, also known by its appropriate acronym of MAD. In contrast to the Soviet Union and despite allowances under the ABM Treaty, the United States has chosen not to deploy a limited antiballistic missile system or create extensive civil defenses. We have literally gambled under the zero sum doctrine of MAD. But can we still afford the risks?

SDI will act as a deterrent and dissuade the Soviets or anyone else from attempting a first strike on our land-based ICBM's. Even if the system is only 50 percent efficient in knocking down missiles, it would still enormously complicate Soviet objectives by improving the survivability of our retaliatory forces.

I believe that it is in the interests of both the United States and the Soviet Union to abandon MAD and work toward building a new relationship of mutually assured survival. The leaders of both nations have a vested interest in maintaining stability and assuring that nuclear war be avoided at all costs. SDI is the only insurance policy that will serve this cause and meet the changing strategic contingencies into the next century.

What are the contingencies? Consider the following: what if events in the Soviet Union changed overnight and an ultranationalist organization, such as Pamyat, seized power and they took control over the strategic missile sites? Or, hypothetically, what would happen if nuclear weaponry fell into the hands of leaders of an uprising in a newly created Islamic Federation of Turkestan? Speaking to a National Defense University Symposium last fall, Vice President QUAYLE addressed these possibilities:

> A frightening question is emerging in this nuclear era: Who controls nuclear weapons during a period of intense civil strife, and who has the authority to release them in a time of great instability, or a prolonged internal crisis?

This is a dilemma that our military leaders have already confronted. Serious questions were raised about Soviet nuclear security during the recent war between Moslem Azerbaijanis and Christian Armenians. The Pentagon revealed that a large nuclear warhead stockpile was stored south of the city of Baku in Azerbaijan. There was a strong fear that the Azerbaijanis may have taken control of the facility. Without control over the indigenous population, the notion of mutually assured destruction becomes even less tenable. No matter what happens in Eastern Europe or the Soviet Union, America should have the capability for defending itself from ballistic missile attacks.

The Soviets still maintain some 10,000 strategic nuclear warheads and by the mid-1990's, they could be in a position to deploy some 15,000 warheads. While Soviet conventional force capabilities have certainly diminished due to recent events in Eastern Europe, their long-range attack capabilities have not declined and, in fact, have been constantly upgraded with new generations of delivery systems.

Besides acting as a safer and more reliable deterrent, SDI can operate as an insurance policy against accidental launch by either the Soviets or even our own nuclear arsenals. With a minimum multi-layer protection system, we can prevent the unauthorized or accidental launch of a boatload of submarine-launched ballistic missiles, a scenario vividly portrayed in Tom Clancy's novel "The Hunt for Red October."

Perhaps the least discussed implication of SDI is that it will lessen the risk for the United States in entering into arms reduction agreements. Many experts believe that President Reagan's decision to pursue the SDI Program brought the Soviets to the bargaining table. In any event, SDI and particularly, the Brilliant Pebbles component with its dual satellite detection capabilities, will provide insurance against cheating on arms control treaties.

The safeguarding of arms control treaties is an issue of major importance. Senate ratification of the INF Treaty concluded an historic step in arms control and SDI will allow us to continue to facilitate the negotiation of future strategic arms reductions. I have actively participated in efforts to reduce weaponry with visits to arms control meetings in Geneva in 1982, 1983, and 1987. I also have participated extensively in the debate on the ABM Treaty and I have pressed for the broad interpretation of the ABM Treaty, which I have concluded to be the correct legal interpretation and also in the best interests of the United States.

With specific regard to the ABM Treaty, DOD Instruction S-5100.72 establishes general instructions, guidelines, and procedures for ensuring the continued compliance of all DOD programs with existing arms control agreements. Ambassador Cooper has stated that the GPALS Program is consistent with ABM Treaty terms and that all SDI field tests must be approved through the DOD compliance process. Therefore, the ABM Treaty is not at issue.

I believe that it is in both Soviet and American interest to utilize defensive mechanisms as well as offensive strategies. The proliferation of missiles by Third World nations make it imperative for both the Soviets and the United States to revise strategic thinking and I believe the Soviets will be amenable to a new approach on negotiating issues relating to SDI.

Another important, but rarely discussed argument for SDI is the economic benefits derived from its research and development. In the last decade, America has faced growing competition from Europe and the Far East in the area of high technologies and industrialization. No doubt, the competition for innovation and world markets will increase with the consolidation of the European Economic Community in 1992, unification of Germany and the economic entrepreneurship of the Japanese. Like the space program in the 1960's. SDI will keep America on the threshold of scientific developments and help contribute to the restoration of U.S. supremacy in space. SDI already has led to significant spinoffs for the civil economy worth hundreds of millions of dollars in manufacturing applications, particularly in the medical field.

The question always arises as to whether or not we can afford SDI. The real question is, can we afford not to develop cost-effective strategic defenses?

The reality is that SDI is one of the most cost-effective defense programs that this country has instituted. According to Gen. Dan Graham, USA (Ret.), former Director of the Defense Intelligence Agency, the GPALS nonnuclear, multilayered system can be completed within 6 years at a very affordable cost and offer a highly effective defense against a limited strike launched from anywhere in the world.

The cost for heightened development of SDI can be derived from a static defense budget in terms of military offsets. For instance, the United States can acquire formidable strategic defenses for less money than the Midgetman missile. The GAO estimates the cost of the Midgetman Program alone to be $60 billion at the low end and $100 billion at the high end alone. If we make a decision to fully develop SDI, we will not need to procure offensive weaponry such as the Midgetman. The costs we will save by reducing our dependencies on repetitive offensive systems will far exceed the costs of developing and eventually deploying SDI.

Contrary to becoming an economic burden, SDI may turn out to be the most fiscally responsible defense program we pursue because it allows us to cut from so many other areas without creating vulnerabilities in our strategic posture.

The new proposal of Global Protection Against Limited Strikes [GPALS], which includes both ground-based and space-based components may be fielded for a cost of between $30 to $40 billion—requiring approximately 2 percent of the defense budget for several years during the period of highest spending. The cost for CPALS may even decrease as our capabilities in microcircuit technologies continue to advance.

I urge my colleagues to reconsider the importance of strategic defenses and to support the President's 1992 budget proposals for the strategic de-

fense initiative. We can't afford to continue to let the Iraqs of this world hold the world hostage with the threat of missile attacks. President Bush stated at the outset of Desert Storm that America will not fight with one arm tied behind our backs. America should not defend itself with one arm tied behind its back either.

We owe it to future generations to ensure that the United States and our allies remain stable and protected during these dangerously uncertain times. SDI is our hope for a future where innocent civilian populations can rest at night without having to depend on gas masks, bomb shelters, and good fortune to keep them safe from the effects of missile attack. The time for strategic defense to keep us safe has arrived.

Mr. WARNER. Mr. President, I just wish to express my appreciation to the Senator from Pennsylvania for his statement. He has spent many long hours in intensive study on this question and his endorsement of the general thrust of this amendment I find to be very helpful.

Mr. SPECTER. Mr. President, I thank my colleague from Virginia for his comment.

I would add one more comment, and that is a good bit of what Senator WARNER seeks to accomplish here could be accomplished with the broad interpretation of the ABM Treaty. That is an issue which has occupied a great deal of time and attention on the floor of this body. It might be that we would return to any analysis of the ABM Treaty, because it is my legal opinion, as I have expressed on many occasions on this floor and at some considerable length, that the broad interpretation is the correct interpretation; that the negotiating record very strongly supports the broad interpretation as do the practices of the parties, although there are some evidentiary base in the negotiating record to the contrary.

But it may well be that if we would reaffirm the broad interpretation, which I believe the Soviets are following, that we would have a greater latitude to carry on experimentation which Senator WARNER's amendment seeks to achieve.

It was my thought, when the Senate voted in favor of the narrow interpretation, that it was a political judgment made by many Senators who thought that the narrow interpretation would provide greater stability, a conclusion with which this Senator disagreed.

But on the legal issue, the case is very strong, I would submit, Mr. President, that the broad interpretation is the correct interpretation. If we might revisit that at another time it may be that the political judgment of this body would now favor the broad interpretation as a way to achieve the objectives of Senator WARNER's amendment, and perhaps the broad interpretation being adopted would preclude a reexamination of some parts of the ABM Treaty. So I wanted to add that thought as well.

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

Mr. SPECTER. I will.

Mr. WALLOP. The interesting point that the Senator makes about the broad and narrow interpretation—and he well knows I support him on—but would he agree with the Senator from Wyoming that the Nunn substitute that was offered to the Warner amendment begs the question entirely of interpretation of the treaty?

Mr. SPECTER. I do. I hate to do that when the Senator from Georgia is not on the floor.

The distinguished Senator from Georgia is here, so it is not in his absence.

Mr. WALLOP. The point that the Senator from Wyoming wishes to emphasize is that throughout the debates on the strategic defense initiative what Senator WARNER has tried to do has essentially been a question denied to the Senate, and that is whether the treaty, under either interpretation, serves the best interest of the United States.

Would the Senator—and I know he knows this well—agree with the Senator from Wyoming that virtually the only thing now that threatens Americans and our allies essentially in the world today are the Soviet ballistic missiles as well as Third World country ballistic missiles?

Mr. SPECTER. I do agree with my colleagues from Wyoming about the threat both from the Soviets and from Third World countries. It may well be that the ABM Treaty today does not serve the interest of either the United States or the Soviet Union. The ABM Treaty was entered into in 1972 and a great deal has occurred. I think that it is important that we take this question up with the Soviets as to what are the interests of the United States and the Soviet Union contrasted with the threat of ballistic missiles from Third World countries, which the distinguished Senator from Wyoming has put as part of his question.

Mr. WALLOP. Would the Senator then also agree that treaties of any kind, but the ABM Treaty in particular, allow a nation to operate in what it perceives to be its own national interest, its own national security?

Mr. SPECTER. I would agree with that. All treaties are devised and nations enter into them freely as a contractual form in their own best national interest, just as any party to any contract enters into that agreement for his or her own best interest or national interest.

Mr. WALLOP. So then it would not be untoward for the American people to have a debate as to what constituted their own national interest, whether remaining under the constraints and terms of the ABM Treaty, under either interpretation or to exercise their option to avail themselves of technology which could provide for their protection to the only basic threat to their national security that remains.

Mr. SPECTER. Well, I do agree with the statement made by my colleague from Wyoming, and that is the thrust of Senator WARNER's amendment, that it is time to take a fresh look at this entire picture. We have seen a great deal happen in the gulf with missiles and defensive missile technology. I started to say that it may be that the ABM Treaty may no longer be in the interest of either the United States or the Soviet Union because of Third World threats or it may be that the ABM Treaty is no longer in the interest of the United States, whatever the Soviet Union may have in mind. By the expressed terms of the ABM Treaty either country can abrogate it, withdraw from it, on 6 months' notice. So that paramount national interest is always a reason for abrogating the ABM Treaty, but it is time to take a fresh look at this very important subject.

Mr. WALLOP. So that a nation founded on and functioning under democracy ought not to fear debate on its own national interest. It ought not to try to slide out from under that debate but to present it to the American people as to what their options are.

Senator WARNER, I think, said quite correctly that when the American people heard it on the village greens that they would rise up in support of their own national interest. Neither of us can predict what the people will do, but each of us can predict—and I think the Senator would agree with the Senator from Wyoming—that it is not possible for the public to make a choice over an issue that has not been presented to them.

Mr. SPECTER. I agree.

Mr. WALLOP. I thank the Senator from Pennsylvania.

Mr. SPECTER. I thank my colleague from Wyoming.

The PRESIDING OFFICER (Mr. ROBB). Who seeks recognition?

Mr. WALLOP. Mr. President, I am seeking recognition in my own right.

One of the historic problems that we have had in the issue of the strategic defenses of the United States, strategic defense initiative, however it has been characterized, has been that the question has always been phrased in such a way that those who voted for it say I am for SDI, but I am for living under the treaty.

Richard Russell, the great military mind that for years served as the chairman of the Senate Armed Services Committee, made the observation during the ABM Treaty debate that it was impossible for a nation to do two things in the opposite direction at the same time, to arm while disarming, to disarm while arming; and that the choices had to be made clear.

The problem we have always had is we have been able to hide from the American people the options they may have had. We have laid down things: "I am for research, but I am for the treaty." President Reagan even made the grievous error of saying he wanted to construct this national defense against ballistic missiles while complying with the ABM Treaty.

I suggest to everyone that was never possible. The essence of the ABM Treaty is that we leave ourselves vulnerable to the judgment of the Soviet Union.

It was the theory and the essence of mutual assured destruction that we would allow, in fact insist, that our Nation remain vulnerable to the military threats, strategic threats, of the Soviet Union, if they would only just do the same thing on their side.

Over the course of time, Mr. President, we have seen the Soviet Union build what has been called the basis of a nationwide ABM capability. The CIA has never been quite willing to say that was what was happening, but each year in their briefings they would say they may be building the elements of a national defense, clearly outlawed by the treaty.

Unwilling to say that they were, we kind of begged that question, too, until finally the Soviets answered it for us when they themselves declared that the Krasnoyarsk radar was a violation and, indeed, its purpose was to be not a space vehicle surveillance thing but, in fact, joining the ring of phased array radars which, coupled with the production—which is not prohibited under the treaty—of the flat twin engagement radar, you began to see what they could do is in a matter of a very short period of time conduct a defense against the missiles we had while we maintained ourselves at a level of incompetency and self-denial of American technology.

If the gulf war showed us anything at all, it showed us that missiles, even incompetent ones like the Scud, are a terrifying thing; and it showed us a defense against those missiles, even an incompetent one, as the Patriot was—which is designed as an air defense missile, not a tactical ballistic missile defense—it is a whole lot better than no defense at all.

It is almost inconceivable to this Senator that this Congress would refuse to address even the issue as to whether or not Americans are entitled to a defense that we provided to the Saudis and provided to the Israelis, against the very real threats that remain.

The only real threats that remain to the American Nation are Soviet intercontinental ballistic missiles. Their ground army is no longer a threat. They are not going to come across the seas and invade America. They are probably not going to come across the land mass and, any longer, invade Europe. But their missiles threaten the safety and lives of Americans. And Americans now know you can hit a bullet with a bullet, even if that bullet was designed to hit an airplane.

Americans now know the technology is not star wars, but in hand, Americans should now be aware this Congress is, at this moment in time, refusing to answer the question as to whether or not the technology that this country leads the world in ought to be available for their safety and the well-being of this Nation.

That is the basis of the Warner question. It is not to duck the issue as to which kinds, ground-based, or space-based, or other kinds of things. It is to address the issue whether or not this country is best served by remaining under the terms and requirements of the ABM Treaty.

It is not a question of being for research or against research, which always begged the question of protection. It is a question of what is in the national interest of Americans.

This Senator says the technology we possess that protects us ought to be available to every city and town and military installation and military function this country has. It ought to be available to those of our allies. It cannot be available to our allies in any functional way unless it is also space-based.

So it is not a question of broad interpretations or narrow interpretations. It is a question of what is in the national interests of American survival against the one military element that fundamentally threatens this Nation: Soviet nuclear ballistic missiles as well as those rising Third World threats that continue to exist.

It is a very simple question. It is so simple, that is why we are being denied the opportunity to vote on it. The substitute is simply another confusion of an issue. It says, yes, I am for defense so long as you do not make them competent. It says I am for defenses so long as you make them only ground-based. I am for defenses as long as only making them ground-based they are so expensive we will not be able to share that technology with allies.

But it does not ever get to the question as to whether or not American technology ought to be available for the survival of the American people. That is fundamentally what is at issue in the Warner question. I suggest, though it has been taken down—although the majority leader has said we will not have such a vote on it—that issue will come back and come back until this Senate has an opportunity to express itself up or down as to what is in the national interests of the survival of our people.

You cannot get it by playing with phases of an incomplete deployment. You cannot get it by saying I am for research but within the treaty. You cannot get it by saying I am for arming while disarming or disarming while arming. You can only get that fundamental question answered by saying, Is it in our national interest to continue, to abide by the terms of this treaty or are we, as a people, entitled to the defense that American technology demonstrably is able to deliver to us now?

Those who witnessed the defense against that incompetent but dangerous and terrifying Scud can only imagine what a defense against the more competent, the more accurate, the more deadly, the more numerous Soviet ballistic missiles might be. I say it again: Americans are entitled to hear that debate. They are entitled to see how we choose on that. That is what democracy is about. Democracy is not about ducking the issue.

We will see this thing come back until we have a chance to express ourselves, because I believe the people that all of us represent are entitled to know what the issue is, what the two sides are. I do not deny there is another side. We shall hear it. But these sides ought to be weighed in the arena of democracy and the decision ought to be made in front of the American people.

Mr. COATS. Mr. President, I understand that the Warner amendment has been withdrawn and that there will not be a vote on this matter today. I will proceed, nonetheless, to express my views on the Warner amendment and the substitute offered by the Senator from Georgia [Mr. NUNN]. I want to express for the record my strong support for the Warner amendment and my disappointment that we were unable to complete the debate. I therefore ask unanimous consent that my complete statement be included in the RECORD at the appropriate place.

Stated simply, the Warner amendment would express the sense of Congress that the Secretary of Defense should develop and prepare for deployment a system to defend the United States and American Forces from ballistic missile attack. In passing this amendment, the Congress would have endorsed the view that it is more important to defend U.S. citizens and allies than to remain bound by the existing terms of the ABM Treaty.

It has been argued that the Warner amendment is unnecessary and ill-timed. Nothing could be further from the truth. Most Americans do not even realize that the United States is bound by treaty to a mutual suicide pact with the Soviet Union. And most would be shocked to learn that we are prohibited from testing and deploying many types of technologies whose purpose it is to defend against attacking ballistic missiles. The American people have witnessed the reality and the horror of ballistic missile attacks in the war with Iraq. They now have a right to

know the other half of the story: that the United States is restrained by an outdated treaty from deploying many of the most promising missile defense technologies.

It has also been argued that the Warner amendment somehow would undermine our negotiators at the defense and space talks in Geneva. Again, nothing could be further from the truth. If anything, passage of this amendment would strengthen the American position at these talks. The Warner amendment would convey the message that, if the United States and the Soviet Union cannot agree to modify the ABM Treaty within 20 years, it is in the American national interest to unilaterally proceed with development and testing of a strategic defense system to protect the American people. Passage of this amendment would send a clear signal to the Soviet negotiators at the defense and space talks, which have been going on since 1985, that they have 2 years to come up with a mutually acceptable solution, but that if agreement is not reached the United States will unilaterally move beyond the existing limitations of the ABM Treaty.

The Bush administration also strongly endorses the Warner amendment. In a letter written to Senator WARNER, the National Security Advisor, Brent Scowcroft, stated:

> The administration strongly supports your sense of the Congress resolution on missile defenses. I believe it will send an unmistakable signal of our determination to proceed with ballistic missile defenses that enhance our national security.

Since the ABM Treaty prohibits the deployment of a territorial strategic defense system for the United States—which is precisely the goal of the SDI Program—it has been clear for several years that the ABM Treaty would eventually need to be amended or abrogated. I believe we should regard the ABM Treaty as a living document that was intended to be amended to meet changing conditions. Article XIV explicitly provides for proposed amendments and article XV includes provisions for withdrawal from the treaty.

If the United States decides that a nationwide strategic defense system is in the national interest, there are certainly appropriate legal avenues for amendment or withdrawal from the ABM Treaty. Therefore, the debate over the Warner amendment should not be about violating or unilaterally abrogating the treaty, but about whether a system to defend American citizens and friends from ballistic missile attack is in the national interest.

It is also important to note that passage of this amendment would not commit the Congress to any particular SDI architecture or technology. The President will still need to make a depolyment decision and come to the Congress for authority to proceed with procurement of a strategic defense system. The Warner amendment merely encourages the Department of Defense to remove certain obstacles to the implementation of an efficient and cost-effective SDI Program.

Opponents of the Warner amendment have suggested that the SDI Program is inconsistent with President Bush's direction to refocus SDI to provide protection against limited strikes, whatever their source. The implication is that the strategic defense initiative organization is freelancing. Not only is this entirely false, but it is actually the supporters of the Nunn substitute amendment themselves who are freelancing. The Warner amendment merely expresses the sense of the Senate on whether the ABM Treaty continues to serve the national interest. The Nunn amendment, on the other hand, actually would force SDIO to cut back on certain promising technologies, especially Brilliant Pebbles. The GPALS Program is the President's refocused SDI Program—unfortunately, passage of the Nunn amendment would preclude the deployment of GPALS and undermine President Bush's goal.

Mr. President, in order to evaluate the merits of going beyond current ABM Treaty limitations, one needs to look back at what the ABM Treaty was originally intended to achieve and what premises and assumptions it was based upon.

Reduced to its most basic form, the purpose of the ABM Treaty was to codify the strategic philosophy known as "mutual assured destruction," or MAD. According to the theory, if the United States and the Soviet Union were mutually vulnerable to nuclear attack, a stable state of deterrence would prevail and offensive arms reductions would naturally follow. For MAD to succeed, both sides had to accept a state of permanent vulnerability and neither side could build offensive missile forces capable of attacking the retaliatory forces of the other. Although defending one's own retaliatory forces was not logically inconsistent with MAD, by the late 1960's, when the SALT talks were underway, it had become almost axiomatic in the United States to assume that any type of ballistic missile defense was destabilizing.

For those who embraced the deterrence theory of mutual vulnerability, the ABM Treaty was the crowning success of arms control. Judging by what I've heard here on the Senate floor in the last day or so, it's clear that mutual assured destruction remains alive and well in the Senate.

Ironically, as soon as the ABM Treaty was signed and ratified in 1972, the logic structure of MAD began to crumble. The single most devastating blow to this theory of deterrence and arms control was the fact that the Soviets never accepted it. No sooner was the ink dry on the treaty than the Soviets commenced the most massive and sustained buildup of multiple-warhead intercontinental ballistic missiles in history, which interestingly enough continues to this day.

Moreover, although supposedly restrained from deploying a territorial ABM system, the Soviets continued to place heavy emphasis on strategic defensive forces of all kinds, including those that violated or circumvented the intent of the ABM Treaty. These developments were consistent with Soviet military doctrine, which emphasized damage limitation, not mutual vulnerability.

Soviet rejection of MAD was recognized in most official United States quarters during the 1970's, although some American proponents of MAD continue to deny this even today. Ironically, while U.S. strategic policy and planning began to move away from MAD in the 1970's, the ABM Treaty somehow continued to be regarded as sacred, even though its logical and philosophical essence had been discredited and all but discarded. To understand this apparent contradiction, one must realize the extent to which arms control has become an end in and of itself, not merely as a means to some positive outcome. The ABM Treaty has become a symbolic entity no longer connected to its original purpose.

The argument that we should not tamper with the ABM Treaty is based primarily on two assumptions, both of which are firmly grounded in the theory of MAD. First, that deploying strategic defenses will only fuel an arms race, leading the Soviets and presumably other countries to simply add many more offensive missiles. Second, that ballistic missile defenses would be destabilizing—that they would erode deterrence and create incentives to strike first in a crisis. Let me briefly address these two assumptions in light of our historical experience and the President's recent proposal to refocus SDI to provide "global protection against limited strikes," the so-called GPALS Program.

During the early 1970's, the arms control case against ballistic missile defenses was logical, if untested against reality. There was reason to believe reductions in defensive forces could lead to reductions in strategic offensive forces. Developments since then, however, suggest that this arms control case against missile defense has been mistaken.

By the early 1980's it was clear that, while the ABM Treaty precluded any serious strategic missile defenses, it could not lead to a reduction in the Soviet buildup of offensive ballistic missiles, as had been predicted by those who pressed for the ABM Treaty during its negotiation and ratification. Former Secretary of Defense Harold Brown summed up our experience with regard to Soviet offensive arms racing

following the ABM Treaty by stating "when we build, they build; when we stop building, they nevertheless continue to build." We now know that the Soviet buildup of the 1970's and 1980's had nothing to do with a defense driven arms race dynamic.

Also in the 1980's, prominent American critics of missile defense questioned the upgrading of the Patriot to provide it with an antimissile capability—the capability now applauded by all. This reluctance stemmed from the same arms control case against missile defense: wouldn't the provision of an antitactical missile defense capability disrupt the prospective elimination of intermediate-range nuclear forces [INF]? The Soviets, according to this argument, would be compelled to maintain or increase their offensive capabilities in order to overcome United States defenses. In addition, strong claims were made that upgrading the Patriot would destroy the ABM Treaty—presumably because it would blur the distinction between permitted antitactical missile defenses and prohibited strategic missile defenses.

Contrary to this prediction, the INF Treaty went forward without a hitch and the Soviets have continued to show interest in eliminating other classes of offensive weapons. Not only did Patriot's upgrade to an antitactical missile defense system not destroy the ABM Treaty and undermine offensive arms control, as some wrongly argued, but Soviet officials have recently endorsed the use of Patriot against Saddam Hussein's Scud missiles in the gulf war.

The second principal argument why we should not disturb the ABM Treaty is that deploying strategic defenses would erode deterrence and cause strategic instability. The underlying premise here is that a United States nationwide missile defense will lead the Soviets to question the effectiveness of their retaliatory capability. In other words, the Soviets would fear that a United States missile defense system would be used to shield an American first strike, hence they would be under greater pressure to strike first in a crisis.

This view was worth debating when SDI was focused on deploying a highly effective defense against a massive Soviet attack. Today, with the GPALS configuration oriented toward defense against limited strikes, this argument is no longer relevant. To the extent that GPALS is designed to defend against a Soviet threat, it would not significantly erode Soviet retaliatory capabilities—hence it could not increase Soviet incentives to preempt in a crisis. In fact, given the instability of the Soviet domestic scene, the Soviet leadership should welcome the knowledge that an accidental or unauthorized launch from their territory would not cause the United States to retaliate. As such, GPALS will be highly stabilizing.

This is not to say that GPALS will not be a factor in the deterrence equation. Since even limited ballistic missile defense protection of U.S. retaliatory forces can enhance their survivability, GPALS will strengthen deterrence without adding first strike incentives for either side. Even the most ardent believers in mutual assured destruction should support a limited defense that will reduce the vulnerability of U.S. strategic forces. GPALS would not undermine Soviet retaliatory capabilities, yet limited defenses would create a high degree of uncertainty in the mind of any prospective attacker who must assume that some U.S. retaliatory forces will survive his first strike. Hence, GPALS would dampen first strike incentives without eroding United States and Soviet confidence in deterrence.

GPALS will also be stabilizing on the level of multilateral relations. The trend in the Third World is clearly toward longer range and more accurate ballistic missiles in the hands of increasing numbers of unpredictable leaders. This emerging situation has led Charles Krauthammer to characterize the post-cold-war environment as "the era of weapons of mass destruction." Krauthammer could well be correct in stating that "the proliferation of weapons of mass destruction and their means of delivery will constitute the greatest single threat to world security for the rest of our lives." One thing seems certain: the United States will not remain a sanctuary forever.

It is clear that the two standard arguments for not modifying the ABM Treaty—that doing so would cause an arms race and/or create strategic instability—have not met the test of time and are now largely irrelevant in the context of GPALS.

It is also difficult to avoid the conclusion that the ARM Treaty will need to be modified to accommodate missile defense deployments. We are currently permitted to deploy unlimited theater missile defenses and up to 100 ground-based strategic defense interceptors at one site in the United States. Unfortunately, 100 interceptors will not provide effective coverage of the United States. It would be an irony indeed if we were permitted to deploy a robust defense overseas but were denied a similar degree of protection for American citizens at home.

Mr. President, the case for deploying a U.S. missile defense system has been strengthened by our experience in the gulf war. Perhaps the most important lesson we can learn is that deterrence as we have defined it in the United States over the last 45 years can and will break down, even when backed up by a nuclear guarantee. The United States-Soviet model of deterrence based on the threat of nuclear retaliation may be virtually inapplicable in dealing with the emerging Third World missile threat. As President Bush put it:

> Thank God that when the Scuds came the people of Israel and Saudi Arabia, and the brave forces of our coalition had more to protect their lives than some abstract theory of deterrence.

This leads to the conclusion, which should be rather obvious to anyone who watched the news coverage of the gulf war, that even an imperfect ballistic missile defense is better than no defense at all. Some have argued, however, that an imperfect defense is only valuable against conventionally armed missiles, that if nuclear weapons are involved even a single failure to intercept an incoming missile could result in massive destruction.

This standard anti-SDI argument misses the basic point that every successful missile interception saves lives, perhaps hundreds of thousands if nuclear weapons are involved. Can anyone seriously argue that, since there is always a chance that a missile will get through, we should not even try to prevent it. The only alternative, unfortunately, is to rely solely on deterrence, which, as we have seen, is like assuming that leaders like Saddam Hussein will be reasonable and rational actors. Would anyone have recommended that we not use the Patriot if Saddam's Scud missiles were armed with nuclear warheads? If anything, we would have been even more dedicated to the task of intercepting and destroying incoming missiles.

There is no doubt that the Patriot was not completely successful in intercepting incoming Scud missiles. Rather than concluding that ballistic missile defense is not reliable, however, the lesson we should draw from the Patriot's limitations is that additional ballistic missile defense capabilities are needed to handle the emerging threat. By deploying a multilayer theater and U.S. defense system, to include overlapping space-based defenses, we will be more capable of defending against advanced threats, including long-range missiles with nuclear warheads.

The gulf war also taught us how difficult it is to destroy mobile missiles on the ground. Despite the use of massive airpower, coalition forces were unable to thoroughly suppress Iraq's Scud launching capability. This has major implications for SDI, not only for dealing with the emerging Third World threat but also for balancing Soviet strategic forces, which include the largest and most potent mobile missile force in the world.

We have also learned that providing defense against ballistic missiles serves important political functions. Traditionally, the United States has extended a nuclear guarantee over allies, particularly in Europe. While this form

of extended deterrence will remain important, its credibility is increasingly open to question. Extended deterrence will, therefore, need to be supplemented by extended missile defense protection. While important, rapidly deployable theater missile defenses will probably be insufficent, since future crises are not likely to unfold as slowly as the conflict with Iraq did. Space-based defenses will be needed since they would be in place, ready to respond to a surprise attack pending the arrival of theater defenses.

In the case of the gulf war, the reassuring function of the Patriot was an important factor in Israel's decision not to promptly retaliate against Iraq's missile attacks. A similar type of defensive guarantee extended to allies around the world can have an important stablizing effect in future conflicts. U.S. extended missile defense protection can also play a critical role in cementing and bolstering existing and future alliances and bilateral relationships.

An extended missile defense guarantee would also dampen incentives for missile proliferation by reducing the utility of ballistic missiles. Countries considering adding such missiles to their military inventories may look at the gulf war as an example of how ineffective such systems can be. The more effective the United States becomes in extending missile defense coverage, the lower will be Third World incentives to seek a ballistic missile capability.

Taken together, these findings argue strongly for proceeding with SDI along the course envisioned in the GPALS Program. The success of the Patriot in the gulf war proves that ballistic missile defenses work and are a worthwhile investment. The time has come for the United States itself to be defended against ballistic missile attack.

Mr. President, even if we disregard the growing threat of ballistic missile proliferation, mutual vulnerability is no longer an appropriate strategic theory to guide United States-Soviet relations. Mutual assured destruction, and the ABM Treaty which embodied it, are relics of the cold war. Neither are fitting for the type of relationship we seek to build between the United States and the Soviet Union. This point was emphasized in a recent article by Edward Rowny, the former chief U.S. START negotiator. According to Rowny:

> We must recognize that the search for stability may include agreements totally unlike past arms control agreements. The most important test case will be in the area of strategic defense. Survivable, effective strategic defenses can help create a strategic balance more in consonance with improved political relations. Agreeing to get beyond the once useful, but now obsolescent, mindset of the AMR treaty is the single biggest test of change in the U.S.-Soviet strategic relationship.

Within the context improving United States-Soviet relations, strategic defenses will be a key element in the arms control process. Contrary to the assumptions underlying the ABM Treaty, strategic defensive forces should not undermine offensive arms control. In fact, they may actually facilitate progress with START by serving as confidence building measures.

As offensive reductions take place, strategic defenses will be necessary to keep deterrence strong. As the number of potential targets in the United States is reduced, especially if the United States abandons mobility for its ICBM force, a strategic defense system will be necessary to keep first strike incentives low. Space-based interceptors such as Brilliant Pebbles will also provide incentives for the sides to move away from emphasis on multiple-warhead ICBM's. Without a United States capability to attack multiple-warhead ballistic missiles in their boost phase, the Soviets will have little incentive to abandon their current emphasis on heavy multiple-warhead ICBM's.

A United States strategic defense system would also reduce concerns about the Soviet mobile ICBM force. Since verification of a mobile ICBM force is extremely difficult, United States defenses could serve to guard against cheating. All in all, without a strategic defense system, it will be more risky to pursue deep cuts in offensive arms. Thus, contrary to the logic of MAD, ballistic missile defenses may actually contribute to progress in arms control.

Mr. President, before I yield the floor, I feel compelled to respond to some of the other arguments raised by proponents of the Nunn substitute amendment.

First of all, let there be no doubt, while the Nunn amendment claims to favor near-term SDI technologies and foster balance in the SDI Program, it actually would disrupt a very carefully constructed and well-balanced SDI Program. The accusation has been made that the strategic defense initiative organization is somehow out of step with the President's direction to refocus the SDI Program to provide global protection against limited strikes. This is absolutely false. The GPALS Program is the President's program for defending against diverse and multiplying ballistic missile threats. It would be thoroughly inappropriate for the Congress to undermine the program, as the Nunn amendment would indeed do.

In claiming to favor near-term technologies, the Nunn amendment misleads the American people. The fact of the matter is that those items listed as "near-term antiballistic missile defenses" are based on virtually the same technologies that Brilliant Pebbles is based upon. Many of the ground-based components, including the ground-based interceptor and the Endo/Exo-atmospheric interceptor face technological challenges as great or greater than those facing Brilliant Pebbles. According to a factsheet released by SDIO in February 1991:

> The vast majority of technologies employed in either the space-based Brilliant Pebbles or a ground-based interceptor are remarkably similar in both their complexity and maturity. In fact, the unique "space" areas for Brilliant Pebbles are all well understood and in practical use today in most spacecraft.

Proponents of the Nunn amendment also have argued that the real threat is tactical ballistic missiles and therefore we can effectively relegate Brilliant Pebbles to long-term research and development. While it is true that short-range ballistic missiles constitute the most proliferateed form of the threat today, they are not the only threat. Indeed, they are not the most ominous threat facing the United States and its allies in the decades ahead.

To focus solely upon tactical missile defense would foster major imbalances in our fight against ballistic missile proliferation. We will end up with a system that responds only to the missile technology of today and does not look toward the future. If we are serious about ballistic missile defense we must continue with strong support for space-based interceptor programs, especially Brilliant Pebbles. To argue that theater missile defense is enough, is to argue that U.S. citizens should not be defended at home. In effect, we would be arguing for a better defense for our allies overseas than for Americans living in the United States.

To the extent that the proponents of the Nunn amendment want to defend the United States from ballistic missile attack, they only seek to do so through a so-called limited protection system, which supposedly can be had without modifying the ABM Treaty or with only slight amendments. Nobody has explained why we should have a robust defense overseas but only a limited defense at home.

The argument that we can have effective defense for the United States within the limits of the ABM Treaty is false. An ABM Treaty compliant system will not even cover the entire United States. Will the people of Alaska or Hawaii, or indeed the Coastal States, be satisfied to know that most of the United States is protected from ballistic missile attack—but not them? Even if we modify the ABM Treaty to allow several ground-based missile defense sites we will not be able to gain the benefits of having a space-based system. Someone should also explain to the American people why it is bad to develop and deploy more capable space-based systems. Allegedly, they are too expensive or based on unproven technology. In fact, Brilliant Pebbles will cost only half of what the ground-based

systems will cost. And, as was pointed out above, space-based technologies are largely off-the-shelf, state-of-the-art, not some "pie in the sky" as they are often portrayed.

The contradiction in favoring ground-based systems over space-based systems is illustrated by the fact that proponents of the Nunn amendment seem content to place a high degree of emphasis on space-based sensors, which are required for ground and space-based interceptors to work. Yet, when it comes to Brilliant Pebbles, there is suddenly a logical leap in attempting to explain why space-based interceptors won't work and are too expensive.

Brilliant Pebbles will be able to respond globally, which is precisely what President Bush called for in his State of the Union address. So to attack the SDIO for being out of step with the President's program is sheer subterfuge. Brilliant Pebbles will be the only means of attacking multiple-warhead missiles in their boost phase, before they dispense 10 or more nuclear warheads. Hence Brilliant Pebbles would be a true force multiplier.

Mr. President, under the guise of adding balance to the SDI Program, the Nunn amendment actually seeks to disrupt the space-based component. It favors certain systems over others by falsely identifying them as near-term technologies, even though both are based on the same components. And, worst of all, it seeks to minimize the degree of protection we will be able to afford the American people.

We have also heard that it is too early for the Congress to express its view of whether the ABM Treaty is in the national interest. Mr. President, I firmly believe that every Member of this body has a view on this matter. The time has come for us to make our views known to the American people. Let's stand up and be counted: should we allow the ABM Treaty to restrain the development of technologies whose sole intent is to defend against ballistic missile attack, or should we continue to follow a theory that tries to make a virtue out of our vulnerability?

The choice between the Warner amendment and the Nunn substitute is a clear one. The Warner amendment seeks to free the development of all types of technologies for the purpose of defending Americans from ballistic missile attack. The Nunn amendment, in effect, is a statement that we should pursue only a very limited defense system, even though our technology in this area is virtually limitless. The Nunn amendment says the United States should continue to be bound by a treaty that prohibits us from pursuing the most promising means for defending the United States from ballistic missile attack.

Mr. President, the ABM Treaty was negotiated and ratified in a very different strategic and international political environment than we face today. Some of the treaty's underlying premises have turned out to be flawed while others have become outdated. It is thus in the mutual interest of the United States and the Soviet Union to proceed with a cooperative transition away from the existing ABM Treaty. This does not mean violating the treaty, we simply need to modify it.

Rather than holding on to outdated notions of deterrence and stability, the Congress should encourage this cooperative move toward greater emphasis on defense. I urge my colleagues to vote in favor of the Warner amendment and against prolonging U.S. vulnerability to ballistic missile attack. A vote for the Warner amendment is a vote to consign mutual assured destruction to the archives of history where it properly belongs.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DIXON. Mr. President, I ask unanimous consent to proceed as in morning business for a brief period of time for the introduction of a resolution.

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

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DIXON. I thank the Chair.

(The remarks of Mr. DIXON pertaining to the submission of Senate Resolution 83 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

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

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WIRTH. 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. WIRTH. Mr. President, I ask unanimous consent to be recognized for 5 minutes as if in morning business.

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

The Senator from Colorado is recognized.

Mr. WIRTH. I thank the Chair.

(The remarks of Mr. WIRTH pertaining to the introduction of S. 662 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. President, I appreciate your recognizing me.

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

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

The majority leader is recognized.

Mr. MITCHELL. Mr. President, last evening I stated that the bipartisan leadership, Senator DOLE, myself, the managers, and other interested Members, had reached an agreement on the provisions of the benefits package in S. 578, and I hoped that we would be able to move promptly with the measure today. I anticipate that will occur soon.

The Office of Management and Budget has been reviewing the leadership amendment, which I will be offering shortly with Senator DOLE and others. They are checking it on a line-by-line basis, and that has resulted in the delay that has ensued this morning. I am advised by Senator DOLE that that process is nearly complete.

It is my hope that we can proceed with the leadership amendment, which implements the agreement we reached yesterday, and then have prompt action on the measure.

Senators should be aware that there will, in all likelihood, be several votes during the day today. The agreement we reached is that the leadership will oppose all amendments to the package. We have been advised that there will be several amendments offered, some of which the substance of which is known to the leadership, some of which we do not know what will be in the amendments. We will be opposing them and seeking to table all the amendments.

So it is, therefore, important for Senators to be prepared for several votes today. We hope that this can begin promptly, and it is likely that there will be votes throughout the afternoon. We hope to conclude at an early hour, so that those Senators scheduled to leave on the congressional delegation trip to the Middle East will be able to leave on or as close to their previously announced schedule as possible.

Mr. President, I am pleased to yield to the distinguished Republican leader for any comments he may wish to make in this regard.

Mr. DOLE. Mr. President, I understand they are about completed with going over the different provisions that we have agreed to. That ought to be finished, I hope, within the next 15 minutes. As the majority leader indicated, someone said there could be as many as seven or eight votes this afternoon.

I advise my colleagues to be alert, and we will hopefully get time agreements on every amendment, because

the votes themselves will take up a couple of hours.

So, hopefully, we can get our colleagues to give us time agreements. I think on this side, Senator HELMS has some amendments on which we can get short time agreements.

Mr. MITCHELL. I thank my colleague

I, therefore, remind Senators that it is likely that we will be having several votes beginning as soon as the OMB review of the amendment is complete, which Senator DOLE indicated he expects to be within the next 15 minutes.

So Senators should be prepared this afternoon for several votes. We are going to try to get this done as soon as possible so that Senators can make schedules with respect to which they have made plans for time.

I yield the floor.

Mr. DOLE. Mr. President, was the leaders' time reserved?

The PRESIDING OFFICER (Mr. WIRTH). Yes, the leaders' time was reserved.

PALESTINIANS IN KUWAIT

Mr. DOLE. Mr. President, all of us are aware of the disturbing reports coming out of Kuwait, indicating reprisals against Palestinians and others who are believed to have helped the Iraqi invaders. Let us be clear: those reports have not been confirmed, and they do not appear to indicate any direction or participation by senior Kuwaiti Government officials.

But any such action by anyone cannot be condoned.

No one has any political sympathy for those who may have aided Saddam Hussein's marauding hordes. But, at the same time, vigilante reprisals are neither right, nor the answer to any of the very real challenges facing Kuwait as it seeks to rebuild.

We committed 500,000 American troops, and our national honor, to repel Saddam's invasion, and protect American vital interests in the region. We did not do it so Kuwaitis—no matter how understandable their anger—can settle scores, old or new.

A Senate delegation, headed by Senator FORD and Senator WARNER, departs for Kuwait today. Hopefully, they will bring back more definitive information on what is happening in Kuwait. I am sure they will also express to Kuwaiti officials the concern many of us feel about these reports of reprisals.

The entire coalition achieved a great victory, and real honor, in Desert Storm. Let us do everything we can to insure that none of the justifiable pride we feel is tarnished by the actions of a few.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

DEPARTMENT OF DEFENSE DESERT STORM SUPPLEMENTAL AUTHORIZATION AND MILITARY PERSONNEL BENEFITS ACT

The Senate continued with the consideration of the bill.

Mr. DOLE. Mr. President, I think we are prepared to proceed to propose the benefits package whenever the distinguished majority leader is available, and hopefully we can finish it by 7 or 8 o'clock tonight.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 32

Mr. MITCHELL. Mr. President, I send an amendment to the desk, and I ask unanimous consent that the amendment be agreed to and that the bill as amended be considered as original text.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for himself, Mr. DOLE, Mr. NUNN, Mr. WARNER, Mr. ADAMS, Mr. GRAHAM, Mr. RIEGLE, Ms. MIKULSKI, Mr. DODD, Mr. LAUTENBERG, Mr. GLENN, Mr. MCCAIN, Mr. WIRTH, and Mr. SHELBY, proposes an amendment numbered 32.

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

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

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Hearing none, it is so ordered.

The amendment (No. 32) was agreed to.

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senators GLENN, MCCAIN, WIRTH, and SHELBY be added as original cosponsors to the amendment.

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

Mr. MITCHELL. Mr. President, I am pleased to propose on behalf of myself and the distinguished Republican leader the bipartisan leadership amendment to improve benefits and compensation for the troops serving in the Persian Gulf.

We have pledged to remember their service, not just in the first days of victory, but later, when the parades are over and they take up their daily lives again. This proposal fulfills that pledge.

For the past several days, celebrations and parades have been held in cities and towns across the length and breadth of the United States to welcome our troops home from the Persian Gulf.

All of us have been able to join in this national welcome through television. Images of husbands and wives united after months apart, images of new fathers holding their babies for the first time, children and parents alike welcoming back the men and women who served—they have made us all realize how many lives were touched by this war, how many American families were directedly affected.

The welcome home celebrations express gratitude for the service of our troops, and pride in them and their victory. They reflect the relief of families and friends that the outcome was so swift and deceive. They reflect the Nation's belief that our men and women in uniform deserve the best.

It is to ensure that they get the best that I am today asking the Senate to act on this package of proposals.

This is a bipartisan proposal, selected from lists of assorted benefit upgrades and improvements, which has been determined to have the most immediate value for the troops and their families.

The measure would formally define the Desert Shield and Desert Storm actions as a "period of war." Many statutory provisions are triggered only during periods of war. This legislation would make unambiguous the fact that from August 2, 1990, until a Presidential proclamation ends the war, our forces have been engaged in war. That will ensure that the veterans of the Persian Gulf war will be eligible for VA benefits in their turn.

The measure would extend eligibility for readjustment counseling, aid and attendance, and psychological disability status to veterans of the gulf war.

It would double the servicemen's group life insurance benefit from $50,000 to $100,000, with commensurate premium increases. It would increase hostile fire and imminent danger pay to $150 per month, from the current authorized level.

Today's Armed Forces manpower structure depends equally on volunteers serving on active duty and on the reservists and national guardsmen liable for activation. The Persian Gulf deployment used both elements of that force structure to a greater extent than any mobilization in decades.

Over 200,000 reservists and guardsmen were activated for duty in the gulf and

the United States, the largest such activation since the Korean war.

Their activation took them away from jobs in both private and public sectors. Some were forced to leave their own small businesses, others had to interrupt their studies.

We are making those reservists who are Federal workers eligible for annual leave contributions from fellow workers. We encourage private and State employers to develop similar programs where possible.

The measure would permit reservists to defer repayment of Small Business Administration loans. For students, it would extend their eligibility period for education benefits, as well as the loan repayment period. It would also increase reservists' educational benefits to $270 per month for each month of active duty served.

In the wake of the deployment, we found that the current military compensation and benefits packages in too many instances reflected out of date costs and circumstances. For example, families were protected against eviction only from rentals costing no more than $150 per month.

But in the last 20 years, both costs and conditions in our country have changed dramatically. Women, including military spouses, have entered the work force and the military in large numbers. The schedules and arrangements working couples make to care for children and organize the other essentials of daily life can collapse when a family member is suddenly deployed thousands of miles away.

The disruption to daily life of activation in the Reserves has been difficult for many. Current law requires employers to preserve the job of anyone called to active duty. But the law does not cover other disruptions that arise when a wage earner must leave a job at short notice for an indefinite time.

Families face problems when a smaller military paycheck replaces the salary for which they have budgeted. Although we have urged creditors to be generous with people caught in this circumstance, it's clear from news reports that many are forced to deplete their savings and ask for emergency help from family and friends.

We have already taken some action: For instance, the rental threshold protected against eviction has been raised from $150 to $1,200 a month, a more realistic rate in today's world. But other deficiencies demand attention as well. I hope that as defense needs are reviewed in the years to come, we will review the needs of our service men and women as well.

No action can ever fully compensate for the risks and hardships of military service. But those serving the Nation should not have to serve with the knowledge that their families are facing destitution and economic loss. They should not have to worry about the costs of an unexpected illness or accident to family members. Their service should not come at the cost of preventable hardship to their families.

It should be part of the costs of our defense system to ensure that those who are part of today's Armed Forces are not penalized for their service to the Nation.

Since President Abraham Lincoln told the Nation, in his second inaugural address, that we would "care for him who shall have borne the battle, and for his widow and orphan," our armed services have seen many changes.

Women now serve and, to our sorrow, some pay the ultimate price alongside men.

Men and women in civilian life must be prepared to drop their accustomed lives and take up the life of active duty with little warning.

The weapons our troops face have multiplied in danger many times.

The fields on which they fight have ranged all over the world.

But Lincoln's words are as true today as they were more than a century ago: It is our Government's duty to care for those who serve the Nation in war, and for their families and children.

This legislative package is designed to do that for those who served in the Persian Gulf, and it deserves the full support of every Member of the Senate.

This package of Persian Gulf benefits has been carefully crafted. We have worked with the chairmen and ranking members of the respective committees. The bipartisan leadership has been involved, as has been the administration.

This is a significant package of benefits for our soldiers, sailors, airmen, and others, all veterans and their families; $500 million of benefits will be made available over the next 5 years.

The package is consistent with last year's bipartisan budget agreement. The costs of this package are considered to be incremental costs of the Desert Storm Operation.

Under the leadership of Senator GLENN and Senator MCCAIN, we have reviewed every proposal that has been put forward to benefit our veterans. These proposals have been carefully studied and acted upon by the respective committees of jurisdiction. Members have been extremely cooperative in helping us pull the various elements together into this single package. We believe this to be a balanced, credible, and responsible package of benefits. We are anxious to move forward with this legislation.

That requires at this point to oppose any amendment, unless an amendment is agreed to by both sides.

So I want to say now to all Senators with all due respect to those who obviously have the right to offer amendments and are free to exercise that right, that Senator DOLE, Senator NUNN, Senator WARNER, Senator GLENN, Senator MCCAIN, and myself will join in moving to table any amendment that is offered to this package.

Obviously, since we do not even know what amendments will be offered, this is not an expression of our individual views on any particular amendment. There may well be amendments offered which we, in other circumstances, would be prepared to support. We might think the amendment is a good idea. The problem is that if we begin to accept one or two amendments we cannot draw the line anywhere. It will soon become 10 or 20 or 30 or 40, and the whole concept behind a basic credible and responsible package will have been destroyed.

So, with all due respect to our colleagues, and emphasizing and making clear on behalf of the leadership on both sides of the aisle which will join in opposing any amendments that we are not expressing individual views on these amendments—I repeat, there may well be amendments whose provisions we would agree with and we would in other circumstances vote for—we are going to join to table every amendment, unless agreed to on both sides. I hope, with that, that we can reduce the number of amendments.

With respect to those Senators who feel they must offer amendments, I hope they will agree to relatively concise time agreements so we can get to the point where we can enact this legislation today and can then move forward early next week on the appropriations process to make these benefits law and a reality for the veterans and their families.

So, Mr. President, I thank all of my colleagues who have worked together on this in what I believe to be substantial and responsible legislation, and I look forward to its prompt consideration and enactment.

I will be pleased to yield to the distinguished Republican leader.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I rise in support of the Mitchell-Dole amendment, and commend the majority leader for his remarks.

In the final analysis, Mr. President, no price tag can be put on the debt we owe to the men and women who put their lives on the line in Operation Desert Storm.

When their country called, they answered as millions of soldiers had before them.

When freedom was endangered, they were on the front lines.

When the battle was waged, they fought the good fight.

Our soldiers' duty was to stand for freedom. Our duty is to ensure that they and their families do not have to face hardships because of their sacrifice, and that the members of the best trained military force in the world

are not penalized as they return to the best trained work force in the world.

I want to be clear from the outset, that the benefits package contained in the leadership amendment is a responsible and reasonable approach.

We resisted the temptation to turn our backs on our budgetary problems by creating new and expensive programs.

Instead, we simply did what was fair and what was right.

It is only fair that we give our returning forces access to the health care and medical facilities needed on their trip home.

It is only fair that we extend and expand housing benefits to veterans of the Persian Gulf.

It is only right that we ensure that the surviving families of those lost during the Desert Shield time period, receive an added compensation for the irreplaceable loss they have suffered.

It is only right that we increase the special pay for duty in hostile action, and for those health professionals recalled to active duty.

Mr. President, I want to praise Senators WARNER and MCCAIN for their leadership on the Republican Task Force in addressing the needs of our Operation Desert Storm veterans.

Senator MCCAIN, chairman of the Republican Task Force, is, of course, a Vietnam veteran. He well knows the sacrifice required of our soldiers, their families, and their employers. He has provided yeoman's work in ensuring we do what is fair and right.

Senator MCCAIN and Senator GLENN worked hard to accommodate the concerns of Senators on both sides of the aisle.

As I said, many Senators recommended benefits for inclusion. Some were not accepted, some were, due to budget constraints.

I also want to thank President Bush for the support he has provided for this package.

Secretary of Defense Cheney, Secretary of Veterans Affairs Derwinski, Secretary of Labor Martin, and OMB Deputy Director Bill Diefenderfer were also crucial to our success.

The leadership amendment is carefully crafted. The White House, and both sides of the aisle have agreed to each provision. I urge Senators not to upset our delicate balance, and to pass this legislation with the same speed our troops showed in winning the war.

I underscore the statement just made by the distinguished majority leader. I also wish to say we are trying to accommodate about 17 or 18 Senators who are leaving on a very important visit to Kuwait and other areas in the Mideast and would like to leave here as early as possible; hopefully around 4:30 or 5 o'clock. So, if Members on this side of the aisle, I address directly, have amendments, I hope you can give us a very short time agreement. We may have eight rollcalls. That will take a couple of hours just in rollcalls. So if there is going to be a lot of debate, we can be here until 10, 11 tonight at the earliest.

So I hope we will consider the concerns of a number of our colleagues, about 20 percent of our colleagues, who are leaving on what I consider to be a very important trip to the Mideast, Visiting Kuwait, Saudi Arabia, Israel, and other areas in the Mideast.

I underscore, also, that I want to congratulate Senator MCCAIN and Senator GLENN for their diligent efforts and resisting the temptation to turn our backs on the budgetary problems by creating new and expensive programs. In my view, what we are doing is fair and right and responsible, and I hope our colleagues whose ideas are not included in the package will understand, as the majority leader indicated, that we wanted to be responsible.

We are concerned to some extent that when these benefits are publicized, maybe other groups of veterans may think of reasons why theirs should be expanded. Certainly, we have a priority in taking care of America's veterans. We always have had. We all feel pretty much the same about that.

But this is an all volunteer Army. There were no draftees. Those wounded and those who made the supreme sacrifice are limited, fortunately. There are provisions that would benefit some in each category. But I believe overall this is a good package, and I certainly urge its adoption without amendment.

I will join the majority leader and Senator GLENN, MCCAIN, NUNN, and WARNER, in voting to table any amendment.

Mr. NUNN. Mr. President, for the past 2 months a bipartisan leadership task force has been working to put together a package of benefits for military members who served in Operation Desert Shield and Desert Storm and their families. All of us want to recognize and reward the dedicated and professional service of our dedicated men and women in uniform and their families.

The task force was led by Senator GLENN and Senator MCCAIN, the chairman and ranking minority member of the Manpower and Personnel Subcommittee of the Armed Services Committee. They were assisted in their work by the very active participation of a number of other Senators.

This task force had to sort through a large number of proposals that crossed the jurisdiction of several Senate committees. Working with the leadership and OMB, the task force has come up with a bipartisan package which I think members can proudly support. Not every benefit that has been suggested in the last 2 months is included in the package. The task force was forced to recognize the financial constraints of the budget summit agreement and the need to reach a bipartisan consensus within the Senate and between the Congress and the administration.

Almost all of the task force proposals in the Armed Services Committee's jurisdiction are already in this bill, and I listed them yesterday in my opening remarks. These include an increase in imminent danger pay from $110 to $150 per month; special and incentive pays for Reserve medical personnel similar to those provided active duty medical personnel; $30 million for education and family support programs; $20 million for child care assistance; transition medical benefits for reservists and National Guardsmen leaving active duty after Operation Desert Storm; an increase in the death gratuity for survivors of military members from $3,000 to $6,000; and delaying for 1 year the reduction in CHAMPUS mental health benefits scheduled to go into effect last month.

To this list of benefits already included in the bill, the leadership amendment adds provisions that would:

Define the Persian Gulf war period as beginning on August 2, 1990, and ending by Presidential proclamation for purposes to title 38 of the United States Code, relating to pension eligibility and other veterans benefits;

Increase reservists' GI bill education entitlement from $140 per month to $270 per month for each month a reservist was called to active duty in connection with the Persian Gulf war;

Increase the active duty GI bill education benefit from $300 per month to $310 per month for 3-year enlistees, and from $250 per month to $259 per month for 2-year enlistees;

Increase the reserve GI bill education benefit from $140 per month to $145 per month for full-time students, with a comparable increase for part-time students;

Restore education entitlement for those reservists whose educational program was interrupted by the callup for Operation Desert Shield and Desert Storm;

Extend the VA home loan guarantee to reservists who were called up for 90 to 180 days;

Clarify veterans' reemployment rights;

Encourage the Department of Veterans Affairs to hire retired Federal health care workers to close staffing gaps at the VA;

Open the Veteran Centers Program to veterans who have served in the Persian Gulf conflict area;

Increase the maximum coverage of the Servicemen's Group Life Insurance Program from $50,000 to $100,000 retroactive to the start of hostilities in the Persian Gulf;

Defer repayment of existing Small Business Administration loans for re-

servists called to active duty for the Persian Gulf conflict;

Permit Federal employees to donate annual leave to a leave pool to be available to Federal employee veterans of Operation Desert Shield/Desert Storm;

Permit providers of health care to waive the normal copayments required under CHAMPUS for care provided to dependents of military personnel serving during the Persian Gulf war; and

Adjust from 60 to 30 days the transition medical benefits in the committee bill for reservists and National Guardsmen who are being released from active duty after Operation Desert Storm.

These benefits will be paid for from funds transferred from the defense cooperation account.

Mr. President, I congratulate those who participated in developing this package, and I urge its adoption.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, let me just back up what both of the leaders have said here. I am the last one to restrict debate in the Senate or restrict amendments, because that is one of the hallmarks of the Senate. It is one of the last open forums where we do not have artificial restrictions. It is one of the last such forums in the world, as a matter of fact, Mr. President, so I do not like to do that, but I think the timeliness of this act dictates that we get on with it.

I have nothing but the utmost sympathetic feelings for those who have amendments that did not get included through all this compromise process we went through to bring this package to the floor, but who feel very deeply about their communities or particular pieces of legislation that they wanted to see in. Because I, too, had some things in this that did not get through this whole process of winnowing out, but I think it is very important to us to not delay this any longer.

As the distinguished minority leader indicated, we have a delegation going over to the Persian Gulf, to Kuwait. We will be meeting with General Schwarzkopf and other personnel wherever we go. I think it would be very advantageous for us if we can say at least the Senate has completed work on this package. It does not mean there will not be other pieces of legislation proposed that we will act on. But what happened with this Persian Gulf personnel benefits task force that I chaired, and that Senator MCCAIN and I worked on on each side of the aisle, is that we could not wait to put in everything people wanted to get in. I do not say we should not take those things up later. In fact, I support taking them up later. Probably many of them I would personally support, and lobby for, and work for, and support here on the floor. But I think to delay things now into next week would be a big mistake. In fact, some of my amendments I wanted in did not make it either.

The package has been a bigger compromise and bigger effort than most people have realized, because we had to get agreement on these things including OMB and CBO estimates; we also dealt with the individual departments in the executive branch that were involved in each one of these bills. There have been many, many meetings.

We had people who did yeoman effort on this package: Fred Pang, of the Senate Armed Services Committee staff; and Phil Upschulte in my office on this along with Fred. Also John Hilley from the majority leader's office has been particularly effective working out all the negotiated positions on this.

Mr. President, I also give substantial credit to Kim Wallace of the policy staff on the Democratic side who did a lot of work in this area.

I do not have any problem with people suggesting things at a later date, but we have this package already agreed by both sides. It has about 17 different parts to it. Right now it is approved. The House acted on their package over there. I hope we can get on with this Senate package so that our service men and women over there in the Persian Gulf and their families know that this is for real, that we do appreciate what they did, and that we are not going to just put this benefits package off and let it be another forgotten episode in history as has too often been the case with some of our military efforts in the past.

So I certainly support the statement of the majority leader. I do not like to move to restrict any amendments, but I will support the effort on the floor here today and vote against any amendments that are offered.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, section 201 authorizes the Secretaries of the military departments to waive the end strength requirements contained in sections 401(a), 411, and 412(a) of the National Defense Authorization Act for fiscal year 1991.

To meet our commitments in Operation Desert Storm, the military departments had to invoke existing statutory authorities that allow them to retain personnel beyond their retirement date or their normal separation date. Because of ongoing commitments, the services could not possibly meet fiscal year 1991 end strength requirements that were enacted prior to the commencement of hostilities. Section 201 gives the Secretaries of the military departments needed flexibility to avoid mass involuntary separations in fiscal year 1991.

Title III of S. 578 provides a number of personnel benefits for service men and women and their families. The provisions of title III are the distillation of numerous personnel bills introduced in the 102d Congress and reviewed by the Desert Storm Legislative Task Force, which I chaired at the request of the Republican leader.

Sixty-four bills related to Operation Desert Storm have been offered thus far in the 102d Congress, spanning the jurisdiction of 10 committees. Bills were referred to the Armed Services Committee, the Veterans' Committee, the Finance Committee, the Labor and Human Resources Committee, the Government Affairs Committee, the Agriculture Committee, the Small Business Committee, the Banking Committee and the Foreign Relations Committee.

As you can see, the scope of legislation under our review was vast and diverse. However, the task force was charged by the leadership to employ simple, focused standards to our evaluation of legislation.

Our first standard required that the legislation must truly benefit the brave men and women of Operation Desert Storm. Second, for legislation that is not directly related to Operation Desert Storm, the legislation should be of sufficient merit that we would recommend its adoption regardless of events in the Persian Gulf. Third, there should be a degree of urgency related to the legislation requiring immediate congressional action.

Mr. President, the task force determined that not all of these bills provided a direct benefit to the men and women of Operation Desert Storm. Numerous other proposals contained varying degrees of merit, but failed to meet the criteria of immediacy. Legislation in these two categories were not further considered by the task force, this narrowing our decisionmaking process.

The legislative recommendations I submitted to the Senate last week have been determined by the task force to directly benefit Americans who served in the Persian Gulf theater of operations, and are composed of initiatives that are both meritorious and meet the criteria of immediacy. Let me briefly outline our recommendations. Included are provisions to: Grant unemployment compensation to military personnel involuntarily leaving the service that is equivalent to that received by civilians; exclude from income taxation all enlisted pay and $2,000 per month of officers pay for those who served in a combat zone; authorize the recall of retired military personnel at their highest rank prior to their retirement; exempt MIA's from the cap on contributions to the military savings program; increase servicemen's group life insurance [SGLI] from $50,000 to $100,000; increase imminent danger and hostile fire pay from $110 to $150 per month, effective August 1, 1990; ensure that accrued leave benefits be paid to the survivors of military personnel who perished in Desert Shield/Desert Storm; defer student loan payments for acti-

vated personnel; refund or credit the tuition lost by called-up personnel; defer Small Business Administration loan payments of active duty personnel and reservists adversely affected by their activation; delay reduction in military mental health benefits; protect Social Security income for children whose parents were activated; waive limitations on income for Social Security and Medicare disability beneficiaries whose income has increased due to Desert Storm-related work.

Title III of S. 578 encompasses many of the recommendations of the Desert Storm Legislative Task Force. Other recommendations are included in a leadership package that I understand will be offered by Senators MITCHELL and DOLE.

I would like to thank the two leaders for their steadfast support during our review of Desert Storm-related legislation, and I would especially like to thank the chairman of my subcommittee, Senator JOHN GLENN, for all of his hard work.

Mr. President, while not all Americans agreed on the wisdom of going to war, we are all united in our support for the men and women who served their country with distinction in this crisis. While not all Americans agreed about the conduct of the war, we all agree that our service men and women performed with great skill and great courage.

We should not build on this common ground to enact legislation that serves no other purpose than to treat the men and women of Operation Desert Storm with the fairness and distinction they deserve.

As we turn from war to peace, let us make this goal Congress' top priority. Let our endeavors justly recognize the great service that America's Armed Forces performed for America and the world.

I thank the Republican leader and the distinguished majority leader for their complete support of me and of Senator GLENN in this effort. I thank our colleagues who worked very hard and attended numerous meetings, and, of course, our respective staffs, who spent literally hundreds of hours in this effort to achieve consensus on a package that we can move forward rapidly.

It is not often that I am in favor of rapid enactment of legislation, since many times when we act in haste we act in error. On this occasion, though, Mr. President, I suggest it is very important that we act quickly. It is very important that we send a message to the men and women in the gulf and their families here in the United States, that this Congress is committed to providing them with the compensation and the benefits which they have earned at great cost and so richly deserve.

Let me point out, Mr. President, that there are certain aspects of this conflict which are unique. One of them is that for the first time in over 40 years, we had large scale callup of Guard and Reserve units. The United States has changed in many ways since the Korean war. I saw in my own State cases when I had scheduled meetings with the families, that the fathers showed up with their children because the mother had been called up. There were other cases where children were left because both members, both husband and wife, were called up.

I think it is important that this legislation does take into consideration those factors and many others that have imposed a very large burden particularly on our Guard and Reserve units and their families.

I think it is a good package. It does not—I repeat—it does not preclude further legislation as we see the need arise. I do not want anyone to get the message today that this is the end of our efforts to provide benefits and compensation to the men and women who not only served in the Persian Gulf but all the men and women in the U.S. military. I will say in all candor, Mr. President, some of this legislation makes up for the past few years of neglect of the men and women in the military.

I also would like to say there is a need for urgency. I urge my colleagues who have amendments, who want them considered, as is their right as Senators, that we would at least try to achieve some time agreement on these amendments.

I would also point out to my colleagues that there are certain budgetary constraints which were considered in enactment of this legislation in light of the constraints of the recent 1990 budget agreement. But those constraints were not the overriding factor, and I think that an objective observer would view this package of as one of great generosity.

I am also, finally, Mr. President, proud to say that these negotiations and these deliberations were conducted in a total bipartisan fashion. I am proud to work closely with Senator GLENN and the distinguished chairman of the Senate Armed Services Committee, as well as our distinguished ranking minority member, Senator WARNER.

I think that we can be proud of the nonpartisanship and lack of acrimony that characterized the entire negotiations and the recommendations that we bring before the Senate.

Mr. President, I yield the floor.

Mr. LAUTENBERG. Mr. President, I rise to support S. 578 and the proposed package of personnel benefits to assist our Persian Gulf troops and their families.

All Americans owe a debt of gratitude for the sacrifices made by our Armed Forces. Our troops fought to put an end to Saddam Hussein's reign of terror. They fought for the rights of the small not to be bullied by the strong. For liberty and the sovereign rights of all nations. And perhaps most importantly, they fought to rid the world of chemical and biological weapons and to stop nuclear proliferation. They made us proud. They fought with skill and professionalism, and courage. They are the finest on Earth and they were backed by equipment second to none.

And we've got heroes here at home too. The families of our troops were the backbone of our war effort. The husbands and wives, parents and children of our soldiers in the gulf have been a lifeline to our troops.

We need to do all we can to ease the burdens of our troops and their families. Parents have been pulled away from their children and asked to risk their lives for our country. The absence of parents created a strong need for child care services that were not readily available. Reservists were called away from their regular jobs and asked to serve in the Persian Gulf. For many reservists, this disruption of their daily lives meant reduced financial resources available to meet their economic commitments. Other military personnel and their families were asked to interrupt their educational programs, while still others were asked to delay the purchase of homes.

I was pleased to be a member of the personnel benefits task force, chaired by Senator GLENN, that helped develop the package before us.

The package builds on steps we have already taken in the Senate.

We have already approved legislation to amend the Soldiers' and Sailors' Civil Relief Act. That legislation assists military families by protecting them against eviction and distress during military service, prohibits an employer imposed waiting period for health insurance benefits of reservists when they return to their jobs, provides professional liability protection for military personnel called to active duty, and other types of benefits. This bill was sent to President Bush on March 6, and is awaiting his signature.

But we can do more and should do more for those brave soliders who risked their lives and for their families. S. 578 and the leadership's amendment would provide additional personnel benefits to Persian Gulf troops and their families. In addition to authorizing $15 billion in supplemental appropriations for the costs incurred by the Department of Defense for Operation Desert Shield/Storm, the bill also provides for some benefits for military personnel serving in the gulf.

S. 578 provides for increases in hostile fire pay, special pay for health care personnel, temporary increases in the amount of death gratuity paid to survi-

vors, and transitional medical coverage for reservists following their release from military duty. Additionally, extended mental health benefits under CHAMPUS, increased child care assistance, and additional education and family support services to families of military personnel serving in the Persian Gulf are also included in the bill.

The leadership amendment would provide for additional benefits that have been identified by the Veterans' Affairs Committee and the Glenn Task Force to fill other specific needs of the Persian Gulf troops and their families.

I am particularly pleased to see that the leadership amendment expands the educational benefits for those reservists called to active duty. Specifically, this amendment increases the GI education benefits from $140 per month to $270 per month for each month that a reservist served in active duty in connection with the Persian Gulf. As our troops return home, we need to give them the opportunity to build a better future for themselves.

The leadership amendment also includes clarification of veterans' reemployment rights. The amendment also encourages the Department of Veterans' Affairs to hire retired Federal health care workers to close staffing gaps at the VA, permits providers of health care to waive the copayments required under CHAMPUS for care provided to dependents of Persian Gulf troops, and other various benefits.

Mr. President, our men and women in the gulf should come home to a warm welcome, but also to benefits that ease some of the burdens they have borne and that enable them to look to the future. That is what the legislation before us would do. I urge my colleagues to join me in approving this legislation and the leadership's amendment.

Mr. DODD. Mr. President, I am pleased to join my colleagues as a cosponsor of this amendment to provide extended benefits for the veterans of Operation Desert Storm.

From the very beginning of hostilities in the gulf conflict our Nation has been united in support of our service men and women who risked their lives fighting in defense of our national interest. Their magnificent performance has been cheered across the continent.

Now that the fight is over and our troops are returning, it is Congress' task to make sure that the Nation pays its debts to those who carried the burden for all of us.

At the beginning of this Congress we passed a few emergency bills to do the most urgent tasks, such as providing income tax deferrals and updating the civil relief provisions of existing law. I was pleased to cosponsor those earlier efforts as well.

This amendment, which was carefully marked up by the Veterans' Committee as proposed legislation S. 386, takes a more comprehensive approach to upgrade our laws on veterans' benefits.

Specifically, this legislation—

Defines the extent of the Persian Gulf war for purposes of veterans' benefits;

Increases and preserves the GI bill educational entitlements and benefits for the reservists who were called up for duty in the war;

Extends VA home loan guarantees to gulf veterans;

Strengthens the reemployment rights of veterans;

Extends the health benefits coverage for dependents of military personnel serving in the gulf war;

Opens the VA readjustment counseling system for the post-Vietnam-era veterans; and

Provides numerous other needed benefits.

Mr. President, last week I met the Connecticut delegation of the Veterans of Foreign Wars, just as I do every year, who were in town for the national convention of this great veterans' organization. I was overwhelmed not only by the pride and joy they took in our forces' splendid victory, but also by the care they took to emphasize the obligations of our Nation toward this latest group of U.S. veterans of a foreign war. Many of the provisions in this particular amendment were specifically urged and insisted on by this group.

My cosponsorship of this measure derives not only from my conviction of its basic rightness but also from my obligation to my own constituents who are veterans of this Nation.

The benefits included in this package are justified, moderate, measured, and richly earned. I urge all my colleagues to vote for this amendment.

Mr. KOHL. Mr. President, I rise today to express my support for this legislation. As my colleagues know, it was largely shaped by the work of the Persian Gulf personnel benefits task force. I was honored to be a part of that task force, and I want to thank the majority leader, Senator MITCHELL, for appointing me to the task force and Chairman GLENN for his distinguished leadership.

Mr. President, I am proud of the work of the task force, but I'm even prouder of the performance of our service personnel and the support their country gave them. Reserve units and active duty personnel from all over my State performed yeoman's service during the war. Fort McCoy in western Wisconsin did an excellent job as a key processing point for delivering manpower to the gulf. If anyone ever needed assurance that the United States is capable of amazing feats, Operation Desert Storm, and its predecessor Desert Shield, should be enough to convince any doubter that we are capable of great things.

As a member of the task force and the Senate, the question I faced was simple: "How can we best say 'thank you' to the brave men and women who have risked their lives on our behalf? Should we give them parades? Yes. Should we give them medals? Yes. Should politicians sing their praises and newspapers celebrate the exploits? Yes. Yes, of course, we should and will do all of these things. They are important. They help the entire Nation acknowledge the tremendous conflict we have emerged from. They are a powerful, visible symbol of our country's support for our soldiers. And they are a way to help soldiers mark an end to a war in which they were so intimately engaged.

But our Nation does not and must not stop at saying, "thank you." Service in the military involves an extraordinary commitment, and sometimes requires extraordinary sacrifice. We must provide the programs and health care which respond to the special needs which can accompany military service. It is only through funding these programs over the long term that our Nation can begin to repay that sacrifice that so many of our veterans have made.

I would like to discuss some of the principles that I used to evaluate legislative proposals related to Persian Gulf personnel. The first was the principle of fairness. I wanted to make sure that these veterans were eligible for the same treatment other wartime veterans receive. At the same time, I didn't want to see them qualify for a rash of new programs or benefits which the veterans of previous wars could not receive. I also wanted to make sure that the reservists and guardsmen who served alongside their active duty counterparts were not forgotten.

My second consideration involved an effort to focus on the family members of our soldiers. Many wives and husbands were left behind when their spouses went to war. Many children found themselves without one or both their parents. Due to the demographic changes in our All-Volunteer Force, the special needs of these families are, in some cases, unlike the needs we have experienced in previous wars. Soldiers can fight best when they know their dependents are cared for, and when they know the financial burdens of their service are not creating undue pressure on the folks back home. And so I focused a large part of my efforts on the task force on helping military families. And that is something I want to continue to work on even after this package is adopted because I believe our experiences in the gulf have revealed some problems in the "family support" system which need to be explored and corrected.

Third, I wanted to use this opportunity to update provisions in previous law which were simply out of step with

current realities. Some of the financial benefits provided by law were based on the economic facts of life which existed in the 1940's or the 1840's. We might wish that those facts of life were still operative today—but they are not. And this was a good time to make some changes.

Finally, Mr. President, I would like to just mention a few of the specific provisions in this important legislation. We have increased the rate of hostile fire pay from $110 to $150 per month. We have increased the death gratuity from $3,000 to $6,000 for Desert Storm. We have removed the cap on a military savings plan for soldiers listed missing in action. We have provided for the payment to survivors for the unused accrued leave of soldiers who died on active duty.

We have authorized called-up health care personnel to receive the same special and incentive pay as their full-time active counterparts. Military personnel called back to active duty will be allowed to be called back in the highest grade they previously attained.

Regarding health care, reservists called to active duty who do not have other health insurance with employers covered under the Soldiers and Sailors Relief Act will have 60 days of transitional medical coverage following their release from active duty. The effective date for planned reduction in CHAMPUS mental health benefits has been postponed for 1 year, until 1992. We have opened up the veterans centers program to post-Vietnam veterans who served in the conflict area. And we permit providers of health care to waive the normal copayments required under CHAMPUS for care provided to dependents of military personnel serving during the Persian Gulf war.

For families, we provide $20 million for child care assistance, and $30 million for education and family support services.

We have defined the period of the Persian Gulf war as beginning on August 2, 1990, and ending when specified by a Presidential proclamation. These dates are central to eligibility for pension and other veterans benefits.

We have increased reservists entitlement for the GI bill of rights from $140 to $270 per month for each month served on active duty in connection with the war.

Reservists who were called up for 90 to 180 days will be extended the VA home loan guarantee.

We provide for the deferment of repayment of Government student loans for those activated, and we encourage educational institutions to refund tuition or give credit to military personnel who were not able to complete their terms due to activation.

Finally, we will allow reservists who have small business loans to defer repayment.

Mr. President, when we called upon them, our soldiers were up to the task in World War I, World War II, Korea, Vietnam, and the Persian Gulf. This package illustrates our recognition of the fact. But too often in the past we have provided support in the first flush of victory and then, as the years go by and the needs of the veterans increase, our support for their programs declines. Passing this legislation is a downpayment, nothing more and nothing less. In the years ahead, we have to continue to support the programs we have authorized here. Our soldiers did not ask how long the war would last—they told us they would be there as long as we needed them. Now we have to be there as long as they need us.

Mr. LEVIN. Mr. President, I believe that the men and women who served our country so nobly in Operation Desert Storm should be able to get on with their livelihood once they come back home. As part of that goal, it is important that reservists be given the opportunity to put themselves back in the position that they would otherwise have been in with respect to their pension benefits. We should make clear that reservists have the right to restore missing pension credits for the period they were on active duty at the usual rate of contribution. My understanding is that the current law is generally interpreted in that manner. However, returning reservists should not have to worry about any kind of ambiguity in this regard.

I had intended to offer an amendment to make the current state of the law absolutely clear. However, I will defer to the request by the Senate majority and minority leaders to withhold amendments at this time in the interest of getting the underlying veterans benefits package and Desert Storm supplemental authorization passed as quickly as possible. I will, nevertheless, be introducing a free standing bill to clarify pension buy back rights at the usual rate of contribution. I would hope that this legislation will be given serious consideration by the Veterans' Affairs Committee when it considers proposals to improve and update the veterans' reemployment rights in the near future, unless that committee concludes there is no ambiguity in current law and that such buy back rights are already protected.

Mr. CRANSTON. I want to thank the Senator from Michigan for his interest in this area of veterans' reemployment rights. I look forward to reviewing his legislation and assure him that it will be given serious consideration at the Veterans' Affairs Committee's hearings.

Mr. President, yesterday I rose, as chairman of the Veterans' Affairs Committee, to express my support for the provisions of the leadership amendment to S. 578 that related to veterans programs. Those remarks of mine appear in the RECORD for March 13, 1991, beginning on page S3168. At the time, I described the provisions as I believed they were then about to be submitted, and I believed that my statement was based on firm information. Unfortunately, however, my descriptions of certain provisions that related to the Montgomery GI bill [MGIB] have subsequently proven to be inaccurate.

In the process of working with the leadership and with the Office of Management and Budget to arrive at a mutually acceptable package of veterans benefits to be made part of S. 578—a process of balancing hard dollars, real needs, and genuine gratitude—difficult choices had to be made. I am deeply disappointed that all of the increases that I believed were being made were not ultimately possible. I regret the errors and wish to clarify the record at this point.

The first error—appearing in two places on page S3172—indicated that the MGIB benefit increase for activated reservists would be from $140 per month to $290 per month for each month an activated reservist served on active duty in connection with the Persian Gulf war. Each reference to the figure $290 should instead be $270.

The second error, appearing on page S3172, indicated that the cost-of-living adjustment [COLA] in MGIB educational assistance benefits would be 8.3 percent. The correct figure, regrettably, is 3.4 percent. Accordingly, the references on page S3173 to specific dollar increases should be corrected as follows: The increase for chapter 30 MGIB participants for full-time study for those serving on active duty for 3 years on more, which was stated as an increase from $300 to $325 a month, should be stated as being to $310 a month. The increase for chapter 30 participants for full-time study for those who serve 2 years on active duty and 4 years in the Reserves, which was stated as in increase from $250 to $271 a month, should be stated as being to $259 a month. The increase for reservists participating under chapter 106, which was stated as being from $140 to $152 a month, should be stated as being to $145 a month.

A third error indicated that the leadership amendment would provide for an increase in the monthly payroll deduction from $100 to $110 during the first 12 months of service for active-duty service members who participate in the MGIB. A payroll deduction increase provision was not made a part of the leadership amendment. Thus both references to such a provision—pages S3172 and S3173—should be disregarded.

Again, Mr. President, I regret these misstatements and hope that my colleagues now understand the correct information.

Mr. DASCHLE. Mr. President, I was pleased and honored to be named a member of the Senate Task Force on

Military Families. The task force has worked very hard to put together a reasonable package of benefits that addresses the special challenges facing military personnel and their families as a result of Operation Desert Storm.

I want to commend the Senator from Ohio [Mr. GLENN] and the Senator from Arizona [Mr. MCCAIN] for leading this task force. I also want to thank the majority leader, Senator MITCHELL; the Republican leader, Senator DOLE; and the President pro tempore and chairman of the Appropriations Committee, Senator BYRD; for making this emergency Desert Storm package possible.

S. 578, the Department of Defense Supplemental Authorization for Operation Desert Storm, is the compilation of the best of the task force proposals. S. 578 authorizes $15 billion in supplemental appropriations to cover the costs associated with Operation Desert Storm. The bill creates a Desert Storm working capital account to disburse the funds. The working capital account is to be reimbursed by the defense cooperation account, which consists of the allied contributions to Operation Desert Storm. S. 578 also waives the military personnel end strength ceilings required by the fiscal year 1991 Defense authorization bill and funds the increased costs required by increased end strengths through allied contributions.

Among the benefits for military personnel and their families provided in the bill are:

A temporary increase in "imminent danger" pay from $110 per month to $150 per month;

Special and incentive pay for health care personnel activated as a result of Desert Storm;

Authorization for the Army, Navy, and Air Force to recall military personnel to active duty for Desert Storm in the highest grades they held satisfactorily while on previous active duty;

A temporary increase in the death benefit (from January 16, 1991 through the end of the war period as designated by Presidential proclamation) from $3,000 to $6,000;

Sixty days of transitional medical coverage for reservists activated for Desert Storm following their release from active duty;

One-year postponement of the reduction in CHAMPUS mental health benefits (from February 15, 1991 to February 15, 1992);

Twenty million dollars for child care assistance for military personnel serving on active duty; and

Thirty million dollars for education and family support services to families of military personnel serving on active duty.

The leadership amendment now being offered would add the following provisions:

Definition of the period of the Persian Gulf war for purposes of veterans' benefits as beginning August 2, 1990 and ending by Presidential proclamation;

An increase in reservists GI bill education entitlement from $140 per month to $270 per month for each month a reservist was called to active duty in connection with Desert Storm;

Restored education entitlement for reservists whose educational program was interrupted by the call-up;

An extension of the VA home loan guarantee to reservists called up for 90 to 180 days;

Language encouraging the Department of Veterans Affairs to hire retired Federal health care workers to fill staffing vacancies at the VA;

Eligibility for Vet Center programs for post-Vietnam veterans who have served in the conflict area;

Deferral or repayment of existing SBA loans for reservists called to active duty; and

Authorization for health care providers to waive the patient copayment requirement under CHAMPUS during the period of the Persian Gulf war.

Mr. President, as I have traveled across South Dakota, one of the primary concerns raised by military families has been the high cost of health care. During the Persian Gulf crisis, health care costs have increased for military families as a result of the deployment of health care personnel to the gulf and the corresponding dependence on nonmilitary health care. The Civilian Health and Medical Program of fhe Uniformed Services [CHAMPUS] is designed to ensure military personnel's access to health care when care in military facilities is unavailable or when military personnel or their families are located in remote areas. However, CHAMPUS is a cost-sharing program with fee schedules that often do not cover private health care expenses.

I am pleased that the leadership amendment includes my provision to allow health care providers participating in CHAMPUS to waive the requirement for patient copayments for health care services. The amendment is intended to ease the financial burden placed on military personnel and their families who are suffering economically as a result of the war, or whose access to health care at military facilities has been reduced as a result of the war.

The waiver is strictly voluntary on the part of health care providers and authorized only during the period of the Persian Gulf war, which is defined as beginning on August 2, 1990, and ending "on the date prescribed by Presidential proclamation or by law." The amendment does not authorize providers to pass along the cost of the copayment waiver or related costs, if any, to private insurers or to the Government. Payments to providers by CHAMPUS and secondary insurers would be based on the normal, prewaiver charge. The amendment specifically states that a provider who waives the copayment may not increase the Federal Government's share of the health care costs.

Finally, the amendment expresses the sense of Congress that physicians and other health care providers participate in CHAMPUS. Increased CHAMPUS participation is especially critical during the period of the Persian Gulf war because of the strain our deployment in the gulf has put on military hospitals. Many military personnel and their families have little or no access to health care at military facilities due to the fact that so many medical personnel have been deployed in the gulf.

This amendment cost the Federal Government nothing. It is not a new spending program. Its purpose is a simple one: to allow physicians and other health care providers to voluntarily forgo their share of health care payments as a show of support for our military personnel and their families—families who are struggling to make ends meet under extraordinary circumstances.

My involvement in this issue was inspired by a group of people in Watertown, SD, who told me they wanted to show support for our troops that went beyond the yellow ribbons they had displayed. The staff at Brown Clinic felt that they could help the troops and their families by forgoing the patient's share of health care payments under CHAMPUS. To quote Jim Neisen, the business manager at the clinic, "We fully want to do more than just cheer, pray and tie ribbons." However, after reading an article from the American Medical News, they realized that the Government's position was that such an action in support of our troops was illegal and that the clinic "could face stiff fines."

While I understand that CHAMPUS is a cost-sharing program, military families are facing extraordinary circumstances. As a government, we have an obligation to remain flexible enough to allow for a creative solution to this problem. The staff at Brown Clinic and many other health care providers across the country are offering just such a solution. The Federal bureaucracy must not stand in the way.

Mr. President, I am proud of our troops. I am proud of the American people who have supported those troops unfailingly. And I am proud of the people at Brown Clinic in Watertown, at Central General Hospital in Plainview, NY, at the Manatee County Medical Society in Bradenton, FL, and all the other health care providers across the country who have found this special, tangible way to ease the financial burden on American military families.

I yield the floor.

AMENDMENT NO. 33

(Purpose: To authorize the Small Business Administration to provide financial and business development assistance to military reservists' small businesses, and for other purposes)

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

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for himself, Mr. KASTEN, Mr. NUNN, Mr. DIXON, Mr. LIEBERMAN, Mr. GRASSLEY, Mr. HARKIN, Mr. KERRY, Ms. MIKULSKI, Mr. BAUCUS, Mr. SASSER, Mr. MOYNIHAN, Mr. PELL, Mr. D'AMATO, Mr. DASCHLE, Mr. HELMS, Mr. LEVIN, Mr. PRESSLER, Mr. KOHL, Mr. INOUYE, Mr. SHELBY, Mr. STEVENS, Mr. BOREN, Mr. GORTON, Mr. AKAKA, and Mr. SANFORD, proposes an amendment numbered 33.

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

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

The amendment is as follows:

Insert in the appropriate place the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Military Reservists Small Business Relief Act".

SEC. 2. REPAYMENT DEFERRAL FOR ACTIVE DUTY RESERVISTS.

Section 7 of the Small Business Act (15 U.S.C. 636) is amended by adding at the end thereof the following new subsection:

"(m) REPAYMENT DEFERRED FOR ACTIVE DUTY RESERVISTS.—

"(1) IN GENERAL.—The Administration shall, upon written request, defer repayment of a direct loan made pursuant to subsection (a) or (b) of this section, if such loan was incurred by a qualified borrower, provided that such qualified borrower demonstrates that the absence of the eligible reservist to active duty has had, or is likely to have, an adverse economic impact on the qualified borrower.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED BORROWER.—The term 'qualified borrower' means—

"(i) an individual who is an eligible reservist and who, received a direct loan under subsection (a) or (b) before being ordered to active duty; or

"(ii) a small business concern that received a direct loan under subsection (a) or (b) before an eligible reservist, who is an owner, manager, or key employee described in subparagraph (C), was ordered to active duty.

"(B) ELIGIBLE RESERVIST.—The term 'eligible reservist' means a member of a reserve component of the Armed Forces ordered to active duty during a period of military conflict.

"(C) OWNER, MANAGER, OR KEY EMPLOYEE.—An eligible reservist is an owner, manager, or key employee described in this subparagraph if the eligible reservist is an individual who—

"(i) has at least a 20 percent ownership interest in the small business concern described in subparagraph (A)(ii),

"(ii) is a manager responsible for the day-to-day operations of such small business concern, or

"(iii) is a key employee (as defined by the Administration) of such small business concern.

"(D) PERIOD OF MILITARY CONFLICT.—The term 'period of military conflict' means—

"(i) a period of war declared by the Congress,

"(ii) a period of national emergency declared by the Congress or by the President, or

"(iii) a period in which a member of a reserve component of the Armed Forces is ordered to active duty pursuant to section 673b of title 10, United States Code.

"(3) PERIOD OF DEFERRAL.—The period of deferral for repayment under this subsection shall begin on the date on which the eligible reservist is ordered to active duty and shall terminate on the date that is 180 days after the date such eligible reservist is discharged or released from active duty.

"(4) NO ACCRUAL OF INTEREST DURING DEFERRAL.—During the period of deferral described in paragraph (3), repayment of principal and interest on the deferred loan shall not be required and no interest shall accrue on such loan."

SEC. 3. DISASTER LOAN ASSISTANCE FOR MILITARY RESERVISTS' SMALL BUSINESSES.

(a) IN GENERAL.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting after the undesignated paragraph which begins "Provided, That no loan", the following new paragraph:

"(3)(A) The Administration is empowered to make such disaster loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) to assist a small business concern (including a small business concern engaged in the lease or rental of real or personal property) which has suffered or is likely to suffer economic injury as the result of the owner, manager, or key employee of such small business concern being ordered to active military duty during a period of military conflict.

"(B) Any loan or guarantee extended pursuant to this paragraph shall be made at an interest rate of 4 percent per annum, without regard to the small business concern's ability to secure credit elsewhere.

"(C) No loan shall be made under this paragraph, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, if the total amount outstanding and committed to the borrower under this subsection would exceed $500,000, unless such applicant constitutes a major source of employment in an area not larger than a county suffering a disaster, in which case the Administration, in its discretion, may waive the $500,000 limitation.

"(D) Section 120.101-2(b)(1) of title 13, Code of Federal Regulations, or any similar regulation, shall not apply to a small business concern seeking a loan under this paragraph.

"(E) For purposes of this paragraph, the term 'period of military conflict' means—

"(i) a period of war declared by the Congress,

"(ii) a period of national emergency declared by the Congress or by the President, or

"(iii) a period in which a member of a reserve component of the Armed Forces is ordered to active duty pursuant to section 673b of title 10, United States Code.

"(F) For purposes of this paragraph, the term 'economic injury' includes, but is not limited to, the inability of a small business concern to market or produce a product or to provide a service ordinarily provided by the small business concern.

"(G) For purposes of this paragraph, the term 'owner, manager, or key employee' means an individual who—

"(i) has at least a 20 percent ownership in the small business concern,

"(ii) is a manager responsible for the day-to-day operations of such small business concern, or

"(iii) is a key employee (as defined by the Administration) of such small business concern.

"(H) For purposes of assistance under this paragraph, no declaration of a disaster area shall be required.".

(b) CONFORMING AMENDMENT.—Section 4(c) of the Small Business Act (15 U.S.C. 633(c)) is amended—

(1) by striking "7(b)(4)," in paragraph (1), and

(2) by striking "7(b)(4), 7(b)(5), 7(b)(6), 7(b)(7), 7(b)(8)," in paragraph (2).

SEC. 4. BUSINESS DEVELOPMENT AND MANAGEMENT ASSISTANCE FOR MILITARY RESERVISTS' SMALL BUSINESSES.

(a) IN GENERAL.—Section 8 of the Small Business Act (15 U.S.C. 637) is amended by adding at the end thereof the following new subsection:

"(k) MANAGEMENT ASSISTANCE FOR SMALL BUSINESSES AFFECTED BY MILITARY OPERATIONS.—

"(1) IN GENERAL.—The Administration is directed to utilize, as appropriate, its business development and management assistance programs, including programs involving State or private sector partners, to provide business counseling and training to any small business concern adversely affected by the deployment of units of the Armed Forces of the United States in support of a period of military conflict.

"(2) PERIOD OF MILITARY CONFLICT.—For purposes of this subsection, the term 'period of military conflict' means—

"(A) a period of war declared by the Congress,

"(B) a period of national emergency declared by the Congress or by the President, or

"(C) a period during which a member of a reserve component of the Armed Forces is ordered to active duty pursuant to section 673b of title 10, United States Code.".

(b) ENHANCED PUBLICITY DURING OPERATION DESERT STORM.—For the duration of Operation Desert Storm and for 120 days thereafter, the Administration is directed to enhance its publicity of the availability of assistance provided under this Act, including information regarding the appropriate local office at which affected small businesses can seek such assistance.

SEC. 5. REGULATIONS.

Not later than 30 days after the date of enactment of this Act, the Small Business Administration may promulgate such regulations as it deems necessary to carry out the provisions of sections 2 and 3 of this Act. If such regulations are promulgated, the Administration shall issue the regulations as emergency interim final regulations.

SEC. 6. TREATMENT OF EXPENDITURES.

For the purpose of section 251(b)(2)(D) and 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.), as amended by section 13101 of Public Law 101-508, all direct and discretionary spending contained in this Act are emergency expenditures related to Operation Desert Shield, Operation Desert Storm, or any successor thereto.

SEC. 7. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) DISASTER LOANS.—The amendments made by section 3 shall apply to economic injury suffered or likely to be suffered as the result of a period of military conflict occurring on or after August 1, 1990.

Mr. NUNN. Mr. President, will the Senator be willing to enter into a time agreement on his amendment?

Mr. BUMPERS. Let me say to my good friend from Georgia, Mr. President, I am willing to enter into a 30-minute time agreement equally divided, conditioned on no motion to table or amendments in the second degree.

Mr. NUNN. I do not think we can agree to no motion to table because the leadership has already made it clear that six of us, the two leaders, Senator WARNER, Senator MCCAIN and Seantor GLENN, managers of the benefits package, and I have already agreed we will be moving to table all amendments. We can agree with everything else if the Senator will drop that request on a motion to table.

Mr. BUMPERS. That is not part of the unanimous-consent agreement, is it? Have the Senators agreed on that among themselves?

Mr. NUNN. That is right. We could not ask for a unanimous-consent agreement that would not allow us to move to table. There is not time agreement.

The PRESIDING OFFICER. If the Senator from Georgia will yield, there is no unanimous-consent agreement.

Mr. BUMPERS. Mr. President, I would like to get an up-or-down vote agreement. I would like to enter into a time agreement, but I do not see why we should not be allowed to vote up or down on some of these amendments.

Mr. NUNN. The Senator has that right if he wants an up-or-down vote. We have every right to move to table. I guess we should just proceed. At this moment, my instructions would not permit the request for a unanimous consent that would deny us the right to move to table. I will just say let us proceed and maybe we can get through it just as quickly.

Mr. BUMPERS. Mr. President, it will only take me a very few brief remarks to explain this amendment. This amendment is identical to S. 360, a bill reported out of the Small Business Committee last week and which is now on the calendar.

This amendment was also agreed to by the task force on this side of the aisle. Something happened between the time our task force on this side of the aisle agreed to this amendment and the bill before us came to the floor.

I offer this amendment, Mr. President, on behalf of myself and Mr. KASTEN, who is my ranking member on the Small Business Committee and I also offer it on behalf of about 24 other cosponsors including Senators NUNN, DIXON, LIEBERMAN, GRASSLEY, HARKIN, KERRY, MIKULSKI, BAUCUS, SASSER, MOYNIHAN, PELL, D'AMATO, DASCHLE, HELMS, LEVIN, PRESSLER, KOHL, INOUYE, SHELBY, STEVENS, BOREN, GORTON, AKAKA, and SANFORD.

Mr. President, what this bill does is, No. 1, it permits any reservist or guardsman who has been called to duty in the Persian Gulf and who has a direct business loan from the Small Business Administration, to defer payments of both interest and principal until 6 months after that reservist comes home. That seems fair enough. We have had some calls in our office by families of reservists who are hurting because the reservist is gone and he or she was a key employee or very instrumental to the success of the business.

It is a negligible cost, $1 million maybe. Incidentally, that part of the amendment was on the bill. We took it off because we wanted the whole bill or nothing. I may change my mind about that, if I lose.

But the second part of the bill says, and this is very simple, that if you need a loan in the nature of a disaster loan and you can prove as a reservist or guardsman that your business has suffered a substantial economic injury, you are entitled to a disaster loan at 4 percent. That does not mean all 16,000 people in the Persian Gulf who are owners of a business—and that is how many there are—will want a loan, are going to get a loan or are even going to apply for a loan.

One of the reasons those people might want to apply for a loan of this kind is because of substantial economic injury suffered as a result of their being called up to the Persian Gulf. That is a substantial burden of proof to meet and not all reservists will be able to meet it. The Small Business Administration has a host of criteria as to what constitutes substantial economic injury. You cannot just come in and say I went over to the Persian Gulf and fought for my country and, therefore, I want a loan. You have to prove that you own 20 pecent or more of the business or that you are a key employee and that you meet some other SBA criteria; and then you have to prove that the business has really suffered.

Then, Mr. President, there is an additional point to be made. Once you withstand all of that burden of proof, the Small Business Administration is still not obligated to make that loan to you because it still has to be a viable loan. It has to, what they say, cashflow.

So in the first instance—I neglected this in the opening part of my comments, Mr. President. It is very simple. There are two major parts to this bill. Section 2 says that if you are a reservist, or guardsman, and owner of a business or key employee, or any of those things, and you were called to the Persian Gulf, you are entitled to have your payments on that direct Small Business Administration loan deferred until 6 months after you come home, but even there you have to prove to the satisfaction of the Small Business Administration that the business, as a result of your being called up, has suffered an adverse economic impact.

None of these conditions are freebees. So you in this case have to prove adverse economic impact in order to get your loan payments deferred—and, incidentally, if you look at the bill, we are deferring student loans on the same basis. There is a provision in their that it you have a student loan, those are deferred until 6 months after you come home. Why not do it for people who have a small business loan? And even in this case, as I say, you have to prove that the business has suffered an adverse economic impact.

As to the second major part of this bill, why not do for the brave troops, for whom everybody has been waving flags and wearing yellow ribbons, what we did for people down on the Rio Grande and on the Mexican border when the peso was devalued. Think about that. Do you want to go home and tell your folks that it is OK to give 4-percent disaster loans to businesses that were adversely affected by the devaluation of the peso, but not to the troops who get called up out of their businesses and had to go the Persian Gulf to risk their lives for this country. You go home and tell then that. I am not going to.

Or El Niño. Do you remember El Niño? You heard all the speeches here about what that El Niño had done to the fishing industry on the west coast. What did we do? We provided exactly the same relief for them that we are providing for the troops in the Persian Gulf in this bill. You go home and tell your folks that you are more concerned about some business on the west coast that got hurt because of El Niño than you were Persian Gulf troops who risked their lives getting the same benefit.

The list goes on and on. It is fairness.

Mr. President, there are a lot of people in the Persian Gulf who are going to get virtually nothing out of this bill. Many of them will: educational benefits, health care benefits, combat pay. There are a lot of provisions in this bill that will help a lot of people, but a lot of the people that Senator KASTEN and I are trying to help, we and our other 24 cosponsors, and I hope a majority of the Senate, will not get one single benefit out of any of the rest of this bill. If you do not pass this amendment, all they can do is sit on the sidelines and watch everybody else reap the benefits in this bill.

I close my comments, Mr. President, by saying I have the utmost respect for the majority and the minority leaders. Lord knows, we owe a debt of gratitude to Senator GLENN and Senator MCCAIN for the tremendous number of hours they put into crafting this bill.

It goes without saying that every Member of the body has the utmost respect for Senators NUNN and WARNER, chairman and ranking Member of the Armed Services Committee, who bring this bill to the floor. But there are 94 Senators here who did not enter into any agreement. There are 94 Senators who may come to the floor today to debate the bill and try to improve it, and they have a right to do it, and every one of those 94 Senators has a right to vote their conscience on this. I hope they will, Mr. President. I yield the floor.

Mr. MCCAIN. Mr. President, with reluctance I oppose the amendment of my colleague from Arkansas.

Many Senators were heavily involved in these negotiations. I think he might have noted that on the Republican task force there were 20-some Members who took part in these considerations. I believe—my friend from Ohio could correct me—there was almost an equal number of Democrat Senators in his task force. The Senator is incorrect when he claims that 94 Senators were not involved with this legislation. In fact, I could make a case that a majority of Senators on both sides of the aisle were involved.

I think our friend from Arkansas makes some very valid points. It is important to recognize also that a bipartisan offer was made to find an acceptable solution that limited the loan deferral to only those whose businesses were impacted by the deployment. I understand that proposal was rejected. I also understand that this amendment has no provision for Members who were on active duty and who lost their small business loan.

I should also point out that it is a mistake, I say to my friend from Arkansas, for him to tell other Members of this body what to go home and tell our constituents. I am very pleased and very proud to go home and tell my constituents about the work that I and Senator GLENN and 40 or more other Senators have done with this package. I am not afraid to go home and tell them that I strongly supported the President of the United States in the crisis which we just resolved. I am not afraid to go home to tell the people I represent that if we had let the sanctions go on, many more innocent Kuwaitis would have died or been tortured or raped. I have no reluctance to go home and tell the people of my State how strongly I supported the President of the United States and the men and women of Operation Desert Storm in more ways than are rewarded by this package.

So I will reluctantly oppose the amendment, but at the same time I assure my friend from Arkansas that I think he has laudable goals. I also think this amendment should be considered in the weeks ahead with further legislation to benefit the men and women who have served in this crisis.

I yield the floor, Mr. President.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. My remarks will be very brief, and I do not want to have to move to table until the Senator from Arkansas has finished his remarks, but I will move to table at the appropriate time.

The reason is very clear. We are going to have to ward off amendments on this bill if we are going to get it passed and if we are going to get it in law. As unfortunate as it is, we are in a position of having to table or try to table, ask our colleagues to vote to table good amendments as well as those with which we might not agree.

I happened to be a cosponsor of this amendment, I believe, when it was introduced as a bill, so I think it is a good amendment. But if it goes on this package, it is going to greatly complicate the procedure here and we are going to have a lot of other amendments. If we are not able to table the first two or three of these amendments, we will probably have 15 or 20 amendments before the afternoon is over and the evening.

Of course, we have a group of Senators leaving for the Middle East at 5 o'clock this afternoon. We have other business to take care of. So reluctantly, even though I agree with the amendment and I think it has merit and I hope it can be put on another bill, I will at the appropriate time move to table it.

Mr. GLENN. Mr. President, although with great reluctance I also have to oppose the proposal by the Senator from Arkansas. I think his motives in this are excellent. I wish I could support him. But let me just briefly address what happened on the task force and why some of these things had to be dropped out.

We had many considerations. First and foremost were the dollars involved. One of the estimates on the proposal by the Senator from Arkansas I believe is $120 million. I do not know whether that is still valid or not. I think that is one we had quoted by, I believe, CBO originally. I do not know how they made that estimate. So maybe that one is not valid. But we had to run the gamut of a lot of different organizations. One was CBO, which was first to get an estimate on it. Next was OMB.

Then we had to check what the House was going to do on these things too. That was not the end though, because the bill still has to go to conference.

We also had to consider what the Defense Department's wishes were.

Let me just run through very briefly some of the bills that did not make it into the task force and leadership package.

We had a proposal by Senator MCCAIN and me to equalize unemployment compensation for separating military personnel who are only allocated 13 weeks of unemployment compensation, to start only after a month after they are out, as opposed to their civilian counterparts who rate 26 weeks of unemployment compensation which starts the first week after they are out of work. There were some objections to that on cost grounds.

I will not belabor that except to say I very much wanted that bill to be included because I thought it was preeminently fair, and I wanted to address it with legislation early on. I think plain fairness demands that be done.

But we are deferring that to later consideration because of its broad application into the future, and because it does not just apply to Desert Storm specifically. So we are deferring that.

I also had a proposal for certain waivers for medical personnel and for language specialists regarding certification requirements for certain special pays for people that are being dealt with unfairly. That was not included in the package.

Granted, with the Bumpers amendment we can get into SBA and give small business a little broader scope, but that still does not necessarily encompass all small businesses in the country.

We had another one. Senator SHELBY wanted penalty-free withdrawals from IRA's. We could not put that in. There were technicalities on that one as far as conferencing with the House. So we will take that one up later.

We had another bill introduced by Senator MCCAIN and me that would have increased the Federal income tax exemption cap on officers from $500 to $1,000 a month. Once again we deferred that one.

Senator SANFORD had one on funds to go to FEMA to support the McKinney Act, food and shelter programs. I do not know whether he is going to address that again here today. That one once again was one that could be deferred, and was because there were objections to it and uncertainty as to exactly how much it would cost.

Senator MIKULSKI had a bill—unfortunately we got it pretty late in the process—and she made a statement on the floor yesterday. She is concerned about the pay lost by Federal employees who were activated, whose pay while they are in the military is going to be less than their pay would have been had they still been in their civil service jobs. She wanted to equalize that pay.

Once again that one was put off to be consider later. If the Congress is going to do things like what Senator MIKULSKI proposed, and like the SBA proposal by our distinguished colleague from Arkansas, then how about others in civilian life who were activated, who

did not have a business, but whose pay is now well below what their civilian pay was in whatever job there were in?

They have been in the Reserve, accepted the responsibilities of being in the Reserve, and were paid year after year. That was fine. Nobody complained. They were supposed to be making arrangements for what would happen if and when they happened to get activated.

If we are going to do this with SBA. Then all these other considerations have to come in also. All the rest of the Reserves who took a pay cut by being recalled into the military then would have to have their pay increases backed up to what their civilian level pay was if we are going to deal with this thing fairly.

Everybody was not impacted from a small business standpoint.

It seems to me if we are going to be fair, we also should consider this in light of all those who served, and you could even say it is not fair to the regular military establishment because many of these people, especially junior enlisted people, were working a second job and getting paid for it, and now their pay is cut because they were sent to the gulf.

Is it fair that their pay be cut and their families have less money?

Mr. President, I will not belabor it any further. All of these things the committee considered were considered in conjunction with CBO, with OMB; and with various executive branch departments, as well as considering what the House was going to do; I did not like taking any of these provisions out because my view was to make this bill as inclusive as feasible, and do as much as we could for the people over there.

That was basically what Senator MIKULSKI was talking about yesterday. Is it fair that people coming in straight from civilian life may have their pay cut? But they may be far more impacted than what is being addressed by this particular amendement.

For all these reasons, Mr. President, I very regretfully have to oppose new amendments including the one on SBA offered by the distinguished Senator from Arkansas.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. BUMPERS. Mr. President, I wanted to make one point. The Senator from Arizona said it did not include active duty troops. It does not. But so far as I know, there are no active duty troops that would qualify.

We are talking about the people who are calling up from their civilian jobs, their civilian businesses—I would be delighted to amend it if I knew of any—so they would be taken care of. However, I do not believe there are any. So I am prepared to vote on this amendment right now.

I will just plead with my colleagues: Do not vote to table this amendment on the grounds it was not included with the task force. It was included on this side, but apparently was torpedoed when the two sides were trying to reconcile their differences. It is a very worthy amendment, and it is worthy of an aye vote from every Member of this body.

Mr. GLENN. Mr. President, if there is no further debate, I move to table the amendment on behalf of Senators MITCHELL, NUNN, GLENN, DOLE, WARNER, and MCCAIN.

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

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the motion of the Senator from Ohio to lay on the table the amendment of the Senator from Arkansas.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Mexico [Mr. BINGAMAN] is necessarily absent.

I also announce that the Senator from Florida [Mr. GRAHAM] is absent because of a funeral.

Mr. SIMPSON. I announce that the Senator from New Mexico [Mr. DOMENICI] and the Senator from Vermont [Mr. JEFFORDS] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 58, nays 38, as follows:

[Rollcall Vote No. 26 Leg.]

YEAS—58

Akaka	Ford	Moynihan
Bentsen	Fowler	Murkowski
Biden	Garn	Nickles
Bond	Glenn	Nunn
Boren	Gore	Packwood
Bradley	Gorton	Pell
Brown	Gramm	Robb
Bryan	Hatch	Rockefeller
Burns	Heinz	Roth
Byrd	Inouye	Rudman
Chafee	Johnston	Seymour
Coats	Kassebaum	Simpson
Cochran	Kennedy	Smith
Cohen	Kerrey	Symms
Craig	Lieberman	Thurmond
Cranston	Lott	Wallop
Danforth	Lugar	Warner
Dole	Mack	Wirth
Durenberger	McCain	
Exon	Mitchell	

NAYS—38

Adams	Grassley	Levin
Baucus	Harkin	McConnell
Breaux	Hatfield	Metzenbaum
Bumpers	Heflin	Mikulski
Burdick	Helms	Pressler
Conrad	Hollings	Pryor
D'Amato	Kasten	Reid
Daschle	Kerry	Riegle
DeConcini	Kohl	Sanford
Dixon	Lautenberg	Sarbanes
Dodd	Leahy	
Sasser	Simon	Stevens
Shelby	Specter	Wellstone

NOT VOTING—4

Bingaman	Graham
Domenici	Jeffords

So the motion to lay on the table amendment (No. 33) was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

The PRESIDING OFFICER. Without objection, a motion to lay that motion on the table is agreed to.

(Later the following occurred:)

Mr. SPECTER. Mr. President, I have checked with the majority leader, who has no objection. I ask unanimous consent that I may be permitted to change the recorded vote on Vote No. 26 when I intended to vote "no" but was recorded as voting "aye" on the Bumpers amendment.

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

(The foregoing tally has been changed to reflect the above order.)

SENATE RESOLUTION 76—URGING THE TRIAL AND PUNISHMENT OF CERTAIN CRIMES UNDER INTERNATIONAL LAW

The PRESIDING OFFICER. Pursuant to the previous order, the question is on agreeing to Senate Resolution 76, which the clerk will report by title for the information of the Senate.

The assistant legislative clerk read as follows:

A resolution (S. Res. 76) 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.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, for the information of Senators, the vote that is about to occur is unrelated to the pending bill. This is on a resolution offered last week by the Senator from Pennsylvania [Mr. SPECTER]. In order to accommodate the schedules of several Senators, Senator SPECTER agreed to delay the vote until this week. The agreement we reached was that the vote on his resolution would occur after the first rollcall this week, whenever and on whatever subject that first vote was. So this is on a resolution which was debated last week. It is unrelated to the current bill. There is no debate on this. It is on the Specter resolution. Then we will return to consideration of the pending measure.

I thank my colleauges.

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

Mr. SPECTOR. Mr. President, have the yeas and nays been requested?

The PRESIDING OFFICER. The yeas and nays have not been requested.

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

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the resolution. The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FORD. I announce that the Senator from New Mexico [Mr. BINGAMAN] is necessarily absent.

I also announce that the Senator from Florida [Mr. GRAHAM] is absent because of a funeral.

Mr. SIMPSON. I announce that the Senator from Vermont [Mr. JEFFORDS] is necessarily absent.

The PRESIDING OFFICER [Mr. BRYAN]. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 27 Leg.]

YEAS—97

Adams	Fowler	Mitchell
Akaka	Garn	Moynihan
Baucus	Glenn	Murkowski
Bentsen	Gore	Nickles
Biden	Gorton	Nunn
Bond	Gramm	Packwood
Boren	Grassley	Pell
Bradley	Harkin	Pressler
Breaux	Hatch	Pryor
Brown	Hatfield	Reid
Bryan	Heflin	Riegle
Bumpers	Heinz	Robb
Burdick	Helms	Rockefeller
Burns	Hollings	Roth
Byrd	Inouye	Rudman
Chafee	Johnston	Sanford
Coats	Kassebaum	Sarbanes
Cochran	Kasten	Sasser
Cohen	Kennedy	Seymour
Conrad	Kerrey	Shelby
Craig	Kerry	Simon
Cranston	Kohl	Simpson
D'Amato	Lautenberg	Smith
Danforth	Leahy	Specter
Daschle	Levin	Stevens
DeConcini	Lieberman	Symms
Dixon	Lott	Thurmond
Dodd	Lugar	Wallop
Dole	Mack	Warner
Domenici	McCain	Wellstone
Durenberger	McConnell	Wirth
Exon	Metzenbaum	
Ford	Mikulski	

NAYS—0

NOT VOTING—3

Bingaman	Graham	Jeffords

So, the resolution (S. Res. 76) was agreed to, as follows:

S. RES. 76

Whereas the International Military Tribunal at Nuremberg held the initiation of a war of agression 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 Iraqi invasion of Kuwait";

Whereas in resolution 670, adopted by the United Nations Security Council on September 25, 1990, it condemned further "the treatment of 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 POWs 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 POWs 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 Conventions 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 acted under orders of higher government officials (International Military Tribunal (Nuremberg) Judgment and Sentences, 41 A.J.I.L. 172 (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 Nuremberg 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; and

Whereas any Iraqi use of chemical weapons against insurgents inside Iraq should be considered a war crime and that those responsible should be held accountable: Now, 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.

SEC. 2. The President should seek prompt and effective United Nations Security Council action to stop the use of chemical weapons and to punish those responsible.

(Later the following occurred:)

Mr. HELMS. Madam President, a brief explanation of the vote on the Specter amendment. We were trying to keep the Foreign Relations Committee hearing going and I stayed there too late and allowed other Senators to come over here and vote, and I thought it was a motion to table. I voted "no" when in fact I supported the Specter amendment. I ask unanimous consent that since it will not affect the outcome that I be allowed to change my vote to "aye."

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

(The foregoing tally has been changed to reflect the above order.)

Mr. DODD. Mr. President, I want to take just a minute to commend my col-

league, the Senator from Pennsylvania, for his resolution.

It is often stated, with no small justification, that the rules of international law are observed more often in their breach than in their implementation. Even if this is true, it should not detract from the importance of those fundamental principles that are incorporated into those legal rules.

Rules of war are as old as international law itself. For many centuries war was a perfectly acceptable way of settling international disputes and international law settled only the formalities and etiquette of warfighting like some medieval dueling code.

It took the mass killing brutality of 20th-century wars and particularly the horrors unleashed by Nazi Germany to set moral rather than procedural limits on warfare. The most lasting and memorable manifestation of this development was, of course, the procedure of the International Military Tribunal at Nuremberg. My own father was a prosecutor at those trials and, therefore, I have a deep personal interest in preserving the legacy of Nuremberg.

I do not know if Saddam Hussein and his cohorts will ever be tried by an international tribunal. This resolution, however, does a great service in reminding us of certain fundamental principles of modern international law and our obligation to do everything to uphold and enforce these principles. I commend my friend for his resolution and I urge its unanimous approval.

Mr. COATS. Mr. President, I rise to support the Specter sense-of-the-Senate resolution urging the President to establish, in cooperation with our coalition partners, an international criminal court to try Iraqis on charges of war crimes. I am pleased to be a cosponsor of this important resolution.

Mr. President, the question of war crimes could not be clearer. We should pursue the prosecution of war crimes for the same reason we confronted aggression in Kuwait in the first place. We should not seek to bring war criminals to justice for the mere sake of revenge. What is at stake is a high principle: That aggression should not go unconfronted and that the rule of law should guide human relations, not only within states but between them as well.

The basis for prosecuting war crimes is customary international law, which includes the so-called laws of war. These laws come from age-old military tradition and have been codified in several international agreements, particularly the Fourth Hague Convention of 1907 and the Geneva Conventions of 1929 and 1949. Although international law is in many ways ill-defined and unenforceable, the laws of war are well established and almost universally accepted. In general, the laws of war dictate that in pursuit of war aims, combatants must avoid needless destruction and cruelties, especially against noncombatants. The primary areas of concern have to do with the treatment of civilian populations and prisoners of war. While the laws of war recognize that in certain cases military necessity prevents strict adherence to these guidelines, military necessity must be defined in the strictest possible way. Certainly none of the actions taken by Iraqi forces against innocent civilians in Kuwait could be condoned as militarily necessary.

Although the major military powers have used military courts for the trial of persons accused of war crimes since the mid-19th century, the modern precedent for enforcing the laws of war is of course the Nuremberg trials. Before the end of World War II, the Allies included in their war aims the punishment of those responsible for war crimes. On August 8, 1945, the Big Four established a military tribunal for the trial of war criminals. The tribunal's charter included three categories of actions that would be considered criminal violations of international law. These included: Crimes against peace, war crimes, and crimes against humanity.

Crimes against peace was a category that was newly established during the Nuremberg trials, yet is now widely accepted. This included the planning, preparation, initiation, or waging of a war of aggression, or a war in violation of international treaties, agreements, or assurances.

War crimes, as defined in the Nuremberg Charter, included violations of the laws or customs of war, including, but not limited to, murder, ill-treatment or deportation to slave labor of civilian populations of or in occupied territory, murder or ill-treatment of prisoners of war, killing hostages, plunder of public or private property, wanton destruction of cities, or devastation not justified by military necessity.

Crimes against humanity included murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war, or persecutions on political, racial, or religious grounds.

While it is not entirely clear how this precedent can be applied to Iraq, there is no doubt that the United States, the coalition, and the United Nations have broad authority to prosecute those responsible for violating laws of war and related principles of international law. The United States can deal with treatment of U.S. prisoners of war unilaterally if we so choose. But the broader questions should be dealt with in an international tribunal.

At a minimum, such a tribunal should consider the following: In the category of crimes against peace, Iraq certainly initiated an unprovoked war of aggression. In the category of war crimes we should consider: First, mistreatment of prisoners of war, especially their use as human shields; second, atrocities against innocent noncombatants in Kuwait, wanton destruction of cities and towns, none of which could be justified by military necessity; and third, attacking Israel, a neutral country.

In the category of crimes against humanity we should consider the following: First, the apparent attempt to commit genocide against the Kuwaiti people; and second, the destruction of the environment by dumping millions of gallons of oil into international waters. As the Nuremberg trials created a new category in defining crimes against peace, we should now act to include environmental terrorism.

Mr. President, I commend the Senator from Pennsylvania for his initiative in this area. I hope the United States along with its coalition partners will act soon to bring justice to this very unfortunate situation. As we did in defeating Iraq's aggression, we must now send a signal that war crimes will not go unpunished. Not only must we inform the world that aggression does not pay, we must also seek to enforce the notion that when war is unavoidable, laws of war do exist and that violations will be dealt with severely. We must enforce these laws today so that future heads of state, generals, and soldiers will respect them in the future.

Mr. CHAFEE. Mr. President, I would like to comment on the amendment we have just voted on which calls on the President to confer with our Persian Gulf coalition partners for the purpose of convening an international tribunal to try Iraqi officials for war crimes. I voted for this resolution, but do not believe the United States should take a leadership role in actively pursuing war crimes trials.

It is difficult adequately to express my sense of outrage and indignation at the actions of Saddam Hussein and other officials of Iraq. The extreme abuse of the civilian population of Kuwait, the widespread destruction of oil and other nonmilitary facilities, the mistreatment of prisoners of war, the holding of innocent civilians as human shields, the launching of Scud missiles against civilian targets in Israel and Saudi Arabia, and the catastrophic dumping of millions of barrels of crude oil into the Persian Gulf are all flagrant violations of the international norms of warfare.

The real question, though, is whether the United States should be the lead nation pressing for a war crimes tribunal. In my judgment, whether to take such action should be up to the most aggrieved nations—Kuwait and Saudi Arabia. Further, if Saddam Hussein and others are to be tried, then they should be tried by people from the same region and culture. If the United States were to participate actively in such a trial, I fear that the entire af-

fair could be portrayed, in the eyes of some, as unnecessary Western interference in the affairs of Middle Eastern States.

In the end, the leaders of Kuwait and Saudi Arabia should decide whether to go forward with war crimes trials. I hope that if they chose to establish a tribunal to pursue such trials, it would be limited in scope and carefully executed. Recent history has taught us that the victors in a conflict must weigh the need for revenge with the desire for future stability in the region and the world.

DEPARTMENT OF DEFENSE DESERT STORM SUPPLEMENTAL AUTHORIZATION AND MILITARY PERSONNEL BENEFITS ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 34

(Purpose: To provide food and shelter assistance for military dependents and other civilians in communities substantially adversely affected by the deployment or assignment of personnel of the Armed Forces of the United States away from such communities in connection with Operation Desert Shield and Operation Desert Storm)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from North Carolina, [Mr. SANFORD] proposes an amendment numbered 34.

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

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

The amendment is as follows:

On page 56, between lines 19 and 20, insert the following:

TITLE VII—COMMUNITY ASSISTANCE

SEC. 701. FINDINGS.

The Congress makes the following findings:

(1) Communities where military installations, reserve units, or National Guard units are located across the United States are experiencing continuing hardships as a result of the deployment of the Armed Forces of the United States in connection with Operation Desert Storm.

(2) The hardships are especially significant for communities where military personnel comprise a large percentage of the population and military installations make crucial contributions to the strength of the local economies.

(3) The removal of so many people from such communities has caused soaring unemployment, small business failures, significantly increased demands for social services, and other adverse consequences for the economic and social life of such communities.

(4) Such adverse consequences will continue until the deployed military personnel return to their respective communities.

(5) The Federal Emergency Management Food and Shelter Program supported by the Federal Emergency Management Agency provides the type of rapid response and assistance most needed by such communities, as determined by local boards that are well qualified to make such determinations.

SEC. 702. PURPOSE.

The purpose of this title is to provide for the furnishing of assistance under the Federal Emergency Management Food and Shelter Program to persons who reside in communities from which a substantial percentage of resident members of the Armed Forces of the United States have been deployed or otherwise assigned in connection with Operation Desert Storm.

SEC. 703. SUPPLEMENTAL AID TO MILITARY COMMUNITIES.

(a) ESTABLISHMENT.—The Emergency Food and Shelter Program National Board constituted by the Director of the Federal Emergency Management Agency shall establish a program of grants to local boards to carry out the purpose of this title.

(b) AWARD OF GRANTS.—The National Board shall establish guidelines for the award of grants under the program established pursuant to subsection (a). The guidelines shall specify the criteria for the award of grants to local boards.

(c) DURATION OF GRANTS.—Notwithstanding any other provision of law, a local board may provide assistance for the purpose of this title in the case of a community referred to in section 702 until the majority of the resident Armed Forces personnel deployed or otherwise assigned away from the community in connection with Operation Desert Storm return to that community.

SEC. 704. SOURCE OF FUNDS.

For each of fiscal years 1991 and 1992, the Secretary of Defense may transfer $10,000,000 from funds in the Defense Cooperation Account to the Federal Emergency Management Agency to carry out the provisions of this title through the Federal Emergency Management Food and Shelter Program.

On page 56, strike out lines 20 and 21 and insert in lieu thereof the following:

VIII—DEFINITIONS

SEC. 801. DEFINITIONS.

Mr. SANFORD. Mr. President, today, we are considering a package to both fund Operation Desert Storm and to provide benefits for our troops, reserves, and guardsmen. Much of the benefits package of this bill was developed through the Desert Storm Task Force, chaired by my friend from Ohio, Senator GLENN.

I volunteered to serve on the Persian Gulf Benefits Task Force because it was a way for me to directly assist the troops and it was a way for me to represent the tremendous needs of my constituency back home in North Carolina. Nearly a hundred thousand of the troops deployed in the Persian Gulf for our Desert Storm operations are from bases, and Reserve and National Guard units in North Carolina. I have visited the bases and the communities in North Carolina and I have tried to develop legislation that would assist their families and their communities.

I introduced just such a bill, S. 382, the Desert Storm Community Assistance Act. This bill provides funds to the Federal Emergency Management Agency [FEMA] for distribution through a national board to communities whose economies are severely depressed due to the rapid withdrawal of a major portion of the population of these communities.

The bill thus utilizes an already existing program, which is up and running well. The National Board, made up of representatives of the Red Cross, the Salvation Army, the United Way, the National Council of Churches, and others. This Board would decide which communities are most in need of assistance and the types of assistance that should be provided. I must emphasize that this bill is intended to meet true emergency needs—for food, for shelter, for clothing. In addition, the funds are directed to those communities which are in the most need—those in which the military base forms the economic base of the community and which has experienced a significant loss of economic activity as a direct result of Desert Storm.

My bill was reported out of the Committee on Labor and Human Resources. It was also on the list of bills recommended for inclusion in this Desert Storm assistance bill by the Persian Gulf Benefits Task Force. Under the leadership of Senator GLENN the task force debated and discussed dozens of measures, some rejected on their merits, some accepted on their merits. I was very pleased that after careful scrutiny by the members of the task force, that the needs of communities were recognized and that my bill remained on their list despite substantial paring down of the list by the task force.

However, between the time the final list of proposals was developed and now, my bill was dropped for what I undestand to be partisan reasons. I regret this very deeply. I wish that we in Congress could fulfill our mission in providing ample support for the military personnel, their families, and their communities in as quick a manner as our troops fulfilled their mission.

My office here in Washington and my State offices have been inundated with phone calls and letters from mayors, chambers of commerce, dependents, and civilians asking for relief. I spent the last recess traveling to the five military bases in North Carolina. I can assure you that there is indeed a great need, as the call up of so many troops, so quickly has devastated many local economies. How can we ignore these facts, and more importantly how can we ignore the request of social service agencies like the United Way and the Salvation Army when they implore the assistance of Congress for relief for the affected communities?

There has been a doubling in the unemployment figures in military communities and requests for food stamps have jumped 50 percent. When economies experience such a depression because of a natural or economic disaster, our Federal Government is there

to help those most affected. However, when the Federal Government deploys nearly 50 percent of a community's population overseas, we provide no relief and offer no support. Merely reminding those communities of their patriotic duty is not enough to feed hungry families or pay mortgages and rent. Bear in mind the high morale of the soldier, sailor, airman, and marine should not have to plummet the minute he or she steps off the plane or ship back into a coummunity that is economically depressed.

My bill, the Desert Storm Community Assistance Act would have provided for the very basic needs of military dependents and civilians in military communities. It is important to note that my amendment would include assistance for the person who lost his job because the business he or she worked for is in a military community and has had to make cut backs due to sudden and drastic declines in business. This person may be turned away from the Red Cross or the Salvation Army because they are simply out of funds. To whom do they turn next?

There is a need for this measure but it will not be made available. The troops are still deployed in large numbers. The services say that it is not easy to go by the "first in, first out" rule that the President mentioned during the joint session 2 weeks ago. There will be a large number of victims of Desert Storm here in the United States who will not get help because of partisan politics.

Support the troops has been the cheer since the first deployments to the Middle East. I have done that in every manner possible. I only ask that we do not neglect the domestic needs of the dependents and communities of the troops and realize that supporting the troops means supporting efforts to help them here at home. I will do that in every manner possible.

I have become increasingly committed to this legislation as I begin to understand that we are going to have troops remaining in the Persian Gulf much longer than we have anticipated. So it will be a long time probably before these communities around Cherry Point and Camp Lejeune are back to normal. We are going to continue to have these dire personal emergencies.

I am not going to put the Senate through the process of another rollcall vote. I am well aware of the fact that time is running out. It is important to get this assistance package passed.

I do not believe, given the fact that the leadership has made a commitment to table all amendments, that realistically we could hope to pass it. But I did want to put it in. I did want to call attention to my colleagues that communities that have sizable military establishments are experiencing real hardships. It is just like the Great Depression. There is no other way to take care of it except by some emergency assistance. Maybe next week as we look at other things, as we have a clearer picture of how long the troops will be gone, we can maybe revisit this issue and perhaps one or two other pieces of legislation to provide the kind of relief and assistance that is needed in this emergency situation.

So, Mr. President, I will ask for no action on my amendment, and I yield the floor.

Mr. McCAIN. Mr. President, I thank the Senator from North Carolina for his forbearance on what is obviously a very difficult and painful issue for people of his State and many communities around the country.

I think he voices a very genuine concern, particularly in States like North Carolina and, frankly, my own State of Arizona that have large military communities which were significantly impacted by Operation Desert Storm. This is an issue that a number of committees should address in the coming weeks and months. The individuals who were called to serve and their families were unable to meet many of their financial obligations, as we know, not because of their own doing but because of their call to service.

So I thank the Senator from North Carolina for his forbearance on this issue. I think all of us appreciate the urgency of the human problems here that need to be addressed. I hope we can all work together in addressing those in the future.

Mr. President, I yield the floor.

Mr. NUNN. Mr. President, I have discussed this amendment with the Senator from North Carolina. I have in my own State several communities in the same kind of situation he has described. They have suffered greatly; unemployment has gone up; a lot of people are without work; a lot of people are without income.

It is a good amendment. At the appropriate time, although the troops coming back home will help alleviate this some, and the reservists coming back home, I hope we would address this. I hope we would not require a vote. I would hate to vote against it. I would move to table if the Senator insists on a vote. I hope he would defer it to another day.

Mr. SANFORD. I indicated I would not request action on the amendment.

Mr. NUNN. I thank the Senator from North Carolina and appreciate his bringing this to our attention and hope it can be addressed.

At this point, as I have said and our colleague, the manager on the other side, Senator McCAIN, no matter how meritorious these amendments are, we are faced with the situation if we pass an amendment at this point in time we are going to have Senators on the floor with all sorts of amendments, and we are not going to get this bill done. If we do not get this bill done, we are not getting the war effort done, the funding required for it, and we are not going to get most importantly, the benefits that are most meaningful to the men and women in uniform.

I hope we would not have any more amendments, and I hope we could prevail on our colleagues to let this bill go, let it pass in the next few minutes, and then we can move on to many other opportunities for amendments on other bills that will be coming next week and in the weeks to follow.

I have been informed by Senator BYRD, the chairman of the Appropriations Committee, and Senator HATFIELD, the ranking member, that they plan to mark up two supplemental appropriations bills as soon as this bill is passed, maybe this afternoon, at least tomorrow or Monday. So we will have two appropriations bills next week, two supplementals, one to cover this bill and another which will be wide open, or at least it will be more open than this one has been in terms of opportunities for amendments.

So I hope we would be able to move a third reading in just a moment. I certainly want to give notice to any Senator who has an amendment to come over. But I hope that Senators would restrain themselves, not have amendments, and let us go ahead and pass this bill.

Mr. McCAIN. Mr. President, I would like to say to the distinguished chairman of the Armed Services Committee, we are running some checks right now on this side. My understanding is that we had three Senators who are considering offering amendments. I am hopeful we can get those disposed of. We are checking with those Senators right now.

I say to any of those three, if they are still intent on proposing those amendments, we obviously would like to be able to consider them as quickly as possible. In the meantime, unless no one else wishes to speak, I suggest the absence of a quorum.

I withhold that.

The PRESIDING OFFICER. The Chair informs Senators that the pending question is amendment No. 34 offered by Senator SANFORD. It is the understanding of the Chair that the Senator does not request a vote on that amendment.

Mr. McCAIN. Mr. President, it is my understanding that the Senator from North Carolina had withdrawn that amendment.

The PRESIDING OFFICER. It was not the Chair's understanding, but certainly a Member of the Senate can so request by unanimous consent.

Mr. NUNN. Mr. President having heard the Senator from North Carolina, I believe he should make it clear to the Chair that his amendment is withdrawn.

Mr. SANFORD. Mr. President, I did say that I would not request any action

on the amendment which I would consider tantamount to withdrawing it. I withdraw it.

The PRESIDING OFFICER. The Senator has a right to withdraw his amendment. Having so requested, the amendment is withdrawn.

The amendment (No. 34) was withdrawn.

Mr. McCAIN. Mr. President, we hope in the next few minutes to get a final vote. In the meantime, I suggest the absence of a quorum

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMON. 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. SIMON. Mr. President, I want to commend my colleagues who put this package together: Senator GLENN, Senator McCAIN, Senator NUNN, Senator WARNER, and all. It includes a small package, a small bill I introduced that says the reservists should receive the same educational benefits as those who are in the active armed services. It has been included.

I see Senator NUNN looking apprehensive. My amendment is already in the bill. I am simply commending my colleagues for including it.

Clearly those who serve over there as reservists should get educational benefits just as those who are in the active armed services. That is included. It is a very small-cost item. But I think it is an important one. I commend my colleague for including that.

Mr. McCAIN. Mr. President, I thank the Senator from Illinois for his kind words. But he is the one that deserves the commendation. It was his idea. We are very pleased to adopt it. I think it is going to have some far-reaching and very beneficial effects. We appreciate the very important recommendation. I think he can be assured we will see it enacted into law thanks to him.

Mr. SIMON. I thank my colleague.

Mr. GLENN. Mr. President, I would like to join in the comments of the distinguished Senator from Arizona. When we looked at it, I thought it was particularly good because it gives people who are serving in the combat zone some of the same benefits that accrue to the regulars in educational benefits.

It does not say that just because you are activated for 30 days, 60 days, or 90 days, you get the same benefits as you would get for a 4-year hitch, or something like that. But it does say we need to pass improved education benefits for reserves over and above what they now have based on active duty time served.

That seemed to us to be fair. I commend the distinguished Senator from Illinois. I think it is a good idea.

Mr. SIMON. I thank my colleague.

Mr. NUNN. Mr. President, I join my colleagues from Arizona and Ohio in commending the Senator from Illinois for his amendment, for his bill that really became a part of this package. It is an excellent proposal. I think the reservists will benefit greatly from it, and it makes all sorts of sense.

So I thank him for this leadership.

Mr. SIMON. I thank my colleague from Georgia. I thank all three Senators for their leadership.

Mr. President, if no one seeks the floor, 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. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 35

(Purpose: To assure that U.S. tax dollars are not used for the rebuilding of Iraq)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 35,

At the end of the bill, add the following new section:

"SEC. . Notwithstanding any other provision of law, none of the funds appropriated or otherwise made available by any provision of law may be obligated or expended, directly or indirectly, for the purpose of rebuilding Iraq."

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I imagine this amendment will be supported in the hearts, if not in the votes, of most Senators. It reflects the position of the President of the United States. And best of all, it makes good common sense.

Specifically, this amendment would prohibit any United States funds from being spent for the purpose of reconstructing Iraq. Its intent is to put into law the policy announced by President Bush on March 1, when he said that he did not "want to see one single dime of the United States taxpayers' money go into the reconstruction of Iraq."

The President has been, throughout the gulf crisis, resolute. He has been right on the mark. And he was right on the mark when he made this statement.

After having put the lives of nearly a half-million of our young American men and women on the line in the Persian Gulf, and after having spent billions of dollars to liberate Kuwait, the American people—and justifiably so—absolutely have no stomach for any suggestion that they now help pay for the reconstruction of Iraq.

There have been some long filibusters in this Senate down through the years but if anybody proposes spending a nickel to rebuild Iraq, I will do my part to set a new record.

But, as clear a statement as the President has made in this regard, it is not the only signal that has been sent by our Government on this issue. In a statement before the House Foreign Affairs Committee back on February 6, Secretary of State James A. Baker III, reportedly urged the rebuilding of Iraq. The Secretary was quoted as having said at that time:

No one should forget that for the second time in a decade the people of Iraq will be recovering from a disastrous conflict. The time of reconstruction and recovery should not be the occasion for vengeful actions against a nation forced to war by a dictator's ambition. The secure and prosperous future everyone hopes to see in the gulf must include Iraq.

I talked to the Secretary about that later, in fact the next day. He suggested that his statement was taken out of context, and I accept that.

In the United States, in any event, we recognize that statements by a President provide a more accurate reading of our Government's policy than any contradictory statement made by anybody else, be he or she a member of the Cabinet or otherwise.

But, we know how inclined bureaucrats are, down in Foggy Bottom, to seek to carry out their own policies without regard to the President who happens to be in the Oval Office at the time. We have been down that road many a time. I have complained about it many a time myself, and will continue to do so.

And, in the bazaar which is the Middle East, nations often conduct their business from the standpoint that nothing is etched in stone.

So, Mr. President, the purpose of this amendment is to make clear to the nations of the Middle East and to the bureaucrats in the State Department who may have other ideas, that the President's refusal to throw U.S. tax dollars into the reconstruction of Iraq is etched in stone, or at least in the United States Code.

That is what this amendment will do. That is all this amendment will do. I hope Senators will support it.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Fine. I thank the Chair and I yield the floor.

Mr. McCAIN. First I ask if the Senator from North Carolina would agree to a time limit on this amendment. I propose 20 minutes?

Mr. HELMS. I am through now.

Mr. McCAIN. Mr. President, I am compelled to make a motion to table this amendment. The Senator from North Carolina makes perfectly good sense. The fact is the legislation we are considering is directly related to the men and women who are serving in the gulf. This legislation is an attempt, after literally hundreds of hours of negotiation and deliberation, to come up with a package of benefits enacted expeditiously. Although the amendment may be laudable, the reality is it has nothing to do with the package of benefits which we are proposing for the men and women who are serving in the gulf.

I ask the Senator if he might forbear and seek another vehicle for his very worthy amendment. I would be pleased to support him in that endeavor. There is a delegation that is supposed to be departing for the Middle East very soon, and we very much hope to be able to assure the troops that Congress has shown appropriate concern for their welfare.

An agreement was made among the leadership, and the chairman and ranking member of the Armed Services Committee, that we would not support any amendment no matter how laudable in content, because if we did that, we would reopen the entire issue.

So I must propose a motion to table the amendment.

Mr. HELMS. Will the Senator withhold?

Mr. McCAIN. I thought the Senator indicated he was finished. If he is not. I will yield.

Mr. HELMS. I was finished until the Senator made his comments.

Mr. McCAIN. Then I withhold my motion until the Senator is finished. I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. In the first place, I have been here since 11 this morning ready to offer amendments. I am not going to characterize the statement of the Senator about the late hour.

I have been here for sometime now and have waited patiently for an opportunity to offer this amendment.

Second, this business of the leadership, self-proclaimed or otherwise, saying that, well, we are not going to let my amendment be adopted, is a contradiction of what the Senate is all about. Frankly, I resent it. But Senators can vote as they wish.

But I tell the Senator from Arizona one thing. I wish the men and women who serve in the Persian Gulf could vote on this amendment. It would be a unanimous vote. Senators can vote as they please, and I take no offense at what the Senator from New Mexico has said.

But this business of appropriating the power to say, "Well, you know, you just are just a peon. You cannot offer an amendment. If you do, we'll table it." That is a contradiction, I say, of what the Senate is supposed to be.

I do not care how many Senators are going anywhere, on a junket or whatever. I am going to stay here. I think we ought to vote on the pending amendment. We ought to vote on it up or down, and if the Senator does move to table it, we will see how Senators vote.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator from Arkansas [Mr. BUMPERS].

Mr. BUMPERS. Mr. President, I agree wholeheartedly with the comments made by the distinguished Senator from North Carolina. I made the point in my amendment a moment ago that I have the utmost respect for the leadership in this body. But I must say we are here as representatives of our people to debate these issues and vote up or down on them.

If there is anything that this country is unified on, as unified as we were in support of the troops and all the other things we have been unified on lately, it is the substance of the amendment of the Senator from North Carolina.

I will be frank with my colleagues. I would vote against that amendment or I would vote for tabling it with the utmost trepidation because if there is anything that I get unanimous approval on back in my home State, it is that we are not going to spend a nickel on rebuilding Iraq.

This amendment does not cost anything. I do not see how on Earth anybody would resist this amendment when this is George Bush's position, it is the position, in my opinion, of 100 Senators, 435 House Members, and the American people. I realize in a way it is extrinsic to what we are voting on this afternoon, but this will not be the last time we will get a chance to vote on it. It will just be the first time. We are going to be voting on this same amendment a number of times on virtually every appropriations bill that comes through here.

So I strongly urge the leadership to wave their commitment to table these amendments and not move to table this amendment. Give everybody a chance to express themselves on it.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, if I were to make the decision, it would be along the lines of the amendment offered by the Senator from North Carolina. And I have great respect for him, as he knows.

But let me tell my colleagues, I think this is precisely the kind of thing that George Bush might be referring to the other night when he said we should not micromanage. We ought to be sending every possible signal to the people of Iraq: Overthrow the government that you have there, and if you overthrow that government, then maybe you are going to get a little bit of help from the coalition.

I think the motion by my friend from Arizona is probably going to lose. You can be sure Saddam Hussein is going to have that on the front page of the Baghdad newspaper. It just seems to me we are playing right into his hands. I know that is not the intent of my colleague from North Carolina. But that, it seems to me, is precisely what we end up doing. I think we are much better off refraining.

My colleague from Arkansas is absolutely correct. I think it is a virtual, unanimous, private opinion of people in this body that we should not be doing it, and I do not think we should be giving Saddam Hussein any ammunition to stay in power at this point—I know that is not the intent—but I fear that is precisely what we are doing.

Mr. HELMS. Will the Senator yield?

We do have a tripartite Government.

Also, this reflects a public statement by the President of the United States. And the Congress does have the power of the purse.

The Senator agrees to all three of those propositions, does he not?

Mr. SIMON. I agree to all three of those propositions but I will add I think it is unwise to do.

Mr. HELMS. I respect the Senator's opinion.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I intend to make a motion to table. I agree it is the sentiment of every American that we should not send any money to rebuild Iraq. The fact remains, this is a benefits package. It is a package to help the men and women in the gulf, to compensate them for their service and sacrifice, a bill on which many Members of Congress have worked hundreds of hours.

There will be another supplemental. There will be action by the Foreign Relations Committee to propose legislation more appropriate for this amendment. I hope the Senator might consider these alternative vehicles for his amendment.

Of course, the Senator is free to vote as he wishes and he is free to offer amendments whenever he chooses. That is the rule of the Senate.

I say to the Senator from North Carolina, nothing prevents him or anyone else from casting their vote as they so choose. I happen to agree with the leadership that it is appropriate to get this package done quickly, have the Appropriations Committee take it up, and have it signed into law. We will have lots of opportunities to discuss the issue of Iraq later.

Mr. President, I make a motion to table the pending amendment.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Florida [Mr. GRAHAM] is absent because of a funeral.

Mr. SIMPSON. I announce that the Senator from Vermont [Mr. JEFFORDS] is necessarily absent.

The PRESIDING OFFICER (Ms. MIKULSKI). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 0, nays 98, as follows:

[Rollcall Vote No. 28 Leg.]

YEAS—0

NAYS—98

Adams	Ford	Mikulski
Akaka	Fowler	Mitchell
Baucus	Garn	Moynihan
Bentsen	Glenn	Murkowski
Biden	Gore	Nickles
Bingaman	Gorton	Nunn
Bond	Gramm	Packwood
Boren	Grassley	Pell
Bradley	Harkin	Pressler
Breaux	Hatch	Pryor
Brown	Hatfield	Reid
Bryan	Heflin	Riegle
Bumpers	Heinz	Robb
Burdick	Helms	Rockefeller
Burns	Hollings	Roth
Byrd	Inouye	Rudman
Chafee	Johnston	Sanford
Coats	Kassebaum	Sarbanes
Cochran	Kasten	Sasser
Cohen	Kennedy	Seymour
Conrad	Kerrey	Shelby
Craig	Kerry	Simon
Cranston	Kohl	Simpson
D'Amato	Lautenberg	Smith
Danforth	Leahy	Specter
Daschle	Levin	Stevens
DeConcini	Lieberman	Symms
Dixon	Lott	Thurmond
Dodd	Lugar	Wallop
Dole	Mack	Warner
Domenici	McCain	Wellstone
Durenberger	McConnell	Wirth
Exon	Metzenbaum	

NOT VOTING—2

Graham Jeffords

So the motion to lay on the table amendment (No. 35) was rejected.

Mr. HELMS. Madam President, I move to reconsider the vote.

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

The PRESIDING OFFICER. A motion to reconsider has been made.

Mr. HELMS. Yes.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 36 TO AMENDMENT NO. 35

Mr. MITCHELL. Madam President, on behalf of myself, Senator DOLE, Senator NUNN, and Senator MCCAIN, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine, [Mr. MITCHELL], for himself, Mr. DOLE, Mr. MCCAIN, Mr. D'AMATO, Mr. HELMS, and Mr. KERREY, proposes an amendment numbered 36 to Amendment No. 35.

Strike all after the word "SEC." and insert in lieu thereof the following:

It is the sense of the Senate that none of the Funds appropriated or otherwise made available by any provision of law may be obligated or expended, directly or indirectly, for the purpose of rebuilding Iraq while Saddam Hussein remains in Iraq.

Mr. MITCHELL. Madam President, I ask unanimous consent that Senator HELMS and Senator D'AMATO be added as cosponsors of the amendment.

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

Mr. MITCHELL. Madam President, I urge the Members of the Senate to approve this amendment. I believe there is no opposition to it. I think it is self-explanatory.

Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment offered by the Senator from Maine [Mr. MITCHELL]. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Florida [Mr. GRAHAM] absent because of a funeral.

Mr. SIMPSON. I announce that the Senator from Vermont [Mr. JEFFORDS] is necessarily absent.

The PRESIDING OFFICER (Mr. BINGAMAN). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 29 Leg.]

YEAS—98

Adams	D'Amato	Helms
Akaka	Danforth	Hollings
Baucus	Daschle	Inouye
Bentsen	DeConcini	Johnston
Biden	Dixon	Kassebaum
Bingaman	Dodd	Kasten
Bond	Dole	Kennedy
Boren	Domenici	Kerrey
Bradley	Durenberger	Kerry
Breaux	Exon	Kohl
Brown	Ford	Lautenberg
Bryan	Fowler	Leahy
Bumpers	Garn	Levin
Burdick	Glenn	Lieberman
Burns	Gore	Lott
Byrd	Gorton	Lugar
Chafee	Gramm	Mack
Coats	Grassley	McCain
Cochran	Harkin	McConnell
Cohen	Hatch	Metzenbaum
Conrad	Hatfield	Mikulski
Craig	Heflin	Mitchell
Cranston	Heinz	Moynihan
Murkowski	Rockefeller	Smith
Nickles	Roth	Specter
Nunn	Rudman	Stevens
Packwood	Sanford	Symms
Pell	Sarbanes	Thurmond
Pressler	Sasser	Wallop
Pryor	Seymour	Warner
Reid	Shelby	Wellstone
Riegle	Simon	Wirth
Robb	Simpson	

NAYS—0

NOT VOTING—2

Graham Jeffords

So, the amendment (No. 36) to amendment No. 35 was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, if I might have the attention of Senators, in response to many questions, and following consultation with the distinguished Republican leader, I would like to suggest a course of action for the remainder of the day and the week.

I am advised by the managers there are no amendments which remain which will require rollcall votes to the pending bill. There are several minor technical amendments which I am advised will be completed in a very short time without rollcall votes, and then we will have, in just a few minutes, a rollcall vote on final passage of this bill.

Yesterday, the Labor Committee reported out the nomination of Andrew Lamar Alexander to the Cabinet, and I indicated to Senator DOLE I would be prepared to take up and act on that nomination today, and I am so prepared.

I have suggested to Senator DOLE we proceed under a time agreement of 1 hour with a voice vote upon completion of the debate. That means, unless there is objection expressed by some Senator either here on the floor or in the next few moments by communicating through the Cloakroom to either the majority or the minority side, the vote on final passage will be the last vote this evening and the last vote this week.

If anyone requests a rollcall vote, why then, of course, we would either have to put the measure off until next Tuesday or delay the several Senators who had planned to leave at 5:15 and who will now be briefly delayed but not substantially.

It is my hope that we can accommodate both the President, his nominee, and the schedules of several Senators involved if we could take it up under a time limitation and have a voice vote on it.

I would like to yield to the distinguished Republican leader.

Mr. DOLE. Mr. President, if the majority leader will yield, I think that is

a good way to proceed. There will be one additional vote and the debate on the nomination and have a voice vote. In my view, if I was a nominee, I would not care whether it was a voice vote or rollcall vote as long as I was confirmed.

Mr. DOMENICI addressed the Chair.

Mr. MITCHELL. I will be pleased to yield to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, might I just say I had two amendments and my name had been regularly mentioned as a prospect for two amendments. I want to say neither of them were exactly germane to the urgency of the bill before us. But I assumed there would be a number of nongermane amendments that would be debated and perhaps adopted and in which event I would have proceeded with mine. That having not been the case, I will not offer them and wait for another day.

Mr. HATCH. Will the majority leader yield?

Mr. MITCHELL. Yes, I yield.

Mr. HATCH. Mr. President, I would hope nobody would disagree with having a voice vote on Lamar Alexander. We have now had an Education Department rudderless for almost 4 months and the Labor Committee was unanimous, with one voting present, in his favor.

If there had to be a vote, we would of course be willing to reduce the time. I would reduce it in order to have this disposed of. I do not see a reason to have a vote. We can voice vote it. I still would be willing to reduce the time.

Mr. MITCHELL. Momentarily, I am going to yield the floor to the manager, the distinguished Senator from Georgia, to complete action on the pending bill, the several technical amendments that have to be adopted. That will take a few minutes. During that period, if no Senator expresses a desire for a rollcall vote on the Alexander nomination, and I hope that none will, we will then proceed as I have suggested, and I will make that announcement just prior to the forthcoming vote on final passage which will be in just a couple of minutes.

I would like to announce now, for the benefit of Senators scheduling for next week, the Appropriations Committee has reported both appropriations bills: the supplemental appropriations for the Desert Storm operation and the second supplemental appropriations bill for other dire emergencies. We are going to begin on those next Tuesday morning. We are going to start on those Tuesday morning, so Senators should be aware we will be debating and likely voting on legislation next Tuesday, beginning in the morning.

We want to try to complete the measures, to enact them, conference them with the House and then come back with the conference reports prior to the recess, which begins at the close of business next week.

So to repeat, and for those Senators not present on the floor, I hope their offices will notify them so I do not begin next Tuesday morning with my usual 15 phone calls from Senators wanting to make sure there are not any votes before 9, 10, 11, 12, 2, so on, that we are going to be taking up the appropriations bills beginning next Tuesday morning, probably about 10 a.m., and there will be votes on Tuesday on the appropriations bills.

Mr. President, I thank my colleagues. I thank very much the Republican leader and the managers of the bill, the Senators from Georgia and Arizona, and my colleagues, for their cooperation in this matter.

I yield the floor.

Mr. NUNN. Mr. President, I thank the leader, and I thank the Republican leader, also, for their tremendous cooperation in trying to move this bill. Without them, we could not have moved it to this stage.

Mr. President, I ask unanimous consent that the yeas and nays on the Helms amendment be vitiated.

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

The question is on agreeing to the Helms amendment, as amended.

The amendment (No. 35), as amended, was agreed to.

AMENDMENT NO. 37

Mr. NUNN. Mr. President, I ask unanimous consent that three technical amendments be considered en bloc and passed en bloc. These have been cleared on both sides of the aisle. I send the amendments to the desk.

The PRESIDING OFFICER. Is there objection to the en bloc consideration of these amendments? Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] for Mr. MITCHELL, (for himself and Mr. DOLE), proposes amendments en bloc numbered 37.

Mr. NUNN. 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 5 of the amendment, on line 24, strike all after "pay" through the comma on line 25.

On page 30 of the amendment, on line 20, strike "August" and insert in lieu thereof "October".

On page 30, after line 20, of the amendment add the following:

The increases in benefits and payments authorized by this title for "Montgomery GI Bill" benefits shall be ratably adjusted so that the appropriations necessary for such increases in benefits or payments for fiscal year 1991 through 1995 do not exceed $500,000,000 less the total of the amounts appropriated for fiscal years 1991 through 1995 for the benefits or payments authorized by this title other than those for increases in Montgomery GI bill benefits and payments.

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

The amendment (No. 37) was agreed to.

PERSIAN GULF TROOPS DESERVE TRIBUTE AND BENEFITS

Mr. BINGAMAN. Mr. President, we are approaching an important vote on S. 578, a bill that would authorize supplemental appropriations for fiscal year 1991 to help cover the costs of war. It would also provide returning military personnel and their families with financial and medical benefits. As we approach the important business of paying for our swift and sound victory in the Persian Gulf, and compensating our troops in whatever way we can, I am promoted to offer tribute to those who so successfully earned the victory.

Those troops, numbering over half a million active duty and Reserve men and women deployed to the combat zone, many of whom have been there since August 2, 1990, deserve our utmost gratitude. In addition, I also pay tribute to the host of families and nondeployed servicemen and servicewomen who shared the tremendous burdens of this war, and without whom the war effort would have been neither so successful nor so swift. Behind each of these frontline soldiers, sailors, and marines were numerous others to whom we are also indebted.

Mr. President, in my mind, there is no way that we could ever completely render to these fine servicemen and servicewomen our full measure of gratitude. In effect, there is no single bill, nor set of bills, that would accomplish that task. Certainly there is no compensation for those families who have offered the ultimate sacrifice. My hope is this, Mr. President, that we do those things we can to show our appreciation and to ease the burdens and sacrifices of war. We must act quickly and amply to register a measure of thanks for a job well done.

Mr. President, immediately following the start of hostilities in the Persian Gulf, the majority leader appointed me to a Senate task force to recommend legislation to assist Desert Shield/Desert Storm troops and their families. I commend the majority leader for his wisdom in pulling together many of my colleagues to work on these issues under the experienced leadership of Senators JOHN GLENN and JOHN MCCAIN, the cochairmen of the task force. At least 25 Senate sponsored initiatives were considered by the task force, and at least as many came from our colleagues in the House. Some of these initiatives dealt with traditional benefits granted to troops during wartime, and some of them, such as child care, were groundbreaking provisions to answer contemporary needs. All of these initiatives were prompted in response to many concerns our constituents across the country faced as we em-

barked on the biggest post-Vietnam war deployment and as we called up reservists for the first time since 1961.

Last week, Mr. President, the Armed Services Committee recommended for inclusion in S. 578 several provisions concerning military personnel benefits. I have cosponsored all of these and wholeheartedly recommend my colleagues give them their full measure of support. Just to summarize for those who are not familiar with these provisions, they would do the following:

Increase imminent danger pay for troops who served in the Persian Gulf from $110 to $150 per month;

Double—from $50,000 to $100,000—the amount of life insurance provided to members of the military retroactive to August 2, 1990;

Give members leaving the military 26 weeks of unemployment benefits, the equivalent of what is given to civilians who lose their jobs;

Allow retired military personnel recalled to active duty to serve at the highest grade they held while on active duty;

Authorize Desert Storm troops to invest their pay in a Treasury savings program at an interest rate of 10 percent;

Provide $50 million to the Department of Defense to provide family services and child care delivery service to military families involved with Operation Desert Storm;

Continue CHAMPUS coverage to deactivated Guard and Reserve personnel who lost their employer-provided health insurance for 60 days or until employer-coverage resumes;

Delay authorized changes in CHAMPUS mental health benefits by 1 year; and

Authorize activated medical services reservists the same special pays as received by active duty personnel.

Mr. President, these are but a few items my colleagues and I have considered over the last 2 months. For example, 2 weeks ago, we passed the Veterans' Soldiers' and Sailors' Relief Act sponsored by our colleague, Senator CRANSTON. This act will provide numerous and lasting benefits to returning veterans. In addition to the provisions in S. 578, and in the Soldiers' and Sailors' Relief Act, Mr. President, I expect that you will see more provisions to deal with financial hardships on returning veterans and activated reservists as well as education benefits for those who served in the Persian Gulf.

It is a noble and inspiring thing to serve one's country in time of crisis. These well-trained men and women, under the commendable leadership of the President, Secretary Cheney, General Powell, and General Schwarzkopf have renewed a faith in America as the world leader with a can-do, high-technology spirit. I salute the men and women volunteers of Desert Shield and Desert Storm. I commend their hard work, determination, and sacrifices. I salute the families who sustained them in time of war, and I salute the hundreds of thousands of men and women in the services who made their efforts possible. And finally, Mr. President, I express my appreciation to our allies who contributed to the successful conduct of the allied effort, and I urge those allies who have pledged contributions to offset the costs and burdens of the war to send those checks in now.

ROCKY FLATS SUPPLEMENTAL APPROPRIATIONS

Mr. WIRTH. Mr. President, I rise to commend the distinguished chairman of the Senate Armed Services Committee for his leadership in putting together this Desert Storm authorization bill. The chairman was particularly—and correctly—adamant that this legislation not be loaded with extraneous provisions, that we have a clean bill. And we have done so.

As the chairman knows, however, I have sought a legislative vehicle to address some of the policy and budgetary issues raised by the Department of Energy's supplemental request for $623 million in 1991, and especially the $283 million requested to expedite resumption of nuclear weapons production at the Rocky Flats Plant in Golden, CO.

I ask unanimous consent that the text of the amendment relating to Rocky Flats which I intended to offer at this time be entered in the RECORD.

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

AN AMENDMENT OFFERED BY MR. WIRTH

At the appropriate place, insert the following:

SEC. . ROCKY FLATS PLANT OPERATIONS.

Of the additional funds authorized to be appropriated to the Department of Energy for fiscal year 1991 for operating expenses, production and surveillance, pursuant to section ——, not more than $166,000,000 may be obligated in fiscal year 1991 for the Rocky Flats Plant, Golden, Colorado.

None of the funds available for fiscal year 1991 or 1992 may be used to produce nuclear weapons components or materials at the Rocky Flats Plant until such time as the Secretary of Energy has established a program, independent of the programmatic review of the complex-wide reconfiguration, to relocate, by September 30, 2001, at the latest, the operations demonstrated to be necessary and currently performed at the Rocky Flats Plant to a site or sites where public health and safety can be assured. This program shall also address the Department's plan for work force management in this transition, and assistance for DOE-contracted employees and affected communities. This report shall be submitted no later than June 30, 1991.

Sixty days before the planned resumption of operations at any building at Rocky Flats, the Secretary of Energy shall provide for public review a progress report on all major safety, health and environmental deficiencies pertaining to that building noted in previous DOE and contractor reports and analyses. Such report shall include a description of what actions the Department of Energy has taken to resolve each deficiency, in whole or in part, and for those items not resolved, an explanation of why noncompletion prior to resumption is consistent with all applicable safety and health standards for the public and the workers.

SEC. . COMMUNITY IMPACT ASSISTANCE.

Of the funds authorized to be appropriated to the Department of Energy for fiscal years 1991 through 1994, for operating expenses, not more than $70,137,000 shall be made available to the State of Colorado to be used to make community impact assistance payments to the cities of Broomfield, Westminster, Thornton, and Northglenn, Colorado.

Mr. WIRTH. Mr. President, I will not seek to amend the pending legislation, and it appears unlikely that the Armed Services Committee will have time to consider a separate authorization for the Department of Energy supplemental appropriations request. I hope, therefore, that the distinguished chairman of the Armed Services Committee, the chairman of the Strategic Subcommittee, Mr. EXON, and the distinguished ranking member, Senator THURMOND, will engage in a colloquy with me at this point in order to clarify some of the issues surrounding the Department of Energy supplemental funding request.

Mr. NUNN. I thank the Senator for his cooperation in dealing with the Desert Storm authorization bill. I further wish to assure him that I share his concerns about the need to address the future of the Rocky Flats facility in detail and that I will work closely with him in addressing this matter as part of the Armed Services Committee work on the fiscal year 1992 national defense authorization bill.

Mr. EXON. As chairman of the Subcommittee on Strategic Forces and Nuclear Deterrence, I would also like to assure my good friend from Colorado that I will work closely with him in addressing the future of the Department of Energy's Rocky Flats facility. The Subcommittee on Strategic Forces and Nuclear Deterrence will be holding a series of hearings this year to review the defense activities of the Department of Energy. As part of this process, we will be focusing a good deal of attention on the Rocky Flats plant.

Mr. WIRTH. I thank the chairman and the subcommittee chairman for their interest. I must say that the senior Senator from Colorado has deep reservations about resuming plutonium operations in the Denver metropolitan area. The first area of concern is budgetary: Are we simply throwing good money after bad? Can we really afford to maintain the range of options that the Department of Energy would like, and at the same time adhere to strict environmental and safety standards? The second area is safety: Can we safely resume operations at Rocky Flats, and do so with full public confidence that the arrogant and secretive management style which has gotten us into such a mess will not be repeated? And finally, need: What is the national security rationale to rush to restart an

aging nuclear weapons facility, one the Department of Energy intends to shut down, to build yet more warheads for our strategic arsenal?

Let me begin with budget. The Department of Energy in its reconfiguration study has determined that the Rocky Flats Plant should be relocated under any of the scenarios examined therein. Rocky Flats is, in fact, the only major facility specifically targeted for relocation in that report.

Yet at the same time that the Department of Energy is telling us that it wants to close down Rocky Flats, it comes to the Hill with a supplemental request of $283 million to restart plutonium operations there. This is in addition to the $460 million authorized and appropriated in the normal fiscal year 1991 budget cycle for the defense program at Rocky Flats. This is more than a 50-percent increase for Rocky Flats weapons program.

Department of Energy officials have explained to me the growing demands on the Rocky Flats budget as they discover more tasks to be accomplished. This is no surprise given the previous mismanagement of the plant. My question is: How much more are we going to have to spend before operations can safely resume? What are the anticipated operating costs for Rocky Flats? How much longer will we need to keep this aging facility in operation before it is relocated, as the Department of Energy itself recommends? How do the costs of restart and operations compare with the costs of designing and building an alternate plutonium pit production facility, as noted in the Department of Energy reconfiguration study on page 160? How do these costs compare to the Department of Energy's projected environmental restoration and waste management budget—and commitments—for Rocky Flats in the 1990's?

Will the chairman agree that these are reasonable questions, questions for which the committee must have answers before we can make informed decisions on the fiscal year 1992 budget request?

Mr. EXON. The Senator from Colorado raises legitimate budgetary concerns. In these days of a declining defense budget, it is very important that we strike a balance between the pressing long-term need to modernize the aging Department of Energy complex and the short-term national security interests. I wish to assure my colleague from the Armed Services Committee that I do not wish to see any more money spent than is necessary at Rocky Flats. However, we must address and correct the safety, health, and environmental problems that have been identified at the facility.

Mr. THURMOND. The Senator raises concerns about the cost, the safety, and the need for the restart of Rocky Flats. It is true that the Department of Energy plans to relocate Rocky Flats—but not because it is not safe and cannot be operated safely or is mismanaged. It is going to be safe or it will not reopen at all. Rather, the Federal Government is going to move Rocky Flats, at a cost of several billions of dollars, because the people of Denver do not want it there. They want it somewhere else. And they want the Federal Government to pay for it. Now I am going to support moving Rocky Flats as soon as we can, not because it is not safe in Denver, but because it clearly is not going to be allowed to continue to operate in Denver, safe or not. And this plant has to operate.

There is hardly a more dire emergency than that facing the country in our nuclear weapons establishment. We have been completely and totally unable to produce or modify the core of any nuclear weapon since November 1989.

We are producing Trident submarines with no way—no way—to produce the warheads planned for them. We have proven, effective methods for making nuclear weapons even more safe than they are now, but we cannot implement them. We have many, many weapons being retired and withdrawn, with no way to reuse the nuclear material.

I have received letters in recent days from Secretary Watkins, Secretary Cheney, and General Scowcroft. They all state most urgently that the resumption of operations at Rocky Flats is of the very highest importance to our national security. Secretary Cheney says, "the supplemental is urgently needed * * * for modern, safe nuclear weapons for our nuclear deterrent forces." And General Scowcroft tells me, "* * * it is essential that these funds be fully appropriated * * * failure to provide the full Department of Energy supplemental request will make it impossible for necessary safety and health improvements to be completed on schedule, and for the department to meet its important national security obligations."

Mr. President, I ask that these letters be made part of the RECORD.

THE SECRETARY OF ENERGY,
Washington, DC.

Hon. STROM THURMOND,
Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: As you are aware, the Administration has requested a supplemental appropriation for FY 1991 in support of the safe resumption of plutonium manufacturing operations at the Rocky Flats Plant. The amount requested is $283 million to provide for efforts necessary to address safety and health upgrades for the buildings needed to resume plutonium pit fabrication at the plant.

Initially the Administration's request met opposition in the House Appropriations Committee and only $142.5 million was reported by that Committee to the full House for Rocky Flats. A significant portion of the Administration's request was restored by the full House in action last Thursday, March 7, 1991. I am writing to request that your Subcommittee and the full Senate support the President's entire $283 million supplemental request for Rocky Flats. It is my understanding that Senator Wirth of the Armed Services Committee does not support this request. Members of my staff have met with Senator Wirth and he has indicated that one of his chief concerns is that it is not necessary at this time to provide additional funds for Rocky Flats because it is not necessary to resume nuclear weapons production.

The position of the Administration is clear. We support continuation of the policies of this and previous Administrations and the Congress that nuclear weapons are a vital part of our deterrent and have helped to preserve world peace for the past 45 years. Production of plutonium pits at Rocky Flats is essential in maintaining our nuclear weapons capabilities, including the production of the W88 warhead for the Navy's TRIDENT submarines and the joint Department of Defense/Department of Energy stockpile improvement program which is vital in improving the overall safety of our nuclear weapons.

I am bringing this matter to your attention in the hope that you will support the supplemental in its entirety, assuring that the necessary funds are provided to enable the Department of Energy to meet its obligations to the Department of Defense and to national security.

Sincerely,

JAMES D. WATKINS,
Admiral, U.S. Navy (Retired).

THE SECRETARY OF DEFENSE,
Washington, DC, March 11, 1991.

Hon. STROM THURMOND,
Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: I strongly support funding the Department of Energy FY 1991 Supplemental Appropriation as requested by the President. The $283 million supplemental is urgently needed to ensure that the Rocky Flats Plant can once again produce the plutonium pits necessary for modern safe nuclear weapons for our nuclear deterrent forces.

Sincerely,

DICK CHENEY.

THE WHITE HOUSE,
Washington, March 11, 1991.

Hon. STROM THURMOND,
Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: The President's supplemental budget request includes $283 million for the Department of Energy's facility at Rocky Flats, Colorado.

It is essential that these funds be fully appropriated. Rocky Flats is the only facility which can produce particular components needed to meet our nuclear weapons requirements. Failure to provide the full DOE supplemental request will make it impossible for necessary health and safety improvements at Rocky Flats to be completed on schedule, and for the department to meet its important national security obligations.

I appreciate your consideration of this important issue.

Sincerely,

BRENT SCOWCROFT.

Mr. THURMOND. There is every reason to believe that this request for the Department of Energy will be approved by the Appropriations Committee and

by the other body. The supplemental authorization before us today does not address this request. Therefore, in the committee of conference on this supplemental authorization we will need to address this request. I hope that the Senator will join me then in supporting the President's request for this important facility.

Mr. WIRTH. I will support necessary funds to bring Rocky flats into compliance with safety, health, and environmental standards. But I am not sure that we are not throwing good money after bad in trying to restart this facility.

I would hope that the committee will look carefully at the need to relocate Rocky Flats—not in the undefined timeframe contained in the reconfiguration study—but on an expedited basis. The House authorization bill contains language calling for a report by the Department of Energy on relocating Rocky Flats's operations within 10 years. Would the chairman indicate whether he personally would be disposed to support this provision in conference with the House?

Mr. EXON. I think the approach taken by the House Armed Services Committee is a fair way to focus attention on the Rocky Flats facility. It strikes a reasonable balance between the need to clean up and safely restart the Rocky Flats facility and the need to expeditously move out on finding a new site for the work done at the complex, a process that will likely take 10 years. I support the supplemental request and efforts to relocate the facility at Rocky Flats as soon as possible.

Mr. WIRTH. I appreciate the chairman's remarks. I would add that the Department of Energy owes it to its workers at Rocky Flats to plan carefully for the management of the work force in any transition. I was dismayed at recent statements that the Department would have to lay off over 2,000 workers at Rocky Flats if we do not appropriate the supplemental request of $283 million. The Department of Energy owes more to the dedicated and professional work force at Rocky Flats than to make them pawns in a cynical budget battle. We owe it to these workers to manage the transition at Rocky Flats in a way that minimizes disruption to the work force, and that addresses the needs of workers and the communities.

Mr. President, there is also a very large question here of need. I believe that the committee should examine in greater detail the rationale and need for resumption of plutonium production at Rocky Flats in the next 2 years, rather than simply nodding in acquiescence to the requirements put forward by military planners.

We know the Navy is anxious to fill out the Trident D-5 W-88 warheads. Secretary Cheney's budget request for fiscal year 1992 foresees slipping the backfitting of the D-5 until at least fiscal year 1997. Obviously, the shutdown at Rocky Flats is causing some delays in program schedules. But the issue for us is to weigh the damage continued shutdown at Rocky Flats might cause U.S. national security, the costs, and the alternatives.

And it may not be absolutely necessary to manufacture new warheads. As the chairman may recall, last year's defense conference report contained a provision, section 3131, requiring the Secretary of Energy to report on the possible recycling of nuclear warheads as we look toward a smaller and safer arsenal. Lawrence Livermore Laboratory is currently investigating the possible use of retired plutonium pits in new warhead production. Reuse of existing pits may obviate the need to manufacture new pits from reprocessed fissile material, thereby reducing the waste stream and making the restart of Rocky Flats unnecessary, in whole or in part. I would have thought that this program would be a candidate for urgent supplemental appropriations, but, in fact, that report has been delayed. Mr. Claytor apparently told the Spratt panel that it would take 5 years or so to get reused pits into the stockpile. What urgency is the Department attaching to this effort?

Would the chairman agree that the committee ought to have fuller information in the need for resumption of new warhead production before we markup the fiscal year 1992 defense authorization bill, in addition to having a clearer picture of the possible reuse of pits in maintaining the warhead stockpile?

Mr. EXON. The W-88 program in support of the Trident submarine is a high priority issue to the Navy and to the national security. Rocky Flats plays a vital role in this program. As part of the Department of Energy budgetary and oversight hearing process, we will be examining closely the role that Rocky Flats plays in the overall defense strategy and what the Department of Energy's efforts have been to relocate the Rocky Flats plant as expeditiously as possible.

The Department of Energy laboratories have been making good progress in their efforts to develop methods to reuse existing pits from retired weapons. This should continue to be a high priority at the laboratories. However, it is a technologically complex process. In their efforts the laboratories are giving great emphasis to weapons safety and reliability. If pits are to be reused we must ensure that they can be reused safely and reliably. This takes time. We will continue to follow this process closely.

Mr. THURMOND. I agree with the Senator from Colorado that the Department of Energy should develop means to reuse pits whenever they can. But it is not as simple as the Senator implies. Switching pits is not like switching light bulbs. The chances are overwhelming that the new weapon will not work unless the Department of Energy subjects it to the full design and testing procedure. This takes years—years we do not have.

Mr. WIRTH. This Senator does not share the sense of great urgency just expressed by the Senator from South Carolina. We have won the cold war. We no longer need extended deterrence to support NATO. We have some 20,000 nuclear warheads in our arsenal. What is the rush? Is there a new window of vulnerability emerging here?

Safety is an issue, however. As the chairman knows, the Spratt panel of the House Armed Services Committee has held a very valuable series of hearings on the safety of nuclear weapons. One of the concerns expressed by Dr. Sidney Drell and others has to do with the fireproofing of the W-88 warhead. Would the chairman agree that we should learn more about these problems before committing to new production of what may be faulty warhead design?

Mr. EXON. For many years the Armed Services Committee has been actively involved in the issue of nuclear weapons safety. We will continue our efforts to ensure the safety of the nuclear weapons stockpile in the coming years. I know that this is an area that you and I have a shared and similar interest and I look forward to working closely with you, particularly on the question of making the W-88 warhead safer.

Mr. THURMOND. As the Senator knows, Senator EXON and I supported the Drell panel investigation with great enthusiasm. Clearly we will not put unsafe weapons in the field. But no one says the W-88 is unsafe. Rather what the Drell panel said is that a safe weapon can be made even safer. This does not mean that we can or should delay the W-88 program. To design and test a new warhead will take years—again, years we do not have.

Mr. WIRTH. Finally, Mr. President, I would like to draw the attention of the chairman to the need for public review of the restart decision at Rocky Flats. Following the 1989 FBI raid at the plant, and subsequent discovery of more than 60 pounds of plutonium in the duct work among other serious safety and health problems, the surrounding communities are understandably concerned about the safety of operations at Rocky Flats.

Last year, I asked Secretary Watkins to provide a public document prior to restart and I renew that request today. I would hope that the Department of Energy would provide for public review 60 days before planned resumption of operations at any building at Rocky Flats a progress report on all major safety, health, and environmental deficiencies pertaining to that building

noted in previous Department of Energy and contractor reports and analyses. That report should also include a description of what actions the Department of Energy has taken to resolve each one, in whole or in part, and for those items not resolved, an explanation of why noncompletion prior to resumption is consistent with all applicable safety and health standards for the public and the workers.

Another matter of great concern to the communities surrounding Rocky Flats—Broomfield, Northglenn, Westminster, Thornton—is the safety of their water supply. Some 250,000 Coloradans drink water affected by the runoff from the nuclear weapons facility at Rocky Flats. Last year, at my urging the Armed Services Committee authorized the Department of Energy to reimburse local communities for a water diversion project identified as option B in the Rocky Flats Option Identification Group's final report. I am most pleased with the Department of Energy's efforts to support this effort, and hope that this year the committee will be able to expedite this program.

Mr. THURMOND. I recognize that the Department of Energy was authorized last year to begin the process of stopping all rainwater runoff before it leaves the property. I applaud that. But it should not be concluded that there is anything wrong with the drinking water supply. The water is continually tested. The Corps of Engineers says the water is perfectly safe. The local authorities admit the water is perfectly safe. The water is no more dangerous than any water that runs off the Rocky Mountains—all of which contains radioactive contamination to some degree. But the local population is in great alarm because of the fear that some future rainstorm might bring pollutants from Rocky Flats into the reservoir, as it has in the past—even though no past accidents have made that reservoir water unsafe. Now I support option B, to complete the project to end runnoff from Rocky Flats. I merely point out to the member that we are once again spending Federal funds because of fear, not facts.

Mr. EXON. Together with my distinguished colleague from South Carolina, Senator THURMOND, the ranking member of the Subcommittee on Strategic Forces and Nuclear Deterrence, the Subcommittee will be holding hearings on the operations and future of the Rocky Flats facility. We will be looking closely at all of the questions and concerns raised by my friend from Colorado.

Mr. NUNN. I would also like to assure the Senator from Colorado that we will work closely with him in addressing the future of the Department of Energy's Rocky Flats facility.

Mr. WIRTH. I thank the distinguished chairman, the subcommittee chairman, and the ranking member of the subcommittee for their remarks and for their consideration of this issue.

As a final note, I would also ask unanimous consent that an article which appeared in last Sunday's New York Times appear in the record immediately following my remarks. If there is any doubt that we face enormous—and enormously expensive liabilities—in the cleanup of the nuclear weapons complex, this article should dispel that notion. It seems to me that this reality alone dictates that we move as expeditiously as possible to down scale the weapons complex and the costs associated with production.

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

[From the New York Times, Mar. 10, 1991]

WHEN THE GOVERNMENT RUNS AFOUL OF ITS OWN REGULATORS

(By Matthew L. Wald)

Promising to make a clean break with 40 years of pollution at its nuclear weapons plants, the Department of Energy has signed agreements with states and with other Federal agencies committing itself to abide by environmental laws and clean up the mess. Now the Energy Department has a new problem. In some cases it is violating not only the laws but also the agreements.

Environmentalists say a distressing pattern is emerging, casting doubt on how the aging complex of home production plants can ever be cleaned up.

The most pressing case is at a 37-year-old uranium processing plant at Fernald, Ohio, 20 miles northwest of Cincinnati. In an almost unprecedented action against another Federal entity, the Environmental Protection Agency is trying to collect a fine of about $300,000 from the Energy Department. The fine is not for environmental crimes, which include releasing poisonous and radioactive wastes through faulty filters or unfiltered vents for years and dumping liquid wastes into lagoons that leaked into local waterways. The fine is for failing to live up to a 1990 agreement with the E.P.A. on what studies the department would carry out and what remedial actions it would take.

The fine is not much compared with a department budget of $17.7 billion this year, but the embarrassment level is high. "It shows to us taxpayers that the agency that's being fined is not complying with the law, that they are outlaws and they should be watched," said Shira Flax, a lobbyist for the Sierra Club.

While the department agreed less than a year ago that it would pay fines if it missed deadlines. It is now arguing that one Federal agency fining another makes no sense. On Friday—the deadline for the department to pay up or appeal its case to the E.P.A. chief, William K. Reilly—it was given a 10-day extension.

Leo P. Duffy, the department's top official on environmental safety and health, said fines would be appropriate against a commercial operator that was gaining undue advantage in the business world by violating environmental rules. But he said fines were not helpful if they would reduce the amount of money available to his department for cleanup.

Fernald is not the only problem. Two years ago the Energy Department agreed with the state of Washington and the E.P.A. on a schedule for stabilizing the most hazardous wastes, the highly radioactive liquids in tanks at the Hanford Nuclear Reservation near Richland. But last month the department unilaterally announced a delay of one to two years. The state's Governor, Booth Gardner, said he was "astounded."

NO TECHNICAL TOOTH FAIRY

Mr. Duffy said that it had proved harder than expected to take samples from the tanks to determine what was in them, and it made little sense to build a treatment system before the engineers were certain of what they would be treating. "There's no technical tooth fairy that's going to come along and solve these problems," he said.

Last week, James D. Watkins, the Energy Secretary told the House Appropriations Committee that without a supplemental appropriation, "I won't be able to carry out my duties" at the Rocky Flats plant near Denver where a cleanup agreement was signed with Colorado two years ago. But in other cases, say critics, the department is violating agreements because it failed to ask for enough money to get the job done. In the Fernald case, part of the fine is for failing to carry out diagnostic studies on pollution. Because the studies have not been done, the department does not even know what remedial action will be needed and what to ask Congress for.

"This is the Federal system learning how to work," said Susan Wilshire, a policy analyst at JK Research Associates, of Hamilton, Mass., a Department of Energy subcontractor that is trying to develop a system to decide which plants to clean up first.

The bomb makers, who for years plowed ahead and produced whatever weapons national security demanded, with scant attention to much of anything else, appear now to have taken the same can-do attitude toward cleaning up the mess they created. But they may lack the ability. The Office of Technology Assessment, in a report released last month, said "progress in cleaning up the waste and contamination at the weapons complex is being hampered by a paucity of data and qualified personnel, inadequate efforts to assess possible off-site health impacts, lack of ready technical solutions, and public skepticism about government agency decisions."

"Even the meaning of cleanup is not fully understood," the report said.

MOVING SLOWLY

It has been a long, circular journey for the Energy Department and its predecessor, the Atomic Energy Commission. First the bomb makers insisted that they were not subject to state regulation, or even the regulation of other Federal agencies. But the Federal courts ruled in the mid-1980's, in cases brought by environmentalists, that since Congress had not explicitly exempted the department, it was subject to Federal regulation.

In 1985 Joseph Herrington, then Secretary of Energy, said that his department would obey the laws and would sign agreements with environmental regulators specifying schedules for coming into compliance, much as a private company would. But the department moved extremely slowly, maintaining that among other problems it could not make commitments that would require appropriations from Congress, because the appropriations might not be forthcoming.

After a raid on the Rocky Flats plant in June 1989 by the Federal Bureau of Inves-

tigation and the E.P.A., Mr. Watkins, the current Energy Secretary, re-affirmed that the department would sign agreements.

Now it has the agreements but acknowledges that it has terrific trouble doing the work. Mr. Duffy said, however, that since he began, in November 1989, the number of people at his department's headquarters working on environmental repair has risen to 250 from 39, and in the field, to 600 from zero. "You have to maintain a positive mental attitude in this environment, or nothing will get done," he said.

REPAYING OUR DEBT TO THE VETERANS OF DESERT STORM

Mr. WIRTH. Mr. President, I am pleased to support the Department of Defense supplemental authorization for Operation Desert Storm. This legislation is a necessary step toward recognition of the sacrifices made by the men and women of Operation Desert Shield/Desert Storm. Our Nation owes a debt of gratitude to these brave soldiers.

Mr. President, I would first like to commend the chairman of the Armed Services Committee, Senator NUNN, as well as the ranking minority member, Senator WARNER, for their fantastic work in bringing this bill together. Their longstanding attention and concern for the Armed Forces of this country is well-known and I am proud to say that this legislation is a fine example of that fact. Senators GLENN and MCCAIN, as the leaders of the Senate's task force on Desert Storm personnel relief bills, also deserve a hearty round of thanks for their work.

When Operation Desert Shield began on August 8, 1990, we embarked on the largest deployment of military personnel this Nation has seen since the Vietnam war. In total, nearly 550,000 Americans were eventually deployed to the Persian Gulf. Men and women, mothers and fathers, sons and daughters—all these answered their Nation's call and moved away from family and loved ones in order to turn back a dictator. Not only active duty soldiers responded to President Bush's call. Reservist and National Guard members also left families and jobs to go to the Persian Gulf. In fact, nearly one-half of the men and women deployed as a part of Operation Desert Shield were members of the Reserves or National Guard.

When Operation Desert Shield finally turned into Operation Desert Storm on January 16, 1991, these men and women made their country proud. Our soldiers and pilots fought with valor and strength. They won a magnificent victory and set the important precedent that a large and powerful country cannot invade its neighbors with impunity.

Today the war is over, but we should never forget the sacrifices of those soldiers who fought in Operation Desert Storm. We should not forget the soldier who needs help settling back into civilian life; the soldier who needs help alleviating the financial hardships leaving home, family, and job; the soldier who bears the wounds of battle and is in need of medical care; and, finally, we should never forget the families and survivors of those who made the ultimate sacrifice for their country.

Mr. President, this bill seeks to meet these many needs. The legislation provides for:

Increasing the monthly rate of hostile fire pay from $110 per month to $150 per month;

Allowing retired military personnel and reservists to serve at the highest military rank previously held on active duty;

Exempting military personnel classified as "missing" from the $10,000 annual cap on the military personnel savings plan;

Increasing the death gratuity from $3,000 to $6,000;

Allows family members of military personnel killed in Operation Desert Storm to receive payment for unused vacation time;

The authorization of special pay and incentives to health care personnel activated as part of Operation Desert Storm;

Increasing the maximum rental payment covered by the Soldiers' and Sailors' Relief Act from $150 to $1,200;

Equalizes unemployment compensation for separating military personnel to the same entitlement available to civilians;

Authorizes the Secretary of Defense to provide $50 million in education, child care, and family support services to the families of military personnel serving on active duty;

Delays implementation of previously legislated reductions in CHAMPUS mental health care benefits for children until February of 1992;

The reinstatement of civilian health insurance programs when an activated service member returns to civilian life;

And clarifies the reemployment rights of reservists called to active duty.

Mr. President, I am proud to support this legislation. It is necessary now that the battle is over that we do our best to care for the soliders and their families. It is they who have suffered the most from this war and it is they that deserve the most in return from their grateful Nation.

Mr. MCCONNELL. Mr. President, today the Senate is considering a supplemental authorization bill for the costs of Operation Desert Storm. I would like to take a moment to make a few brief comments on our military's performance in this campaign.

Brilliant leadership and planning are the cornerstones of the success in routing Iraqi forces from Kuwait. Our Commander in Chief, Secretary Cheney, Gen. Colin Powell, Gen. Norman Schwarzkopf and our entire Armed Forces leadership are deserving of our Nation's thanks and praise. Not only was victory swift and decisive, but civilian and allied casualities were kept at an absolute minimum.

The impressive leadership in this campaign is only mirrored by the professionalism and dedication of all our soldiers and sailors. Our service men and women must be recognized for their contributions to victory. From tankers to helicopter pilots, military police to cooks, without the combined team effort of our troops, Operation Desert Storm would have stalled in the desert sand.

While all our soldiers are worthy of our highest commendation, the accomplishments of the 101st Airborne Division deserve particular attention. When the order to attack was received, over 2,000 air assault troops from the 101st penetrated 50 miles into Iraq to establish an allied base for staging attacks and refueling military machines. This action has been described as the largest helicopter-borne operation in military history.

Mr. President, so that my colleagues may better appreciate the actions of the 101st, I ask that an article from the Courier-Journal be printed in the RECORD at this point.

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

101ST GOES DEEP WITH LARGEST HELICOPTER OPERATION EVER

(By John Kifner)

INSIDE IRAQ.—More than 2,000 American air assault troops plunged 50 miles into Iraq at first light yesterday in the largest helicopter-borne operation in military history.

The attack by the 101st Airborne Division—which hit north of Iraqi troop concentrations—established what is essentially a giant, fortified gas station to fuel attack and troop-carrying helicopters for assaults into the strategic Euphrates River valley to cut the main highway between Baghdad and Basra.

"We own this piece of desert," grinned 1st Lt. Phil Johnson, a Ranger, as his Huey helicopter settled into the landing zone in a cloud of sand dust.

Some of the supply choppers had women at the controls; the 101st—which is based at Fort Campbell, KY,—has 22 female pilots, though not all of them were involved in the massive ferrying operation.

By nightfall, a supporting ground column of more than 700 trucks had reached Cobra Base, bringing the number of troops to 4,000. With American planners moving their operations ahead of schedule because of crumbling Iraqi resistance, another brigade from the 101st was scheduled to fly into Cobra Base last night.

French light armor attacking on the 101st's left flank was moving faster than anticipated, ranking officers said, while on the right flank the U.S. Army's 24th Infantry Division (Mechanized) and the VII Armored Corps, equipped with heavy M-1A1 tanks, jumped off their invasion north of the border yesterday afternoon, early a day early.

The airborne operation was part of a push to establish a strong toehold on Iraqi territory west of Kuwait. From there, U.S. armored forces would be able to move north to surround Kuwait, or possibly pin down or engage the Republican Guard, the Iraqi army's elite unit, in southern Iraq. The operation

also marked the first time American women had flown helicopters on an air assault into enemy territory.

As the sun broke over the desolate sands, long columns of giant black Chinook helicopters, many carrying field artillery, trucks, boxes of ammunition and aviation fuel, swept over the horizon barely 40 feet above ground. Cobra and Apache attack helicopters had been blasting the area, an ancient lake bed for days to clear out possible resistance.

By late yesterday morning, a small hill had sprouted radio antennas at the makeshift command post and soldiers were already beginning to dig in.

"There's not another division in the Army that could have done this," exulted Col. Tom Hill, the commander of the 1st Brigade, which carried out the attack. He stood atop the hill at midday with radio men crouched around him frantically calling out map coordinates. It was the 101st Airborne, nicknamed the Screaming Eagles, which in World War II parachuted behind Utah Beach to pave the way for the invasion of Normandy.

"Hoo-ah, Hoo-ah," soldiers and officers shouted in this war's expression of approval, as they tumbled off the helicopters and scrambled into position.

"We'd walk through the gates of hell now that we know we are going home," said Sgt. Mike Southall, 34, of Galveston, Texas.

Mr. McCONNELL. Mr. President, shortly after President Bush announced before Congress and the Nation that troops would be coming home from that region, the first planeload of soldiers arrived in America. This past weekend in Kentucky, members of the 5th Special Forces Group and 101st Airborne Division returned to Fort Campbell amid cheers, tears and open arms. Eric Turner, the 16-year-old son of M. Sgt. Glenn Turner, perhaps said it best when he remarked: "I love him. I'm glad he's home."

As we continue to welcome home troops and to follow developments in the Middle East, I would like to leave my colleagues with two thoughts:

First, we must never forget those who fell on the fields of battle so that others may be free. These soldiers have made the ultimate sacrifice for their country, and for the liberation of Kuwait.

Second, we must tirelessly work to determine the fate of our missing soldiers in that region. As of this morning, the Pentagon lists 23 soldiers as missing in action. I would offer that we can only imagine the pain and anguish the families of these Americans must endure. For them, the war may never be over.

Mr. CONRAD. Mr. President, the legislation before the Senate today in a sense completes a commitment that our country took upon itself over 7 months ago. At the beginning of August, President Bush ordered United States Armed Forces to the Persian Gulf to oppose Saddam Hussein's aggression and force him to withdraw from Kuwait. To achieve this goal, the United States called upon over 500,000 men and women of its Armed Forces to oppose the forces of Iraq in the sands of Saudi Arabia and Kuwait. And these men and women responded by performing brilliantly and displaying a professional competence that is unmatched by any other military in the world. Our military commitment has been honored. However, our job is not yet complete. To finish it, we must honor our commitment to our troops who served their country in Operations Desert Storm and Desert Shield. Our troops and their families here at home have real needs for support services, health benefits, and other assistance to ease the transition to civilian life.

The Persian Gulf conflict has required sacrifices from all of those involved in it. However, the war has placed a particularly harsh emotional and financial burden upon the families of men and women of the National Guard and Ready Reserve who were called to active duty. We can do little to ease the emotional burden, except to bring home our troops as quickly as possible. However, we can, and must, help to reduce the financial hardships caused by the war.

For many of those called up, active duty meant a cut in pay, depriving their family of needed income. Husbands and wives left at home have been forced to take on second jobs to make ends meet. In addition, families have incurred increased expenses: maintenance work normally done by a family member had to be hired out. phone calls from the Persian Gulf were tremendously expensive, and many families found that, with only one parent at home, they suddenly required childcare services. Even more difficult has been the challenge of single-handedly trying to maintain a family business. In my home State of North Dakota, many farmers were forced to leave during fall harvest and will not be home for spring planting.

These hardships are well-illustrated by Nancy Rader, a brave woman from Cando, ND whose husband, Gary was deployed in the Persian Gulf on September 12, 1990. Gary serves in the National Guard in order to supplement the income he receives from his small farm. The poor farm economy makes this a financial necessity. For the past 7 months, Nancy has taken care of their four children, maintained a part-time job, and tried to hold the family farm together. With the help of family and friends, she has so far been successful. She prepares for spring planting, still without her husband.

This is the kind of sacrifice, not publicized on the front pages of the papers, that our Armed Forces and their families have made. And this is the kind of sacrifice that we must acknowledge and reward here today.

S. 578 goes a long way toward this goal, making numerous benefits, retroactive to August 2, 1990, available to those involved in the conflict with Iraq, and to their families. S. 578 provides benefits such as an increase in military imminent danger pay from $110 to $150, and 60 days of transitional medical coverage for reservists called to active duty. It assists families adversely affected by the call-up by authorizing $20 million for child care assistance and $30 million for education and family support services. It extends VA home loan guarantees and provides for deferment of Small Business loans. For personnel enlisted under the GI bill, this legislation restores education entitlements for students called up, and almost doubles the education entitlement per month for each month a reservist was called to active duty. Finally, S. 578 clarifies veterans' reemployment rights, so that our veterans can return to their jobs as soon as possible.

The Persian Gulf Benefits Task Force, under the leadership of my distinguished colleague, Senator GLENN, has worked hard to put together a comprehensive package of benefits for our Persian Gulf veterans. I thank them for their efforts.

Our Nation has asked a great deal of its men and women in uniform. These men and women have done their duty admirably. Let us now do ours and pass this legislation.

ROCKY FLATS SUPPLEMENTAL APPROPRIATION

Mr. BROWN. Mr. President, I felt it important to come to the floor to report on some of the facts the Department of Energy has given me about Rocky Flats and the importance of funding the full $283 million planned by the Energy Department.

When Rocky Flats was built, it was 18 miles from the edge of Denver. Today, the nearby suburban towns completely surround it. When it was built, Rocky Flats was one of the most modern facilities of its day. More than 40 years later however, these same facilities are barely adequate to produce nuclear weapons. They need a thorough modernization I am told, just to produce on an interim basis.

These two factors, Rocky Flats' proximity to Denver and the need for continued production of nuclear weapons to maintain our nuclear deterrent capability forced a decision on the Energy Department. That is, to move the nuclear production facility at Rocky Flats to a less densely populated area. I heartily endorse the Energy Department's decision to move rather than to rebuild Rocky Flats.

Until that move can be accomplished however, I strongly support safe operations and continued cleanup at Rocky Flats to maintain our nuclear deterrent. I have received copies of letters sent by the Secretary of Defense and by the President's National Security Adviser, both underlining the importance of restarting operations at Rocky Flats to maintain our nuclear deterrent capability. The National Se-

curity Council has advised me that delaying the restart at Rocky Flats could seriously undermine the credibility of our nuclear deterrent. Taking such actions without requiring a reciprocal response from the Soviet Union just does not make sense.

Dramatic reductions in the funding for Rocky Flats proposed in the dire emergency supplemental, could severly impact many of the worker health and safety programs currently underway at the plant. For instance, this table—which I will ask unanimous consent for it to be printed in the RECORD at the conclusion of my remarks—shows that under a House proposed $140.5 million cut to the $283 million, 1815 Rocky Flats workers would be laid off.

The result? A 29-percent reduction in health and safety workers, a 24-percent reduction in quality assurance—the men and women who double-check operations to ascertain their safety, a 35-percent reduction in training.

Mr. President, the Energy Department indicates those 50 workers assigned to the training program who would be sent home if funds were dramatically reduced are there to correct the deficiencies so many of us in Colorado have been concerned about. Much of the news media reported last year that many of the difficulties at Rocky Flats came from a work force that was inadequately trained in many of these critical procedures.

Furthermore, under this proposed scenario, the Energy Department reports 33 percent of those assigned to work on plutonium duct remediation would be laid off, and from 22 to 33 pounds of plutonium slated for removal from the duct system might not be removed. Cutting funds that would make the plant safer, the workers more safe, and would better protect the surrounding communities will not benefit Colorado.

Mr. THURMOND. Mr. President, I would have to agree with my good friend, the junior Senator from Colorado.

Mr. BROWN. Mr. President, I thank my colleague and I would just like to add a few brief remarks about some of the communities surrounding the Rocky Flats plant. I planned to offer an amendment today which would allow the cities surrounding the Rocky Flats plant to move forward quickly with a project to protect their drinking water supplies from potential contamination from groundwater runoff from the site.

For some time, five Colorado cities' drinking water reservoirs have been affected by runoff from Rocky Flats. Chromium has been found in the Walnut Creek drainage basin and atrazine has been found in the Woman Creek drainage basin. To avoid this problem in the future, a partnership of Federal, State, and local entities developed a project to isolate the cities water supplies from Rocky Flats runoff.

Before this project may move forward, however, a technical clarification must be made so that it is clear that the Department of Energy is partially reimbursing these municipalities for their project. Unless this clarification is made, Mr. President, it may be years before these cities are allowed to take action to protect their citizens from potential contamination of their drinking water.

Mr. President, I ask for the support of my colleague from South Carolina to ensure that we address this critical issue in a timely manner.

Mr. THURMOND. Mr. President, I can assure the junior Senator from Colorado we look into this matter at the earliest opportunity.

Mr. BROWN. I thank my colleague from South Carolina. Mr. President, I ask unanimous consent that the previously referred to table be printed in the RECORD at this point, and I yield the floor.

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

ROCKY FLATS PLANT PRODUCTION AND SURVEILLANCE PROGRAM EG&G

Budget impact on personnel	Fiscal year 1992		Percent reduction
	Planned P&S personnel	Approximate personnel impact	
Pu component production and Pu recovery operations	386	200	52
Non-Pu production operations: Stockpile and new programs components	1,235	680	55
Environmental waste programs	339	100	29
Support service: maintenance and plant support	954	300	31
Quality assurance program: NQA-1 and plant QA programs	370	90	24
Training: Program development and training	143	50	35
Safeguards and security	319	80	25
Health and safety: Base programs and nuclear safety	747	70	9
Engineering:			
Development and program support	596	120	20
Pu in duct work remediation support [1]	75	25	33
Administration and other support	494	100	20
Total	5,658	1,815	32

[1] Includes support from other functional organizations. Pu remaining in the duct work would be skg (B707, B771, B776) planned for fiscal year 1992 removal and 5–10kg planned for post fiscal year 1992 removal.

BENEFITS FOR MILITARY PERSONNEL

Mr. BIDEN. Mr. President, I was delighted and proud to serve with several of my colleagues on the Persian Gulf Military Personnel Benefits Task Force, which was so ably led by Senator GLENN.

The bill before us, which represents the work of Senator GLENN's task force as well as the Republican group headed by Senator MCCAIN, will help ease the many burdens placed on our troops and their families in wartime and, to some degree, compensate them for the efforts they made on behalf of our Nation.

Many Delawareans have told me of the hardships, particularly financial, they suffered as a result of a family member being in the Persian Gulf. I heard that financial institutions were not suspending interest payments on loans held by military personnel, that danger pay was unjustly low, that the continued provision of good health care was not always assured for reservist families and that a host of other problems cropped up once our troops were deployed to Saudi Arabia.

While this bill will assist Americans across the country who were affected by the conflict, I am particularly pleased and proud that it will help so many Delawareans. Although Delaware is a small State, the presence of a major military facility—Dover Air Force Base—and the many Delawareans who serve in the military invariably mean we were all personally affected or moved by this conflict in some way. This bill, for me, pays tribute to the sacrifices Delawareans and many Americans made and the courage they displayed over the long months of Desert Storm and Desert Shield.

Mr. President, Senator BUMPERS tried to attach an outstanding amendment to this bill, one that would have helped compensate military personnel whose businesses suffered as a result of the owner's presence in the Persian Gulf. However, if that amendment had passed, the entire excellent and essential package would have been in jeopardy—and so might have been the immediate provision of benefits to our military personnel. Notwithstanding the solid merit of the Bumpers amendment, I decided I had to vote to table it. Senator BUMPERS has said he will bring the amendment up again, at which time I will fully support it. Today, however, I could not in good conscience take any risk that the whole bill would be threatened. I look forward to voting for Senator BUMPERS' amendment in the future.

Mr. DURENBERGER. Mr. President, I rise to offer my support for the pending legislation to authorize supplemental appropriations for Operations Desert Shield and Storm. This is an important and necessary measure to cover the incremental costs involved in these very successful operations.

This is about what government can and should do for these brave Americans. But that's only a part of the story.

I count it one of the great privileges of my career here in the Senate to have been involved with the families of service people involved in Operations Desert Shield and Desert Storm. Over the last several months, I had the opportunity to meet with about 3,000 family members and support groups across my State and those folks made me proud to be an American.

I learned again how a crisis can bring out the best in people. The selfless giving I saw over and over again on behalf of these families was nothing short of

amazing. Gifts of time, money, emotional support, you name it, made an exceedingly difficult time for parents, spouses, and kids much more tolerable. Two heroes in this effort in Minnesota and nationally were Yvonne Minor and Betty Walter.

For every family that had a member in the gulf, there were 250 American families who didn't. In my experience in Minnesota, the 250 did their part back home for those who were doing their part overseas.

This measure also provides an important and well-deserved package of benefits and assistance for personnel participating in the two operations. Our service members and their families have made major sacrifices, and they have earned this additional assistance.

Among others, these benefits include an increase in monthly imminent danger pay from $110 to $150, retroactive to August 2, 1990. It also entitles survivors of military members killed in active duty to payment for unused leave that had accrued over time.

This measure also includes important mental health and other medical benefits as well as substantial assistance for child care, education, and family support services for families of military personnel on active duty.

I am very pleased that this bill authorizes civilian health care providers to waive CHAMPUS copayment requirements, and that it encourages greater participation in this important health care program. These are especially important components of the overall package, and they enjoy my full support.

Mr. President, these are just several examples of the personnel benefits package included in this bill. The entire package provides many very important and well-earned forms of assistance. They have been detailed by the leadership earlier in this debate, so I need not repeat them.

Mr. President, this war has taught us many important lessons, not only about our military strategy, tactics, and equipment. Nor just about our diplomacy and the value of collective responses. This conflict generated a long series of unexpected experiences for the whole country, and for the families of our service people as well.

We learned just how important it is to the men and women in combat and their families back home to know that the American people support them and their actions. Traveling all through Minnesota virtually every weekend and recess period during the entire crisis, I heard time and time again from the families that their burden of having a loved one serve in the gulf was made easier to bear because they knew the American people stood with them, supported them, and loved them. We are all justifiably very proud of our service men and women, and we should also take special pride in their families as well.

Mr. President, in my own experiences in tending to the needs of families and loved ones in Minnesota, I learned how valuable it is for people just to know that someone cares, that someone is available to answer their questions, that someone in "official Washington" can provide straight, accurate information.

Several specific incidences come to mind that I would like to share with my colleagues. From some unknown source, families in Minnesota began hearing that the caskets bearing the remains of our service people would arrive at Dover Air Force Base without American flags draping them. At first glance, this may not seem like a monumentally important issue, but to the families whose loved ones were being asked to make the ultimate sacrifice in defense of this country's interest, it was a very big deal. Members of my staff discussed the matter with the Air Force to determine the correct information, which the Air Force graciously provided. The rumors were entirely false, much to the relief of a great many Minnesota families.

Quite a few families also expressed concern to me about the procedures that would be followed for notifying families of casualties and for providing funeral and burial services. Again, all it took was a little staff work to get the complete story, and the families were allowed to know how things would work.

So clearly, Mr. President, so much fear and anxiety arises from a lack of information or from incorrect or incomplete information.

There were several other areas which we will need to study carefully in the aftermath of this war, which deal with easing the burdens of this kind of reserve callup.

I am pleased that the administration has clearly said that never again will the United States go to a draft in order to provide personnel for its Armed Forces. Whatever you feel about the civil liberties aspects of a draft, the All-Volunteer Army is simply a better way to get the job done. Once we have made that decision, however, we need to address what kind of a Guard and Reserve Force we need, and how we are going to deal with those left behind.

Being from a rural State, I saw many examples of towns devastated when their reservists were activated. Tracy, MN, lost a doctor, when medical personnel are incredibly scarce already. Princeton, MN, lost a surgeon. Waconia lost a doctor. We need to provide funds to replace these people, or make a decision to measure impact on communities as we set priorities for who is going to be called up.

At least three families contacted me, the Weinands of Minneapolis, the Aulls, stationed in Germany and the Sessions, also of Minneapolis, about children left unattended by activation of their parents. In a nation of 250 million people, we should not have to deprive children of both parents to be prepared to fight a war.

We also need to be better prepared in the future to establish the vital link between families and service people through the mails. It may be that limits will have to be placed on well-meaning efforts of support the troops writing campaigns, which made it more difficult for actual family members to get their letters and packages through. It is an important need of both service people and the folks back home, that information between family members can flow.

We also need to look at ways the BAS benefits—basic allowance for subsistence—on which families depend, can be continued even after service people are activated and living on base.

Mr. President, we are all deeply thankful that the war is now over, with only the final stages of arranging a formal cease fire left to be secured. The United States led the coalition of nations arrayed against Iraq in building this remarkable victory against the tyranny and brutality of Saddam Hussein's regime. We relied on the historic building blocks of our Nation: principle, ingenuity, leadership, and courage.

President Bush, his national security and diplomatic teams, our military leaders, and of course, the men and women of our armed services deserve our praise and thanks for a job tremendously well done. The United States has the finest Armed Forces in the world, and I believe this country owes them a debt of gratitude for their courage and sacrifices.

I would also express my sadness and appreciation for the brave Americans who gave their lives in pursuit of our objectives. Minnesota paid a very high price in lives for our accomplishments. Six sons of Minnesota died in Desert Storm, and one is still missing. They have honored this country with their sacrifice, and forever they will be heroes to us all.

The success of Operation Desert Storm is a triumph for the international community. Never before has such a diverse collection of nations joined together in common purpose with such extraordinary success. It is a testimony to the world's rejection of Saddam's outrageous actions, and it offers us solid reasons for hope that the world will also unite against future aggressions.

It remains my hope that the united actions taken by a united world to respond to this aggression will serve to deter and prevent future despots from taking similar actions. We can never be fully certain that that will be the case. But I am absolutely convinced that the efforts of the international

community have made this kind of aggression much less likely in the future. Indeed, future aggressors will look back on these remarkable events and have to think twice before invading a peaceful, sovereign neighbor. Future aggressors should take note of this precedent.

And this precedent could well be one of the more important and enduring benefits of this very successful political, diplomatic, economic, and military action. As I have stated before: aggression resisted today is aggression prevented tomorrow.

Further, Mr. President, I believe this precedent helps form the foundation for the more stable, peaceful world order to which President Bush has frequently referred. We have an historic opportunity to form an order in which the international community of nations will be united in ensuring that victory will prevail over tyranny; that brutality will go unrewarded; and that aggression will meet collective resistance.

The more stable and peaceful world order to which we aspire can be one in which the rule of law prevails in order to maintain peace, stability, and freedom among nations. It is one in which global organizations, such as the United Nations, will lead the international community in the collective struggle against aggression and threats to the sovereignty of peaceful nations.

Now, with the war in the gulf behind us, we must look ahead to establishing a more stable, secure, and peaceful Middle East region. I believe President Bush has set the Nation on the proper course in enunciating his four major objectives for our post-war diplomacy in the region. These four objectives include securing regional security, enhancing arms control, developing greater economic cooperation and development, and resolving the Arab-Israeli conflict. Although some of our coalition partners and other countries directly involved may differ somewhat on priorities, interpretations, and strategy, it appears that the objectives themselves are widely shared.

As President Bush and Secretary Baker have said, it is now incumbent on the United States and all other nations involved to get down to the hard work of securing the peace. It is an enormous challenge, one that will require time, patience, and determination. But it is a challenge that we are well prepared to meet, and I fully support U.S. efforts to lead the way in forging ahead in addressing these tasks. I look forward to the future with great anticipation and high expectations.

Mr. President, let me again express my hope and belief that the sacrifices this Nation and the world community have borne to reverse Saddam's aggression will set the cornerstone of a more stable, peaceful world order. Our country will be eternally grateful to the brave men and women who have made possible this successful operation, and who have laid that cornerstone.

Mr. SPECTER. Mr. President, as ranking minority member of the Veterans' Affairs Committee I would like to express my support for the leadership amendment to S. 578, a bill authorizing fiscal year 1991 supplemental appropriations for the Department of Defense for Operation Desert Storm. I was privileged to serve as a member of the Operation Desert Storm Task Force that was able to produce a bipartisan package that provides a wide range of benefits for military personnel serving during Operation Desert Storm. This comprehensive legislation will provide our men and women in uniform with many of the benefits they have earned and so richly deserve.

There were many legislative proposals introduced to assist our servicepersons in the gulf, many of which were referred to the Veterans' Committee. Although many of these legislative initiatives were thoughtful and very credible, many were not included in the final leadership package due to the extremely limited budget provided under the costs associated with Operation Desert Storm. It should be pointed out that each proposal had its merits and that each one would be of assistance to our returning servicemembers. It is unfortunate that our huge Federal budget deficit does not allow us to undertake all the ideas and legislative initiatives at this time.

On March 7, 1991, the Veterans' Committee marked up a package of legislation dealing with benefits for those individuals who served during Operation Desert Storm. This legislation, which has been modified and added to the leadership package, is designed to improve several veterans' benefits and services in order to apply them to personnel who served during Operation Desert Storm. Included in these provisions are improvements in the Department's health care, cemetery, education, benefits, rehabilitation, and reemployment rights systems. These are just some of the important areas the committee bill covers, and I am encouraged that it was included as a part of the larger authorization bill.

Mr. President, one of the specific areas of the leadership amendment I would like to mention is the increase in VA administered education benefits, specifically the Montgomery GI bill for reservists and active duty personnel. The Montgomery GI bill was established in 1985 as a way to provide incentive to individuals joining the military and as a way to help them further their education. The program is a good one and it has proved to be a significant benefit to those who use it.

As we all would agree, education is one of the most important issues facing this Nation and will continue to be for long into the future. Education is this Nation's future, and the Montgomery GI bill is a program that strengthens our future by enabling more people to get a good education. This program has not seen an increase in the benefits it provides since it was established over 5 years ago. The committee bill, now a part of this larger legislation, provides a small, but much needed increase in the Montgomery GI benefits paid to reservists and active duty participants. While this increase is not as large as many in Congress have wished for, it shows we are committed to this important issue and that serious consideration of the program will take place in the future.

This increase in education benefits is a good example of one of the important and timely provisions of the leadership package. Although this bill does not come without a cost, I feel these costs are justified as a part of the emergency expenditures associated with Operation Desert Storm.

In my role as ranking minority member on the Veterans' Affairs Committee and as a member of the Desert Storm Task Force, I feel it is extremely important for Congress to do everything reasonable to assist servicemembers returning from the gulf. The country, the Congress, and the American people are proud of the bravery and commitment shown by our armed services during the Persian Gulf war. It goes without saying that today's military is one of the best trained, most capable forces ever assembled. We, as Members of Congress, have worked diligently and thoroughly to ensure this legislation meets the needs of our servicemembers.

I urge my colleagues to give this crucial legislation their full support and would like to once again thank both our Armed Forces and the American people who supported them for a job well done. This legislation will provide many important benefits to our men and women in uniform, and most importantly, will give substance to the many words of praise and congratulations given to the members of America's military for their tremendous sacrifice and effort.

Mr. SANFORD. Mr. President, Congressman MARTIN LANCASTER, who represents the Third District in North Carolina, has submitted legislation in the House that would offer disaster loan assistance to small businesses that have suffered due to the large deployment of military personnel in support of Desert Storm. There have been measures introduced here in the Senate that would give assistance to small businesses adversely affected by Desert Storm. Unfortunately, none of those measures have been acted upon favorably.

After the passage of the Desert Storm package here in the Senate, I ask that my colleagues appointed to

the conference committee give every consideration possible to the legislation of Congressman LANCASTER.

Mr. NUNN. Mr. President. I urge third reading of the bill.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. NUNN. Mr. President, I urge passage of the bill.

The PRESIDING OFFICER. The question is on the passage of the bill, as amended.

Mr. NUNN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Florida [Mr. GRAHAM] is absent because of a funeral.

Mr. SIMPSON. I announce that the Senator from Vermont [Mr. JEFFORDS] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 97, nays 1, as follows:

[Rollcall Vote No. 30 Leg.]

YEAS—97

Adams	Ford	Mitchell
Akaka	Fowler	Moynihan
Baucus	Garn	Murkowski
Bentsen	Glenn	Nickles
Biden	Gore	Nunn
Bingaman	Gorton	Packwood
Bond	Gramm	Pell
Boren	Grassley	Pressler
Bradley	Harkin	Pryor
Breaux	Hatch	Reid
Brown	Heflin	Riegle
Bryan	Heinz	Robb
Bumpers	Helms	Rockefeller
Burdick	Hollings	Roth
Burns	Inouye	Rudman
Byrd	Johnston	Sanford
Chafee	Kassebaum	Sarbanes
Coats	Kasten	Sasser
Cochran	Kennedy	Seymour
Cohen	Kerrey	Shelby
Conrad	Kerry	Simon
Craig	Kohl	Simpson
Cranston	Lautenberg	Smith
D'Amato	Leahy	Specter
Danforth	Levin	Stevens
Daschle	Lieberman	Symms
DeConcini	Lott	Thurmond
Dixon	Lugar	Wallop
Dodd	Mack	Warner
Dole	McCain	Wellstone
Domenici	McConnell	Wirth
Durenberger	Metzenbaum	
Exon	Mikulski	

NAYS—1

Hatfield

NOT VOTING—2

Graham Jeffords

So the bill (S. 578), as amended, was passed.

(NOTE.—The text of S. 578, as passed by the Senate on this date, will appear in a future edition of the RECORD.)

Mr. NUNN. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, I ask unanimous consent that when the Senate receives from the House of Representatives H.R. 1175, the companion National Defense Supplemental Authorization Act for the fiscal year 1991, that all after the enacting clause of the House bill be stricken and the text of S. 578, as amended, be substituted in lieu thereof; that the bill be advanced to third reading and passed; that the motion to reconsider the vote be laid on the table; and that the Senate insist on its amendment and request a conference with the House on the disagreeing votes of the two Houses; and that the Chair be authorized to appoint conferees. I further ask unanimous consent that the foregoing occur without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

TREATMENT OF ACCRUED LEAVE OF MEMBERS OF THE ARMED FORCES

Mr. NUNN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 331, Calendar No.10.

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

Mr. NUNN. That the text of title III and VII of S. 578, as passed, be substituted for the text of S. 331; that S. 331, as amended, be advanced to third reading and passed; that a motion to reconsider be laid upon the table; that the title of S. 331 be amended to read, "To provide military personnel benefits for persons serving during Operation Desert Storm and for other purposes"; that the Senate proceed to the immediate consideration of S. 332, Calendar No. 11; that the text of S. 578, as passed, except for section 1 and title III, be substituted for the text of S. 332; that S. 332, as amended, be advanced to third reading and passed; that a motion to reconsider be laid on the table; that the title be amended to read, "To authorize supplemental appropriations for the Department of Defense for Operation Desert Storm and for other purposes"; and that the foregoing occur without any intervening action or debate.

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

CONGRESSIONAL GOLD MEDALS FOR GEN. COLIN POWELL AND GEN. NORMAN SCHWARZKOPF

Mr. NUNN. Mr. President, over the last several days, we have heard a great deal of well-deserved praise for the courage, skill, and professionalism of the men and women in our military services who served in Operation Desert Shield and Desert Storm. I want to take just a few minutes at this time to commend the leadership of the two senior military officers most responsible for leading our Armed Forces during the Persian Gulf war—the Chairman of the Joint Chiefs of Staff, Gen. Colin Powell, and the commander in chief of the U.S. Central Command, Gen. H. Norman Schwarzkopf.

The entire Nation recognizes that General Powell and General Schwarzkopf made decisive contributions to the stunning success of Operation Desert Shield and Storm.

As the Chairman of the Joint Chiefs of Staff, General Powell serves as the principal military adviser to the President, the National Security Council, and the Secretary of Defense. On many occasions during the last 7 months, President Bush and Secretary Cheney have praised General Powell for his outstanding service in this demanding role. The same qualities of professionalism, integrity, and good judgment that have been evident to the President and the Secretary of Defense have been appreciated by Members of Congress as well.

Gen. Norman Schwarzkopf, the commander in chief of the U.S. Central Command, also deserves our deepest thanks and admiration for his service in the Persian Gulf. He and his subordinate commanders, such as General Horner, who did an absolutely unbelievable job with the air campaign, were responsible for planning and leading the execution of an extremely demanding operation. With the benefit of his experience in the Middle East and his personal determination to achieve the coalition's objectives, General Schwarzkopf's forces quickly and completely defeated Iraq with minimal coalition casualties and collateral civilian damage.

Our Armed Services Committee, in the course of marking up this bill which just passed, unanimously passed a resolution urging the Banking Committee, which has jurisdiction in this matter, and the Senate as a whole, to award these officers the Congressional Gold Medal.

Mr. President, I am very pleased that the Banking Committee today has passed a resolution authorizing gold medals for these two outstanding officers. I cosponsored these bills with Senator WARNER, Senator LOTT, Senator GLENN and many other Senators. In sponsoring these bills, we have directed that the Secretary of the Treas-

ury strike congressional gold medals in their honor.

Mr. President, I am hopeful that the Senate will be able to pass this measure that came out of the Banking Committee and sent it to the House for its consideration in the near future.

Since 1776, the Congress has authorized congressional gold medals for approximately 100 individuals as well as the American Red Cross. Several of these recipients have been military officers, including some of our best known military leaders, Gen. Matthew Ridgway, Adm. Hyman Rickover, Gen. Douglas MacArthur, and Gen. George C. Marshall. I believe it is only appropriate that General Powell and General Schwarzkopf join this distinguished list of American military leaders and heros.

Mr. President, in authorizing these medals for General Powell and General Schwarzkopf, the Congress will not honor these two officers but indeed will be honoring all the officers and all the enlisted personnel who under their leadership planned and carried out Operation Desert Shield and Desert Storm so successfully.

Mr. President, I again commend the leadership of the Banking Committee for taking this step and I hope that sometime next week perhaps we will be able to pass these bills in the Senate.

The PRESIDING OFFICER. The Senate from Illinois is recognized.

NOMINATION OF LAMAR ALEXANDER TO BE SECRETARY OF EDUCATION

Mr. SIMON. Mr. President, I understand the next item of business that will be coming before the Senate will be the nomination of Lamar Alexander for Secretary of Education. I just want to take 1 minute here to say I know there have been questions raised on the financial side. I have looked into those things.

I do not believe any laws were violated, though I have to say some of the actions were troubling enough that if he were a mediocre nominee I probably would vote against him. But I think he has the potential to be a superb Secretary of Education. I voted for him in committee and I will vote for him on the floor. I hope that he really gives the Nation the leadership we so desperately need in the field of education and, frankly, leadership that up to this point has been somewhat lacking.

So my vote will be for him. I assume he will be confirmed by a voice vote.

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

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

EXECUTIVE SESSION

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of Lamar Alexander to be Secretary of Education.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

DEPARTMENT OF EDUCATION

The legislative clerk read the nomination of Andrew Lamar Alexander, Jr., of Tennessee, to be Secretary of Education.

Mr. KENNEDY. Mr. President, I ask unanimous consent to vitiate the yeas and nays.

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

Under the unanimous-consent request now pending before the Senate, the Senator from Massachusetts has 1 hour and the Senator from Utah has 1 hour.

Mr. KENNEDY. Mr. President, I yield such time as I might use.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, today, the Senate will consider the nomination of Lamar Alexander to be Secretary of Education.

The President's nomination of Governor Alexander was widely praised, and deservedly so. During his 8 years of service as Governor of Tennessee from 1979 to 1987, he earned a national reputation as a champion of public education and education reform. He initiated far-reaching improvements in Tennessee public schools. He played an instrumental role in persuading the National Governor's Association to focus more attention on education and its critical importance to the Nation's future.

He has also played an active role in developing Federal education policy. His report on the National Assessment of Educational Progress was an effective blueprint for its expansion, and the Senate relied heavily upon his work when we reauthorized the program in 1988.

The Labor Committee held a hearing on Governor Alexander's nomination in January. I was impressed by his knowledge of education issues and his willingness to tackle this vitally important job. I was especially pleased with his candor and his decision to start over on the Department of Education's misguided and hastily announced policy casting doubt on minority scholarships.

Governor Alexander has an outstanding record in education and has earned bipartisan respect for his role in stimulating education reform. His leadership will be vitally important in marshaling the energy and support essential to assure that every child enters school ready to learn, and that our schools do a better job of providing all children with the opportunity to reach their full potential.

As the committee considered this nomination, a number of questions arose with respect to the propriety of a series of complex transactions that produced substantial personal financial gains for Governor Alexander and his family in the years after he became Governor of Tennessee in 1979.

The committee investigated these matters, and found no persuasive evidence of violation of law by Governor Alexander. At a meeting of the committee yesterday, we recommended his confirmation by a vote of 16 to zero, with one Member voting "present."

Governor Alexander's knowledge, interest, and commitment make him an excellent choice to be Secretary of Education. In the 12 years since the Department of Education was created, four persons have served as Secretary. None of them has had the track record in education that Governor Alexander brings to this job.

Because of his role in stimulating school reform in Tennessee, Governor Alexander knows firsthand how hard it is, and what it takes, to improve our schools. Given his efforts to attract the General Motors Saturn plant to his State, he knows about the close relationship between education and economic growth. And his service as president of the University of Tennessee gives him insight into why America has the best network of colleges and universities in the world, and what we must do to maintain them.

His personal commitment to civil rights means that he understands the importance of equal access to educational opportunities.

Last, but not least, he is a public official who understands the importance of consultation, negotiation, and compromise to accomplish public policy goals. That skill is a priceless asset for a Secretary of Education.

The challenges facing the Nation on education are profound.

Far too many students are already behind their grade level the day they enter school. Most will never catch up.

The majority of students are not challenged in school—they coast through, without ever being pushed, because they see no connection between what they do in school and what they want to do in life.

American students are at the bottom of the industrialized world in international comparisons of math and science achievement.

Too many young teenagers leave school without graduating.

Schools are of grossly unequal quality. Too many families—especially the disadvantaged—send their children to schools that are second rate, or worse.

Access to higher education is also unequal. Too many disadvantaged students find the doors to the university barred because of the high cost.

Many of our colleges are more concerned with building their endowments or improving their athletic teams than they are with the quality of the education they provide to their students.

Millions of adults lack basic literacy skills. These are important issues. We need a Secretary of Education who will address all of them as if our Nation's future depends on it—because it does.

America must once again become a nation that places a high value on education and that has high expectations for its schools, its colleges, and its students.

To achieve our goals, we need both an education President and an education Congress.

Now, as the education Governor becomes education Secretary, we have a greater chance to reach our objectives. I urge the Senate to confirm Governor Lamar Alexander as Secretary of Education. I wish him well, and I look forward to working with him.

Mr. HATCH. Mr. President, I yield such time as I may need.

The PRESIDING OFFICER (Mr. HARKIN). The Senator is recognized.

Mr. HATCH. Mr. President, I rise to support enthusiastically Governor Alexander to be our next Secretary of Education. I am delighted that Governor Alexander has been nominated by President Bush for this position. I am pleased that the committee has chosen to move this nomination forward and that we are considering this nomination today in the Senate.

Governor Alexander's distinguished career is well known to members of the committee. As Governor, he launched a wave of education reform throughout the State of Tennessee during the 1980's which increased teacher salaries and upgraded education in the State of Tennessee. The leadership, energy, and vitality that he brought to the education reform movement in Tennessee are well known and they are needed here in the country as well.

A quality education is one of the most important benefits a government can provide for its citizens. The education we provide for our students, regardless of race, creed, or economic status, will determine the future of this country. The next generation is being trained in our schools right now. What our world will be like 30 years from now depends upon teachers and students in our classrooms at this very moment.

Governor Alexander's commitment to education is personal as well as professional. As many of you may know, both of his parents were deeply dedicated to education and to the family. His mother was a teacher and his father worked as an elementary school principal. His own dedication to education has evolved and grown throughout his entire life and has been evidenced most recently during his tenure as president of the University of Tennessee.

Education in our country is clearly in need of reform, and I am confident that Governor Alexander will be able to guide us in the right direction. He is a dynamic leader, an innovator, and an experienced administor. I look forward to working with him on our educational initiatives, including the Higher Education Act reauthorization which is already underway.

I know that Governor Alexander realizes that education reform is not an end—it is only a means to our true goal of educational improvement. I know that he views this opportunity as a great responsibility and challenge.

I look forward to working with him and President Bush and the members of our committee, and the committee in the House as well, on the pressing education issues that face our Nation.

Mr. President, I have to say that I have watched this Department of Education for many years as ranking member and chairman at one time of the Labor Human Resources Committee. I think we have been privileged to have some very wonderful Secretaries of Education.

But I do not know of any time since I have been here in my three terms in the Senate that I have been more enthusiastic about having someone like Lamar Alexander as the Secretary of Education. I think he is going to make a tremendous difference in all of our lives, and I am looking forward to working with him, very very closely. I think all members of the committee are.

I personally appreciate our chairman in the efforts he has put forth to resolve the problems that have arisen and his expediting this inasmuch as the Department of Education has been rudderless, really, for almost 3 months now, almost 4 months.

Mr. President, I absolutely believe in the Senate's prerogative to question Presidential nominees and to find out whatever we can about their fitness for the office.

And, I am sure that Lamar Alexander would be the first to say that he feels thoroughly questioned about his financial affiars.

I have listened carefully. I have read all of his answers to our many questions. I have seen his tax returns, which he voluntarily supplied, and I have reviewed the FBI report. Let me tell you something of what I have found.

I have found Governor Alexander to be perhaps the most forthcoming public official with whom I have ever dealt.

Throughout his tenure as Governor of Tennessee, he faithfully disclosed all of his and his family's financial holdings—even though he was not required to do so.

One of Tennessee's leading Democratic newspapers said he was a man of unquestioned integrity.

During his 8 years as Governor, his net worth went from about $212,000 to $467,000, except for one stock transaction.

He made some money after he left office—and he certainly is not the first public official of either party to have done so—but he made it with businesses who did not do business with the State while he was Governor.

Governor Alexander was the first candidate in Tennessee history to fully disclose all his campaign contributions. This was in 1974.

When he was elected Governor—from 1979 to 1987—he disclosed every year his tax returns, his net worth, his income, his debts, and his assets as well as those of his wife and children. No Govenor had ever before done that. It was not required by law.

According to those State disclosure documents, his net worth increased from $212,000 in 1979 to $467,000 in 1986, about 12 percent a year, or just a little better than the rate of inflation. This did not include his investment in Gannett stock which he also reported on his annual returns.

Because there has been so much talk about how much his net worth has increased, I ask unanimous consent to have printed in the CONGRESSIONAL RECORD his 1979 net worth statement and his 1986 net worth statement, both of which, along with their attachments, were filed in Tennessee State government offices.

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

JUNE 11, 1979.

Ms. KATHERYN C. CULBERTSON,
State Librarian and Archivist, Tennessee State Library and Archives, 403 Seventh Avenue, North, Nashville, TN.

DEAR MS. CULBERTSON: On April 21, 1978 I filed with your office a full disclosure of my and my immediate family's financial position, including our federal state income tax returns for 1977.

I pledged then that, as Governor I would each year make a similar disclosure. This disclosure for the year 1978 includes sources of income, assets, debts, estimated net worth and my family's assets and sources of income. (This is in addition to the briefer "Disclosure Statement" which the law required that I file with the Secretary of State earlier this year when I was inaugurated.)

1. 1978 Taxes—On April 16, my wife, Leslee B. Alexander, and I jointly filed our 1978 federal income tax return. We paid $26,941.01 taxes on $92,653.44 income At the same time, we filed our 1978 state income tax return. We paid $100.44 on $1,674.01 dividend and interest income.

A copy of both returns is attached.

2. Sources of Income—Except for rental income mentioned below on four houses in Nashville, my only source of income is my salary as Governor.

I am not an officer, director, or stockholder in any corporation.

3. Assets, Personal Debts, Net Worth—(Some of the market values are difficult to judge; the estimates are the best I could make.)

ESTIMATED VALUE

A. Assets:

Savings: (1) Value/Retirement plans, $155,000; (2) Bank Accounts, $8,000.

Stocks: None.

Real Estate: Equity (estimated market value less mortgage indebtedness in four Nashville residences) and in ½ interest in two partnerships which own about 471 acres of mountain land in Blount County, Tennessee which are unimproved except house and barn. Rental income on the houses in 1978 was $18,418,41, all of which was spent on insurance, repairs, taxes and mortgage payments. $178,000; Personal Property: Furniture, life insurance and misc. assets, $20,000; total assets, $221,000.

B. Personal debts (excluding previously mentioned mortgage debt): Co-sign note with parents, $9,000; total personal debt, $9,000.

C. Estimated net worth, $212,000.

4. Family Assets and Sources of Income—

A. Wife.—In addition to jointly owning one of the Nashville residences previously mentioned, she has invested approximately $60,000 in three limited partnerships which own unimproved, non-income-producing real estate. Two of these tracts are in Davidson County, and one is in Williamson County. She is not a general partner in any of these partnerships.

In addition to these Tennessee investments, my wife has inherited or been given a small percentage interest in certain property which her family has owned in Texas where she was raised. Her income from all these interests totalled $9,531.34 in 1978. She also received a total of $1,664.20 in dividends from ownership of shares of stock in South Texas Savings Assn., First Texas Financial Corp., Entrex, Inc., Phillips Petroleum, Hospital Corporation of America, Houston Natural Gas Corporation, General Telephone and Electronics, and Xerox Corporation.

Children.—Our son Drew, 9, owns 13 shares of stock in American Telephone and Telegraph Co. Our son Will owns 50 shares of stock in Shoney's, Inc.

Drew with his two sisters, Leslie, 7, and Kathryn, 5, own the beneficial interest in a trust established to help with the expenses of their college education. The trust owns a 1/10 interest in a limited partnership which owns three Davidson County apartment complexes, two on White Bridge Road and one in Madison. The present value of their beneficial interest is probably $40,000 to $50,000 in excess of the Trust debt. Honey and I are contingently obligated to pay off the trust debt should the income from the trust or its value at a sale prove insufficient.

Very truly yours,

LAMAR ALEXANDER.

STATE OF TENNESSEE,
April 11, 1986.

Mr. DAVID DURHAM,
Assistant Coordinator of Education, Suite 500, James K. Polk Building, Nashville, TN.

DEAR MR. DURHAM: This is my ninth consecutive annual voluntary disclosure of my and my family's financial position, including our federal and state tax returns for the preceding year.

This disclosure, for the year 1985, includes sources of income, assets, debts, estimated net worth and my family's assets and sources of income as of April 11, 1986. (This is in addition to the briefer "Disclosure Statement," which the law required that I file with the Secretary of State in January.)

1. 1985 Taxes—On April 11, 1986, my wife, Leslee B. Alexander, and I jointly filed our 1985 federal and state income tax returns. We paid $16,924.00 taxes on $105,574.00 income.

2. Sources of Income—Except for rental income mentioned below, and out-of-state speech honoraria, my only source of income is my salary as Governor.

3. Assets, Personal Debts, Net Worth—(Some of the market values are difficult to judge; the estimates are the best I could make.)

ESTIMATED VALUE

A. Assets:

Savings: (1) Accounts, $4,000.00; (2) Note Receivable (from Processed Food Corp.), $5,246.00.

Stocks: (1) Processed Food Corp., $2,000; (2) Shares and options to purchase shares in Gannett, Inc., value uncertain because sale is restricted.

Real Estate: Equity (estimated market value less mortgage indebtedness) in one-half interest in home and guest house and two acres in Blount County, Tennessee; in twenty-five percent interest in commercial real estate in Davidson County; in one-half interest in a rental duplex in Beaufort County, South Carolina; in one-half interest in a partnership which owns about 950 acres of mountain land in Blount County, Tennessee (which is unimproved except for two houses and a barn); in 2½ percent ownership interest in oil and gas lease in Texas and Oklahoma; and in one-half contract to purchase unimproved lot in Williamson County, $588,932.00

Personal Property: Furniture, life insurance and misc. assets, $40,000.00; total assets $640,178.00.

B. Personal debts (Excluding previously mentioned mortgage debt): Bank Loans, $171,802.00; Total Personal Debt, $171,802.00.

C. Estimated net worth (Not including Gannett shares and options) $468,376.00.

4. Family Assets and Sources of Income—

A. Wife—She has invested $35,000 in a limited partnership which owns real estate in Davidson County. She is not a general partner in this partnership.

In addition to these Tennessee investments, my wife has inherited or been given a small percentage interest in certain property which her family has owned in Texas where she was raised. Her income from all these interests was about $37,000.00 in 1985. This income included a total of $17,134.00 in dividends from ownership of shares of stock in General Telephone and Electronics, Merrill Lynch Realty Assets, South Texas Savings Association, Starboard Corporation, Gannett Co., William Wrigley Co., South Trust Corp., Multi-Media, Singer Co., Time Energy Systems, Pepsico, Cracker Barrel, Commonwealth Edison, Weyerhauser, Xerox, Southlife Corporation, Public Service of Colorado, Texaco, Flowers Industries, Longview Fiber, L&N Housing Corp., General Motors, Houston Natural Gas, Boeing, Phillips Petroleum, Pfizer, Stanley Works, Colonial Advanced Strategist Gold Trust, American Express, Anheuser Busch, IBM, Hospital Corp. of America, Entex, and Federal Express. She also had some capital gain income from the sale of some of these shares of stock and an interest in a limited partnership which owned real estate in Davidson County. She owns a half interest in a rental duplex in Beaufort County, South Carolina, a half interest in our home and two acres in Blount County, Tennessee, and a half interest in our contract to purchase an unimproved lot in Williamson County.

B. Children—Our son, Drew, 16, owns 21 shares of stock in American Telephone and Telegraph Company, and some other miscellaneous stocks worth less than $500. Our son, Will, 6, owns 50 shares of stock in Shoney's, Inc.

Drew, Will, and their two sisters, Leslee, 14, and Kathryn, 11, own the beneficial interest in a trust established to help with the expense of their education. The trust owns a note receivable resulting from the sale of apartments in Davidson County. The present value of their beneficial interest is probably $200,000 in excess of the trust debt. Honey and I are contingently obligated to pay off the trust debt should the income from the trust or its value at a sale prove insufficient.

Very truly yours,

LAMAR ALEXANDER.

Mr. HATCH. Mr. President, after he left the Governor's office, he went to work to earn a living and, while it would have been perfectly legal to do so, he worked for businesses that did not do business with the State of Tennessee while he was Governor.

My colleague, the Senator from Massachusetts, noted yesterday that Governor Alexander had investments in the Knoxville Journal, Corrections Corp. of America, Blackberry Farm, and Whittle Communications. What was not mentioned was that not one of these companies did business with the State of Tennessee while he was Governor.

Governor Alexander also has reported to us that he made some money from a venture capital firm, a private Baptist college, and Processed Foods, Inc. None of these had a State contract when he was Governor.

In 1988, after he had been busy earning a living as a private citizen, he became president of the University of Tennessee. Before taking this position, he sat down with the State attorney general, the university counsel, and his own attorney to determine what activities he could and could not appropriately undertake to be in compliance with State laws. He continued to serve on some boards, but only with the written legal opinion of the Tennessee attorney general.

When he sat on those boards, he took vacation time from the university.

And, in the case of First Tennessee Corp., he donated the fees to the university.

Moreover, with respect to the increase in the Governor's net worth that some people have focused on, I would like to point out a few things.

It didn't happen while he was Governor, except for the Knoxville Journal transaction. And, I have not heard anyone in this body suggest there is anything wrong with a politician wanting to own part of his hometown newspaper.

And, the documents show that Governor Alexander's net worth has increased from about $212,000 in 1979, his first year as Governor, to $467,000 in 1986, his last year as Governor. It is about $1 million in 1991, 4 years after he left office. That is an admirable increase, but far from the big numbers I've heard tossed around.

Some of those big numbers have included his wife's assets, which she was fortunate enough to acquire from her family and which were reported separately while he was Governor.

And, some of these big numbers come from the insistence of our committee that the Governor try to put a fair market value on his ownership of stock in new companies, which is a very inexact science at best.

For example, $800,000 of the alleged $3 million net worth of Governor and Mrs. Alexander is their holding of an estimated $800,000 worth of stock in Corporate Child Care, Inc. The Alexanders, along with Bob Keeshan, who Members may remember as Captain Kangaroo, founded this company in 1987, after the Governor left office. Its purpose is to help companies provide child care for their employees. It has won contracts with Marriott, Merck, and other fine American companies and does not do business with government. The stock does not trade. It may be worth nothing, or it may be worth $800,000, or it may be worth more. It is my understanding that the Alexanders have never taken a penny out of the company.

Now, I go into all of this because I think it needs to be presented.

I believe we have an interesting, different sort of person for Secretary of Education. This is a man who walked across his State in a red plaid shirt to be Governor, played piano concerts with symphonies all over his State, moved his family to Australia when he left office and wrote a wonderful family story about it, helped launch a State magazine, founded a child care company with Captain Kangaroo, and founded a leadership institute at Belmont College.

I believe Governor Alexander, during his public career, has demonstrated a strong sense of integrity and has tried to do what is right.

We are lucky to have a man with so much ability to be Secretary of Education. Lamar Alexander is an individual who cannot only generate ideas, but can also get them into practice. His presence in the President's Cabinet will be good for education in our country.

Mr. DOLE. Mr. President, I am very pleased to finally have this opportunity to speak in support of Gov. Lamar Alexander's nomination to be the Secretary of Education. Frankly, I'm not so sure that the long delay in his confirmation was necessary or productive. However, I, for one, believe Lamar Alexander will be worth the wait.

We are all aready well-aquainted with Lamar Alexander's track record in education. As Governor of Tennessee, as chairman of the National Governors Association, as a member of President Bush's Education Policy Advisory Committee, and, most recently, as president of the University of Tennessee, Lamar Alexander has been a leader and innovator in promoting educational progress and reform. I am convinced that he will bring the same intellect and energy to his new job as Secretary of Education.

At the same time, I have concerns about the way Governor Alexander's nomination has thus far been conducted. The Democrats on the Senate Labor Committee have belabored this nomination, supposedly to put to rest all of their questions about the Governor's financial history. I have no problem with close examination of a public servant's record—we in Government have a responsibility to the American people to set an example in ethics and integrity. However, I do object to needlessly dragging out a nominee's confirmation when there is absolutely no evidence of impropriety.

The Labor Committee Democrats asked the same questions over and over, and every question got the same answer—Governor Alexander has nothing to hide. Let's make this very clear for the record—he has broken no laws, committed no improprieties with his finances. If nothing else, Governor Alexander should be congratulated for the forthright and patient manner in which he answered every one of the questions posed to him.

In the wake of our Desert Storm victory, many Senators on the other side of the aisle have taken this opportunity to bash the President's domestic policies. Among other things, they say that the President isn't doing enough for education. Well, the President submitted Lamar Alexander's name a long time ago. Republicans and Democrats alike have acknowledged that Governor Alexander is one individual who can provide dynamic, aggressive leadership in educational policy. But maybe that's what Labor Committee Democrats were afraid of. It's pretty ironic that the same Democratic critics of the President's domestic policy have held up the appointment of an outstanding Secretary of Education.

I have known Lamar Alexander for a long time and am confident that he will serve this Nation well as the Secretary of Education. Lamar Alexander will certainly help President Bush deliver on his promise to be the "education president." I hope all of my colleagues will support his confirmation.

Mr. KENNEDY. Mr. President, I yield such time as the chairman of the Education Subcommittee, the Senator from Rhode Island [Mr. PELL] may need.

Mr. PELL. I thank my colleague from Massachusetts.

Mr. President, we are fortunate indeed to have such an educated and well qualified candidate as former Gov. Lamar Alexander for Secretary of Education. He comes from an education family, made his mark as an education Governor, and distinguished himself as an education president at the University of Tennessee.

I believe Governor Alexander has the opportunity to distinguish himself as an excellent Secretary of Education. But I also believe that he repeatedly exercised poor judgment and poor taste in his investment practices, and that this has cast an unfortunate shadow over his nomination.

However, I believe the balance lies in Governor Alexander's favor. That is why I supported his nomination in committee and why I intend to vote for his confirmation today.

Mr. President, I firmly believe that there is not a person in the U.S. Senate who does not want President Bush to become the education President. We stand ready to help him accomplish that task. But we want him to be an education President in deed as well as word.

I fervently hope that Governor Alexander, when confirmed, will use his strong record of commitment and action in education to help the President earn the title that now eludes him.

Lamar Alexander has the opportunity to become our Nation's education advocate at the Federal level, and I am equally fervent in my hope that he will reach for the brass ring and exercise the leadership which we so desperately need.

Mr. HATCH. Mr. President, I yield such time as she may need to the distinguished Senator from Kansas, who is the ranking member on the Education Subcommittee.

Mrs. KASSEBAUM. Mr. President, I am pleased to rise in strong support of the nomination of Lamar Alexander as Secretary of Education. Throughout his career, Governor Alexander has demonstrated leadership in the field of education. The experience and talent he brings to the job will serve us all well as we strive for educational excellence in all corners of our Nation.

Over the past several weeks, several questions have been raised about Governor Alexander's financial dealings. These questions have been explored in a thorough examination by Labor Committee investigative staff with the Governor's full and open cooperation. Following this review, his nomination was endorsed yesterday by a 16-to-0 vote of the committee. I commend the efforts of the committee and Senate leadership to bring his nomination to the full Senate so promptly after the committee vote.

From his childhood as the son of two educators, Lamar Alexander has held a keen sense of the importance of education. As the Governor of Tennessee, he was in the forefront of the school reform effort. His hard-fought efforts proved him to be a strong and dedicated leader in support of the quality education that our children need and deserve.

He carried this reform effort beyond the borders of his own State as chairman of the National Governor's Association [NGA]. The efforts helped lay the foundation for a growing national focus on the importance of education to our future economic security and prosperity. I concur in the sentiments he expressed in the NGA report, "Time for Results," that "to meet stiff competition from workers in the rest of the world, we must educate ourselves and our children as we never have before."

Moreover, his commitment does not stop with the Nation's elementary and secondary schools. Governor Alexander has served as the president of the University of Tennessee. As Congress addresses the reauthorization of the Higher Education Act this year, Governor Alexander's perspective will be invaluable. He will approach the issue not only as a former university official but also as one who understands the steps leading up to postsecondary education.

Experience in government and substantive knowledge of education are a powerful combination. Governor Alexander possesses both. Rarely has a candidate been as well prepared and qualified to head the Department of Education.

That is not to say, Mr. President, that we have not had exceptionally fine Secretaries who have preceded Lamar Alexander, but I think this is a rare combination and one that will serve us well. I look forward to working with Gov. Lamar Alexander as he sets about the task of pressing toward excellence and opportunity in education for all of our students. I know that he brings to the job qualifications that will serve us well as we strive for educational excellence.

I yield the floor.

Mr. HATCH. Mr. President, I yield 3 minutes to the distinguished Senator from Missouri [Mr. BOND].

Mr. BOND. Mr. President, I am very pleased to rise in support of a very good friend, Lamar Alexander, to be Secretary of Education.

As this body knows, Governor Alexander has earned the confidence of the education community because of his experience as president of the University of Tennessee where he improved the schools academic quality by recruiting topflight professors and securing more funding for scholarships.

I had the pleasure to get to know very well Governor Alexander when he was Governor of Tennessee and I was Governor of Missouri. In that period of service, I watched as Governor Alexander served as chairman of the National Governors Association. He was deeply involved in educational issues. He was honored by the Education Commission of the States for distinguished national leadership in the field.

It is frequent that we talk about States being laboratories in which governmental programs can be developed. Certainly, Governor Alexander's laboratory in Tennessee was one of the most innovative in the field of education when he led that State. He showed that education can be improved, yes, by putting more dollars into it, but also by demanding results. He was not afraid of controversy, and there were some very rough battles he had to win to convince those who were skeptical. But he persevered. He had the ideas and he had the vision for where he wanted to see education go in his State. And he accomplished it.

I believe that he will bring that same dedication to the problems of education in our Nation, the same willingness to fight hard. His diligence, his ability to see through the challenges, to seize the opportunities, will serve all of us well.

I have talked with him about the Parents and Teachers Program in Missouri, which is an innovative program. I know he can draw on his experience from other areas to help share ideas which are being tried and which are successful with other States, localities, and with this body as well.

I believe that the problems of our Nation's educational institutions are many and complex. At a time like this, I think a man of his proven leadership and management ability can serve us well. I think we can be confident that he will be as tenacious and skilled implementing the challenges confronting his new position as he was as CEO of the State of Tennessee and the university there.

I believe Lamar Alexander will be a tremendous asset to President Bush's Cabinet. I look forward to working with him on education in the years to come. Clearly, there are enough challenges ahead of us for all to share. But with a man of the caliber of intellect and dedication of Lamar Alexander, I believe that we will have good leadership of our Nation's Education Department.

I urge my colleagues to approve this nomination today. I know that we all will benefit from working with Lamar Alexander as Secretary of Education.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I will be glad to yield what time the Senator from New York requires.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I, too, rise enthusiastically to support the nomination of Lamar Alexander to be Secretary of Education, to congratulate him, and to congratulate the President for having sent this nomination to the body.

The history of the Department of Education has been a difficult one. It was conceived in circumstances that were not altogether lucid, as to their educational purposes, and has had some difficulty commencing its true vocation, which is to pursue both the improvement of American education and the measurement of that improvement.

There is just now, or has been of late, a good deal of talk in Washington—it comes from persons known in the White House staff—about a paradigm shift in domestic issues generally. That is a term taken from the work of Thomas Kuhn, at Princeton University, who described the progress over time of changes in the scientific understanding of natural phenomena. There is a period of normal science that take place in a given set of understandings of the world and then, every so often, something abruptly happens and then the paradigm shifts abruptly and then you have another such period.

I suppose the most dramatic and best understood, to us, of such a shift is the Copernican Revolution. After a long period of controversy Copernicus and Galileo discovered that an idea that had been in place for several thousand years, that the Earth was stationary in the universe and the Sun revolved around the Earth, was false, and that the Sun is stationary and the Earth revolves around it.

Something similar took place in the field of education with the publication in 1966 of the report on Equality of Educational Opportunity prepared by James S. Coleman, then of the Johns Hopkins University, and his associates, Ernest Campbell and others, in which, taking a section of the Civil Rights Act of 1964 which called for a study of equal educational opportunity, they carried out the second largest social science survey in the history of the Nation to that date.

They came forward with some striking findings which in their totality were quickly seen to be extraordinary and are now seen to have brought about a paradigm shift with respect to our understanding of the processes of education. We had previously seen education and measured its effectiveness and our performance, in terms of the resources we put into the field, how much input we had. Suddenly, with the Coleman study, we began to ask ourselves instead: What is the output; what do you get for what you put in?

He could find, at most, very weak relationships between different allocations of resources and different outcomes. He found most of the variation

in outcomes—and there was a very great variation—was within schools rather than between schools.

A generation of scholarship has followed, some of it involving the very distinguished and able and learned Senator from Colorado, who is on the floor. The net results has been to confirm this view irrevocably.

That paradigm shift was to be found in the educational goals for the year 2000 which President Bush announced at his first State of the Union Address, which he had reached in cooperation with the Governors of the Nation in a meeting down in Charlottesville. It was the third such meeting in our history. The first had been called by Theodore Roosevelt on conservation; next, by Franklin D. Roosevelt on the Depression; and now by President Bush, in response to a widespread sense that things are not going well falling SAT scores, poor ranking in international comparisons and such.

So they set out in the best tradition of this new paradigm to say these are the outputs we were going to reach by the year 2000. More you could not ask in terms of public policy as conceived.

On the other hand, there was a problem, to the best of my understanding, that there is very little if any probability we will achieve those goals. Some of them verge on the tautological.

If you say every child must be ready for school at age 6 and you define age 6 as the time you are ready for school, we will get there. But to say we will be first in mathematics and science by the year 2000; we will not. As a matter of fact, it is interesting that President Reagan in 1984 set essentially the same goals for the country for the year 1990, when they were reproclaimed, as it were, for the year 2000.

That is all right, to my mind, if starting now the new Secretary of Education, a man of Lamar Alexander's range of experience from the White House to the State house to the Presidency of a great university, will begin to measure what we do. And if we fall short, as I assure you we will, the Secretary will build some experimental factual basis for this shortfall. By the year 2000 we will know a lot more about how to get those goals if we reestablish them, as indeed we should. This is now how we understand the subject.

I know he will rise to this challenge. He will understand the matter and he will take it on. This has not been the case in the past.

While he was a member of the White House staff, the President proposed the establishment of a National Institute of Education to be located in the then Department of Health, Education and Welfare, which would take that Coleman paradigm shift and begin measuring educational outputs across the country.

This bill was enacted by the Congress in 1972, the educational amendments of 1972. John Brademas, in the House of Representatives, took the lead, along with Edith Green.

I regret to say that the National Institute of Education failed completely to achieve any of its purposes. It has now, for practical purposes, disappeared into the Office of Educational Research and Improvement. I would be happy to be corrected, but I do not know, in the 19 years since it was established, it ever produced any research that changed our understanding of any of these matters. So be it. Now we have a Secretary who can deal with these matters and I hope will.

At this point I ask unanimous consent to have printed in the RECORD a recent paper entitled "Educational Goals and Political Plans" that I wrote for the public interest.

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

EDUCATIONAL GOALS AND POLITICAL PLANS

(By Daniel Patrick Moynihan)

American politics has been notable for its lack of ideological structure. We have had our share and more of ideological movements, but these have typically begun outside the system of political parties, thereafter seeking to influence and on occasion to penetrate the established institutions. The latter have in the main resisted this, usually preferring to soften distinctions and to compete for votes at the center. Accordingly, it is common for American politics to be described as pragmatic, in contrast to the complex social doctrines that guide European politics.

This American institutional peculiarity, however, conceals a long-established bias in favor of that obscure but enduring ideology known as social science, to which the Founders themselves explicitly acknowledged their debt; they asserted that the Constitution was drawn up in accordance with a "new science of politics," based on a realistic assessment of human motivation, which gave promise of stability through the interaction of clashing interests. Good revolutionaries, they placed an appropriately high value on stability, but they looked for more than stable government; their science was intended to produce good government as well.

Instances abound of Americans' attempts to use social science to improve government. It was the American theory of penal reform, for example, that summoned Alexis de Tocqueville to upstate New York; only upon arrival did he look about him at American democracy.

EDUCATIONAL REFORM TODAY

But of all such reformist enterprises none began earlier, has lasted longer, and remains as problematic as the effort to provide good and equal educational opportunity. Indeed, as a nation, once again we find that we are dissatisfied with our educational system. We do not seem to be turning out the students we had hoped for. A front-page story in the New York Times last March described the present as "a moment of widespread dismay with the schools" of New York City. And New York is scarcely alone. In 1983 a National Commission on Excellence in Education entitled its report "A Nation at Risk." On every had there was a litany, as Chester E. Finn, Jr., put it, of "allegation, lamentation, and evidence." The evidence—test scores—was damning and the effort toward reform was seemingly stymied.

Recognition of the need for reform reached an apogee of sorts in 1990, when President Bush devoted a sizable portion of his 1990 State of the Union message to setting forth specific educational goals for the year 2000. The White House thereafter provided a text, which helpfully noted the moments when the Congress broke into "(applause)." "(light applause)," or "(continued applause, laughter)":

"Education is the one investment that means more for our future because it means the most for our children. Real improvement in our schools is not simply a matter of spending more. It's a matter of asking more, expecting more of our schools our teachers, of our kids, of our parents and ourselves. And that's why tonight—(light applause)—and that's why tonight I am announcing America's education goals, goals developed with enormous cooperation from the nation's governor. . . .

"By the—(applause)—by the year 2000 every child must start school ready to learn.

"The United States must increase the high school graduation rate to no less than 90 percent. (Applause.)

"And we are going to make sure our schools' diplomas mean something. In critical subjects, at the fourth, eighth, and twelfth grades, we must assess our students' performance.

"By the—(applause)—year 2000, U.S. students must be the first in the world in math and science achievement. (Applause.)

"Every American adult must be a skilled, literate worker and citizen."

Now this is a large pronouncement, even granted the setting. We are told that the future is at stake. And not just the future of our youth, but that of our nation. Of a sudden, international politics has taken over what was once the modest domain of school boards whose members in most parts of the nation carefully avoid party identification.

We will return to the (drear) implications for the nation of the State of the Union address. The point here is that the President was speaking to Congress in a vocabulary created in the 1960s by the sociologist James S. Coleman, then of Johns Hopkins University, and his associates, notably Ernest Campbell of Vanderbilt University. Coleman and his associates conducted a survey of public schools and students in 1965, which was published in 1966 by the Office of Education of the U.S. Department of Health, Education, and Welfare. Entitled "Equality of Educational Opportunity," the work soon became known as the Coleman Report.

The Coleman Report introduced the language of educational outputs, which was a wholly new way for public officials to define educational policy. This language has antecedents in economic concepts such as Leontief's input-output models and Kuznets's gross national product; but the report was unmistakably a work of sociology. It was the peculiar political fate of this most powerful government-sponsored social-science research of the later twentieth century to appear just as the federal government had lost the capacity to act upon it. Whether and when this capacity might be restored is another matter.

EDUCATIONAL FAILURE AND THE WAR ON POVERTY

Let us go back to January 1, 1964, when another government report—"One-Third of a Nation"—was issued. This report had its ori-

gins the previous summer,[1] when the author of the present essay, who was then Assistant Secretary of Labor for Policy Planning and Research, noted that half—49.8 percent—of the young men who were examined for Selective Service had been rejected, having failed the mental test (the Armed Forces Qualification Test or AFQT), the physical test, or both. This seemed a large proportion. If on closer examination it was true that a goodly portion of the entire cohort of young men would fail, then we had a better case than we perhaps realized for the assorted education and training programs that President Kennedy had proposed to a generally indifferent Congress.

Selective Service was not in the least controversial at this time, while military preparedness is (almost) always an acceptable theme and an occasion, at times, for social enquiry.[2] Wherewith, the President's Task Force on Manpower Conservation. The Task Force was chaired by W. Willard Wirtz, Secretary of Labor, with Robert S. McNamara, Secretary of Defense; Anthony J. Celebrezze, Secretary of Health, Education, and Welfare; and Lieutenant General Lewis B. Hershey, head of the Selective Service System. I served as secretary, using the great capacities of the career civil servants of the Bureau of Labor Statistics and a more-than-cooperative Department of Defense to establish the baseline data.

We established, as the title of the report indicates, that if all the eighteen-year-olds in the population were to be tested, a third would be rejected for failing at least one of the tests. One-third was surely a large enough proportion to cause concern. But most striking was the variation among states.[3] In that most admirable northern tier of states running from the Great Lakes to the Pacific Ocean, educational failure was minimal: only 2.7 percent failed in Minnesota, and 3.6 percent in Washington. By contrast, the AFQT test-failure rates in the Old South were appalling: 51.8 percent failed in South Carolina, and 51.2 percent in Mississippi. Obviously, some jurisdictions—if you like, civic cultures—did better by their children than did others. This got close to home for this Assistant Secretary from New York, whose AFQT failure rate of 34.2 percent ranked it forty-sixth in the nation, just ahead of Georgia, just behind North Carolina. The failure rate in New York, moreover, was more than twice that in Rhode Island (New York's neighbor across Long Island Sound), which had a rate of 14.3 percent.

This ought to have suggested that educational expenditures of other inputs did not automatically produce the output of educational achievement. There was no shortage of inputs in New York State as such matters were then understood. In terms of inputs, New York had one of the best school systems—if not the best—in the nation. New York was still the most populous state in the Union, and probably the wealthiest. Nonetheless, the only explanation that came to mind for the high failure rates was poverty.

[1] See Daniel Patrick Moynihan. "Toward a Post-Industrial Social Policy." The Public Interest, no. 96 (Fall 1989), pp. 16-27.

[2] Tradition has it that the introduction of conscription during World War I first revealed to British authorities the ill health and educational deficiencies of the urban working class. The arrival of troops from Australia and New Zealand, who looked almost like members of a different species, is said to have made a striking contrast.

[3] "One-Third of a Nation" did not reestimate failure rates on a state-by-state basis. I use here the raw failure rates contained in General Hershey's annual Selective Service System report for 1963.

On receiving the report on January 5, 1964, President Johnson issued a statement drafted largely by the present author:

"I am releasing today the report of the Task Force on Manpower Conservation, appointed by President Kennedy on September 30, 1963. I regard with utmost concern the two principal findings of that report.

"First, that one-third of the Nation's youth would, on examination, be found unqualified on the basis of standards set up for military service; and

"Second, that poverty is the principal reason why these young men fail to meet those physical and mental standards.

"The findings of the Task Force are dramatic evidence that poverty is still with us, still exacting its price in spoiled lives and failed expectations. For entirely too many Americans the promise of American life is not being kept. In a Nation as rich and productive as ours this is an intolerable situation.

"I shall shortly present to the Congress a program designed to attack the roots of poverty in our cities and rural areas. I wish to see an America in which no young person, whatever the circumstances, shall reach the age of twenty-one without the health, education, and skills that will give him an opportunity to be an effective citizen and a self-supporting individual. This opportunity is too often denied to those who grow up in a background of poverty."

Thereafter, the President recurrently referred to these findings. Lyndon B. Johnson was capable of appearing more empathic than he was, but these findings seemed to reach him. He clearly thought that evidence of dismal educational achievement would mobilize the society to improve it.

The logic seemed inescapable. If Minnesota could have a raw failure rate in an education test that was close to the incidence of very low IQ rates, then clearly it was possible to do as well elsewhere. It might have been objected—this was 1964—that the dual school systems of the South made such progress problematic in South Carolina or Mississippi, and there would have been agreement on this. But on what grounds could it be argued that New York was incapable of the performance of Rhode Island?

There were newly vigorous times in Washington. The assassination of President Kennedy had released great energy. Or was it anxiety? Either way, the capital was suddenly alive to all manner of possibilities, not least that of abolishing poverty. There were competing theories as to how this might be done, but only one set of data as to what needed doing, drawn from "One-Third of a Nation."

In his 1964 State of the Union address President Johnson urged Congress to declare "all-out war on poverty . . . in these United States," and in short order the Office of Economic Opportunity came into being. Its principal programs were educational, such as Head Start, an early childhood program pretty much modeled on the kindergarten created by Froebel in the first half of the nineteenth century in Europe, and the Job Corps, a form of residential vocational education. On its own, the Department of Defense began Project 100,000, an effort to bring into the Army young men who would otherwise have been rejected and to train them up to standards.

What we have here is a simple deficiency model. Poverty persisted because certain young people received too little education. The solution: give them more.

THE IMPORTANCE OF THE FAMILY

Twenty-four years later another president—Ronald Reagan—declared, "My friends, some years ago, the Federal Government declared war on poverty, and poverty won." There were few to contest the statement for the simple reason that the subject had proved complex. Where there were simple deficiencies, as with income or health care for the aged, poverty had in fact been greatly reduced, if not overwhelmed. However, it turned out that, by the 1960s, trends were in place that would make the poverty of portions of the nation's youth seemingly irreducible. This would be the lurking, half-understood message of the Coleman Report.

It all began, unobtrusively, in a little-noticed provision of the epic Civil Rights Act of 1964, which mandated the Commissioner of Education to "conduct a survey and make a report to the President and the Congress, within two years . . . concerning the lack of availability of equal educational opportunities for individuals by reason of race, color, religion, or national origin in public educational institutions at all levels in the United States. . . ." [My emphasis.]

The report—"Equality of Educational Opportunity"—appeared thirty months after "One-Third of a Nation." It was not, however, endorsed by a cabinet committee or hailed by a president. No new program was proposed based on its findings. To the contrary, it was released on the Fourth of July weekend, 1966, with a minimum of endorsement. The U.S. Commissioner of Education assured any potential readers that "[m]y staff members and the consultants who have assisted them on this project do not regard the survey findings as the last word on the lack of equal education opportunities in the United States." The Assistant Commissioner for Educational Statistics noted that "[i]n addition to its own staff" his office had "used the services of outside consultants and contractors," such as "James Coleman."

It was not until p. 21 of the Summary report that readers might have sensed that here was something new under the sun: "The first finding is that . . . schools are remarkably similar in the effect they have on the achievement of their pupils when the socioeconomic background of the students is taken into account."

"One-Third of a Nation" has been reported on the front page of the New York Times. Coverage of the release of "Equality of Educational Opportunity" was buried on page 24 of the Times on July 2, 1966; but Times reporter John Herbers, a journalist of rare insight, spotted the news. What was surprising, he noted, was that "differences in school had very little effect on the achievement scores of children with a strong educational background in the home." In the words of the Commissioner of Education, "[F]amily background is more important than schools."

Congress had called for a report concerning the "lack of availability of equal educational opportunities." The report that came recorded little by way of unequal opportunities, as then understood, but great differences in educational achievement. Coleman later revealed, if that is the term, that he and his associates had started out with a radically different notion of the world they were mapping.

"[T]he major virtue of the study as conceived and executed lay in the fact that it did not accept [the traditional] definition[;] . . . by refusing to do so, [it] has had its major impact in shifting policy attention from its traditional focus on comparison of inputs (the traditional measures of school

quality used by school administrators: per-pupil expenditures, class size, teacher salaries, age of building and equipment, and so on) to a focus on output, and the effectiveness of inputs for bringing about changes in output."

In 1990 Chester E. Finn, Jr., described the impact of the report in terms of the "paradigm shifts" discussed in Thomas Kuhn's "The Structure of Scientific Revolutions": whereas the old parading posited a "direct and automatic . . . causal relationship between inputs and outcomes[, so] that altering the former was believed ineluctably to change the latter," the new paradigm held that inputs "did not necessarily have any effect on [outcomes] . . . Educational achievement and other desired outcomes, it seemed, were strongly influenced by many factors (some external to the formal education system), such as home environment, peer group, and exposure to television."

Finn records that the response to Coleman's new paradigm was "initially, a mixture of bafflement and hostility." More importantly, and largely because of the timing of the report's release, it was subdued. Just as "One-Third of a Nation" appeared at the outset of an extraordinary period of political initiative and innovation in American national politics, so "Equality of Educational Opportunity" appeared just when that period came to a close, thirty months later.

In a 1965 message to Congress, Johnson, drawing on "One-Third of a Nation," had stated that "nearly half the youths rejected by Selective Service for educational deficiency have fathers who are unemployed or else working in unskilled and low-income jobs." This observation anticipated Coleman, but did not quite get at his point. The importance of family was evident, but since there was "nothing" to be done about family, "educational deficiency" had to be offset in the schools. The President therefore proposed a new program of financial assistance to public schools serving children in "low-income families[,] . . . with the assurance that the funds will be used for improving the quality of education in schools serving low-income areas." (This became Chapter 1 of Title I of the Elementary and Secondary Education Act of 1965, which is still in effect today.)

What if Coleman's work had been available at the outset of the thirty months in which Lyndon Johnson's attempt to reduce poverty held sway? Would the war on poverty have taken a different direction, a different cast? Not likely. This was a time when a great many interest groups were getting attention for their agendas, almost all of which were defined in traditional input terms. Civil rights apart, there was no more insistent claim than for "federal aid to education." It came now in the form of the Elementary and Secondary Education Act of 1965. Although this was not the straightforward federal cost sharing that had been sought from the time the post-war baby boom appeared, it was still federal aid. Social science was welcome to help make the case for it, but no more than that.

PUBLICIZING COLEMAN'S MESSAGE

In any event, as noted, Coleman's work appeared at the close of a period of innovation and experiment. The real challenge was to ensure that the work secured a place in the realm of policy analysis and debate. For practical purposes its sponsor, the Office of Education, with the full knowledge of the Office of the Secretary of Health, Education, and Welfare, had sought to suppress it. An effort now began to see that it survived. This was not difficult; Coleman was a well-established academic with a wide acquaintance in the circle of (then) liberal Democrats, assorted socialists, and unreconstructed Californians associated with the new journal The Public Interest. Coleman contributed an article, "Equal Schools or Equal Students," to issue No. 4, Summer 1966. He wrote:

"The sources of inequality of educational opportunity appear to lie first in the home itself and the cultural influences immediately surrounding the home; then they lie in the schools' ineffectiveness to free achievement from the impact of the home, and in the schools' cultural homogeneity[,] which perpetuates the social influences of the home and its environs."

That fall I took the report to Theodore R. Sizer, the ebullient dean of the Harvard Graduate School of Education, who immediately grasped that here was something new and important. A faculty seminar was organized, which attracted some eighty professors and graduate students from all manner of disciplines and from all over the country. (Most importantly, it attracted the attention of Frederick Mosteller, Chairman of the Harvard Department of Statistics.) Jason Epstein of Random House also recognized that something of large consequence had come along and cheerfully published "On Equality of Educational Opportunity" (Frederick Mosteller and Daniel P. Moynihan, eds.), a massive collection of papers prepared in connection with the seminar. The research was now securely in the public domain.

The seminar, in effect, "reran" the Coleman data; the numbers came out the same. Two decades later, Eric A. Hanushek, who had been a member of the seminar, reported that the conclusions remain valid.

"Two decades of research into educational production functions have produced startlingly consistent results: Variations in school expenditures are not systematically related to variations in student performance. . . . These findings suggest that school decision making must move away from traditional "input directed" policies to ones providing performance incentives. The concentration on expenditure differences in, for example, school finance court cases or legislative deliberations, appears misguided given the evidence."

Or consider Hanuskek and John E. Chubb, writing in 1990 on "Why 'More' Has Not Meant 'Better'":

"Education policy is usually seen as a problem of selecting the correct inputs. . . . There is a fundamental problem with this approach, however. . . . For more than two decades—since the massive government study, 'Equality of Educational Opportunity'[,] was conducted in the mid-1960s—researchers have tried to identify inputs that are reliably associated with student achievement and school performance. The bottom line is, they have not found any."

Standing alone, this body of research might not present any political difficulties. But it does not stand alone. To the contrary. Research in other areas led University of Massachusetts sociologist Peter H. Rossi to announce his Iron Law: "If there is any empirical law that is emerging from the past decade of widespread evaluation research activities, it is that the expected value for any measured effect of a social program is zero."

Writers in The Public Interest, for example, had begun to suspect this; their doing so made them objects of suspicion in turn. A sometimes savage critique arose. Every finding of fact was scrutinized for intention. In the end a neoconservative school emerged, convinced that liberalism had become a closed doctrine. And yet the political system as a whole remained open enough to Coleman's insights. It was not impossible to argue that if we did not know enough about how to get inputs to yield a desired outcome, we simply needed to learn more. On the other hand, the attempt to learn more was scarcely rewarding.

In 1970, as Counselor to President Richard M. Nixon, I drafted, with the inspired help of Finn and others, a Special Message to the Congress on Education Reform, a statement drawn almost entirely from Coleman and the seminar that followed. There were two proposals worthy of notice. First was the creation of a National Institute of Education to continue the Coleman quest.

"There is only one important question to be asked about education: What do the children learn?

"Unfortunately, it is simply not possible to make any confident deduction from school characteristics as to what will be happening . . . in any particular school. Fine new buildings alone do not predict high achievement. Pupil-teacher ratios may not make as much difference as we used to think. Expensive equipment may not make as much difference as its salesman would have us believe.

"And yet we know that something does make a difference.

"The outcome of schooling—what children learn—is profoundly different for different groups of children and different parts of the country. Although we do not seem to understand just what it is in one school or school system that produces a different outcome from another, one conclusion is inescapable: We do not yet have equal educational opportunity in America.

"The purpose of the National Institute of Education would be to begin the serious, systematic search for new knowledge needed to make educational opportunity truly equal."

With the notable assistance of the late Edith Starrett Green, Representative from Oregon, and John Brademas, then Representative from Indiana, the National Institute of Education was in fact created, and located in the Department of Health, Education, and Welfare. Regrettably, it was a waste of money and, indeed, of presidential assets. No one wanted to hear from Richard M. Nixon that "the educational effectiveness of many special compensatory programs[,] . . . despite some dramatic and encouraging exceptions[,] . . . [is] not yet measurably improving the success of poor children in school." This was dismissed because it was somehow taken to mean that President Nixon opposed Head Start.

The education message, which was stuffed with proposals for increased funding of one established program or another, also called for a Presidential Commission on School Finance to address a familiar range of issues. In one respect, however, it was unique. It clearly was partial to some form of support for Catholic schools. These were described as "non-sectarian, Catholic, Protestant, Jewish and other" but to my thinking it was the Catholic schools that mattered most, for the two simple reasons that there were more of them and that so many were located in inner-city neighborhoods.

It did not require any great immersion in the Coleman data to sense that whatever-it-was-that-worked for "disadvantaged" children was most likely to be found in denominational schools and that whatever-that-was

might prove transferable, so long as the models remained in place. In the 1980s, Coleman, in association with Thomas Hoffer and Andrew M. Greeley, would publish research on Catholic education of great interest. The new familiar themes of family and community emerged to account for the better performance, notably in inner cities, of parochial schools. The breakdown of "functional communities" had followed the breakdown of family.[4] Public schools somehow could not connect with children in the way that parochial schools somehow could.

But by this point the political parties had taken sides. In the 1970s a tuition tax credit for private schools passed the House of Representatives and might have passed the Senate save for fierce opposition from Democratic President Jimmy Carter. His successor, Republican Ronald Reagan, just as emphatically supported tuition tax credits; but they were not enacted, given the now settled opposition of Democrats. On the other hand, by the 1990s the case for a more pluralist educational system was being advanced with considerable vigor.[5]

UNREALISTIC GOALS

At the same time, a general pattern of avoidance in Washington led to such mindless exercises as the education goals set out in the State of the Union address of 1990. The mode of analysis could be traced to Coleman; but the rigor was absent altogether.

This thought should be pressed, not least by the research community. President Bush's goals were not merely proclaimed. They were in a legitimate sense negotiated with the governors of the states. He and the governors met to discuss the subject—one of three such gatherings in our history—in the Fall of 1989. The press office of the National Governors' Association was near to breathless on the outcome. A press release described the agreement to establish national education performance goals as "an historic first."

The following February, the National Governors' Association specifically endorsed the goals set forth in the State of the Union address. Through its emphasis on outputs, the Coleman Report had changed the terms in which political executives addressed the subject of education. What it did not do, and could not be expected to have done, was to invest these terms with an appropriate sense of accountability. For on no account could the President's goals—the quantified, specific goals—reasonably be deemed capable of achievement.

It will readily be seen that some of the presidential goals were essentially nonquantitative, such that we will never know for sure whether we have achieved them. By the year 2000 "every child must start school ready to learn". Most of us would grant that readiness to learn is an elusive concept, although we are often surprised by what we learn to measure. Similarly, it is hard to be sure just what the President meant when he said that "every adult must be a skilled, literate worker and citizen." We get the idea, of course. But measuring the outcome would seem to present difficulties. Just what do we mean by "skilled" or "literate"? But then again, we might very well find a measure of such qualities. When an employer advertises for a "skilled mechanic" those concerned seem to know what is involved. Why not, then, a "skilled citizen"?

Let us concentrate, however, on those two specific, numerical goals: that American students attain a 90-percent graduation rate and be first in the world by the year 2000 in math and science achievement. In preparing this essay, I wrote to half a dozen people who had taken part in the Harvard faculty seminar on the Coleman Report in the 1960s to ask what they thought were the prospects of achieving these goals by the year 2000. Two respondents replied that the goals were "completely unreachable" and "unrealistic"; another said that it was "barely conceivable" that we would meet the graduation goal, and a fourth held out "little hope of even beginning on the path to the goals."

The final two respondents were somewhat more sanguine. One agreed that the two goals "are . . . very hard to attain," but he "would not go so far as to say [that achieving them is] impossible"; while "skeptical," the final respondent was "impressed by the vigor" with which the governors were "attack[ing] this education issue."

I would note that the last two responses came from people who have been practitioners as well as researchers, and thus are not disposed to let hopes die too easily. I would note also that two respondents were more sanguine about graduation rates, and one suggested that to be "first in the world in science and mathematics" might be an amorphous goal—would it be enough to have the most Noble laureates?—as against the general understanding that the President was talking about test scores on various international comparisons. Accordingly, it should be made clear that I am the one holding that the President's goals are unattainable. I assume the most social scientists in the field would agree; but then agreement is never universal, nor ought it to be.

In any event, our subject is not the goals, but the relation of social science to politics in this field. As regards the goals themselves, my views derive from two sets of observations. Neither is conclusive, but then we won't have to wait long to see if the goals are met.

A first set of observations is that in recent years we seem to have been moving away from these goals rather than toward them. The big change in high school graduation rates came in the half-century from 1910 to 1960. Graduation was rare at the beginning of this period (8.8 percent of seventeen-year-olds achieved it), and common at the close (69.5 percent). By 1964 the graduation rate had reached 76.7 percent, and in 1970, 76.9 percent. Then it slumped considerably to a 1980 low of 71.4 percent, from which it has since risen to 74.0 percent in 1989. (Incidentally, don't trust any of these decimal points. They give the illusion of accuracy much too common in government statistics.) We seem to be doing a little better, but not as well as we did a quarter-century ago. The 1980s did show an improvement, but by no more than 2.6 percent. Double that for the 1990s and by the year 2000 we will have reached 79.2 percent, not far above the level of 1970.

So far as rank order is concerned, educational outcomes in the late 1980s look very much like those of the early 1960s that were recorded in "One-Third of a Nation." In 1962 Minnesota ranked first in AFQT scores (which is to say it had the lowest failure rate). In 1988 Minnesota had the highest graduation rate. New York was forty-sixth in the 1962 AFQT rankings, and forty-sixth in the 1988 graduation rankings, a quarter-century later.[6] In truth, the graduation rate in New York State has been declining steadily since the 1960s. (It was at 73.5 percent for the class that entered in the fall of 1965, but it declined to 66.3 percent for the class that graduated in June 1988.) As for funds, the National Center for Education Statistics reports that for 1989–1990, New York, at $7,153, had the third highest per-pupil expenditure in the nation, following only Alaska (whose $7,411 figure is inflated by the high cost of living there) and New Jersey ($7,312). New York was well above the national average of $4,448. By contrast, California—the largest state—was slightly below that average with a per-pupil expenditure of $4,392. As for those pesky 1988 graduation rates, while New York was forty-sixth in the nation, neighboring New Jersey ranked fifteenth.

Now to the President's goal of moving America up to first in the world in science and math scores by the year 2000. "The Budget of the United States Government, Fiscal Year 1991" has a bar chart that shows us ninth-grade science scores as evaluated by the International Association for the Evaluation Achievement. The chart is entitled "Grade 9 Science Achievement in the U.S. Lags Behind Other Industrialized Countries." In this ranking, Hungary is first, followed by Japan, Canada, Finland, Sweden, England, and, finally, the United States. These rankings seem to bounce around a bit. High school seniors in Hong Kong and Singapore regularly come out first in physics, chemistry, and biology. England often ranks second. The United States rarely makes the first ten.

Most striking is the case of Hungary. Nineteenth-century Hungary developed a high scientific culture. Much of modern physics came out of the University of Budapest in the early years of this century. (Much of the Manhattan Project was the work of native Hungarians who had fled Europe.) But the twentieth century was not kind to Hungary. War, revolution, and tyranny followed in seemingly inexorable succession. Hungary is just now emerging from a half-century of fascism followed by communism. Just about anything you could do to a people has been done to Hungarians. But nothing has been able to prevent Hungarian schoolchildren from learning physics. By contrast, is there any reason to think that American schoolchildren will reverse their long-established

[4] Consider the evidence provided by Marian Wright Edelman of the Children's Defense Fund in her 1990 commencement address at Howard University: "Every 79 seconds, an unmarried Black woman has a baby. Over 62 percent of Black babies are being born to unmarried women, which almost guarantees the poverty of the majority of the next generation of Black children. Every 3 minutes and 38 seconds, a Black teenager has a baby. . . . Five out of six young Black female-headed families are poor." Note also that "[e]very 30 seconds of the school day, a Black child drops out."

[5] See James S. Coleman, Thomas Hoffer, Sally Kilgore, and Samuel S. Peng, "Public and Private Schools," National Center for Education Statistics, 1982; Thomas Hoffer, Andrew M. Greeley, and James S. Coleman, "Achievement Growth in Public and Catholic Schools," Sociology of Education, American Sociological Association, Volume 58, Number 2, April 1985; and James S. Coleman and Thomas Hoffer, "Public and Private Schools: The Impact of Communities" (Basic Books, 1987). See also John E. Chubb and Terry M. Moe, "Politics, Markets and America's Schools" (Brookings Institution, 1990).

[6] Please note that I do not claim that the high school graduation rate is a surrogate for whatever it is that is tested by the AFQT. Yet there is some evidence that it is such a surrogate. In December 1989 a study sponsored by the Office of the Assistant Secretary of Defense noted that "[d]ecades of study results have demonstrated that those without a high school diploma are twice as likely as high school graduates to leave the military before completing a full term of service." See Janice H. Laurence, Peter F. Ramsberger, and Monica A. Gribben, "Effects of Military Experience on the Post-Service Lives of Low-Aptitude Recruits; Project 100,000 and the ASVAB Misnorming." Human Resources Research Organization, p. 2.

performance patterns in these measures in the space of a decade?

The presidential goals set out in 1990 for the year 2000 would have been more defensible were if not for the fact that in 1984 the preceding president had set out substantially the same goals for 1990. In particular, the goal of a 90-percent graduation rate seems to have gotten stuck in the memory bank of the White House word processors; in 1984 President Reagan called for reducing the dropout rate "to 10 percent or less" before the end of the 1980s.

It is safe, I would think, to regard the dropout rate as the reciprocal of the graduation rate. Surely the two goals are approximately the same.[7] The Reagan goal was not met; it was not even approximately met.

There was another goal set forth by President Reagan in 1984: "Before this decade is out, we should regain at least half of what we lost in the sixties and seventies on scholastic aptitude tests." Let us examine this proposition. Between 1984 and 1989 the mean SAT verbal score for college-bound seniors did increase—by two points, from 426 to 428. That is after having dropped forty points from the peak reached in 1967. The closure was nowhere near the half-way point.

My second set of observations has to do with how little the education innovations of the past quarter-century seem to have changed some measures of educational achievement.

Yet to leave the matter there would miss the point, for Coleman did more than put in place a new way of thinking about education. He also put in place a potentially powerful mode of accountability. His outputs, measured by specialists, can still be grasped by the general public. If, as forecast here, the year 2000 arrives and the United States is nowhere near meeting the education goals set out in 1990, the potential will nonetheless exit for serious debate as to why what was basically a political plan went wrong. We might even consider how it might have turned out better.

Mr. MOYNIHAN. Finally, Mr. President, but with great sense of importance, could from the Senate floor, call the attention of the man who will be our new Secretary of Education to section 127 of the Internal Revenue Code which provides for employer-provided educational assistance.

Every year, or just about, of the 15 years I have been in the Senate, this measure has come before us and in the very last minute has been saved. It has to be saved yet again. The Society for Human Resource Management has been organized, urging it upon us.

There cannot be a more directly related effort in the Tax Code to combine education with increased productivity and achievement and earnings, and if I may say, taxes paid on earnings: Employers sending factory workers, office workers, persons from the assembly lines in Rochester, NY, to the large accounting firms of New York City—I can speak to both matters—to get further education. Some go to complete grade school, some high school, some graduate education in engineering, accounting, economics, and at the employer's expense in order to raise the capacities and productivity of the employee.

How could we not see the advantage in this? I would hope Secretary Alexander will weigh in with the Office of Management and Budget and say this is a good idea. This program ought to be encouraged and ought to be made permanent.

I see other Senators on their feet. I do not wish to delay their remarks, and I respectfully yield the floor.

Mr. HATCH. I yield to the distinguished Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator from Utah for yielding time to me.

It is a great pleasure for me to support the nomination of Lamar Alexander to be Secretary of Education. He is a good friend and widely respected leader in education and government.

It is well known that as Governor of Tennessee, Lamar Alexander was very successful in improving the education programs and policies of that State. He pushed the Tennessee legislature to institute reforms that have become national models.

Very recently, he has gained experience as chancellor of the University of Tennessee that will be of practical benefit to this Senate as we work to try to improve student opportunities and performance, as we reauthorize the Higher Education Act this year.

I am convinced that Governor Alexander will bring a new sense of urgency to achieving excellence in education nationwide. I think his enthusiasm and his ideas will be refreshing, and his intelligent leadership will make a big difference. Students, teachers, and administrators will benefit from his service as Secretary of Education.

This administration, I am convinced, means business when it says that excellence in our schools is a national imperative. I think we will have in Lamar Alexander a strong and dynamic, competent leader to help us achieve success in reaching that goal.

I thank the Chair.

Mr. KENNEDY. Mr. President, how much time does the Senator wish?

Mr. ROBB. About 1 minute.

Mr. KENNEDY. I yield such time to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. ROBB. I thank the Senator from Massachusetts.

I just want to say one brief word on behalf of a friend of over 10 years, Lamar Alexander, as the nominee and about-to-be Secretary of Education. I think he is the right man for the job. He is a remarkably talented and highly respected leader in both government and education.

I have had occasion to work with him in both fields over an extended period of time, and like many of us who had the privilege of serving with him as Governor, we think he is the right person at this particular time in history to meet this challenge, and I look forward to working with him in that capacity.

I thank my colleagues for giving me this moment.

Mr. KENNEDY. Mr. President, I yield the remainder of my time to the Senator from Utah.

Mr. HATCH. Mr. President, I intend to yield to the distinguished Senator from Minnesota [Mr. DURENBERGER], and when he is finished, I will yield to the distinguished Senator from Minnesota [Mr. WELLSTONE] as much time as he may need.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I have had the great pleasure of knowing Lamar Alexander for many years now and have had the opportunity to work with him on several occasions. I can say unequivocally that we could not have a better candidate before us if we want to turn our educational system around in this country.

I think the thing that has impressed me most about Lamar Alexander is his strong sense of character, that he is a get-things-done type of guy. He is able to move policies and ideas with a firm, straightforward, approach. I think, Mr. President, that if we truly want to do something about education in this country, that is what it is going to take.

But at the same time, Mr. President, the Lamar Alexander I know has not only shown a great ability to get things done, but he has also shown a great human compassion in doing it.

His qualifications for the job are without repute. It was Lamar Alexander who brought education to the forefront of the National Governor's Association and the Nation. As chairman of the education panel, he issued a report in 1986 entitled "Time for Results," which outlined a set of proposals that established the Governors as the leaders in improving schools in this country and set the foundation for the President-Governor's National Goals.

Also during his time as Governor, he pushed through the Comprehensive Education Act which increased education funding in Tennessee by 50 percent. He instituted the Better Schools Program which provided merit pay to teachers, expanded kindergarden programs, the use of computers in the classroom, and math and science programs.

[7] What neither rate takes into account is the number of people who eventually receive a General Education Development (GED) diploma. According to the Marshall S. Smith, including these "graduates" in the graduation rate would increase the 1989 rate from 74 percent to 78 percent. There has, however, been a marked reduction in the number of people receiving GEDs. In 1989, 13.4 percent fewer GED diplomas were awarded than in 1988, despite a decline in the graduation rate. See American Council on Education. "The 1989 Statistical Report" (GED Testing Service, 1990).

Lamar Alexander is probably best known for being at the forefront of choice in education and the school restructuring movement. He has been an innovator of ideas and has brought new credibility to the choice movement.

Perhaps more than any other Cabinet position, the Secretary of Education needs a true understanding of appropriate intergovernmental relationships between State, local and Federal government. The Education Secretary needs to know when to take a leadership role, when to loosen the reigns and let the States lead, and when and how to step in to ensure equity and opportunity for all Americans. I believe Lamar Alexander's experience as Governor and as the president of the University of Tennessee and his earlier work he and I did on National Advisory Commissions on Intergovernmental Relations has given him a unique understanding of this relationship that will guide him in his tenure as Secretary.

There has been some discussion over the past month about Lamar Alexander's financial dealings. His finances have been thoroughly reviewed and investigated, and I believe this is an appropriate responsibility of Congress. A public official, must be willing and prepared to uphold the public standard of ethics. I am pleased, however, that after review, there is no evidence of financial wrong-doings by Lamar Alexander and that we can move forward with his nomination.

We have reached a point in this country where we can no longer wait, where we must move from talking about and discussing what needs to be done to improving education in this country and getting out there and doing it. Lamar Alexander is the leader for that job.

I urge my colleagues to support his nomination.

Mr. HATCH. I yield 3 minutes to the distinguished Senator from Minnesota [Mr. WELLSTONE]. If he needs more time I will be happy to yield it to him.

Mr. WELLSTONE. Mr. President, I would like to thank the distinguished Senator from Utah for yielding me time. I have enjoyed working on the committee with him, and have come to know him as a good friend.

James Agee said, "Every time a child is born, the potentiality of the human race is born again."

I believe in those words.

I have tried to live my life in accord with those words. I am a teacher, heart and soul.

I came to Washington because I believe in the potentiality of the human race—and I believe that we must vigilantly devote ourselves to insuring that each and every child has the chance to realize that potential.

I believe that the ultimate indictment of the 1980's will be that we abandoned our children; that we did not invest in our children; that we failed to educate our children—in short, that we failed to unleash their potential.

We cannot let the 1990's pass in the same sorry way.

We need leaders who will dedicate themselves, fully, wholeheartedly, to be fierce advocates and fervent visionaries for all children.

The Secretary of Education must be one of those leaders. We need a strong advocate because we cannot let stand unchallenged the administration's record on education. The Federal role in education is miniscule. Only 1.7 percent of Federal spending is dedicated to education. That is down from 2.5 percent a decade ago. Where is the voice of protest? Where is the advocate? And where is the visionary?

The administration proposes for the coming year an education budget which in reality barely keeps pace with inflation. Worse yet, a large percentage of the increased spending that the administration has targeted goes to "choice programs." What does choice mean? It means that limited Federal resources would be used to pay for some children to attend private schools. It means that our schools will become further fragmented along socioeconomic lines, along racial and ethnic lines. The poor schools will grow poorer and the rich schools will grow richer and the poor children will grow poorer still. Where is the voice of protest? Where is the advocate? And where is the visionary?

Our smallest children, the most vulnerable are cut out of the system from the very beginning. Despite unanimous agreement of the effectiveness of Head Start, about 80 percent of the children that are eligible for Head Start and about half of the children who would be eligible to receive assistance through WIC are not able to participate because of the lack of funds. Where is the voice of protest? Where is the advocate? And where is the visionary?

At the other end of the system, the administration restricts even further the availability of grants for higher education. Where is the voice of protest? Where is the advocate? And where is the visionary? Where is the voice for small children?

Mr. President, I will listen for a voice which recognizes that we need to commit our abundant resources to our children and to their education. I will not accept the contention that the money is not available. We can find the funding. We find resources for other emergencies, and there is no matter that is more important for our Nation than for us to invest in the skills and the health and the intellect and the character of our children.

Mr. President, I will listen for this voice for our children. I want this voice to ring out. I will listen to this voice from Mr. Alexander. I am pleased that he will be in this leadership position, but, as a Senator, I will be diligent and I will continue to fight for this commitment to education. I will work with Mr. Alexander, but over and over and over again I will demand this voice for the children.

I thank the Chair.

Mr. DOMENICI. Mr. President, I am pleased to be able to add my support today for the confirmation of Lamar Alexander as our new Secretary of the Department of Education.

I have known Lamar for many years. I know of his competence; his personal dedication to the objective of excellence in education; and his total commitment to his new position. He will guide the process of change. As in the words of the philosopher George Lichtenberg, "I do not know whether, if things change, they will get better. But what I do know is this: if things are to get better, then they must change." Lamar is the person the President and all of us can count on to effect the important changes we need.

In the days and months ahead, we in this body recognize the challenges, and occasionally the sacrifices, that must be made to ensure that this country addresses and implements its short- and long-term educational priorities. An educated populace is rudimentary to a productive society. It is also rudimentary to the quality of life we all hold so dear. An educated populace means not only providing that competitive edge for our service, manufacturing and business communities—but it also means that our children's futures will be better and more fruitful than our own.

It is, indeed, a pleasure to vote in favor of Lamar Alexander's confirmation. Under his able leadership, our education agenda will be one of change—one of innovation, creativity, and soundness. I personally look forward to working with him, and I know I share the best wishes of my fellow colleagues in welcoming him as our new Secretary of Education.

Mr. HATCH. Mr. President, I yield whatever time he needs to the Senator from Colorado.

Mr. WIRTH. Mr. President, I thank the Senator from Utah for yielding.

Mr. President, I wanted to come over just to say a few words on behalf of my good friend Lamar Alexander. I was delighted when President Bush made the appointment of Lamar Alexander, who is somebody that I have known for a long time. My wife Wren and I have spent many long and very enjoyable days with Lamar and Honey. One of the great experiences one can have, Mr. President, is to go on a river trip in the West. The Alexanders and the Wirths joined each other almost a decade ago and spent 6 or 8 days in the Grand Canyon. I will never forget Lamar going through his first rapids, going through Crystal. I do not believe Lamar had been on a western river before. The man running the raft he was in lost an

oar. Lamar was not at all daunted by the fact that the world was crashing in on him. He reached over, put the oar back in the oarlock, they got through safely, did not dump as many of us thought, of course, they were going to do. They negotiated their way through. Lamar came out the other side with a smile, a great sense of humor and said, "Let's go do it again."

I bring that up, Mr. President, because I think the challenge that Lamar Alexander faces in the Department of Education is not dissimilar from Crystal. Lamar Alexander has an enormous task to keep the oars in the oarlock and to keep the raft heading so that it does not tilt over and dump everybody in the water, so that people do not drown. We are preciously close, Mr. President, to drowning. The crisis in our education system is all around us. I need not remind the distinguished occupant of the chair, who has been one of this body's strongest advocates for children, for education, for the concerns of early childhood in particular.

This administration and this Government has a major responsibility to take the lead. The country is asking them, begging them, to show leadership, to show vision, to show direction, and to make a commitment to the young people of the United States and to make a commitment to this country's future. The opportunities have been there for a decade. We have been through crisis after crisis. We have had study after study. I will never forget the opportunities that the previous President had—a nation at risk. There were nine studies done in an 18-month period of time, but nothing came out of it. We are now in a similar kind of situation with a similar kind of opportunity.

I need not remind my colleagues, we all know the cold war is over. Coming out of the cold war, we have an opportunity to take on our future in a different way with a different set of commitments. The President now coming out of this glorious victory in the Persian Gulf has an enormous amount of credit in the bank, 91 percent ratings or 85 percent ratings or whatever it is. It is now his job and the administration's job to use that credit. Politics is getting credit and then using it, spending it on that in which you believe.

I know Lamar Alexander believes in education. Lamar Alexander has thought about it. He is a distinguished public servant in every way. I have enormous respect for him. He is headed right down the rapids, and he has to have help from the White House. He has to have support from the administration. I think he will certainly have support from most of us up here. We have to have that kind of leadership, Mr. President. The crisis is out there and has been described over and over and over again: One child in five eligible for Head Start is enrolled. That is inadequate. Inadequate is such a soft word; it is a scandal, one child in five. In fact, tens of thousands of children are not being immunized; the WIC Program, mentioned by the distinguished Senator from Minnesota; our responsibilities in higher education.

I am appalled, as we all are, by what is going on in the other body in the Energy and Commerce oversight committee, about the investigations into what is going on at Stanford and what is going on at other universities. Underneath that, Mr. President, is not the scandal. These are not people who are profiting in any way, shape, or form. Underneath it is the fact that this country is not supporting our institutions of higher education. We have built these crown jewels, these wonderful institutions, and now they are dying on the vine. We are not giving them the money for research; we are not giving them the money for students; we are not giving them the money for support. We are not keeping the young professors in the institutions. We are not providing the libraries and these resources which have been so important for our country's future and which are largely our responsibility at the Federal level. They are being starved to death. That is what we are seeing in those hearings and that is what we have to address ourselves to.

A final note, Mr. President. If we look at the responsibilities at the Federal level, we know that most of the elementary and secondary responsibilities are left to the States under the Constitution, and they delegate those to local communities. But we have a unique set of responsibilities. At the Federal level, we have the responsibility for an early childhood education, Chapter I of the Elementary and Secondary Education Act. Science training, higher education, and teacher training we are not doing; we are not carrying out our part of the responsibility very well.

It is certainly my hope, Mr. President, that this administration uses the credit it has, recognizes this responsibility, gives Lamar Alexander his head, and gives Lamar Alexander the resources that are needed. I look forward to working with the distinguished new Secretary. I know he will be confirmed. I am delighted that he and Honey will be with us in Washington. I know it is a big, big job, with major responsibilities, but to them and to the family, from all of us, congratulations. We look forward to working with them.

Mr. President, I thank you for being generous with the time. I yield the floor.

Mr. HATCH. Mr. President, it is my understanding that Senator WIRTH was the last speaker. I am prepared to yield back the remainder of the time on both sides unless someone tells me otherwise.

Mr. DODD. Mr. President, Lamar Alexander has a long and distinguished record of public service. For over a decade, he has been a strong advocate and activist for education, first as the Governor of Tennessee and the president of the National Governors' Association and more recently as the president of the University of Tennessee. For this reason, I intend to support his nomination to be the next Secretary of Education.

I will endorse Mr. Alexander's nomination with two things in mind—the future of our Nation's children and the commitment to provide each and every American access to quality educational opportunities.

The Department of Education has been without a Secretary for the last 4 months and direction for the past decade. While we have watched the condition of children and the quality of education erode over the last decade, the Department has hidden behind the veil of rhetoric. The Department of Education has a larger role to play in establishing Federal priorities and working with the Congress to advance policies. The President and the National Governors have set the education goals—it is time for the administration to come forth with the proposals to meet these goals.

The condition of our Nation's children and schools demands action and strong Federal leadership now. The facts speak for themselves—one out of every four children lives in poverty. Poor children are three times more likely to drop out of school and four times more likely to have below average basic skills. Each day, over 1,500 teenagers drop out of high school and each day over 135,000 children bring a gun to school.

According to a recent report released by the American college testing program, over 35 percent of students living in families in the lowest family income quartile—below $20,000—never finish high school, while the graduation rate for families in the top quartile—earning more than $58,000—is over 93 percent. Moreover, members of families in the top family income quartile are nearly twice as likely to attend college than members of families in the lowest quartile.

The future of this Nation rests in the hands of each generation of children. We simply cannot afford to accept these disturbing statistics. A quality education and education opportunity should be available to all Americans regardless of gender, ethnicity, or family income. The Federal Government and in this case, the Department of Education, has a vital role to play in providing children and youth the education, training, and opportunities that will turn these statistics around and prepare youth to be able and active participants in our work force and government. The Federal Government has

an obligation to help level the playing field for all youth. The Congress is prepared to act and I hope the nomination of Lamar Alexander reflects the administration's commitment to do so as well.

Mr. President, I believe that Lamar Alexander's experience and commitment to education provide him with the essential tools to be an effective Secretary of Education. I expect him to be an active Secretary and look forward to working with him in the coming months.

Mr. BINGAMAN. Mr. President, as the Senate considers the confirmation of Lamar Alexander as Secretary of the Department of Education, I want to commend the Governor for his past efforts at improving education for the children in his home State of Tennessee. The record speaks to the energy he has brought to bear on this crucial issue.

On the national level, Governor Alexander has also consistently played an important role in shaping education policy, in particular the establishment of national educational goals for the year 2000. Currently, in his role as chairman of the Steering Committee of the National Summit on Mathematics Assessment, he continues to demonstrate his concern for improving the quality of education in the United States. We need the kind of leadership Governor Alexander will bring to this important position of Secretary of Education, and I look forward to his assuming this role.

I should also note that I do have some concern regarding some of Governor Alexander's past financial interests. However, I accept his assurances that he will adhere to a high standard as Education Secretary in order to avoid any appearance of conflict of interest in his new position.

The job of Secretary of Education will put Governor Alexander in a role where he will have to serve as a model for all educators, parents, and children in the United States. I wish Governor Alexander well in his new position.

Mr. SANFORD. Mr. President, I rise today in support of the nomination of Lamar Alexander for the post of Secretary of Education. I relish the arrival of this opportunity to laud his background and his credentials, and envision the great success that will be achieved under his leadership.

I have known this man and this leader for a long time. Our relationship spans back to the early days of his brainstorming of educational initiatives in Tennessee. He is known as a man who thinks for himself and is driven by a vision to challenge, discover, and take risks to achieve his goals.

It seems to me that America's education system is stuck in the quagmire of interesting ideas and a decade when education reform has been in vogue, but the bold and honest leadership that America needs to get out of this rut will be entrusted into the hands of Lamar Alexander, who has demonstrated his ability and character to stand up to the challenge. The mission of the Department of Education may finally be fulfilled by Lamar Alexander.

Former Secretary of Education Terrell Bell's renowned accomplishment, "A Nation at Risk," ignited the education reform movement in the early 1980's and there have been volumes written as a result. Many have enumerated the problems and shortfalls in their individual corners, sectors, interests, but now, almost 2 years after the Governor's Charlottesville summit with the President, we must move forward to implement the stated and other national goals for education that we all share.

Realizing that the muscle will come from the individual States, the thousands of school districts and the myriad of classrooms, the Federal role remains one of leadership, enthusiasm, and equity. It is to the Federal Government to lead and to serve, not to manage. This is clear in the Constitution and it is clearer in our experience for the past 40 years. But ensuring that bureaucracy does not overpower the educators themselves is in no way a license for the Federal Government to abrogate its responsibility to our children.

Each community in America must take pride and ownership in its schools. The business community is willing to assist in the development of our children, but it needs priorities and vision that can stem from national leadership. A comprehensive effort by the dynamic communities that typify America can distill into an educated work force and global competitiveness in a changing world economy. We need unifying leadership. That is the challenge to the new Secretary of Education.

Lamar Alexander, clad in his trademark black and red flannel shirt has the best warmth and sincerity the South has to offer, but he also led the corporate initiative in Tennessee to develop better trade relationships between Tennessee and Japan. He is a unique balance. He has demonstrated his belief in young people, his integrity, and his perseverance. Governor Alexander, bring an extra flannel shirt with you when you come to Washington.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that my March 13, 1991, statement on this matter, delivered before the Labor and Human Resources Committee, be printed in the RECORD. I further ask unanimous consent that a number of relevant news reports and related documents also be printed in the RECORD at this point.

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

STATEMENT OF SENATOR HOWARD M. METZENBAUM ON THE NOMINATION OF LAMAR ALEXANDER TO BE SECRETARY OF EDUCATION, MARCH 13, 1991

Mr. Chairman, recently much has been made in Republican circles about the time it has taken this committee to consider the nomination of Lamar Alexander to be Secretary of Education. I've been chided by some for alluding to the issue of certain financial transactions at the confirmation hearing. Committee Democrats have been criticized by committee Republicans for acting out of "political motives—to try to embarrass the administration on education matters." I hope that these views are not actually held by members of this committee. I hope that the members of this committee acknowledge the legitimacy of this inquiry. If not then I believe we face a fundamental disagreement over the proper role of this committee and its responsibilities with regard to the confirmation process. This committee reviewed Governor Alexander's financial transactions not for political motives, nor as a matter of education policy. However, this committee, in passing on a member of the Cabinet, has an obligation to fully inquire into the nominee's background, both in public office and in the private sector. We would have been derelict in our duty to the Senate and to the American public had we rushed this nominee through the process.

The Wall Street Journal, the New York Times and the Nashville Tennessean have all filed stories since the confirmation hearing detailing how Governor Alexander went from a net worth of $321,000 in 1984 to between some $2 to $3 million today. Obviously, it is not an indication of impropriety simply to have made money. However, the committee had a responsibility to look into matters of the Governor's personal finances and to ascertain whether his amassing of personal wealth was in any way improperly connected to his positions in public service.

The issues of education policy are certainly some of the most important to be addressed by this body. The urgent need to confirm a Secretary of Education is undisputed.

Nevertheless, the several circular investments and transfers within Governor Alexander's family—involving considerable amounts of money—raised concerns that needed to be allayed.

The committee has gone over the nominee's financial disclosures, asked more questions, gone over the new information, and asked again for clarification. Each set of queries brought forth a fountain of information from Governor Alexander. He has answered all inquiries openly and swiftly. Ironically, it is this drawn out process which has given rise to the most serious questions. These questions stem from the very nature of the dialog between Governor Alexander and the committee. Why has it been necessary to return to the well repeatedly? And why do the answers so often give cause for more questions and clarification? Clearly, these are not black or white issues. We were working in grey areas. At the end of 5 weeks of seeking assurance about some of Governor Alexander's business relationships, I'm still not certain I understand this blurred and complex series of professional positions and business transactions.

For example, after leaving the Governor's office, Governor Alexander was paid over $150,000 for a 1-year position at a Nashville Business College. That job appears to have been created for him, as no one held the position before or after him.

Another transaction involved the transfer, to his wife, of Whittle Communication stock options for which his cost was to be $10,000—a move Governor Alexander explained as an attempt to avoid potential conflicts. When Mrs. Alexander bought the stock, she paid the agreed $10,000 and 2 months later sold them back for $330,000. Governor Alexander wrote a check for these options but the check was never cashed nor the stock certificates issued to him. When he transferred the option to his wife, she wrote a check and that check was never cashed. Finally a third check was rendered in the week Time Warner Co. announced it would purchase 50 percent of Whittle shares for $185 million. This third check from the Alexanders was readily cashed. The New York Times pointed out on March 6, that such an inter-family transfer, while in the Cabinet, would have been in violation of Federal ethics regulations.

On March 5, 6 weeks after the nominee had provided the committee all financial information which might suggest any conflicts, the Wall Street Journal reported a 1986 transaction, undisclosed to the committee, where Governor Alexander consolidated three bank loans into one unsecured loan—at prime rate—a month after appointing the bank's chairman to the University of Tennessee board of trustees. As most Americans know, borrowing at the prime rate is rarely an option offered by a bank. Less than a year after leaving the office of Governor, Governor Alexander went on the board of that same bank. The bank also paid him $110,000 in consulting fees in 1 year. Even if these transactions followed the letter of Tennessee law, there is the appearance of conflict and Governor Alexander should have revealed all the facts in his original disclosure to the committee.

Mr. Chairman, as you have mentioned, these were not the only transactions which required scrutiny by the committee. I won't burden the record with a laundry list this morning, but suffice it to say that Governor Alexander's incomplete disclosures and subsequent amendments made this task no easier.

This was a difficult and complicated undertaking. After the exhaustive review of the documentation available, however, I cannot conclude that any ethical violations occurred and for that reason I will support his nomination. Given that finding, I feel there should be no negative inferences with respect to Governor Alexander's conduct in any legal or financial matters.

Mr. Chairman, I believe the thoroughness which caused a somewhat lengthy process in reviewing Governor Alexander's background should be a message from this committee of the standard to which public officials, and those aspiring to public life in the future, must adhere.

Throughout this process, there has been no quarrel that Governor Alexander cares deeply about the state of our education system, and that his policy experience in this area well qualifies him for the post of Education Secretary. I, therefore, look forward to working with him on the challenges that lie ahead, and I wish him much success. His job will be as important to this Nation's future as any I can imagine.

FINANCIAL TRANSACTIONS EXAMINED BY THE SENATE LABOR AND HUMAN RESOURCES COMMITTEE

1. SALE OF THE KNOXVILLE JOURNAL

In 1981, Governor Alexander was a member of a group of individuals who arranged the sale of the newspaper to Gannett Communications, Inc., in return for Gannett stock. For his efforts, and without making a financial investment of his own, he obtained a profit of $620,000 through the sale of his Gannett stock in 1984, 1986, and 1987.

2. CORRECTIONS CORPORATION OF AMERICA

In 1985, Governor Alexander and his Administration supported the concept of privatizing the management of Tennessee prisons during a time when his wife owned stock in Corrections Corporation of America, a private firm involved in managing corrections facilities in the State. Mrs. Alexander had invested $5,500 in the Corporation in 1984, and ultimately received over $140,000 in profit from her transactions.

3. BLACKBERRY FARM

In 1987, as a private citizen, Governor Alexander repurchased from one of his original partners, a one-third share of ownership in a conference center in eastern Tennessee in which he had owned an interest until he had become Governor. When he became president of the University of Tennessee, he transferred his ownership in the center to Mrs. Alexander, and subsequently the University did $60,000 worth of business with the center. Mrs. Alexander sold this interest in the center back to the same original partner in the enterprise on January 21, 1991 for $8,000.

4. WHITTLE COMMUNICATIONS

In 1987, as a private citizen, Governor Alexander entered into an agreement with Whittle Communications, Inc., under which he was paid $125,000 in cash and obtained the right to purchase $10,000 in Whittle stock. When he became President of the University of Tennessee in 1988, he transferred the right to purchase the stock to his wife, who purchased the stock and sold it two months later for a profit of $320,000. As President of the University, Governor Alexander served on the advisory board of Channel One, a Whittle enterprise involved in public school education.

5. INCREASE IN NET WORTH

A review of documents provided to the Committee by Governor Alexander and of other records disclosed that Governor Alexander's net worth increased from $321,000 in 1984 to between $2.5 and $3 million in 1990. Several of the transactions cited above constituted a significant part of this increase in net worth.

[From the Wall Street Journal, Mar. 5, 1991]

BUSH NOMINEE ALEXANDER'S INVESTMENT SUCCESSES HAVE MADE SENATE INVESTIGATORS VERY INQUISITIVE

(By Edward T. Pound and Hilary Stout)

WASHINGTON.—Throughout his career in public life, Lamar Alexander has displayed an extraordinary gift for making big returns on minimal investments. As a result, he now finds his widely heralded nomination as education secretary being slowed by inquisitive Senate investigators.

Some of Mr. Alexander's fortune in business is no doubt the result of savvy investment instincts, and there's no indication of any wrong-doing on his part. But a look at his lucrative transactions suggests that his political standing in Tennessee—first as governor, then as president of the University of Tennessee—made business leaders eager to include him in their investments.

In one series of stock transactions, initiated while he was governor of Tennessee, Mr. Alexander earned a $569,000 profit without investing a cent, or much of his own time. After leaving office, he arranged a stock investment with an influential Tennessee businessman that netted his wife a quick $320,000 profit.

In another case, a Tennessee venture-capital company headed by the late Jack Massey, who helped build the Kentucky Fried Chicken empire, assisted in the financing of a child-care concern cofounded by Mr. Alexander. Mr. Alexander says he and his wife invested $5,000 in the child-care company after he left the governor's office in early 1987; he says that the stock now has uncertain value, but that he estimated its worth for federal ethics officials at $800,000.

Mr. Alexander has done all right at the bank, too. In 1986, while governor, he consolidated three separate loans into a single, unsecured $131,000 loan at the prime rate, then 8%. A month earlier, he had appointed the bank's chairman to the University of Tennessee's board of trustees. Mr. Alexander says it was "a thoroughly ordinary loan" and wasn't connected to the appointment.

"I have spent about 20 years going out of my way to make sure that if anyone is going to offer me favorable treatment, I wouldn't take it," he says.

Mr. Alexander says he has been careful to avoid investing in companies that did business with the state or with the University of Tennessee, which he still heads. On the few occasions when possible conflicts arose, he says, he divested himself of his holdings or shifted them to his wife—always, he says, acting on the advice of his lawyer and Tennessee legal authorities.

Mr. Alexander's strong credentials in education and politics were supposed to make his nomination sail through the Senate confirmation process. But the staff of the Senate Labor and Human Resources Committee, headed by Edward Kennedy (D., Mass.), is continuing to question some of his financial activities.

The holdup has angered some Republicans, and the White House is pressing the committee to approve his nomination soon. One senior Republican aide complains that Mr. Kennedy's investigators are even questioning tax deductions Mr. Alexander took for writing a book, "Six Months Off," which described his family's 1987 trip to Australia.

Sitting in a small, windowless Education Department office he is using while awaiting his confirmation vote, the unflappable Mr. Alexander says he welcomes the inquiry. He says he understands why questions might be raised, because there's no disputing that he made a lot of money quickly.

"I think that some people think that I have made too much money and they don't understand how," Mr. Alexander says. The answer in many cases is quite simple, he says: taking risks in start-up, or "incubator," companies, with some significant successes. A lawyer, a concert pianist and the author of four books, the 50-year-old Mr. Alexander describes himself as "an adventuresome person" who takes risks. "I'm not a stick in the mud," he says.

Although he has told friends that he made the choice of politics over wealth, Mr. Alexander has in fact accumulated a substantial amount of the latter. Depending on how he values their assets, Mr. Alexander says that he and his wife, Leslee, who is known as Honey, have a net worth of between $1.8 million and $3 million.

In addition to his investment income, Mr. Alexander earned $303,072 in 1990, including $152,352 in salary and expense allowances from the University of Tennessee, according to a disclosure report he filed in January with the U.S. Office of Government Ethics. He also received $109,720 in directors' fees

from five companies, including $50,720 from Martin Marietta Corp., a major defense contractor.

One of Mr. Alexander's Midas like investments involved Christopher Whittle, a pioneering Tennessee-based communications tycoon and former co-owner of Esquire magazine. Mr. Whittle became controversial in some education circles two years ago after creating an in-school television-news program for children called Channel One, which included commercials in its packaging.

After leaving the governor's office in 1987. Mr. Alexander became a consultant for Mr. Whittle and helped launch Tennessee Illustrated, a magazine that ultimately failed. Mr. Alexander's compensation included $125,000 in consulting fees, plus the opportunity to buy four shares in Mr. Whittle's closely held Whittle Communications Inc. The former governor wrote a $10,000 check for the shares, drawing the funds against a portion of his consulting fee.

Nearly a year later, in July 1988, Mr. Alexander became president of the University of Tennessee and was concerned that Whittle Communications might do business with the university. So, acting on legal advice, he asked Mr. Whittle to transfer the stock to Mrs. Alexander. As it turned out, though, share certificates had never actually been issued in Mr. Alexander's name. Nor, in fact, had Mr. Whittle's company even cashed the former governor's $10,000 check. Mr. Whittle explains that his company "is a very entrepreneurial place, not a bunch of lawyers and accountants. . . . We operate on handshakes." So, Mrs. Alexander sent in her $10,000 and was issued four shares of stock.

At the time, however, there was something else much bigger under way at the company. Mr. Whittle had been advised that spring by Wall Street investment bankers that his principal company, Whittle Communications LP, was valued at $400 million—twice what he had thought. He began shopping for a partner. In December Time Inc., now Time Warner Inc., bought 50% of the principal company for $185 million. Before closing the deal he bought back Mrs. Alexander's four shares for $330,000. He says that she didn't receive any special treatment—that she got the same deal as other investors and partners.

Mrs. Alexander has made other lucrative investments. In 1984, while her husband was wrestling with Tennessee's terrible prison overcrowding, she invested $8,900 in Corrections Corp. of America.

The company had been founded in 1983 by Thomas Beasley, a former Tennessee Republican Party chairman who years earlier, as an undergraduate at Vanderbilt University, rented an apartment over the Alexander's garage. Mr. Beasley recalls coming to the idea at a reception in 1980 for Howard Baker's presidential campaign, during which he heard people commenting on Mr. Alexander's success as governor. "They said everything was going beautiful—except corrections." Mr. Beasley says. He remembers someone saying that the problem wouldn't be solved until the private sector got involved.

Although Mr. Beasley says Corrections Corp. didn't intend to do business in Tennessee, in 1985 he put together a $250 million proposal to take over the troubled Tennessee prison system. Gov. Alexander supported the idea, but the plan wasn't implemented. Seeking to avoid a conflict of interest, Mrs. Alexander got rid of her Corrections Corp. stock by swapping it to a venture-capital concern for 10,000 shares in South Life Corp., a life insurance company. In 1989, she sold the South Life stock for $142,000. After Mr. Alexander left the governor's office, Corrections Corp. obtained a contract to run a state juvenile facility.

The same venture-capital concern—operated by Mr. Massey of Kentucky Fried Chicken fame—joined with a second firm in providing $2 million in 1988 to Corporate Child Care Inc., a Nashville concern founded a year earlier by Mr. Alexander, his wife and Robert Keeshan, who has portrayed Captain Kangaroo on television for many years.

The sale of Tennessee's Knoxville Journal also proved gainful for the Alexander family.

In 1981, while governor, Mr. Alexander was one of seven investors—including Howard Baker, then a senator from Tennessee—who obtained an option to buy the Journal, a 50,000-circulation daily. By the accounts of various partners, they decided not to exercise their option and instead began looking for a buyer. Even though serving as governor, Mr. Alexander found time to join in the search, which was led by Sen. Baker. Before long, Gannett Co. agreed to pay $15 million for 94.8% of the newspaper company's stock.

For putting the deal together, the Baker-Alexander partners obtained the right to swap their Journal stock—which they had acquired at no cost—in exchange for Gannett options and stock. Mr. Alexander waited as Gannett's value rose significantly and made his exchange in 1985. He cashed in his investment in the next two years, bringing in $569,000 for his Gannett holdings.

Asked who invited him into the deal, Mr. Alexander, a former newspaper reporter himself, says: "We all had the same idea at the same time. The Knoxville Journal is a great asset, a newspaper we all admired, and all of us dreamed of owning a little piece of it one day."

[From the New York Times, Mar. 6, 1991]

INQUIRY STALLS VOTE ON SCHOOLS CHIEF

(By Karen DeWitt)

WASHINGTON, March 5.—Lamar Alexander, President Bush's nominee for Secretary of Education, expressed confidence today that he would be confirmed despite a continuing Senate investigation into his financial investments.

"I've led an interesting life, but I'm confident that in the way I've conducted my political life over the last 20 years I've only done what I should have done," said Mr. Alexander during an interview in a small, windowless room in the Education Department he referred to as the "holding room." He is using the office, down the hallway from the Secretary's office, while awaiting his confirmation.

President Bush nominated Mr. Alexander for the Cabinet post on Dec. 17, and a confirmation hearing was held Feb. 6.

Mr. Alexander, president of the University of Tennessee and a two-term governor of that state, made his comments after the publication of an article today in The Wall Street Journal saying that Senate investigators were examining a series of highly lucrative investments made by Mr. Alexander.

NO WRONGDOING INDICATED

The article said there was no indication of any wrongdoing on Mr. Alexander's part, but that his political standing made business executives eager to include the former Governor in their investments.

The Senate Labor and Human Resources Committee, headed by Senator Edward M. Kennedy, Democrat of Massachusetts, is investigating the circumstances in which Mr. Alexander acquired some of his investments.

Senator Howard M. Metzenbaum, Democrat of Ohio, also told Mr. Alexander during Senate confirmation hearings that he wanted to question him in private about his financial dealings. Mr. Alexander at the time said he was prepared to answer any questions and answer them in public.

Republican lawmakers said today that Senate Democrats are being over-zealous in their scrutiny of Mr. Alexander.

SCRUTINY CRITICIZED

"He's answered every question that they have had and he's answered them straight up," said Senator Orrin G. Hatch of Utah, the ranking Republican on the labor committee. "They've just scrutinized him to death." He added, "Frankly, there were some political groups that are formenting this for political reasons to try to embarrass him."

White House officials said they expect Mr. Alexander to join the Cabinet soon.

"We do hold him in very high regard and look forward to his joining the Cabinet," said Steve Hart, deputy White House press secretary. "We think the Senate is taking the time it needs because it is clearly motivated by some serious need for information, instead of political motivations or partisanship."

According to a financial statement released to the Office of Government Ethics and made available today to news organizations by Mr. Alexander, he and his wife have a net worth of between $1.5 million and $3 million, the result of property holdings and various investments and stocks.

"I think that some people are surprised that a former governor can create from scratch a major child care company or help launch a major publication," said Mr. Alexander about two of his business ventures. The magazine, Tennessee Illustrated, eventually failed. "Primarily I'm a creative person and basically I've invested in risky 'incubator' companies. It was more fun than joining a law firm or becoming a lobbyist."

The article said that in 1981, when Mr. Alexander was Governor, he was one of seven investors, including former Senator Howard Baker, who obtained an option to buy The Knoxville Journal, a daily newspaper in Tennessee with 50,000 circulation. Deciding not to exercise their option, the investors arranged a deal in which Gannett Company paid $15 million for 94.8 percent of the newspaper's stock.

The investors then swapped Journal stock, which they had acquired at no cost, for Gannett options and stock. In 1986 and 1987, after Gannett's stock value had risen, Mr. Alexander cashed in his Gannett holdings for $569,000.

In another investment with Whittle Communications, four shares of stock that cost $10,000 were sold within a year for $330,000.

Mr. Alexander had transferred the Whittle stock to his wife when he became president of the University of Tennessee, after consulting with the school's lawyers on whether the company, which does some education work, might do business with the school.

Christopher Whittle, a communications entrepreneur and former coowner of Esquire magazine, is a longtime friend of Mr. Alexander.

Mr. Alexander said that in the rare instances where there was a possible conflict of interest, he has either divested himself of his holdings or transferred them to his wife. Federal ethics laws do not permit this kind of transfer to a spouse if such stock or investments might provide a conflict of inter-

est to a Federal appointee. State ethics laws are not as strict.

It was the ties to Whittle that prompted Senator Metzenbaum to pursue his questioning of Mr. Alexander. Nancy Coffey, press secretary to Senator Metzenbaum, said, "When the committee investigation is completed he plans to review all the material before he makes his decision" on whether to vote for confirmation.

Mr. Alexander said he was not concerned that nearly five weeks had lapsed since his confirmation hearings were held, nor that he has been asked to answer some 100 questions as well as submit his tax returns.

"My experience has been that the best thing to do is to answer the question," said Mr. Alexander. "Confirmation is a questioning process and I think I've answered the questions."

[From the Wall Street Journal, Mar. 7, 1991]

SEN. HATCH DECRIES "FISHING EXPEDITION" BY PANEL WEIGHING EDUCATION NOMINEE

(By Edward T. Pound and Hilary Stout)

WASHINGTON.—Sen. Orrin Hatch complained that a Senate committee was conducting a "fishing expedition" into the finances of Lamar Alexander, President Bush's nominee for Secretary of Education, and demanded an immediate confirmation vote.

Mr. Hatch of Utah is the ranking Republican on the Senate Labor and Human Resources Committee, headed by Massachusetts Democrat Edward Kennedy. The vote has been slowed as the committee's staff continues to pore over the finances of Mr. Alexander, the former Tennessee governor who is currently president of the University of Tennessee. Among other items, the staff is examining his ties to a Tennessee bank holding company that paid him $161,000 in consulting and director's fees after he left the governor's mansion.

In an interview, Mr. Alexander, whose term as governor expired in early 1987, said he was paid $86,000 in consulting fees by First Tennessee National Corp. in 1988. In addition, he has received $75,000 in director's fees since January 1988, but says he contributed most of the money to the university and to charity.

One potential problem is that First Tennessee Bank, which is owned by the holding company, served as the major repository of University of Tennessee funds. The bank also made personal loans to Mr. Alexander, who says his ties are normal and proper. Beauchamp Brogan, the university's general counsel, said the school banked with First Tennessee long before Mr. Alexander became president in mid-1988. Moreover, he said the Tennessee attorney general concluded that the university president could sit on the board of a company that did business with the university.

As previously reported, Mr. Alexander's ability to make large profits on minimal investments, including profits he and his wife made on investments in communications businesses, has drawn scrutiny by committee investigators.

To date, Sen. Hatch said in a letter to Sen. Kennedy, investigators "have yet to find anything that would render Gov. Alexander unfit" for the education post. Sen. Hatch, himself a former Labor Committee chairman, charged that the panel's inquiry "has gone beyond what was necessary to answer any legitimate" financial questions and was taking on "the characteristics of a fishing expedition."

A spokesman for Sen. Kennedy responded that "a number of complex financial transactions are involved and the committee has a responsibility to the Senate and the country to explore them."

One such transaction under review involves Mr. Alexander, his wife Leslee, and Christopher Whittle, a Tennessee-based communications tycoon. Mrs. Alexander reaped a quick $320,000 profit on a $10,000 investment in a Whittle company arranged for her by her husband.

Mr. Alexander says he initially bought stock in the Whittle concern from Mr. Whittle, his longtime friend, but transferred it to Mrs. Alexander in July 1988 when he became University of Tennessee president. The arrangement required Mrs. Alexander to write her own $10,000 check, because Mr. Whittle hadn't cashed Mr. Alexander's $10,000 check.

Yesterday, Mr. Whittle provided more details on the curious transaction.

He said Mrs. Alexander paid for her stock in July 1988 and completed the paper work in August, but that he didn't deposit her check, either. Meanwhile, he was working on a lucrative deal to sell 50% of his principal company to Time Inc., now Time Warner Inc.

Mr. Whittle and an aide explained that his secretary stuck Mrs. Alexander's check in a drawer. The company later discovered that Mrs. Alexander had written the check to the wrong payee, Whittle Communications Inc., rather than to Mr. Whittle personally.

So, a few days after the Time deal was agreed upon in October 1988, she wrote a second check to Mr. Whittle for $10,000. In December, the Time deal was consummated and Mr. Whittle bought back Mrs. Alexander's stock for $330,000. He said she got the same deal as other investors and partners.

[From the Tennessean, March 6, 1991]

ALEXANDER WORTH EXAMINED: 4 DEALS MADE $1.9 MILLION

(By Sheila Wissner)

When Lamar Alexander ran for governor in 1978, he listed his net worth at $151,000.

Thirteen years later—all but 18 months of it in public office—Alexander estimates his net worth at $1.4 million–$3 million.

In four transactions alone, with investments totaling $20,000, Alexander has made profits of $1.9 million.

The former governor's financial success has attracted the attention of investigators for the Senate Labor and Human Resources Committee and The Wall Street Journal.

The committee concluded mostly amiable hearings on Alexander's nomination to be President Bush's secretary of education last month, but has not scheduled a final vote on his confirmation. No open opposition to the nomination has emerged on the committee.

"I have been in public life a long time and expect to be questioned," Alexander said yesterday. "That is what the confirmation process is all about."

"I am comfortable answering any questions they might ask. I also told Senator [Edward] Kennedy [the committee chairman] that I am ready to go to work. I can't imagine that there could be any more questions."

Sen. Orrin Hatch of Utah, the ranking Republican on the Senate committee, said he has reviewed both Alexander's financial information and the FBI report "and I don't see any reason to hold up the nomination."

"Senator Kennedy and I have worked closely on nominations in the past, and I am confident that he will report Governor Alexander's nomination from the Labor and Human Resources Committee in the next few days."

Alexander served as governor 1979–87 and became president of the University of Tennessee in July 1988. He exceeded financial disclosure requirements required by law during that time, and much of his financial life was public knowledge.

But disclosure forms filed with the committee by Alexander and details provided to The Wall Street Journal in an article published yesterday opened new windows on Alexander's finances.

In the early 1980s, Alexander and a group of other prominent Republicans, including former Sen. Howard Baker, acquired without cost an option to buy The Knoxville Journal, then Knoxville's morning newspaper. In 1981, the group brokered the sale of the newspaper to Gannett Co. Inc., owner of more than 80 daily newspapers, including The Tennessean.

The group received Gannett stock options in exchange for their role. In 1985, while still governor, Alexander exercised his options for a profit of $569,000.

In 1985, Alexander's wife, Honey, invested $5,000 in Corrections Corporation of America, a venture capital company being promoted by the Massey-Burch Investment Group. When CCA began seeking state business, Honey Alexander swapped the stock for another Massey-Burch venture, South Life Corp.

After South Life began the public sale of stock, Honey Alexander sold her holdings in 1989 for $142,000.

In 1987, the Alexanders joined to help form another Massey-Burch company, Corporate Child Care, with a $5,000 investment. Alexander told the Senate committee the value of the stock now is $800,000.

Between his service as governor and UT president, Alexander worked as a consultant for Knoxville entrepreneur Chris Whittle and Whittle Communications, earning a $125,000 fee. He also paid $10,000 for stock in the closely held company, but shifted the ownership to Honey Alexander when he became president of the university.

Within months, Whittle bought the stock back for $330,000 as he sold half interest in his company to Time Warner Inc. for $185 million. Thus, the Alexanders made $445,000 from their dealings with Whittle.

Alexander said that his own net worth—excluding Honey's and the Gannett holdings—increased from $212,000 to $467,000 from the time he took office to the time he left. That was an increase of some 12% per year, he said.

"I think it's important for people to know that because they might read all this and draw inferences that aren't appropriate," Alexander said. "But I am glad to have the questions asked."

Alexander said most of the increase in his net worth while he was in office came from reducing his mortgage payment indebtedness and from appreciation of real estate.

Honey's investments were worth about $500,000 by the time he left office, Alexander said, so their combined net worth was some $1 million plus the Gannett shares and options.

Based on conservative estimates, Alexander placed his current net worth at $1 million and their joint net worth at $1.5 million, although disclosure forms filed with the Senate committee estimate it could be as high as $3 million.

Although he sold his interest in Whittle, Alexander continues to hold a seat on the Channel One advisory board. He also enlisted Tom Ingram, Whittle's vice president of communications and a longtime friend, as an unpaid, occasional adviser after President Bush tapped him for education secretary.

Alexander said he already told the confirmation committee that he would step

down from the unpaid post on the Channel One advisory council, and the other 25 or so boards and commissions on which he serves, if confirmed.

Whittle's Channel One news program for secondary schools has been controversial because of the commercials shown during the half-hour daily classroom broadcasts.

"The only one I will stay on is the National Summit for Mathematics Assessment, which is scheduled for April," he said.

"President Bush asked me to continue through April because I have been chairman for a year, and he thinks it's important."

He said Whittle paid him $125,000 to help create and launch Tennessee Illustrated, a magazine which has since ceased publication.

Alexander said he met with two or three potential advertisers, including TVA, which subsequently bought ads in the magazine, but was not in charge of selling ads.

Alexander accepted the consulting position after he left office and resigned when he became president of the University of Tennessee system. He said he did not think his former position influenced advertisers to place ads in the magazine.

"I hope any influence I had was a winning smile and a pleasantness," he said.

Chris Whittle, who had been the president of the UT student body, gave UT free ad space in the magazines, Alexander said.

Alexander said his wife bought the Whittle stock after he took the UT post to avoid any appearance of a conflict of interest in the event Whittle did business with UT. As it turned out, Whittle did no business with UT, he said.

As for his stock in Corporate Child Care, Alexander said the Office of Government Ethics has carefully reviewed his holdings and concluded there is no conflict.

"Of course, I won't serve on the board," he said. "If anything came across my desk that had anything remotely to do with Corporate Child Care, I would recuse myself from acting on that."

But that scenario is unlikely, he said, because Corporate Child Care works with companies like Marriott and Baptist Hospital to provide child care for employees and has no dealings with the government.

Marguerite Sallee, chief executive officer of the Nashville-based company that manages corporate centers, said the Alexanders have never profited from the company, which is still considered a startup venture.

"It's puzzling to me that this has created such a discussion," said Sallee, who served as Tennessee's human services commissioner under Alexander.

"He is a person of integrity, first and foremost."

Alexander said it is understandable that some people question that he has made too much money too quickly.

"Some people have the idea that people who are elected governor are somehow rendered totally incompetent to do anything else after they get out," he said.

"It's hard for them to imagine that a person who has been governor can write a book, start a company, launch a magazine and create a leadership institute at a private Baptist college.

"Those are things I did within the first two years after leaving office. I guess it's just hard for some people to imagine that a former governor has enough sense to contribute to new ventures.

"I have been very careful in my investments and business activities not to be involved with companies that did business with the state of Tennessee.

"I have been successful in that so far."

As for the Knoxville newspaper, Alexander said that when the owner, Charles Smith, died, the heirs gave him and the other investors the option to buy the paper. But the investors did not have enough money, so they brought in Gannett.

"I held onto the stock longer than anybody else and between 1981 and 1987, when I sold it, it had dramatically increased and I made a very good profit," he said.

ALEXANDER'S WRITE-OFF OF FAMILY TRIP QUERIED AS VOTE NEARS ON BUSH NOMINEE

(By Edward T. Pound and Hilary Stout)

WASHINGTON.—After eight years as Tennessee's governor, Lamar Alexander took his family on what might be called a vacation of a lifetime—six months in Australia to renew family ties.

And though he was no longer in public office, taxpayers ended up subsidizing part on the trip.

Now, as he awaits confirmation as secretary of education, Mr. Alexander has had to explain to Senate investigators why he took $128,308 in tax deductions on a book about that vacation called "Six Months Off," published by William Morrow & Co.

The Senate Labor and Human Resources Committee may vote as early as today, and although the panel has been looking into Mr. Alexander's finances, it isn't expected to block the nomination. "I understand that it is greased," said Paul Smith, press secretary for Sen. Orrin Hatch of Utah, the committee's ranking Republican.

Mr. Alexander's Tennessee accountant said that about 90% of the book deductions involved the Alexander family's living and travel expenses while on the 1987 trip. In interviews, Mr. Alexander and the accountant both described the deductions, spread out over four years on joint federal returns filed with his wife, as "ordinary and necessary" to writing a book about his family.

Accountants said it is normal and legal for authors to deduct expenses for research and for writing a book. But the amount of deductions that Mr. Alexander took has raised some eyebrows on Capital Hill.

The Bush nominee seems increasingly frustrated over the question about his finances. Previously, it was disclosed that the Senate committee, headed by Massachusetts Democrat Edward Kennedy, was reviewing a series of stock transactions in which Mr. Alexander and his wife reaped large profits with miminal investments.

"Of course, I took the appropriate tax deductions," Mr. Alexander said in explaining the book write-off. He said he kept documents and a journal on the expenses incurred by himself, his wife and their four children. He relied on his accountant for advice, he said, and the deductions weren't "in any way unusual or inappropriate."

Mr. Alexander, current president of the University of Tennessee, is the author of four books, including "Steps Along the Way," a 1986 account of his gubernatorial years. He said his campaign committee bought 4,000 of his books from Thomas Nelson Publishers at a discounted price of $7,916 after his second term ended in January 1987. He said the books were going to be discarded and were purchased for use in a possible future campaign. "I took no royalty on that," he said.

The former governor said he doesn't dispute that he "set out to make money," saying he had little chance to do that while in office except for a $569,000 profit on a Gannett Co. stock investment.

"I guess the only thing you could say about that," he said, "is that I have a capacity to make money, and maybe what I do has a value. I would hope that as secretary of education you would want somebody who's worth something, who's able to contribute.

Mr. Alexander describes himself as a risk-taker, but it is clear that he has been handed some nice job and investment opportunities. Even while in Australia for half of 1987, he said, he was on the payroll of Belmont College, a Baptist school in Nashville. Mr. Alexander explained that he was hired to create a "leadership institute" at the Massey School of Business, named for Jack Massey, who helped build the Kentucky Fried Chicken empire and was a founder of Hospital Corp. of America.

Mr. Alexander won't say what he was paid by Belmont College in 1987. But he informed the Labor Committee that he received $100,000 from the school in 1988, a year that proved lucrative for the Alexanders. He and his wife, Leslee, who is known as Honey, grossed at least $900,000 that year, including $44,000 in board and consulting fees from Massey Burch Investment Group—then operated by the same Mr. Massey—and $110,000 in consulting and board fees from First Tennessee National Corp.

Last week, after questions were raised about his profitable investments, Mr. Alexander amended financial disclosure reports he filed as University of Tennessee president from July 1988 onward. The amendment includes additional, though only general, information about the family's investments. It describes the types of investments but not the specific companies or other investment entities. He said that his lawyer, after reviewing the Tennessee disclosure law, advised him to file the amendment.

In discussing his business deductions for "Six Months Off," Mr. Alexander estimated that he had sold 35,000 to 40,000 copies in hard cover and paperback. He said he had signed a contract with William Morrow & Co. before he, his wife and his children left for Sydney in January 1987. He declined to say how much in royalties he had received, but he informed the Senate Labor Committee that he had received $45,000 in advances. He also said that Warner Brothers had bought an option on television and movie rights.

Mr. Alexander made his accountant, James Lattimore, Jr., available to discuss the $128,000 in deductions, and a Lattimore letter written yesterday that detailed the reasoning behind the deductions was provided to The Wall Street Journal. In the letter, addressed to Mr. Alexander, Mr. Lattimore recounts that he and the former governor thoroughly discussed the tax issue during the preparation of the Alexanders' joint return in 1987.

"We would be surprised if anyone could seriously question the deductibility of the expenses incurred by you and your family which were claimed on your return," he wrote.

Mr. Lattimore said that the deductions included "such expenses as air fare, hotels, car rental and upkeep, house rental and utilities, photo, camera and writing supplies, a word processing computer, and some meals."

He said, "The fact that expenses for your family were being deducted [was] fully and expressly disclosed" in memos attached to Mr. Alexander's 1987, 1988 and 1989 returns. He said the expenses "were ordinary and necessary with respect to your research, fact-gathering, compiling and writing of the book."

Mr. CONRAD. Mr. President, I rise today to commend President Bush on his choice of Lamar Alexander as Secretary of Education. Mr. Alexander, as Governor of Tennessee from 1979 to 1987 and as chairman of the National Governors' Association in 1986, was successful in making the issue of our children's education a top priority for policymakers. I believe that as Secretary of Education, he will have the opportunity to build on those successes and I hope he will bring education to the forefront as a national priority, not just in rhetoric, but also in practice.

Clearly, we must take action. The dropout rate in our country is approaching 25 percent and in some cities, the dropout rate exceeds the graduation rate. When we compare the math and science test scores of the 17-year-olds who remain in school with those of other leading industrial nations—our competitors, the results are telling: dead last in biology, dead last in mathematics and second to last in chemistry.

I hope that Secretary Alexander will make reality of our national policies match the rhetoric. We heard that this year's budget will provide investments in America and in America's richest resource—children. But when I look at the details, I find that less than 1 percent of the increased funding over fiscal 1991 is for currently authorized programs. What that really means is that very successful programs like Chapter 1, school improvement programs, vocational and adult education, and libraries wouldn't even be allowed enough to keep up with inflation, let alone improve their programs. Clearly these funding shortfalls must be remedied. I agree that change must be made in the way we do business, but the way to change is not to undercut the proven winners in our system, like chapter 1.

There is no one solution to our educational challenges. The system is complex and multifaceted. Likewise, the solution will have to be a comprehensive one. We must not place all of our stock in one or two changes. I trust that Secretary Alexander recognized in his Better School Program that changes essential in Memphis would not necessarily be the best solution in his home town of Maryville or very rural communities like Hornsby. Education reform will take on different faces in different localities—there is no one Federal solution. The solution will also only be found through consultation with all parties—teachers, administrators and State officials. There will be no successful education reform that does not have the endorsement of the teachers and administrators.

In addition, I believe that any lasting change must incorporate the entire family. Many of our problems in schools are compounded by problems in the home—from parents without the skills necessary to help the child with schoolwork, to additional stress caused by the parents' lack of a living wage. I have long supported programs that treat the entire family's problems in total, and not as isolated unrelated problems. We must bring together public and private organizations to meet the comprehensive needs of children, youth and parents much the way the Israelis help new immigrants to integrate into their new culture.

As the Secretary explores education reform proposals, I would urge him to look at the Regional Education Laboratories. These organizations are under contract to the Federal Government to provide advice regarding research priorities, opportunities and strategies. As we in North Dakota have learned, these laboratories are in a unique position to provide responsible, workable solutions to education problems. They are in the field, working day to day with teachers, administrators, and State officials to come up with solutions that will work. In my own State, we've worked closely with our lab, the Mid-Continent Regional Education Laboratory in Aurora, CO, to develop significant change in how public education works in North Dakota. Its assistance has been invaluable. I look forward to working with the lab on other education issues, and urge Secretary Alexander to take a close look at what these labs can contribute to the education reform debate.

In closing, I commend President Bush on his choice for Secretary of Education and wish Secretary Alexander the best as he enters his very challenging post.

Mr. GORE. Mr. President, 6 weeks ago before the Committee on Labor and Human Resources, I had the honor of introducing Tennessee's former Governor, Lamar Alexander, and recommending his confirmation as Secretary of Education. It is with great confidence in Governor Alexander's ability to lead a critical agency at a critical time that I now recommend his confirmation to the full Senate.

The challenge Lamar Alexander faces is clear. It's up to the new Secretary of Education to keep the promise his new boss has failed to keep. President Bush has told us repeatedly that he was going to be the Education President. With all due respect, that hasn't happened yet. But it is my belief that the confirmation of Governor Alexander will signify a turning point and a new commitment by the Bush administration to our children, their parents, their schools and their teachers.

The focus on education in this country must be on the positive potential of every child. Across our country there are many schools that are enormously successful. We must encourage these schools to define the future. We must highlight successful programs. And then we must find effective ways to share and use the knowledge we have gained.

We can't dwell on our failures or on advancing minimum standards. We must seek examples of excellence and put all our efforts into enabling every child and every school to learn from these examples. Every preschool child, every immigrant, every executive, every citizen, has something to teach other Americans and something to learn from other Americans. The administration must begin to see every American as a potential student and a potential teacher. Toward this end, Governor Alexander will be able to open some eyes.

For our students, we must develop programs that reflect our confidence in their ability to learn and that guarantee their access to quality education. We must make sure that every child enters school prepared to learn, and not distracted by hunger or abuse or illness. And, we must be prepared to make sure that the learning process continues by providing comprehensive education and training for adults.

In our schools, we must use technology to improve the learning environment, encourage the active involvement of parents, teachers, administrators, and community members. And we must expand the classroom to include all available community resources, for example, by working with organizations, businesses, and institutions of higher education.

As my colleagues know, I have worked hard on two initiatives to expand the role of new technologies in education. While I was still a member of the House, I proposed a new way to stimulate the development of new computer software programs to improve teaching resources. And more recently, I have introduced legislation to create a new communications infrastructure to serve supercomputing centers and the literally thousands of applications for supercomputing in not only research but also in education and business. I am looking forward to working with Lamar Alexander to put these and other exciting computer and telecommunications technologies to work for our Nation's students.

For our teachers, we must encourage high quality, ongoing training, ensure a substantive role in developing curriculum and provide opportunities to share information regularly with their counterparts nationwide.

Mr. President, Lamar Alexander has the experience and the expertise to meet the challenges facing our schools, our students, our teachers, and all our families. His outstanding credentials are well-known. But I cannot overemphasize the importance of Governor Alexander's work to the State of Tennessee and later, to the University of Tennessee.

The committee has carefully and painstakingly reviewed Governor Alex-

ander's credentials both in hearings and in separate inquiries. It is time to move forward. For Governor Alexander to be the kind of Education Secretary this Nation so desperately needs, it is imperative that he have the full support and confidence of the Nation—from the President and the Congress on down to the teachers, parents, and students. The Labor Committee's thorough investigation and favorable report of Lamar Alexander should put to rest any lingering questions or concerns.

Mr. President, it is with great pride that I recommend Lamar Alexander to my colleagues. I hope his nomination will be approved quickly.

Mr. SIMPSON. Mr. President, this is very clearly a case of the right man coming into the right job at the very right time. There is no doubt in my mind at all that this will be so very good for education. All players in our political process are committed to that. The President has reserved his most generous proposals of increased budgeting for education—at a time when the entire Federal budget is proposed to grow at a rate of only 2.6 percent, he is asking for large increases in education funding—an increase larger than 22 percent for early childhood education, for example. The loyal opposition, too, has also signaled an intention to make education improvement a major theme of this Congress—witness the introduction of an education reform bill as S. 2, symbolically at the head of the agenda. The President will soon be guiding his "excellence in education" proposals through the Congress, and this truly will be a year for active Federal attention to education.

Stepping into the center of this process will be former Governor of Tennessee, Lamar Alexander. The time calls for an energetic, thoughtful, and committed educator, and one glance at his resume demonstrates that he is just that. While Governor, he launched many major educational reforms in his State of Tennessee. Some people clamor every year on behalf of a need to raise teacher salaries as part of education reform, but then they bump up against the difficult realities of trying to implement that. Lamar Alexander succeeded in getting that done in Tennessee educators throughout this country, working right down there in the trenches, should know they have a real friend in this man.

His commitment to education reform is not some late development. Both of his parents worked as educators, and instilled in Mr. Alexander the values and high commitment to education that you can only find in a teaching household. Lamar Alexander lived out that commitment in performing his duties as the president of the University of Tennessee. He will now do the same in his service to the President of the United States.

I strongly believe, that it is vitally important to have a man of Lamar Alexander's capability and expertise at the head of the Departmernt of Education at this time. The challenges before this Congress are many—reauthorization of the Higher Education Act, excellence in education, early childhood education—there is so much work for us all to do. We will be so very fortunate to have such a man as Lamar Alexander to help us do it. He is an inspiration in education and I am so very proud of him. We wish him and his lovely wife Leslee well as they embark on this important venture for our country.

Mr. SASSER. Mr. President, I rise in support of the nomination of my fellow Tennessean, Lamar Alexander, to be the Secretary of the U.S. Department of Education.

I will note that I am far from alone in my support. I join 16 members of the Labor Committee in supporting this nomination—16 members who conducted a review of Lamar Alexander's qualifications.

I have great confidence in the committee and trust in its judgment—and I believe we should accept its recommendation.

It's important that we move forward and begin to address the very pressing need to improve education in this country.

As Governor of Tennessee for 8 years, Lamar Alexander was instrumental in bringing education reform to the top of the public agenda. He implemented a better schools program to upgrade the State's public school curriculum with an emphasis on math, science, and computer technology. He also proposed and passed a merit pay plan for Tennessee teachers.

As chairman of the National Governor's Association, Lamar Alexander was instrumental in the NGA's adoption of a better schools proposal that focused national attention on his programs back home in Tennessee.

After leaving the Governor's office in 1987, Lamar Alexander did not give up public service for the private sector. Instead he carried his commitment to education to the University of Tennessee, one of the Nation's oldest and best land grant universities.

In his 2½ years as president of the university, Lamar Alexander has sought to raise the school's academic stature through tougher standards and a more talented and diverse student body and faculty.

Obviously, the nominee's background belies a longstanding devotion to learning, and to improving our country's public school system.

I feel assured that Lamar Alexander will be able to put education at the top of the Bush administration's agenda.

And that is fundamentally the most important reason to support him.

His selection is a tangible sign that the President is finally moving forward on his 1988 promise to focus heavily on improving education in this country.

I urge my colleagues to allow him to do so.

Mr. DOMENICI. Mr. President, I am pleased to be able to add my support today for the confirmation of Lamar Alexander as our new Secretary of the Department of Education.

I have known Lamar for many years. I know of his competence; his personal dedication to the objective of "excellence in education;" and his total commitment to his new position. He will guide the process of change. As in the words of the philosopher George Lichtenberg, "I do not know whether, if things change, they will get better. But what I do know is this: if things are to get better, then they must change." Lamar is the person the President and all of us can count on to effect the important changes we need.

In the days and months ahead, we in this body recognize the challenges, and occasionally the sacrifices, that must be made to ensure that this country addresses and implements its short and long-term educational priorities. An educated populace is rudimentary to a productive society. It is also rudimentary to the quality of life we all hold so dear. An educated populace means not only providing that competitive edge for our service, manufacturing and business communities—but it also means that our children's futures will be better and more fruitful than our own.

It is indeed a pleasure to vote in favor of Lamar Alexander's confirmation. Under his able leadership, our education agenda will be one of change—one of innovation, creativity, and soundness. I personally look forward to working with him, and I know I share the best wishes of my fellow colleagues in welcoming him as our new Secretary of Education.

LAMAR ALEXANDER'S CONFIRMATION AS SECRETARY OF EDUCATION

Mr. HATFIELD. Mr. President, it is a pleasure to rise today to support the confirmation of Lamar Alexander as Secretary of Education and to ask my colleagues to do the same.

I first met Governor Alexander when he was an aide to Howard Baker. Since then, I have followed his career during two terms as Governor of Tennessee, as chair of the National Governors' Association, and as president of the University of Tennessee. An active leader of the educational reform movement on a national level, he serves on the President's Advisory Committee on Education, chairs the Steering Committee of the National Summit on Mathematics Assessment, and has worked with Energy Secretary James Watkins on a program to train retired scientists to become science teachers.

As the son of a private kindergarten teacher and a one-time public school principal, Governor Alexander knows firsthand the specific skills that teachers and school administrators must possess, and which they acquire through professional training and experience. He implemented a Better Schools Program in 1984 while Governor of Tennessee. This program established a career ladder plan and raised teacher salaries, brought computers into junior high schools, enhanced vocational education in high schools, and implemented basic education programs. That exceptional program and his accomplishments as chair of the National Governors' Association demonstrate his faith in the Nation's public schools and in their ability to face the challenges of the 21st century.

For schools, Governor Alexander once told Fortune magazine, "There's no McDonald's, cookie-cutter approach. Just go to work on one school at a time in your own hometown." I hope that as Secretary of Education, he will liken education in the United States to a public utility, as for instance an electric power company—sometimes inefficient, sometimes with fallen poles and snapped cables, sometimes gamely accommodating overloads, and sometimes succumbing to them—but whose continued functioning and nurturing are for the public good.

We face many challenges as we work toward achieving the Nation's education goals. I look forward to working with Governor Alexander and a vitalized Department of Education.

Mr. THURMOND. Mr. President, I am pleased to rise today in support of the nomination of Lamar Alexander to be Secretary of Education.

As a former teacher, athletic coach, and county superintendent of education, I am vitally interested in the direction of education in this country, particularly in times such as now—the 1990's. While the face of education has undergone changes to meet new demands, one thing has remained clear, and that is—nothing is more important than a sound education to prepare Americans to meet the challenges of everyday living. Simply stated, education provides the solid foundation needed to face the challenges of today.

Mr. President, the credentials and accomplishments of our current nominee are no secret—a former Governor of Tennessee and member of the President's Education Policy Advisory Committee, Lamar Alexander has been actively involved in addressing education issues at the State and National level. As the former president of the University of Tennessee, he understands the needs and concerns of educators and students. He has worked in the trenches and knows from a practical point of view what works and does not work.

Lamar Alexander brings to the position of Secretary experience in several different areas of life. He has served as a law clerk, reporter for a newspaper, a Senate campaign coordinator, a legislative assistant, a White House staff assistant, a practicing attorney, an author, and as a director and adviser to several companies.

Mr. President, this nominee is also a past chairman of the National Governors' Association, a former law review editor at the New York University School of Law, and a Phi Beta Kappa graduate of Vanderbilt University. His hands-on experience in education and his broad background in numerous other areas well qualify him for the position of Secretary of Education. We are fortunate to have a man of his talent as the President's nominee.

He is a man of ability, dedication, character, and intellect. I am pleased to support him for the position of Secretary of Education.

Mr. HATCH. Mr. President, I yield back the remainder of the time on both sides.

The PRESIDING OFFICER. All time has been yielded back. All time has expired.

The question is, Will the Senate advise and consent to the nomination of Andrew Lamar Alexander, Jr., of Tennessee, to be Secretary of Education?

The nomination was confirmed.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

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

The motion to lay on the table was agreed to.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 94-304, as amended by Public Law 99-7, appoints the following Senators to the Commission on Security and Cooperation in Europe:

The Senator from Arizona [Mr. DECONCINI], as chairman;

The Senator from New Jersey [Mr. LAUTENBERG];

The Senator from Georgia [Mr. FOWLER];

The Senator from Colorado [Mr. WIRTH]; and

The Senator from Nevada [Mr. REID].

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 99-83, appoints Rabbi Morris Shmidman, of New York, and Mr. Stan Rose, of Kansas, to the Commission for the Preservation of America's Heritage Abroad.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

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

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

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

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

RELEASE OF BIRMINGHAM SIX

Mr. BIDEN. Mr. President, I am pleased to announce to my colleagues the release of the so-called Birmingham Six, a group of Irish nationals wrongly convicted in 1975 for horrific bombings committed by the Provisional Irish Republican Army. Earlier today in London's Old Bailey Courthouse, the six men—Hugh Callaghan, Patrick Hill, Gerald Hunter, Richard McIlkenny, William Power, and John Walker—were set free after the Court of Appeal reversed their convictions.

A year ago, I introduced a resolution in the Senate—cosponsored by 18 of my colleagues—that called on the British Government to reopen the case of these six men. Within weeks, the British Home Secretary at the time, David Waddington, ordered a new police inquiry into the case. In August of last year, the Government referred the case to the Court of Appeals.

As I discussed in detail in my floor statement last year, the men were convicted on unreliable evidence that was discredited after their trial. The courts in Britain have finally recognized these facts. I am pleased that justice, though long delayed, has now been done.

For over 16 years, these men have suffered a gross injustice, languishing in prison for crimes they did not commit. Thankfully, their long ordeal has ended. but nothing can compensate the men for pain that they—and their families—have endured for so long.

The case of the Birmingham Six is not unique. Erroneous convictions occur in every society. But this case has taken on greater significance because of its ramifications for Northern Ireland, where few Catholics have confidence in the administration of justice. Such views are warranted. Today's verdict marks the third time in 2 years that IRA suspects have been released after it was discovered that

their convictions were based on flawed evidence.

Immediately after the verdict was announced today, the current Home Secretary, Kenneth Baker, revealed that he will appoint a Royal Commission to review criminal procedures in order "to minimize as far as possible the likelihood of such events happening again." I am pleased that the British Government has acknowledged the shortcomings in a system that has produced such gross injustices.

THE CHIEF OF PROTOCOL IS HONORED BY THE DIPLOMATIC CORPS AND BY THE REPUBLIC OF VENEZUELA

Mr. PELL. Mr. President, on January 21 of this year, the Washington Diplomatic Corps honored Ambassador Joseph Verner Reed, the Chief of Protocol of the United States. In honoring Ambassador Reed, the diplomatic corps honors as well the American people, the administration, the Congress and the city of Washington for their hospitality and cooperation with the foreign missions located in our capital city.

In addition, on February 28, the Minister of Foreign Affairs of Venezuela, Mr. Reinaldo Figueredo Planchart, awarded Ambassador Reed with the Venezuelan Order of Francisco de Miranda in the first class. Francisco de Miranda was one of the heroes of the liberation of Venezuela, drawing considerable inspiration in his efforts from the American Revolution. Consequently, in honoring Ambassador Reed, the Government of Venezuela has forged another link in the bond of liberty between our two countries.

Mr. President, I ask unanimous consent that the full texts of the following statements relating to the dual honors recently accorded to Ambassador Reed be printed in the RECORD at the conclusion of my statement: First, remarks by Ambassador José Luis Fernandes Lopes of the Republic of Cape Verde and dean of the diplomatic corps; second, Ambassador Reed's remarks in response; third, remarks by Mr. Reinaldo Figueredo Planchart, Minister of Foreign Affairs of Venezuela; and fourth, Ambassador Reed's remarks in response.

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

REMARKS ON THE OCCASION OF THE RECEPTION BY THE DIPLOMATIC CORPS OF WASHINGTON, DC, TO HONOR AMBASSADOR JOSEPH VERNER REED, THE CHIEF OF PROTOCOL OF THE UNITED STATES OF AMERICA BY HIS EXCELLENCY JOSE LUIS FERNANDES LOPES, AMBASSADOR OF THE REPUBLIC OF CAPE VERDE AND DEAN OF THE DIPLOMATIC CORPS, JANUARY 28, 1991

Fellow ambassadors, distinguished guests, ladies and gentlemen, we are very pleased to honor one of America's creative and warmly respected diplomats.

The high esteem of Ambassador Joseph Verner Reed by the Diplomatic Corps of Washington, D.C., is not simply a matter of a general sentiment recognizing the outstanding personality of a warm and gentle human being. Our deep appreciation of the Ambassador is the product of his many fruitful initiatives for the well-being both of the diplomatic community in the United States, and of visiting dignitaries and diplomats.

Indeed, while an acquaintance with his record at the United Nations led many of us to expect much of him, his service in the advancement of useful diplomatic functions and the highest precepts of diplomacy has gone beyond our high expectations. Let us note with appreciation the timely opportunities which Ambassador Reed afforded us, through many carefully planned functions at Blair House, to meet with a wide range of American leaders and prominent individuals.

The dialogues involved in such informal meetings, contributed to enhancing our work, enriching our experience, and facilitating, in some instances, exchanges of vital importance to our respective nations.

Let us also recall with great satisfaction the many efforts of the Ambassador to arrange informative policy briefings on major international events and concerns, such as in connection with the economic summit in Houston.

Let us remember the sensitivity with which Ambassador Reed proceeded to arrange the special luncheon at Blair House—where my colleagues and I were able to exchange, in the useful atmosphere of informality, points of view and concerns directly with the President of the United States.

Let us, finally, take special note of the Ambassador's gracious initiative in making it his business not only to be available to my colleagues, but to actually call on all of our Embassies in Washington. This afforded each of our Embassies an opportunity to address areas of specific concern to our respective nations.

These, and other thoughtful efforts were important opportunities for enhanced dialogues and cooperation with our host nation. The opportunities might well have been lost had it not been for the new direction set by Ambassador Reed and his hard-working staff. Their tactfulness, professionalism, sensitivity, and a great number of practical initiatives have, over recent years, been a source of great encouragement to our diplomatic community.

In the above light, Ambassador Reed, we the diplomatic community of Washington, D.C.—salute the many special ways you—and the Office of the Chief of Protocol in General—cared about and responded to our particular needs.

Ambassador Reed, we take great pleasure in recognizing the characteristic American generosity and good will which you have consistently demonstrated in the performance of your diplomatic work for your Nation and for our community of nations.

REMARKS GIVEN BY AMBASSADOR JOSEPH VERNER REED AT THE RECEPTION IN HIS HONOR GIVEN BY HIS EXCELLENCY JOSE LUIS FERNANDES LOPES, AMBASSADOR OF THE REPUBLIC OF CAPE VERDE AND DEAN OF THE DIPLOMATIC CORPS ON BEHALF OF THE CHIEFS OF DIPLOMATIC MISSIONS AND THEIR SPOUSES, JANUARY 28, 1991

Dean of the Diplomatic Corps, Mr. Secretary General, fellow Ambassadors, honored guests, friends, my first words of gratitude go to the Secretary General of the Organization of American States who has made it possible for the Diplomatic Corps to have this gathering in this great and historic institution.

We look with honor and respect to this Organization of American States which was the pioneer in establishing a multinational organization. The world organization created in 1945 drew importantly from the Charter of the OAS. I myself was honored to serve as an accredited representative and then as an officer of the United Nations.

In this dire moment in history, when the principles of mutual defense and the law of nations are being put to a cruel and severe test, the importance of the role of the diplomat is seen in its starkest form. Hopefully, under the guidance of the almighty power that rules the universe we will have a quick end to the military phase of this effort to insure that the solemn sanctions of the Security Council of the United Nations are observed.

But, this military phase will be followed by a kind of testing in the diplomatic community. Because it is only through diplomacy that we can forge the peace which the brave men and women of the coalition nations are now making possible through their skill, energy, imagination, and unfortunately in the case of some their lives.

It is because of the high calling of the diplomat that I am so honored and moved to receive this expression of friendship from the members of this Diplomatic Corps. This corps is the diplomatic elite of the world. There is no title quite like "Ambassador to Washington". From experience it has become clear that this Diplomatic Corps is peopled with the best and the brightest.

Ambassador Lopes has done me and through me, I feel, my nation a great honor in calling us together this evening. The presence of so many old and new friends touches me deeply. I thank each of you as chiefs of mission for this reception.

However, my pleasure is tempered by my knowledge that this gala represents a farewell for Ambassador Lopes as dean of the Diplomatic Corps. From my unique vantage point he has been an outstanding dean of the corps. After a decade of service in Washington we wish him well in his new endeavors in Cape Verde—health and prosperity to both him and Mrs. Lopes. I know I speak for all when I say that they have forged a circle of friends which will remain always.

I am delighted our new dean, Ambassador Ould Daddah of Mauritania is here. I know he will carry out his duties in a way that will advance the cause of the corps and do his country honor.

I have spoken too long but my heart is brimming with deeply felt pleasure, a pleasure, friends, in being in your company.

I thank you all!

REMARKS GIVEN BY HIS EXCELLENCY REINALDO FIGUEREDO PLANCHART, MINISTER OF FOREIGN AFFAIRS OF VENEZUELA AT THE CEREMONY TO BESTOW THE ORDER OF FRANCISCO DE MIRANDA FROM THE REPUBLIC OF VENEZUELA UPON AMBASSADOR JOSEPH VERNER REED, FEBRUARY 28, 1991

Ambassador Joseph Verner Reed, I am extremely pleased to bestow upon you, on behalf of the Government of Venezuela the Order Francisco de Miranda as a recognition of your distinguished performance in your different roles that have made ties among Venezuelan and United States citizens closer. President Carlos Andres Perez has asked me to convey his appreciation for the outstanding job you have done to make the rapport between him and President Bush as

close and as constructive as it has been. Thank you Joseph.

We are well aware of the international services you rendered as Under Secretary-General for Political and General Assembly Affairs of the United Nations and the excellence you have achieved as chief of protocol of the United States.

Undoubtedly, you have gained respect and admiration from all quarters. The unflagging dedication to international understanding, the fairness that inspires your initiatives, the affability and gentlemanliness with which you conduct the business of diplomacy have served well not only your own government but the international community in its never ending quest for legitimate and able leaders.

You once said that "protocol was invented by the Chinese to establish the rules by which substantive diplomacy can be carried out * * *" and both President Carlos Andres Perez and myself, his foreign minister, are fully aware that your work has had much to do with the relationship of mutual trust that exists between Carlos Andres Perez and George Bush. A relationship that motivated, without delay, an immediate, positive response in the difficult juncture created by the gulf crisis.

Venezuela, as a member of OPEC, did what was within its reach to make sure that oil prices would not skyrocket uncontrollably and now Venezuela is doing its utmost to ensure that these very same prices do not plummet unjustly. We fully expect from your government the full understanding and not a dogmatic view that our request for a dialogue between oil producers and consumers not be seen as empty rhetoric nor as a rough attempt to manipulate the market. It is a serious call to common sense and common sanity to limit speculative movements that bring about serious hardships on producers or consumers. In particular developing countries, as instability and unpredictability feeds uncertainties, the worst of all scenarios for sustained development.

Venezuela regards both your tenure at the United Nations—where you are well remembered for your focus on the particular problems of developing countries—and your present responsibilities, at a time when relations between the United States and Latin America enter a new and promising phase, as ample reason to honor you.

The Order Francisco de Miranda bears the name of a truly exceptional Venezuelan. A man of vision. A great soldier who strived for freedom in the Americas. Miranda participated in the three great political movements that transformed modern history and that gave new meaning to man's life and new aims to society; the independence of the United States, the French Revolution and the independence of Hispanic America. In a sense, the fact that you are today receiving this particular honor at a time when your government and people are playing a major role in bestowing the principles of liberty in a tiny country; it could be seen as a coincidence of the standing values of our peoples throughout history, which have a particular vocation for universalism.

In the years '83 and '84 of the 18th century, fifty years before Alexis de Tocqueville, Miranda visited the United States, a country that was then only beginning to be. Before de Tocqueville, Miranda wrote about the people of the United States, its customs, idosyncracies, and its inclination toward democracy as a political system and as a way of life. Miranda was the first Latin American with a vocation for universality. His keen observations, registered in his written work, are an extraordinary record of those momentous times. I would encourage you, Ambassador Reed, to examine some of those quite extraordinary views he had about the people of this country. I am sure that Ambassador Consalvi will take pleasure in advising you in this regard.

Francisco de Miranda admired the United States' political system. His ideas and future projects were influenced considerably by his travels throughout this country and his extensive knowledge of its customs. His personal friendship with great American leaders, among them many of the Founding Fathers—George Washington, Thomas Jefferson, Alexander Hamilton, Samuel Adams, James Madison—served Miranda and our cause well. Without doubt, it constituted a legacy by which he always felt privileged.

Ambassador Joseph Verner Reed, distinguished Ambassador and dear friend, I am exceedingly pleased to bestow upon you the Venezuelan order that bears the name of Francisco de Miranda. It is particularly rewarding for me to be conferring upon you this order at a time when relations between the United States and Venezuela are prospering under the permanent stimulus of the personal, considerate and open friendship that exists between Presidents George Bush and Carlos Andres Perez.

REMARKS GIVEN BY AMBASSADOR JOSEPH VERNER REED AT THE CEREMONY TO RECEIVE THE ORDER OF FRANCISCO DE MIRANDA FROM THE REPUBLIC OF VENEZUELA PRESENTED BY HIS EXCELLENCY REINALDO FIGUEREDO PLANCHART, MINISTER OF FOREIGN AFFAIRS OF THE REPUBLIC OF VENEZUELA, FEB. 28, 1991

Minister of Foreign Affairs Figueredo, Ambassador Consalvi, your excellency, the dean of the Diplomatic Corps, Chief of Protocol of Venezuela Silva-Mendez, excellencies, family and friends, I am so honored—

Honored that President Carlos Andres Perez would bestow the Order of Francisco de Miranda upon me for services I performed as an international civil servant at the United Nations working with and for the economic and social council.

Honored that Mrs. Quayle, representing the President and the Vice President, is with us this evening on the dias.

Honored that you, Mr. Minister, would make the elegant gesture to come to Washington to preside at this ceremony.

Honored that my friends Ambassador and Mrs. Consalvi have gone to all this effort to make this a stellar event of diplomatic row.

Honored that my mother would come such a distance to be with me on this memorable occasion, as I am with the presence of two of my brothers.

Honored that Mrs. Nelson Rockefeller whose late husband the Governor of the Empire State and our Nation's Vice President and wartime coordinator of Inter-American Affairs as well as Assistant Secretary of State for Inter-American Affairs who had such a long and close association with and love for Venezuela is with us tonight.

Honored with the presence of Ambassador George Landau, president of the America's Society and a former Ambassador to Venezuela.

It is a privilege to recognize the justice of the International Court of Justice, his excellency, Andres Aguilar, former permanent representative of Venezuela at the United Nations who was president of the Economic and Social Council during my tenure in the Secretariat. Justice Aguilar was a distinguished and dedicated leader of that important body.

Venezuela—Caracas—always in my heart; for it was in Caracas that Mimi and I spent our first New Year's Eve on our wedding trip—32 years ago!

Yes, I am honored, indeed thrilled.

I say "thrilled" because that is what I feel—in the first instance for this warm gesture in relation to my own small efforts at the United Nations and in all of my professional life to advance the cause of freedom and democracy—values which are dear to all Venezuelans—and also because of what I call "the time"—our time: a time when Venezuela's example of democracy has spread to virtually every country in the hemisphere with that painful exception of our beloved Cuba, still under the yoke of discredited Marxism now rejected by even the Marxists themselves and, indeed, a time when the chance for democracy also appears to have been given a new birth in the Middle East, thanks to the common efforts of my own country and other member nations of the United Nations.

Permit me a word about Miranda: Few in our hemisphere were so great: a lieutenant general in Napoleon's armies; the friend of Washington, Hamilton, Adams, and Paine. Miranda set the agenda of revolutionary freedom in the Americas; and one cannot say Miranda without in the next breath saying, "Bolivar."

It was these giants, inspired by the noble ideals and great events of the previous century here in the United States and in France who were decisive in establishing these great principles of freedom and democracy throughout the New World.

Miranda enunciated the principles and inspired his younger colleagues to take the necessary action to achieve a government based on them. And, of course, none greater in sweeping vision or daring act than the "Immortal Caraqueno"—Bolivar: the example and model of the patriot and statesman.

So—for me—to be associated in this way with these men of vision and greatness—to be inducted into their order—is a singular honor indeed, for which I find it difficult to adequately express my appreciation to President Carlos Andres Perez, to you Foreign Minister Figueredo: and Ambassador Consalvi.

And my thrill is heightened by an additional aspect of this. "The time we live in"—for at this moment we are all grateful, indeed, relieved by the rapid and gratifying developments in the Middle East. To me, one of the most exciting aspects of these events is that their ultimate significance relates directly to our business here this afternoon. For what else are we witnessing but the working out in time and space of the values that were given early life here in our hemisphere by such men of greatness as Washington, Jefferson, Miranda, Bolivar, and San Martin?

In our century we have seen the repeated failure of despots as despicable as Lenin and Stalin, Hitler and Mussolini, Idi Amin and Saddam Hussein. One after another they have proclaimed that history speaks out of the barrel of a gun—that might makes right. But more insistently, and with growing strength, we are finding that the voices of the plain people, of the humble, of the virtuous—can and will prevail: the voices of the Buddha, of Plato, of Jesus Christ—they, and the centurions inspired by them who have like cincinnatus, reluctantly set aside the plow and taken up arms in defense of the republic.

We have seen military personnel from over thirty nations banded together to insure that the law of nations is observed, and that small and peaceful nations are not the trifles of those who amass brute power.

In view of my own service on "Turtle Bay", (United Nations) the thrill is heightened by the symbolism involved in which the peaceful blue banner of the United Nations, our common world organization, is the unifying symbol that has helped to advance the ideals of union, freedom and law that were so nobly embodied by Miranda and Bolivar.

So I thank you, minister, Ambassador and chief, as I thank all who have come to share this moment with me. What a time to be alive!

We have seen the passing of the "permanent annexation of Kuwait" along with the "Reich of 1,000 years" and the "vanguard of history". We can now look to a new opportunity to help our fellow citizens of that "ancient world", from which so many of our ideals and hopes sprang in the first place, to regain their hopes and to share with us here in the New World: governments "of the people, by the people, and for the people."

We give thanks to the Almighty that we can once more lay aside our arms. It is again the time for "the diplomat." Our Nation's first Ambassador to Venezuela was the late Dr. Frank P. Corrigan, whose son, Kevin, my close friend and colleague is with us today. Dr. Corrigan put it so succinctly: the United Nations is a "peace table in being." The challenge is great. The prospects for a better world are exhilarating.

Miranda urges us on.

Muchas gracias. Viva Venezuela. Libre Y Democratica!

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,189th day that Terry Anderson has been held captive in Lebanon.

JAMES BUCHANAN, 15TH PRESIDENT OF THE UNITED STATES

Mr. SPECTER. Mr. President, on the weekend of May 4-5, 1991, citizens of Pennsylvania will commemorate the 200th anniversary of the birth of James Buchanan, the 15th President of the United States, with ceremonies in Lancaster, PA, and at President Buchanan's mansion, "Wheatland."

The only Pennsylvanian to serve as our Nation's Chief Executive, President Buchanan was born in Cove Gap on April 23, 1791. He served as President from 1857 until early 1861 during the tumultuous period leading up to the Civil War. Despite his strenuous efforts to preserve the Union, the Southern States seceded and the Confederate States of America came into existence just as his term of office was ending.

Prior to his election, President Buchanan had served the Nation for more than 40 years in public life as a member of its Armed Forces, as a United States Representative, as a United States Senator, as a United States Minister to Russia, as Secretary of State and as Envoy Extraordinary and Minister Plenipotentiary to Great Britain.

To every national position of trust, he brought energy and dedication.

An 1809 graduate of Dickinson College in Carlisle, PA, President Buchanan was admitted to the bar in 1812 and practiced law in Lancaster before serving in the U.S. military forces during the War of 1812.

Subsequently, he served six terms in the United States House of Representatives prior to his appointment as United States Minister to Russia in 1832. He served two terms in the U.S. Senate from 1834 to 1845.

At the call of President James Polk, he served as Secretary of State from 1846 until 1849.

A tenacious political battler, President Buchanan three times failed in bids to win the Democratic nomination for President—in 1844, 1848 and 1852—before finally succeeding in 1856. In the election of that year, he defeated the Republican nominee, John C. Fremont, and the Whig standardbearer, Millard Fillmore, to become the 15th President of the United States.

On June 1, 1868, at the age of 77, President Buchanan died in Lancaster and is buried in that city's Woodward Cemetery.

It is altogether fitting then that the U.S. Senate take note of the splendid accomplishments of this native son of Pennsylvania on the occasion of the bicentennial of his birth.

It is also fitting that the U.S. Senate should congratulate those Pennsylvanians and citizens of Lancaster who are working diligently and with devotion to commemorate the 200th anniversary of the birth of this great American.

MESSAGES FROM THE HOUSE

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

At 11:27 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolutions:

H.R. 180. An act to amend title 38, United States Code, with respect to veterans education and employment programs, and for other purposes;

H.J. Res. 104. Joint resolution to designate March 26, 1991, as "Education Day, U.S.A."; and

H.J. Res. 167. Joint resolution designating June 14, 1991, and June 14, 1992, as "Baltic Freedom Day."

The enrolled bill and joint resolutions were subsequently signed by the President pro tempore [Mr. BYRD].

At 11:40 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed 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, with an amendment; it insists upon its amendment to the bill, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Banking, Finance and Urban Affairs, for consideration of the Senate bill, and the House amendment, and modifications committed to conference: Mr. GONZALEZ, Ms. OAKAR, Mr. VENTO, Mr. BARNARD, Mr. SCHUMER, Mr. FRANK of Massachusetts, Mr. CARPER, Mr. TORRES, Mr. WYLIE, Mr. LEACH, Mr. MCCOLLUM, Mrs. ROUKEMA, and Mr. BEREUTER.

From the Committee on Energy and Commerce, for consideration of section 4 of the Senate bill, and modifications committed to conference: Mr. DINGELL, Mr. MARKEY, and Mr. LENT.

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-764. A communication from the President of the James Madison Memorial Fellowship Foundation, transmitting pursuant to law the annual report of the Foundation for fiscal year 1990; to the Committee on Governmental Affairs.

EC-765. A communication from the Chairman of the Board of Governors of the Federal Reserve System transmitting pursuant to law the annual report of the Board under the Freedom of Information Act during calendar year 1990; to the Committee on the Judiciary.

EC-766. A communication from the Chairman of the Commodity Futures Trading 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-767. A communication from the Chairman of the National Endowment for the Arts 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-768. A communication from the Deputy Assistant Secretary of Commerce (Administration), transmitting pursuant to law the annual report of the Department of Commerce under the Freedom of Information Act for calendar year 1990; to the Committee on the Judiciary.

EC-769. A communication from the Marshal of the Supreme Court of the United States transmitting pursuant to law the annual report of the cost of the protective function provided by the Supreme Court Police to Justices official guests and employees of the Supreme Court; to the Committee on the Judiciary.

EC-770. A communication from the Assistant Secretary of State (Legislative Affairs) transmitting pursuant to law the quarterly report concerning human rights activities in Ethiopia; to the Committee on Foreign Relations.

EC-771. A communication from the Federal Inspector of the Alaska Natural Gas Transportation System, transmitting pursuant to law the annual report of the System under the Freedom of Information Act for calendar year 1990; to the Committee on the Judiciary.

EC-772. A communication from the Director of the Office of Legislative Affairs National Science Foundation transmitting pursuant to law the annual report of the Foundation under the Freedom of Information Act for calendar year 1990; to the Committee on the Judiciary.

EC-773. A communication from the Director of Communications and Legislative Affairs, Equal Employment Opportunity 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-774. A communication from the Administrator of the Small Business Administration, transmitting, pursuant to law, the annual report of the Administration under the Freedom of Information Act for calendar year 1990; to the Committee on the Judiciary.

EC-775. A communication from the Chairman of the Federal Deposit Insurance Corporation, transmitting, pursuant to law, the annual report of the Corporation under the Freedom of Information Act for calendar year 1990; to the Committee on the Judiciary.

EC-776. A communication from the Chairman of the Federal Labor Relations Authority, transmitting, pursuant to law, the annual report of the Authority under the Freedom of Information Act for calendar year 1990; to the Committee on the Judiciary.

EC-777. A communication from the Acting Secretary of Education, transmitting, pursuant to law, notice of final funding priorities, Chapter 1 Migrant Education Coordination Program for State Educational Agencies; to the Committee on Labor and Human Resources.

EC-778. A communication from the Administrator of the Health Care Financing Administration, Department of Health and Human Services, transmitting, for the information of the Senate, a videotape entitled "Medicare in Simple Terms"; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BYRD, from the Committee on Appropriations, with amendments:

H.R. 1282: A bill making supplemental appropriations and transfers for "Operation Desert Shield/Desert Storm" for the fiscal year ending September 30, 1991, and for other purposes (Rept. No. 102-23).

H.R. 1281: A bill making dire emergency supplemental appropriations for the consequences of Operation Desert Shield/Desert Storm, food stamps, unemployment compensation administration, veterans compensation and pensions, and urgent needs for the fiscal year ending September 30, 1991, and for other purposes (Rept. No. 102-24).

By Mr. BYRD, from the Committee on Appropriations:

Special Report entitled "Revised Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1991" (Rept. No. 102-25).

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 534. A bill to authorize the President to award a gold medal on behalf of the Congress to General H. Norman Schwarzkopf, and to provide for the production of bronze duplicates of such medal for sale to the public.

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.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs:

Arthur J. Hill, of Florida, to be an Assistant Secretary of Housing and Urban Development;

Geroge H. Pfau, Jr., of California, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1993;

Jim E. Tarro, of New Mexico, to be an Assistant Secretary of Housing and Urban Development;

Cecil B. Thompson, of Virginia, to be a Member of the Board of Directors of the Export-Import Bank of the United States for the remainder of the term expiring January 20, 1991; and

Cecil B. Thompson, of Virginia, to be a Member of the Board of Directors of the Export-Import Bank of the United States for the remainder of the term expiring January 20, 1995.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BIDEN, from the Committee on the Judiciary:

Robert Martinez, of Florida, to be Director of National Drug Control Policy (Exec. Rept. No. 102-2).

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. BURNS:

S. 661. A bill to provide for energy independence, the development of alternative forms of energy, and for energy conservation, and for other purposes; to the Committee on Finance.

By Mr. WIRTH:

S. 662. A bill to increase the use of natural gas in the United States; to the Committee on Energy and Natural Resources.

By Mr. CRAIG (for himself and Mr. SYMMS):

S. 663. A bill to amend the Act of May 12, 1920 (41 Stat. 596), to allow the city of Pocatello, Idaho, to use certain lands for a correctional facility for women, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. THURMOND (for himself and Mr. GORE):

S. 664. A bill to require that health warnings be included in alcoholic beverage advertisements, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. THURMOND (for himself, Mr. HELMS, and Mr. HOLLINGS):

S. 665. A bill to amend the Tariff Act of 1930 to require that certain revenues attributable to tariffs levied on imports of textile machinery and parts thereof be applied to support research for the modernization of the American textile machinery industry; to the Committee on Finance.

By Mr. SIMON:

S. 666. A bill to guarantee a work opportunity for all Americans and for other purposes; to the Committee on Labor and Human Resources.

By Mr. MCCAIN (for himself, Mr. INOUYE, and Mr. BURDICK):

S. 667. A bill to provide support for and assist the development of tribal judicial systems, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. MCCAIN (for himself, Mr. INOUYE, and Mr. SIMON):

S. 668. A bill to authorize consolidated grants to Indian tribes to regulate environmental quality on Indian reservations; to the Select Committee on Indian Affairs.

By Mr. BOND (for himself and Mr. DANFORTH):

S. 669. A bill to provide a land transfer to the Missouri Housing Development Commission; considered and passed.

By Mr. SIMON:

S. 670. A bill directing the Secretary of State and the Director of the Foreign Commercial Service to appoint permanent cultural and commercial representatives to the Baltic States, to encourage the President to appoint a special envoy to encourage Baltic-Soviet negotiations, and to extend certain assistance to the Baltic States; to the Committee on Foreign Relations.

By Mr. LEAHY (for himself, Mr. JEFFORDS, Mr. KOHL, Mr. KASTEN, and Mr. SANFORD):

S. 671. A bill to establish on a temporary basis a minimum basic formula price for the computation of Class I milk prices; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. FORD:

S. 672. A bill to amend the Petroleum Marketing Practices Act; to the Committee on Energy and Natural Resources.

By Mr. DODD (for himself, Mr. LIEBERMAN, Mr. PELL, Mr. HARKIN, Mr. KENNEDY, Mr. METZENBAUM, Mr. SIMON, and Mr. ADAMS):

S. 673. A bill to amend the Occupational Safety and Health Act of 1970 to establish an Office of Construction Safety, Health, and Education, to improve inspections, investigations, reporting, and recordkeeping on construction sites, to require the designation of project constructors who have overall responsibility for safety and health on construction sites, to require project constructors to establish safety and health plans, to require construction employers to establish safety and health programs, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. GORE (for himself and Mr. SASSER):

S. 674. A bill to designate the United States Post Office located at 304 West Commercial Avenue in Monterey, Tennessee, as the "J.E. 'Eddie' Russell Post Office"; considered and passed.

By Mr. CRANSTON (for himself, Mr. SPECTER, Mr. DECONCINI, Mr. ROCKE-

FELLER, Mr. GRAHAM, Mr. AKAKA, Mr. JEFFORDS, and Mr. DURENBERGER):

S. 675. A bill to amend title 38, United States Code, to improve the capability of the Department of Veterans Affairs to recruit and retain physicians and dentists through increases in special pay authorities and to authorize collective bargaining over conditions of employment for health-care employees of the Department of Veterans Affairs, and for other purposes; placed on the calendar.

By Mr. HOLLINGS (for himself, Mr. DANFORTH, Mr. EXON, Mr. BURNS, Mr. GORTON, Mr. LOTT, Mr. BOND, Mr. COATS, Mr. D'AMATO, Mr. GRAMM, Mr. LUGAR, Ms. MIKULSKI, Mr. MCCAIN, Mr. MCCONNELL, Mr. HELMS, Mr. WALLOP, Mr. WARNER, Mr. SIMPSON, Mr. GARN, Mr. STEVENS, Mr. THURMOND, Mr. DOLE, Mr. CHAFEE, Mr. BREAUX, and Mr. SARBANES):

S. 676. A bill to provide for testing for the use, in violation of law or Federal regulation, of alcohol or controlled substances by persons who operate aircraft, trains, and commercial motor vehicles, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HOLLINGS (for himself, Mr. DANFORTH, Ms. MIKULSKI, and Mr. SARBANES):

S. 677. A bill to provide for testing for the use, in violation of law or Federal regulation, of alcohol or controlled substances by persons who operate trains; to the Committee on Commerce, Science, and Transportation.

S. 678. A bill to provide for testing for the use, in violation of law or Federal regulation, of alcohol or controlled substances by persons who operate aircraft, commercial motor vehicles, and mass transportation conveyances, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BRADLEY:

S. 679. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income payments made by public utilities to customers to reduce the cost of energy conservation service and measures; to the Committee on Finance.

By Mr. ROCKEFELLER (for himself, Mr. HOLLINGS, Mr. INOUYE, Mr. ROBB, Mr. DANFORTH, Mr. BRYAN, Mr. PACKWOOD, Mr. PRESSLER, Mr. STEVENS, Mr. KASTEN, Mr. MCCAIN, Mr. BURNS, Mr. GORTON, Mr. LOTT, Mr. KERRY, Mr. BREAUX, Mr. GORE, Mr. EXON, Mr. FORD, and Mr. BENTSEN):

S. 680. A bill to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism into the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. NICKLES (for himself, Mr. DOLE, Mr. WARNER, and Mr. MCCAIN):

S. 681. A bill to provide an additional amount of Servicemen's Group Life Insurance for death by hostile fire, to direct the Secretary of Veterans Affairs to pay a death gratuity to certain survivors of members of the uniformed services who die in the Persian Gulf combat zone, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. PELL (for himself, Mr. ADAMS, Mr. BIDEN, Mr. BOND, Mr. BRADLEY, Mr. BREAUX, Mr. BYRD, Mr. CRANSTON, Mr. DIXON, Mr. DOLE, Mr. DURENBERGER, Mr. FORD, Mr. FOWLER, Mr. GARN, Mr. HEFLIN, Mr. INOUYE, Mr. JEFFORDS, Mr. MACK, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. PRYOR, Mr. REID, Mr. RIEGLE, Mr. SANFORD, Mr. SIMON, Mr. THURMOND, and Mr. WARNER):

S.J. Res. 95. Joint resolution designating October 1991 as "National Breast Cancer Awareness Month"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SMITH (for himself, Mr. GRASSLEY, Mr. HELMS, Mr. REID, Mr. GRAHAM, Mr. MACK, Mr. THURMOND, Mr. RIEGLE, Mr. SPECTER, Mr. LAUTENBERG, and Mr. BROWN):

S. Res. 82. Resolution to establish a Select Committee on POW/MIA Affairs; to the Committee on Rules and Administration.

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

S. Res. 83. Resolution expressing the sense of the Senate to assign United States trade representation for the Baltic States; to the Committee on Finance.

By Mr. MCCAIN (for himself, Mr. INOUYE, Mrs. KASSEBAUM, Mr. SIMON, Mr. COCHRAN, Mr. BURDICK, Mr. DASCHLE, Mr. MURKOWSKI, Mr. DECONCINI, Mr. GORTON, Mr. CONRAD, and Mr. NICKLES):

S. Con. Res. 22. Concurrent resolution extending the appreciation of Congress to all American Indian veterans for their service in the Armed Forces of the United States; to the Select Committee on Indian Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BURNS:

S. 661. A bill to provide for energy independence, the development of alternative forms of energy, and for energy conservation, and for other purposes; to the Committee on Finance.

AMERICAN ENERGY INDEPENDENCE ACT

Mr. BURNS. Mr. President, I rise today to introduce legislation that, I believe, will build upon our efforts to develop a national energy strategy. The bill that I am introducing, titled the American Energy Independence Act of 1991, is a far-reaching measure.

My bill builds on the efforts of many others, in this Chamber and elsewhere, to address the energy priorities this Nation must begin setting. Currently, we import roughly one-half the oil we consume. And that amount is rising. We are dangerously dependent upon Persian Gulf oil.

I am going to the Persian Gulf to take a look at the condition of the oil fields and to visit with representatives of the Gulf States. I expect I will be told that, in terms of oil production, the situation is under control. OPEC has been meeting in Geneva and the oil is still flowing.

But events in that distant part of the world tells us that everything is not under control. It took 500,000 American men and women to bring the situation under control. And the future is uncertain at best.

Since I came to Washington, I have been talking about the need to develop a domestic energy strategy. We have the coal, the natural gas, the renewable energy sources of solar, biomass, and wind—when used in concert with added conservation and yes, with oil, can meet America's energy needs for the forseeable future.

But there needs to be a real emphasis on domestic sources. We can't simply talk about the need for alternative energy. We need to put teeth into our strategy. America's farmers aren't going to grow the biomass to make ethanol simply because the rest of us would like them to. There needs to be a place in the marketplace for such an alternative.

The President has made a start by setting us down the path of developing a national energy strategy. And the Senate Energy Committee under the able leadership of Senator JOHNSTON and Senator WALLOP have taken up the challenge by introducing S. 341, the National Energy Security Act of 1991. My own bill, the American Energy Independence Act of 1991 will hopefully build on these efforts by offering tax inducements and other incentives for energy independence.

It is my hope that when the dust has settled, that America will have a well thought out national energy strategy that will make America energy independent.

Mr. President, I yield the floor.

By Mr. WIRTH:

S. 662. A bill to increase the use of natural gas in the United States; to the Committee on Energy and Natural Resources.

GAS POLICY REFORM ACT

Mr. WIRTH. Mr. President, the war in the Persian Gulf has, once again brought Americans face to face with the need to develop and implement policies that will make us energy independent, and this time we must heed the call. The country needs a long-term energy strategy, and not just a short-term energy fix. That strategy must have as its objectives reducing our dependence on foreign oil, protecting our environment, and enhancing our competitiveness in the world economy.

What elements must be included in a domestic energy policy? It must emphasize conservation, because we need to use energy—and particularly oil—more efficiently if we wish to keep pace with our competitors for world trade. We must increase research and development of alternatives such as solar and renewable energy technologies, which hold great promise for the future.

But we must also harness another resource we have, a resource which can be directly substituted for imported oil

as an industrial boiler fuel, as a powerplant fuel, as a heating fuel, and even as a fuel for our cars, trucks, and buses—the use that accounts for 50 percent of all the oil this country uses. That resource is natural gas.

There are several reasons why natural gas should play a central role in a new national energy strategy. First, as we all know, it is the cleanest burning of all fossil fuels. Second is the ability of natural gas to displace oil use in our economy. Third, natural gas is currently selling in our country for half the cost of oil, on an energy-equivalent basis. Lastly, natural gas is a domestic energy resource, abundant in North America. Yet despite all these advantages, gas use has dropped in the United States over the past 20 years.

Although oil has been the engine driving our national economy for many years, it is time to phase in real alternatives to oil, including natural gas. But that will not happen on its own.

Last year, I asked leaders in our State's natural gas industry—the producers, the pipelines, and the retailers of natural gas—to sit down, set aside their differences, and decide how best to promote the use of natural gas. Those Members familiar with the gas industry know that these three elements of the industry generally are too busy fighting each other for the last advantage in the complicated and adversarial regulatory scheme we have created for the industry to agree on much of anything.

But to their credit, these Colorado businessmen—headed by Public Service Co. of Colorado, our largest gas retailer, Colorado Interstate Gas, one of our major pipeline companies, and the Independent Petroleum Association of the Mountain States, which represents the producers, did sit down and work out an agreement on ways to get natural gas to where it is needed.

The bill I am introducing today incorporates their recommendations, and I plan to be a strong advocate of these measures as the Senate Energy Committee, on which I serve, and then the full Senate, debate our national energy policy.

This legislation would:

Promote new uses for natural gas by providing for research, development, and market incentives for gas air conditioning, vehicle fuels, and for power plant cofiring. Public Service Co. of Colorado already uses natural gas to power many of its service vehicles, and has helped make this fuel available to others. And every vehicle running on natural gas is decreasing our oil imports.

Remove regulatory barriers to allowing competition to set the prices in the gas industry, and to provide economic incentives for the expansion of gas pipelines into new markets. Current regulation creates strong economic disincentives to building new pipelines—and that has kept our abundant natural gas resources from reaching the markets that need them.

Allow natural gas producers to be paid for using their fields to store gas for peak use periods, and require Federal regulators to carefully examine natural gas import proposals to assure they compete fairly with domestic producers. That simply levels the playing field between producers and pipelines and distributors, in the first case, and Canadian competitors, in the second.

Streamline the regulatory process governing the construction of new pipelines, to enable natural gas to be brought into new markets. Significant streamlining can be achieved by allowing parallel processing of different parts of the approval process, and simplifying the approval process for noncontroversial projects.

Much of this agenda simply boils down to making it simpler to get natural gas from wells like those in Colorado's San Juan Basin, or the Denver-Julesburg Basin in the eastern part of our State, to markets like Los Angeles that are in desperate need of clean-burning fuels. The complicated, adversarial regulatory system we have built up for regulating natural gas over the years has, in effect, kept gas from the people who need it. Getting gas to where it is needed is the essence of my proposal.

These sorts of measures to increase the role of natural gas in our national energy supply are an essential part of any sensible national energy policy. I intend to do my best to see that both the Congress and the administration achieve a sensible energy policy, so we can reverse the trend of increasing dependence on Middle Eastern oil and build a future in which the United States develops its own resources and uses them wisely and efficiently.

A final note, Mr. President. I have had experience with the potential of natural gas myself. I have a Jeep Cherokee that has been converted to use compressed natural gas. It uses gasoline when I am out in the country and it uses natural gas in the city. That natural gas in the city burns 8 or 9 times cleaner than gasoline does. I took it to an EPA inspection station. We ran it through and it is truly dramatic to see the difference in the pollutants coming from the car when you switch it from gasoline over to natural gas.

In addition to being cleaner, it cost me the equivalent of 50 cents a gallon. At one point, gasoline in Colorado was $1.50 a gallon; it is now down to about $1, but still natural gas is half the price of oil. And the car runs identically in terms of power, and in terms of miles per gallon, when it runs on natural gas. Clearly, we can do a great deal more in the whole transportation sector to convert from oil to natural gas. It is in our national interest to do so.

We are on the floor right now debating a major piece of legislation related to Desert Storm, a very good piece of legislation, something we ought to pass. But let us remember that one of the reasons we ended up in the Persian Gulf was our extraordinary dependence on imported oil. We want to wean ourselves away from that. Why not do it with a resource that is an abundant resource, that is clean, a resource that is domestic? That is the thrust of the bill that I am introducing today, Mr. President.

I would hope that many of my colleagues will have a chance to look at this legislation, and I would think that many of them who have an interest in natural gas, as I do, will want to cosponsor the bill.

Mr. President, I ask unanimous consent that the text of the bill, and a section-by-section analysis, be printed in the RECORD.

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

S. 662

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

FINDING AND PURPOSES

SEC. 1001. FINDINGS.—The Congress finds that:

(1) adoption of a sound energy policy is essential to the protection of our nation's economic health, our national security, and to the welfare of our citizens;

(2) such a policy must employ diverse sources of energy, particularly those sources that are both domestically available and environmentally sound;

(3) exploration and production of existing sources of energy must be enhanced at the same time as extensive research into alternative sources of energy is being conducted and efforts to conserve energy are being promoted;

(4) the usage of natural gas should be enhanced, and yet the regulatory and statutory structure for the natural gas industry has imposed burdens which have resulted in a decline of natural gas consumption, which is contrary to the national interest.

SEC. 1002. PURPOSES.—The purposes of this Act are to:

(1) reduce our reliance on foreign supplies of energy to the point where the U.S. is energy independent by the year 2025;

(2) encourage the development of domestically available oil and gas while reducing the amount of energy used by promoting conservation;

(3) enhance competition in the natural gas industry by removing or revising burdensome regulatory and statutory provisions which create disincentives to competition;

(4) enhance the usage of natural gas through improving access to new markets, fostering demand in the market place, and correcting the lack of financial incentives to pursue high-risk gas transportation projects;

(5) foster and promote the development of alternative sources of energy, including renewable resources; and

(6) encourage the development and utilization of environmentally sound sources of energy, such as compressed natural gas for vehicular use and solar energy for residential and commercial use.

DEFINITIONS

SEC. 1003.—DEFINITIONS.—As used in this Act, the term—

(a) "Commission" means the Federal Energy Regulation Commission, or any successor agency, unless otherwise provided.

(b) "Cost-Based Rates"—Rates for services that remain subject to Commission review based upon a traditional cost-of-service determination.

(c) "Department" means the Department of Energy, unless otherwise provided.

(d) "Just and Reasonable"—Shall be defined by these amendments notwithstanding any conflict between these amendments and Commission or court precedent.

(e) "Merchant Service" means the purchase and sale for resale of natural gas in interstate commerce.

(f) "Secretary" means the Secretary of Energy, unless otherwise provided.

(g) "Used and Useful" means a determination by the Commission as defined by Commission and court precedent that plant is used and useful.

(h) "Workable Competition" means a finding by the Commission that sufficient competition exists to allow rates and other terms and conditions of service to be established by market conditions.

SEC. 1004.—VEHICULAR NATURAL GAS JURISDICTION—(a) DEFINITIONS. For the purposes of this section—

(1) the term "VNG" means natural gas for ultimate use as a fuel in a motor vehicle, and includes compressed natural gas.

(2) the term "Motor Vehicle" includes any automobile, truck, bus, van, or other on-road or off-road motor vehicle, including a boat.

(b) PERSONS WITH HINSHAW EXEMPTIONS.—

(1) PLACE OF ULTIMATE CONSUMPTION.—For purposes of section 1(c) of the Natural Gas Act, in the case of any sale of VNG, such VNG shall be deemed to be "ultimately consumed" within the state in which physical delivery of such VNG occurs, whether or not physical combustion of such VNG occurs in another state.

(2) STATE REGULATION.—For purposes of section 1(c) of the Natural Gas Act, certification from a State commission to the Federal Energy Regulatory Commission that such State commission has regulatory jurisdiction over the rates, services and facilities of a person (who receives natural gas from another person within or at the boundary of a State all of which natural gas so received is ultimately consumed within such State) and is exercising such jurisdiction shall constitute conclusive evidence of such regulatory power or jurisdiction even in cases where such State commission does not have jurisdiction by reason of State law, or is not exercising jurisdiction, over the sale for resale or transportation of VNG.

(c) PERSONS WITH SERVICE AREA DETERMINATIONS.—For purposes of the Natural Gas Act—

(1) SALE FOR RESALE.—In the case of a sale for resale of VNG by the holder of a service area determination under section 7(f) of the Natural Gas Act, such sale for resale shall be subject to the exclusive jurisdiction of the state commission in the state in which physical delivery of such VNG occurs, whether or not physical combustion of such VNG occurs in another state.

(2) TRANSPORTATION.—In the case of transportation of VNG by the holder of a service area determination under section 7(f) of the Natural Gas Act, such VNG shall for purposes of section 7(f)(2) of the Natural Gas Act be deemed to be "consumed" within the State in which physical delivery of such VNG occurs, whether or not physical combustion of such VNG occurs in another state.

(3) STATE REGULATION.—In the case of a sale for resale of VNG, or the transportation of VNG, by a holder of a service area determination under section 7(f) of the Natural Gas Act, such sale for resale or transportation shall be deemed to be subject to the exclusive jurisdiction of the State commission of the State in which such sale for resale or transportation occurs whether or not the sale for resale or transportation of VNG is subject to the jurisdiction of the State commission under State law.

SEC. 1005. FEDERAL PROGRAMS TO PROMOTE VEHICULAR NATURAL GAS.—Within six months following enactment of this Act, the Secretary shall:

(a) institute a government-sponsored awareness program for alternative fuels designed to educate potential purchasers of the costs of such fuels as well as their emission characteristics and other features.

(b) identify and report to Congress on purchasing policies of the Federal government which inhibit or prevent the purchase by the Federal government of alternative-fueled vehicles;

(c) report to Congress on federal, state and local traffic control measures and policies and how the use of alternative-fueled vehicles could be promoted by granting such vehicles exemptions or preferential treatment under such measures;

(d) develop a plan for the establishment of a trust fund for loans to convert vehicles to operate on alternative fuels or to purchase vehicles which operate on alternative fuels, with such loans to be repaid by the borrower from the cost differential between gasoline and the alternative fuel on which the vehicle operates.

SEC. 1006. FEDERAL PERMITTING REQUIREMENTS.—Facilities which are constructed or used solely for the sale of vehicular natural gas to the public for use as fuel in a motor vehicle shall not be considered a major source as that term is defined in the Clean Air Act Amendments of 1990.

SEC. 1007. MASS TRANSIT PROGRAM.—(a)(1) The Secretary, consistent with the provisions of this Act, in consultation with the Administrator of the Urban Mass Transit Administration, may, consistent with the Alternative Motor Fuels Act of 1988 (P.L. 100-494), enter into cooperative agreements and joint ventures proposed by any municipal, county, or regional transit authority in an urban area with a population over 100,000 (according to latest available census information) to demonstrate the feasibility, including safety of specific vehicle design, of using natural gas or other alternative fuels for mass transit.

(2) The cooperative agreements and joint ventures under paragraph (1) may include interested or affected private firms willing to provide assistance in cash, or in kind, for any such demonstration.

(b)(1) The Secretary may not enter into any cooperative agreement or joint venture under subsection (a) with any municipal, county or regional transit authority unless such government body agrees to provide at least 25 percent of the costs of such demonstration.

(2) The Secretary, at his discretion, may grant such priority under this section to any entity that demonstrates that the use of natural gas or other alternative fuels used for transportation would have a significant effect on the ability of an air quality region to comply with applicable regulations governing ambient air quality.

(c) There is authorized to be appropriated not more than $30,000,000 for each of fiscal years 1992, 1993, and 1994 for purposes of this section.

SEC. 1008. NATURAL GAS AND OTHER ALTERNATIVE FUEL USE IN FLEET VEHICLES.—(a) The Secretary, consistent with the Alternative Motor Fuels Act of 1988 (Public Law 100-494), and in consultation with the Administrator of the United States Environmental Protection Agency and the Secretary of Transportation, shall establish and carry out a program, and provide financial assistance to encourage the development and commercialization of natural gas and other alternative fuels for use in passenger fleets, light-duty trucks, and heavy-duty trucks consistent with the purposes of the Act. Such assistance shall provide for the purchase and construction of vehicles dedicated to the use of natural gas or other alternative fuels and of vehicles dually fueled by natural gas or other alternative fuels and gasoline or diesel, and associated refueling equipment.

(b) Public and private fleets may be eligible for financial assistance under this section.

(c) The Secretary, at his discretion, may grant such priority to those fleets where the use of natural gas and other alternative transportation fuels would have a significant effect on the ability of an air quality region to comply with applicable regulations governing ambient air quality.

(d) To facilitate the use of natural gas and other alternative fueled vehicles, the conversion of a vehicle from either gasoline or diesel alone to natural gas or other alternative fuels alone, or to natural gas or other alternative fuels and either gasoline or diesel, shall not be considered a violation of any anti-tampering provisions of the Federal law and implementing regulations; provided, however, that the conversion complies with emissions standards issued by the Administrator of the Environmental Protection Agency.

(e) Any program established under this section that applies to existing vehicles shall take into consideration the safety of specific vehicle design and the compatibility of natural gas or other alternative fuel use with the original components of such existing vehicles.

(f) There is authorized to be appropriated not more than $30,000,000 for each of fiscal years 1992, 1993, and 1994, for purposes of this section.

SEC. 1009.—TRAINING PROGRAM.—(a) The Secretary of Labor shall establish and carry out a training and certification program for technicians who are responsible for vehicle installation of equipment that converts gasoline or diesel-fueled vehicles to the capability to run on natural gas or alternative fuels alone, or on natural gas or other alternative fuels and either diesel fuel or gasoline, and for the maintenance of such converted vehicles. Such training and certification programs shall provide these technicians with instruction on the correct installation procedures and techniques, adherence to specifications, vehicles operating procedures, emissions testing, and other appropriate mechanical concerns applicable to these vehicle conversions.

(b) The Secretary of Labor may enter into cooperative agreements with, and provide financial assistance to, under this section, appropriate parties to provide training programs that will ensure the proper operation and performance of conversion equipment.

(c) The program under this section shall be consistent with the Alternative Motor Fuels Act of 1988 (Public Law 100-494).

(d) There is authorized to be appropriated not more than $5,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of this section.

SEC. 1010.—VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION.—(a) The Secretary shall carry out a program of research, development, and demonstration on techniques related to improving natural gas and other alternative fueled vehicle technology including, but not limited to, the following areas—

(1) fuel injection;
(2) carburetion;
(3) manifolding;
(4) combustion;
(5) power optimization;
(6) efficiency;
(7) lubricants and detergents;
(8) engine durability;
(9) ignition, including fuel additives to assist ignition;
(10) multifuel engines;
(11) emissions control, including catalysts;
(12) novel gas compression concepts;
(13) advanced storage systems;
(14) advanced gaseous fueling technologies; and
(15) the incorporation of advanced materials in these areas.

(b) The Secretary, consistent with the Alternative Motor Fuels Act of 1988 (Public Law 100-494), may enter into cooperative agreements with, and provide financial assistance to, under this section, public entities or interested or affected private firms willing to provide 50 percent of the costs of such programs to perform the research and development necessary to improve natural gas vehicle and other alternative fuel vehicle technology.

(c) There is authorized to be appropriated not more than $10,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of this section.

SEC. 1011.—NATURAL GAS COFIRING RESEARCH, DEVELOPMENT AND DEMONSTRATION.—(a) DEFINITIONS.—For the purposes of this section, the term—

(1) "cofiring" means the injection of natural gas and pulverized coal into the primary combustion zone of an electric utility unit or an industrial boiler and shall include gas reburn technologies; and

(2) "gas reburn" means the injection of natural gas into the upper furnace region of an electric utility unit or an industrial boiler to produce a fuel-rich zone thereby reducing nitrogen oxide emissions.

(b) The Secretary shall conduct a program of research, development and demonstration of cofiring in electric utility units and large industrial boilers in order to determine optimal natural gas injection levels for both environmental and operational benefits.

(c) The Secretary may provide financial assistance under this section to public entities or interested or affected private firms to perform the research, development and demonstration of cofiring technologies.

(d) The Secretary may enter into cooperative agreements with, and provide financial assistance under this section to, public entities or interested or affected private firms willing to provide at least 50 percent of the costs of such programs to perform the research, development and demonstration of cofiring technologies.

(e) For purposes of this section, there is authorized to be appropriated to the Secretary not more than $9,000,000 for each of the fiscal years 1992, 1993 and 1994.

SEC. 1012.—NATURAL GAS RECOVERY, RESEARCH, DEVELOPMENT AND DEMONSTRATION PROGRAM.—(a) The Secretary shall expand and continue a program of research, development, and demonstration on techniques to increase the availability of natural gas from—

(1) intensive recovery of natural gas in place in discovered reservoirs or formations; and

(2) economic recovery of nonconventional sources of natural gas, including gas from tight formations, Devonian shales, gas from less permeable formations coalseams, and geopressured brines.

(b) The Secretary shall seek to enter into joint ventures with persons engaged in the production, transportation, distribution, or major use of natural gas to implement the program under subsection (a).

(c) There is authorized to be appropriated not more than $25,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of this section.

SEC. 1013.—NATURAL GAS AND ELECTRIC HEATING AND COOLING TECHNOLOGIES.—(a) The Secretary shall expand the program for research, development, and demonstration for natural gas and electric heating and cooling technologies for residential and commercial buildings.

(b) The natural gas heating and cooling program shall increase research on thermally-activated heat pumps including:

(1) absorption heat pumps; and
(2) engine-driven heat pumps.

(c) The electric heating and cooling program shall increase research on:

(1) advanced heat pumps;
(2) thermal storage; and
(3) Advanced electrically-driven HVAC (heating, ventilation, and cooling) and refrigeration systems that utilize replacements for chlorofluorocarbons, including HCFC-22.

(d) There is authorized to be appropriated to the Secretary, not more than $15,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of this section in addition to current authorizations.

SEC. 1014.—APPLICABILITY OF NEW SOURCE REVIEW TO EXISTING ELECTRIC UTILITY STEAM GENERATING UNITS.—(a) POLLUTION CONTROL PROJECTS.—For purposes of the Clean Air Act, no physical change in, or change in the method of operation of, an electric utility steam generating unit which is undertaken for purposes of pollution control, including the use of natural gas and clean coal technologies, shall be treated as a modification for a specific regulated pollutant for purposes of part C or D of title I of the Clean Air Act if such change does not increase the potential emissions of the specific regulated pollutant from such source above the potential emissions before the change.

(b) NITROGEN OXIDE CONTROL REQUIREMENTS.—

(1) For purposes of the Clean Air Act, any modification, as defined in section 169(c)(2) of such Act, at an existing electric utility steam generating unit subject to section 165 of the Clean Air Act shall be deemed to satisfy the technology requirements of section 165(a)(4) thereof for nitrogen oxides if it meets the following conditions:

(a) For a unit subject to a requirement promulgated pursuant to section 407 of the Clean Air Act, immediately following the modification, the unit shall be required to meet nitrogen oxide emissions limitation specified for that boiler type pursuant to section 407. In the event that the modification precedes the establishment of nitrogen oxide emissions limitations for that boiler type pursuant to section 407, the unit shall be required to meet the applicable emission limitation upon the date required by the regulation.

(b) For an existing electric utility steam generating unit not subject to section 407 of the Clean Air Act immediately following the modification, the unit shall be required to meet the nitrogen oxide limit equivalent to the limit achievable using "low-NO_x burners".

(2) Any State or local permitting authority shall retain the right to impose more stringent limitations for control of nitrogen oxides.

SEC. 1015—NO_x REQUIREMENT FOR NATURAL GAS FACILITIES—The Clean Air Act, as amended ( ) is further amended by inserting the following new subparagraph following Sec. 182(f)(B):

"(C) major stationary sources which use natural gas as its primary fuel."

REGULATORY ISSUES

SEC. 1016.—INCENTIVE RATEMAKING OPTIONS.—(a) Section 4(a) of the Natural Gas Act (15 U.S.C. 717c(a)) is amended by adding: "Rates shall be designed to efficiently allocate capacity, maximize throughput, eliminate cross-subsidies among customer classes and between merchant and transportation services, reflect any material distance-related variation in the cost of providing service, and appropriately unbundle distinct services. Such rates shall be deemed just and reasonable if (1) they are designed to provide a reasonable opportunity to recover prudently incurred costs and to earn a fair rate of return on the natural gas company's investment, or (2) they are determined pursuant to an incentive formula approved by final and nonappealable Commission order, the original term of effectiveness of which formula has not expired at the time of rate review, or (3) they fall within a Commission-prescribed zone of reasonableness, the upper limit of which shall be the rates yielded by incorporating a current market valuation of the natural gas company's investment and lower limit of which shall provide for the minimum return on investment necessary to attract and retain capital. The Commission is directed to develop an incentive formula as used in subparagraph (2) herein, with the goals of allowing natural gas companies to earn a fair rate of return, providing proper price signals to the marketplace, and rewarding pipeline efficiency."

(b) Section 5(a) of the Natural Gas Act (15 U.S.C. 717(a)) is amended by deleting "or are not the lowest reasonable rates" and adding: "exceed the rates established by formula pursuant to 15 U.S.C. 717c(a)(2), or, in the absence of such formula, exceed the upper limit of the zone of reasonableness prescribed at 15 U.S.C. 717c(a)(3)."

SEC. 1017. REHEARING TIME LIMITS.—Section 19(a) of the Natural Gas Act (15 U.S.C. 717r(a)) is amended by striking the fourth sentence and inserting in lieu thereof the following: The Commission shall take final action on the merits of the application for rehearing within 60 days after such application is filed, and the Commission may not defer action on the merits of the application through issuance of an order during that 60 day period. Unless the Commission takes final action on the merits of such application within 60 days after it is filed, the application for rehearing shall be deemed to have been denied.

SEC. 1018. FILING OF JOINT RATES.—Section 4 of the Natural Gas act (15 U.S.C. 717c) is amended by adding the following new Section 4(f): "Under such rules and regulations as the Commission may prescribe, natural

gas companies subject to the commission's jurisdiction under this act, may file with the Commission for its approval, joint rates which have been negotiated by them for the transportation of natural gas through each of their pipelines in sequence on the way to market. Neither the provisions of Sections 1 and 2 of the Sherman Antitrust Act, 15 U.S.C. 1 and 2, nor any other antitrust law, whether federal or state, shall preclude the development or utilization of such joint rates."

SEC. 1019. FAIR RETURN ON INVESTMENT.—Section 4(a) of the natural Gas Act (15 U.S.C. 717c(a)) is amended by adding: "notwithstanding the specific methodology used to set the rates of the natural gas company, to the extent that the dollar value or cost of the natural gas company's investment in utility plant is a determinant of the allowed rate level, all such plant shall be recognized so long as it is used and useful in discharging the utility business of the natural gas company."

SEC. 1020.—COMPETITIVE SALES SERVICES.—Title VI of the Natural Gas Policy Act (15 U.S.C. 3431) is amended by adding new Section 15 U.S.C. 3431(b)(1)(F), as follows:

"Sales for Resale by Interstate Pipelines—For purposes of Sections 4 and 5 of the Natural Gas Act, any amount for a sale for resale by an interstate pipeline shall be deemed just and reasonable if—

(i) such amount is charged pursuant to rates approved by the Commission, or

(ii) the Commission has made and not revoked a finding that workably competitive alternatives exist for such sale for resale, subject to such rules and standards for determining such workable competition as the Commission may prescribe, including but not limited to adequate comparability between the sales services and the transportation services of the seller. If such charges are deemed just and reasonable pursuant to this paragraph, profits and losses occasioned by such sale for resale shall not be taken into consideration in any way in setting the seller's rates for other services, and the rates for such sale for resale are exempt from the tariff posting authority of the Commission pursuant to 15 U.S.C. 717c(c)."

SEC. 1021.—COMPETITIVE SERVICES.—(a) Services provided by facilities constructed under Section 311 of the Natural Gas Policy Act shall not require a certificate of public convenience and necessity.

(b) Any new service proposed and implemented by a natural gas company which does not require the construction of major new facilities shall be authorized by the acceptance of tariff sheets and shall not require a certificate of public convenience and necessity.

(c) Any new service offered by a natural gas company which can be fully supplanted with other pre-existing services subject to tariff and rate review under Sections 4 and 5 of the Natural Gas Act shall be exempt from the tariff and rate review provisions of Section 4 and 5 of the Natural Gas Act.

(d) Notwithstanding the above, the Commission may consider the impact of any new services offered under this subsection in subsequent rate cases, in setting rates for other services.

SEC. 1022.—PIPELINE ABANDONMENTS.—Section 7(b) of the Natural Gas Act (U.S.C. 717f(b)) is amended by adding the following at the end of the section: "A natural gas company may abandon jurisdictional sales services to customers upon the expiration of underlying sales contracts with such customers, without approval by the Commission. If a customer of a natural gas company has previously converted all or a portion of jurisdictional sales service provided by a natural gas company to jurisdictional transportation service, and such customer pays the just and reasonable non-discriminatory rate established by the natural gas company for such service, then such transportation service shall not be abandoned by the natural gas company without approval of the Commission as provided in this section."

WELLHEAD PRICES

SEC. 1023. PRODUCER DEMAND CHARGES.—Title VI of the Natural Gas Policy Act (15 U.S.C. 3431) is amended by adding new section (15 U.S.C. 3431(c)(3)):

"RECOVERY OF DEMAND CHARGES.—Any fixed charge paid by an interstate pipeline to a first seller for gas supply security shall be recoverable on an "as-billed basis" in the interstate pipeline's demand charges, unless the commission determines, after a hearing, that the interstate pipeline does not offer a reasonably competitive alternative to its sales service."

SEC. 1024. REGULATION OF NATURAL GAS IMPORTS.—Section 3 of the Natural Gas Act [15 U.S.C. 717(b)] is amended by adding at the end of the section the following language: "The Secretary shall condition the approval of any import application pursuant to this section upon action by the Commission to redress any anticompetitive impacts on U.S. gas producers, including, but not limited to, competitive disparities resulting from different rate designs applied to the transportation of domestic gas and imported supplies."

ACCELERATED PIPELINE CONSTRUCTION

SEC. 1025. AUTOMATIC PIPELINE CONSTRUCTION.—Section 311 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3371) is amended to add the following:

"(d)(1) The provisions of the Natural Gas Act and the jurisdiction of the Commission, except as specifically provided herein, shall not apply to the construction or operation of any facilities constructed by a natural gas company subject to the Commission's jurisdiction under the Natural Gas Act by virtue of such construction or operation, if the natural gas company constructing such facilities: (a) holds a certificate of public convenience and necessity issued by the Commission pursuant to Section 7 of the Natural Gas Act and pursuant to which the natural gas company has agreed to provide open access transportation service; and (b) the natural gas company agrees that the provisions of such certificate shall apply to transportation service provided through facilities constructed under this Section.

"(d)(2) All facilities constructed under this Section shall be constructed in accordance with applicable laws and regulations governing environmental and safety factors; provided, however, the provisions of the National Environmental Policy Act of 1978, 42 U.S.C. 437, *et seq.*, shall not apply to the construction or operation of facilities provided for in this Section.

"(d)(3) Nothing in this Section shall preclude a natural gas company from filing for and/or preclude the Commission from issuing a certificate of public convenience and necessity pursuant to Section 7 of the Natural Gas Act for the operation of the facilities constructed under this section."

SEC. 1026—REBUTTABLE RESUMPTION OF NO SIGNIFICANT IMPACT.—For purposes of required environmental review of natural gas pipeline projects at the Commission, there shall be a rebuttable presumption of a finding of no significant impact ("FONSI") for any natural gas pipeline construction project which either utilizes existing utility or highway corridors, or does not involve construction in high value wetland areas.

SEC. 1027—LEAD AGENCY.—In cases where Federal Energy Regulatory Commission authorization of the construction or operation of facilities or projects under the Natural Gas Act may be deemed a major Federal action under the National Environmental Policy Act ("NEPA"), or requires the preparation of other environmental documents, the Commisson shall be the lead agency and shall have primary authority for compliance with NEPA. The Commisison may set reasonable time limits for consultation with other Federal agencies which participate in the review of a proposed facility or project pursuant to NEPA to complete their review of any potential environmental impacts of the construction or operation of such facility or project, and for such other agencies to consult and submit comments to the Commission.

SEC. 1028—TWO-PHASE CERTIFICATION PROCESS.—Section 7(e) of the Natural Gas Act (15 U.S.C. 717f(e)) shall be amended to add the following language at the end of the section: "The Commission shall have the power to issue certificates of public convenience and necessity in a two-phase process. The first phase certificate shall involve all matters requiring Commission review and approval other than environmental matters, and shall constitute a final order on such matters. The second phase certificate shall address only required environmental matters, and approvals and shall constitute a final order on such matters."

SEC. 1029—PIPELINE SUBMISSION OF ENVIRONMENTAL ASSESSMENTS.—Environmental Assessments ("EA") submitted by pipelines at the time of filing for approval of proposed facilities, which EAs utilize a specified format to be determined by the Commission, will be presumptively valid, subject to initial Commission review for completeness. Nothing in this subsection shall affect the Commission's responsibility to comply with the National Environmental Policy Act of 1969.

SEC. 1030—Section 16 of the Natural Gas Act (15 U.S.C. 7170) is amended—

(1) by inserting "(a)" after "SEC. 16."; and

(2) by adding at the end of the existing section the following new subsection: "(b) Where the Commission by rule or order requires the preparation of an environmental assessment of an environmental impact statement in connection with an application for authority to construct or extend facilities for the transportation of natural gas under this Act, the Commission shall permit the applicant to elect a contractor, consultant, or other person designated by the Commission for such purposes to prepare the environmental impact statement at the applicant's expense. The Commission shall establish procedures to ensure that the contractor, consultant, or other person has no financial or other potential conflict of interest in the outcome of the proceeding. Nothing in this subsection shall affect the Commission's responsibility to comply with the National Environmental Policy Act of 1969."

STUDIES

SEC. 1031.—GLOBAL PRODUCTION TRENDS.—The Office of Technology Assessment in conjunction with the Department, shall study and report to Congress on the global trends of production, usage, and transportation of natural gas and the ways in which these trends can affect domestic energy policy and the U.S. natural gas industry.

SEC. 1032.—REMOVAL OF STATE AND LOCAL BARRIERS.—The Office of Technology Assessment, in conjunction with the Department, shall identify, study and report to Congress on state-and locally-imposed institutional and regulatory barriers to increased natural gas usage, and make recommendations as to the establishment of a uniform national policy to enhance the use of natural gas.

SECTION-BY-SECTION ANALYSIS—WIRTH GAS POLICY REFORM ACT

Sections 1001–1002 set out Congressional findings and purposes of this bill. Section 1003 defines terms used in the bill.

MARKET DEMAND

Sections 1004–1014 promote new uses for natural gas in our economy through research, development, and the creation of market incentives.

Section 1004 removes the retail sale of compressed natural gas for vehicular use from regulation by the Federal Energy Regulatory Commission, leaving regulatory jurisdiction with the state commission of the State in which physical delivery occurs.

Section 1005 directs the Secretary of the Department of Energy to (a) develop a public awareness program to encourage the use of alternative fuels; (b) study and propose revisions to federal purchasing policies which inhibit the federal government from utilizing alternative fuels; (c) study and propose means of providing alternative fuel vehicles preferential treatment under federal, state and local traffic control measures; and (d) establish a loan program for the conversion of vehicles to alternative fuel use or the purchase of alternative fuel vehicles.

Section 1006 provides that facilities which are used solely for the retail sale of compressed natural gas are not major sources of pollution subject to certain permitting requirements.

Section 1007 authorizes the Urban Mass Transit Administration to enter into joint projects with municipalities of 100,000 or more to demonstrate the feasibility of using natural gas or other alternative fuels for mass transit.

Section 1008 creates a program to encourage the development and commercialization of natural gas and other alternative fuels and provides financial assistance to public and private fleets to purchase and to construct alternative fuel vehicles.

Section 1009 establishes and financially assists a training and certification program for the conversion and maintenance of alternative fuel vehicles.

Section 1010 calls for research, development, and demonstration of techniques to improve natural gas and other alternative fueled vehicle technology, and provides for matching grants to public and private entities for this purpose.

Section 1011 establishes a research, development and demonstration program of cofiring and reburn of natural gas with coal in electric utility units or industrial boilers, including 50/50 matching grants for this purpose to public or private sectors.

Section 1012 expands research, development and demonstration efforts designed to increase the availability of natural gas from existing formations and nonconventional sources.

Section 1013 directs the Secretary to expand research, development, and demonstration of improved technology for gas and electric heating and cooling in residential and commercial applications. Up to $15,000,000 of funding is provided.

Section 1014 excludes physical or operational changes in electric utility steam generating units undertaken for purposes of pollution control from the definition of "new or substantially modified" sources of pollution under the Clean Air Act.

Section 1015 recognizes that the use of natural gas can produce overall reductions of SO_2, NO_x, and other pollutants, and therefore excludes major stationary sources which use natural gas as their primary fuel from NO_x emission reduction requirements.

REGULATORY ISSUES

Sections 1016–1022 form a statutory framework for the enhancement of competition and new service in the interstate natural gas industry. These sections provide economic incentives for the nationwide pipeline network to expand, to enhance efficiency, and to offer an ever-growing menu of services to utility customers, producers, and any other user or shipper of natural gas, while preserving the FERC's overall role in protecting utility consumers' interests.

Section 1016 broadens the Natural Gas Act definition of just and reasonable rates to include, in addition to the traditional regulatory formula based on accounting costs and original-cost investment, a "zone-of-reasonableness" approach to allow the market to operate within a cost-based range, and such incentive ratemaking formula as the Commission may prescribe. The objective of this section is to encourage the Commission and interstate pipelines to develop incentive rate designs which achieve the dual objective of allowing pipelines to earn a fair rate of return and simultaneously provide the correct price signals to the marketplace. The latter objective is furthered by codifying the goals of the Commission's Statement of Policy on the Designing of Pipeline Rates (issued May 31, 1989 in Docket No. PL89–1).

Section 1017 eliminates the Commission's ability to delay rendering its actions final and subject to court review through the issuance of a "tolling order." The Commission would be required to render its actions final or to modify them within 60 days of taking those actions.

Section 1018 provides an exemption from antitrust status permitting natural gas companies to post joint tariffs for the transportation of natural gas which would otherwise require the shipper to negotiate a separate transportation agreement with each company which is a participant in the transaction.

Section 1019 requires that any investment made by a natural gas company which is used and useful in rendering service shall be fully included in setting that pipeline's rates. Thus, if a pipeline segment delivers needed peak capacity, but operates at a low load factor, the Commission is precluded from penalizing the constructing pipeline through elimination of rate base or through unrealistically high rate-design load factors. Nothing, however, restricts the Commission's ability to allocate costs to the responsible customer or customers.

Section 1020 removes from Commission jurisdiction profits or losses which result from the performance of merchant services provided that the Commission has made a finding that the interstate pipeline has satisfied the Commission criteria for determining that the pipeline is offering transportation service which represents truly competitive alternatives to the pipeline merchant function.

Section 1021 removes any certificate requirements from the offering of new services which either require no major new facilities or require only facilities constructed pursuant to Section 311 of the Natural Gas Policy Act. Such services could be implemented by the pipeline filing, and the Commission accepting, tariff sheets. If the new service could be fully replaced by existing rate-regulated services, the new service would be exempt from rate review.

Section 1022 provides that pipeline sales service may be abandoned upon contract expiration, but the customer may continue firm transportation, in lieu of the sales service, indefinitely if that customer will pay just and reasonable, nondiscriminatory rates for firm transportation service.

WELLHEAD PRICES

Sections 1023 and 1024 seek to give U.S. natural gas producers the competitive tools to enhance productive capability when they are selling to a pipeline or selling in competition with imported supplies.

Section 1023 mandates the pipeline's ability to recover demand charges paid to producers on an "as-billed" basis. The Commission would be precluded from impeding the direct transmission of this important market signal absent an affirmative, record-based, finding that the pipeline offered no reasonably competitive alternative to its sales service.

Section 1024 makes the competitive impact on U.S. producers a statutory criterion in the approval of any import. If the rate design of the imported supply is found to cause a significant competitive distortion, the Secretary and/or the Commission shall take steps to correct that distortion.

ACCELERATED PIPELINE CONSTRUCTION

Sections 1025–1030 drop many of the regulatory barriers to construction of new, competitive interstate pipeline facilities. Further, it streamlines the environmental review process to accelerate project approval, without diminishing the Commission's ability to carry out its responsibilities to protect the environment.

Section 1025 continues the self-implementing authority to build interstate pipeline facilities under Section 311 of the Natural Gas Policy Act, while eliminating the requirement that any use of such facilities be on behalf of an intrastate pipeline or a local distribution company. The section makes clear that normal certificate procedures under Section 7 of the Natural Gas Act are still available.

Section 1026 provides that a rebuttable finding of no significant impact (FONSI) on the environment attaches to interstate pipeline facilities constructed in existing corridors or not crossing environmentally sensitive areas.

Section 1027 designates the Commission as lead agency for preparation of environmental assessments and environmental impact statements regarding interstate natural gas facilities. Other agencies are strictly advisory at the Commission's discretion under this section.

Section 1028 codifies the Commission's "two-phase" certificate process, wherein a certificate as to non-environmental issues can be granted prior to environmental review being complete.

Section 1029 encourages interstate pipelines to prepare environmental assessments prior to filing certificate applications by providing that, if such environmental assessments comply with a Commission-specified format, they are presumptively valid for adoption by the Commission.

Section 1030 provides a vehicle for avoiding resource bottlenecks in Commission environ-

mental review by allowing an applicant to pay an outside environmental contractor, approved by the Commission, to conduct such review.

STUDIES

Section 1031 requires the Congressional Office of Technology Assessment, in conjunction with the Secretary of Energy, to provide a report to Congress on global trends in natural gas production, use, and transportation, and on the ways these trends may effect domestic energy policy and the U.S. natural gas industry.

Section 1032 requires the Office of Technology Assessment, in conjunction with DOE, to identify, study and report to Congress on barriers to increased use of natural gas which may exist in state and local regulation, and to make recommendations as to the establishment of a uniform national policy to enhance the use of natural gas.

By Mr. THURMOND (for himself and Mr. GORE):

S. 664. A bill to require that health warnings be included in alcoholic beverage advertisements, and for other purposes; to the Committee on Commerce, Science, and Transportation.

ALCOHOLIC BEVERAGE ADVERTISING ACT

Mr. THURMOND. Mr. President, a little over 1 week ago, the Surgeon General, Dr. Antonia Novello, pointed out the severe problems of excessive alcohol consumption by our young people during annual "spring break" celebrations across the country. Today, I want to follow up on the attention she has focused on this issue by introducing the "Alcoholic Beverage Advertising Act of 1991." Before doing so, I would like to draw the attention of my colleagues to some disturbing facts about alcohol consumption:

First, alcohol is the most widely used and abused drug among young people today, even though it is illegal for youths under age 21 to purchase alcohol in all 50 States and the District of Columbia;

Second, by the time high school students reach their senior year, 90 percent of them report using alcohol at least once in the preceding year;

Third, the average age at which young people begin drinking is 13. By this age, approximately 30 percent of boys and 22 percent of girls classify themselves as drinkers. According to the 1988 National High School Senior Survey, 17 percent of high school seniors reported having been drunk by eighth grade, 37 percent by ninth grade, 54 percent by tenth grade, and 71 percent by twelfth grade. Studies demonstrate that the use of alcohol before the age of 15 appears to be one of the predictors of later heavy alcohol and other drug use;

Fourth, young people are not well-informed about the hazards of alcohol use. Only 43 percent of high school seniors believe there is great risk of harm from drinking activities, such as binge drinking once or twice each weekend;

Fifth, alcohol is a factor in 21 percent of all college dropouts;

Sixth, nearly one-half million college students drink every day;

Seventh, American students consume over 430 million gallons of alcoholic beverages per year;

Eighth, college students will spend about $4.2 billion yearly for alcoholic beverages—which is more than is spent operating campus libraries, and on college scholarships and fellowships combined; and

Ninth, alcohol consumption is one of the leading causes of death among young adults.

Mr. President, the facts and figures go on and on. In short, alcohol abuse and its attendant problems are a major concern for this Nation.

The legislation I am introducing builds on the foundation of the 1988 alcohol warning label legislation, which I was pleased to author. The 1988 law requires health warning labels on alcoholic beverage containers. The bill I am introducing today expands upon the concept by requiring a series of five rotating health warnings to appear with alcoholic beverage advertisements in print and electronic media, such as magazines, newspapers, brochures, promotional displays, radio, and television.

Why are these warnings needed? There are many reasons.

First, health warnings in advertisements represent one important step in educating the consumer on the potential hazards of alcohol consumption. Similar to cigarette warning labels and alcohol warning labels on containers, the warnings in advertisements do not create any legal restriction or penalty to those who do not heed the warnings. They merely provide cautionary notice that consumption of the product may entail serious consequences in certain situations.

Second, The National Commission on Drug-Free Schools' September 1990 Final Report, "Toward a Drug-Free Generation: A Nation's Responsibility," recommends Congress require additional health and safety messages on alcohol products and their advertisements.

Third, the 1988 Surgeon General's Workshop on Drunk Driving has recommended that the level of alcoholic beverage advertising be matched with an equal number of pro-health and pro-safety messages, and also recommended the inclusion of health warning messages in all alcohol advertising.

Fourth, alcohol advertising, especially in the broadcast media, represents the single greatest source of alcohol education for Americans. According to a 1990 study of 10 to 13 year olds funded by the AAA Foundation for Traffic Safety, there is a relationship between exposure and attention to beer advertising, and expectations to drink as an adult.

Fifth, a major 1981 federally funded study found a significant relationship between youth exposure to alcoholic beverage advertising and drinking behavior and attitudes which can lead to certain forms of problem drinking.

Mr. President, for all these reasons, and many other reasons which time does not permit to include here, health warnings in alcohol advertisements are much needed.

Section 1 of the bill I am introducing sets forth the title, the "Alcoholic Beverage Advertising Act of 1991".

Section 2 lists 16 congressional findings with respect to alcohol consumption, associated hazards, and advertising.

Section 3 is the definitions section. It defines the term "alcoholic beverage" and several other relevant terms.

Section 4 sets forth the advertising requirement for print media such as magazines, newspapers, brochures and promotional displays. This section requires a series of five rotating health warnings in alcoholic beverage advertisements, and provides authority for the establishment of certain toll free numbers for information on drinking-related problems.

Section 4 also sets forth a series of five rotating warnings required for alcoholic beverage advertisements in the electronic media, such as radio and television.

Section 5 sets forth the powers of the Federal Trade Commission.

Section 6 sets forth a civil penalty of not more than $10,000 for violation of the Act.

Section 7 sets forth injunction proceedings.

Section 8 sets forth the authority of the Federal Trade Commission.

Section 9 sets forth reporting requirements and section 10 includes a severability provision.

Mr. President, in closing, it is important to note that this legislation is supported by several organizations, which include the Center for Science in the Public Interest; the National Council on Alcoholism and Drug Dependence, Inc.; the American Medical Association; the National Parent Teacher Association; Mothers Against Drunk Driving; the American Academy of Pediatrics; and the Coalition for Consumer Health and Safety, which consists of many insurance companies and other associations.

I wish to thank the members of these groups for their support and ask unanimous consent that letters of support be included in the RECORD following the text of the bill, which I ask unanimous consent be included immediately after my remarks.

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

S. 664

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 "Alcoholic Beverage Advertising Act of 1991".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Alcohol is by far the drug most widely used and abused by young people in the United States today, even though it is illegal for youths under age 21 to purchase alcohol in all 50 of the United States and the District of Columbia.

(2) Ninety percent of high school seniors report using alcohol at least once in the preceding year. The 1989 National Institute on Drug Abuse/University of Michigan survey of high school seniors found that 33 percent of the seniors surveyed reported having consumed five or more drinks at one time in the 2 weeks preceding the survey.

(3) The average age at which young people begin drinking is 13. By age 13, approximately 30 percent of boys and 22 percent of girls classify themselves as drinkers. According to the 1988 National High School Senior Survey, 17 percent of high school seniors reported having been drunk by eighth grade, 37 percent by ninth grade, 54 percent by tenth grade, and 71 percent by twelfth grade. Studies demonstrate that the use of alcohol by individuals before the age of 15 appears to be one of the predictors of later heavy alcohol and other drug use by the individuals.

(4) Young people are not well informed about the hazards of alcohol use. Only 43 percent of high school seniors believe there is great risk of harm from drinking activities such as binge drinking once or twice each weekend.

(5) According to the Department of Health and Human Services, sponsorships and promotions on college campuses by alcohol producers and the use of celebrities and youth-oriented musical groups in advertising create a pro-drinking environment.

(6) Alcohol use during pregnancy is the leading preventable cause of birth defects.

(7) According to the National Institute on Alcohol Abuse and Alcoholism, an estimated 18,000,000 persons in the United States who are 18 or older currently experience problems as a result of alcohol use. An estimated 4,500,000 young people are dependent on alcohol or are problem drinkers.

(8) According to Healthy People 2000, the National Health Promotion and Disease Prevention Objectives—

(A) nearly one-half of all deaths from motor vehicle crashes are alcohol-related;

(B) alcohol is implicated in nearly one-half of all fatal intentional injuries such as suicides and homicides; and

(C) victims are intoxicated in approximately one-third of all homicides, drownings, and boating deaths.

(9) An estimated 25 percent of all hospitalized persons have alcohol-related problems.

(10) Alcohol advertising, especially in the broadcast media, represents the single greatest source of alcohol education for persons in the United States. According to a 1990 study of 10- to 13-year-olds, funded by the American Automobile Association Foundation for Traffic Safety, there is a relationship between exposure and attention by an individual to beer advertising, and expectations that the individual drink as an adult.

(11) A major 1981 federally funded study found a significant relationship between—

(A) exposure of individuals to alcoholic beverage advertising as youth; and

(B) drinking behaviors and attitudes of the individuals that can lead to certain forms of problem drinking.

(12) Over 80 percent of 2,000 adults surveyed in 1988 for the Bureau of Alcohol, Tobacco, and Firearms by the Opinion Research Corporation believe that alcohol advertising influences underage youth to drink alcoholic beverages. The survey also found that the general public feels that the young people of the United States constitute the group that is most at risk from drinking alcoholic beverages.

(13) The alcoholic beverage industry spends approximately $2,000,000,000 each year on advertising and promotions in the United States.

(14) The 1988 Surgeon General's Workshop on Drunk Driving has recommended—

(A) that the level of alcoholic beverage advertising be matched with an equal number of pro-health and pro-safety messages; and

(B) the inclusion of health warning messages in all alcohol advertising.

(15) The National Commission on Drug-Free Schools' September 1990 Final Report, "Toward a Drug-Free Generation: A Nation's Responsibility", recommends that Congress—

(A) require additional health and safety messages on all alcohol products and advertising for the products; and

(B) consider enacting a ban on advertising and promotion of alcohol if alcohol advertising still targets youth and glamorizes alcohol use.

(16) Over two-thirds of persons surveyed in a 1989 Wall Street Journal poll favor requiring warnings about the dangers of drinking both on alcoholic beverage containers and in alcohol advertisements. Nearly three-fourths of persons surveyed in a 1990 Gallup Poll favor requiring health warning messages in alcohol advertising.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) ALCOHOLIC BEVERAGE.—The term "alcoholic beverage" includes any beverage in liquid form that contains not less than one-half of one percent of alcohol by volume and is intended for human consumption.

(2) CHAIRMAN.—The term "chairman" means the chairman of the Federal Trade Commission.

(3) COMMERCE.—The term "commerce" means—

(A) commerce between any State and any place outside the State;

(B) commerce between points in any State through any place outside the State; or

(C) commerce wholly within the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, Wake Island, the Midway Islands, Kingman Reef, or Johnston Island.

(4) HEALTH.—The term "health" includes the prevention of accidents.

(5) PERSON.—The term "person" means—

(A) an individual;

(B) a partnership;

(C) a joint stock company;

(D) a business trust;

(E) an association;

(F) a corporation;

(G) any business or legal entity not described in subparagraphs (A) through (F), including a receiver, trustee, or liquidating agent; and

(H) a State, a State agency, or an officer or employee of a State or State agency.

(6) SALE AND DISTRIBUTION.—The terms "sale" and "distribution" include sampling or any other distribution not for sale.

(7) STATE.—The term "State" includes—

(A) any political subdivision of any State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico;

(D) the Commonwealth of the Northern Mariana Islands;

(E) Guam;

(F) the Virgin Islands;

(G) American Samoa;

(H) Wake Island;

(I) the Midway Islands;

(J) Kingman Reef; and

(K) Johnston Island.

(8) STATE LAW.—The term "State law" includes State statutes, regulations, and principles and rules having the force of law.

(9) UNITED STATES.—The term "United States", when used in a geographical sense, includes all States.

SEC. 4. ADVERTISING REQUIREMENT.

(a) PRINT MEDIA.—

(1) IN GENERAL.—Effective 6 months after the date of the enactment of this Act, it shall be unlawful for any person to advertise any alcoholic beverage, or cause any alcoholic beverage to be advertised, for sale or distribution in commerce through magazines, newspapers, brochures, and promotional displays, within the United States, unless the advertising bears, in accordance with the requirements of this section, one of the following health warnings:

(A) "**SURGEON GENERAL'S WARNING:** Drinking during pregnancy may cause mental retardation and other birth defects. Avoid alcohol during pregnancy. If you are pregnant and cannot stop drinking, call [insert appropriate toll free number]."

(B) "**WARNING:** Alcohol impairs your ability to drive a car or operate machinery. If you or people you love drink and drive, call [insert appropriate toll free number]."

(C) "**WARNING:** Alcohol may be hazardous if you are using any other drugs such as over-the-counter, prescription, or illicit drugs. To find out what happens when you drink while using other drugs, call [insert appropriate toll free number]."

(D) "**WARNING:** Drinking alcohol may become addictive. If you know someone who has an alcohol or other drug problem or has trouble controlling drinking, call [insert appropriate toll free number]."

(E) "**WARNING:** It is against the law to purchase alcohol for persons under age 21. For more information about the risks associated with alcohol use among teenagers and young adults, call [insert appropriate toll free number]."

(2) USE OF WARNINGS.—The health warnings required for alcoholic beverage advertisements by paragraph (1) shall—

(A) meet the requirements of regulations promulgated by the chairman not later than 6 months after the date of the enactment of this Act, including requirements that—

(i) one such health warning be located in a conspicuous and prominent place in each advertisement;

(ii) all letters in the health warning appear in conspicuous and legible type that is not script or italicized;

(iii) the health warning be in contrast by typography, layout, and color with all other printed material in the advertisement;

(iv) the health warning be surrounded by typographic lines that form a box; and

(v) on an appropriate visual medium, the health warning appear on the front of an advertisement as indicated by labeling of the manufacturer or importer; and

(B) be rotated in an alternating sequence on each advertisement of a brand style in ac-

cordance with a plan submitted to the chairman by the manufacturer or importer.

(3) TOLL FREE NUMBERS.—The Secretary of Health and Human Services, in consultation with the Surgeon General and the chairman, shall be responsible for establishing and maintaining the toll free numbers referred to in the health warnings set forth in paragraph (1). The Secretary of Health and Human Services shall annually submit a report to Congress containing information on the number of calls received from persons using the numbers and the types of referrals made as a result of the calls.

(b) ELECTRONIC MEDIA.—

(1) IN GENERAL.—Effective 6 months after the date of the enactment of this Act, it shall be unlawful for any person to advertise any alcoholic beverage, or cause any alcoholic beverage to be advertised, for sale or distribution in commerce through radio or television broadcasting (including cable broadcasting) within the United States unless the advertising bears, in accordance with the requirements of this section, one of the following health warnings:

(A) "**SURGEON GENERAL'S WARNING:** Drinking during pregnancy may cause mental retardation and other birth defects. Avoid alcohol during pregnancy.";

(B) "**WARNING:** Alcohol impairs your ability to drive a car or operate machinery.";

(C) "**WARNING:** Alcohol may be hazardous if you are using any other drugs such as over-the-counter, prescription, or illicit drugs.";

(D) "**WARNING:** Drinking alcohol may become addictive."; and

(E) "**WARNING:** It is against the law to purchase alcohol for persons under age 21.".

(2) USE OF WARNINGS.—The health warnings required for alcoholic beverage advertisements by paragraph (1) shall—

(A) meet the requirements of regulations promulgated by the chairman not later than 6 months after the date of the enactment of this Act, including requirements that—

(i) one such health warning be included in a conspicuous and prominent manner in each advertisement;

(ii) the health warning be read as part of each alcoholic beverage advertisement in an audible and deliberate manner and in a length of time that allows for a clear understanding of the health warning message by the intended audience;

(iii) with respect to each advertisement for television—

(I) a graphic representation of the health warning be included;

(II) all letters in the health warning appear in conspicuous and legible type that is not script or italicized;

(III) the health warning be surrounded by typographic lines that form a box; and

(IV) the health warning appear in the same length of time as is required for a reading of the message required by clause (ii); and

(B) be rotated in an alternating sequence on each advertisement of a brand style in accordance with a plan submitted to the chairman by the manufacturer or importer.

(c) PLAN.—

(1) APPROVAL.—The chairman shall approve a plan submitted by a manufacturer or importer—

(A) under subsection (a)(2)(B), that assures that an equal distribution of each of the health warnings described in subsection (a)(1) is displayed on each sequence of the same or substantially similar advertisement for a brand style at the same time; and

(B) under subsection (b)(2)(B), that assures that an equal distribution of each of the health warnings described in subsection (b)(1) is displayed on each sequence of the same or substantially similar advertisement for a brand style at the same time.

(2) TIMING.—If a plan described in paragraph (1) containing a distribution described in subparagraph (A) or (B) of paragraph (1) is approved by the chairman, the distribution shall apply with respect to the applicant submitting the plan during the 1-year period beginning on the date of the approval of the plan.

SEC. 5. POWERS.

The chairman—

(1) shall ensure the enforcement of the provisions of this Act;

(2) shall, after consultation with the Director of the Bureau of Alcohol, Tobacco, and Firearms, issue regulations to carry out this Act; and

(3) shall consult, and coordinate the health awareness efforts of the labeling requirements of this Act, with the Surgeon General.

SEC. 6. CIVIL PENALTIES.

Any person who violates the provisions of this Act shall be subject to a civil penalty of not more than $10,000, and each day shall constitute a separate offense.

SEC. 7. INJUNCTION PROCEEDINGS.

The several district courts of the United States are vested with jurisdiction to prevent and restrain violations of this Act, for cause shown, on the application of the Attorney General acting through the several United States attorneys in the several districts of the attorneys.

SEC. 8. AUTHORITY OF FEDERAL TRADE COMMISSION.

Nothing in this Act shall be construed to limit, restrict, expand, or otherwise affect the authority of the Federal Trade Commission with respect to unfair or deceptive acts or practices in the advertising of alcoholic beverages.

SEC. 9. REPORT TO CONGRESS.

(a) INVESTIGATION.—Not earlier than 2 years after the date of the enactment of this Act, the chairman shall conduct an appropriate investigation and consult with the Surgeon General, to determine whether available scientific information would justify a change in, an addition to, or deletion of, a health warning set forth in subsection (a)(1) or (b)(1) of section 4.

(b) REPORT.—If the chairman finds that available scientific information would justify the change, addition, or deletion described in subsection (a), the chairman shall promptly submit a report to the appropriate committees of Congress containing—

(1) the information; and

(2) specific recommendations for such amendments to this Act as the chairman determines to be appropriate and in the public interest.

SEC. 10. SEVERABILITY.

If any provision of this Act or the application of the provision to any person or circumstance is held invalid, the validity of the remainder of this Act, and of the application of the provision to other persons and circumstances, shall not be affected thereby.

THE NATIONAL PTA,
OFFICE OF GOVERNMENTAL RELATIONS,
Washington, DC, March 12, 1991.

Hon. STROM THURMOND,
U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: On behalf of the 6.8 million member National PTA, I would like to thank you for sponsoring the Sensible Advertising and Family Education (SAFE) Act, which would require five rotating, health warnings on all print and broadcast advertising of alcoholic beverages.

This legislation is a sound public education measure. Last July, the National PTA testified, before the House Subcommittee on Transportation and Hazardous Materials, in support of the SAFE bill. In addition, the National PTA representative to the National Commission on Drug-Free Schools was instrumental in securing language in the Commission's final report in September 1990, which stated that Congress should "require health and safety messages on all alcohol and tobacco products and their advertising."

SAFE would also require the establishment and maintenance of a toll-free number that would be located on all print advertising . . . an important provision that will help individuals and/or their families get the information needed to combat problem alcohol use.

We thank you for the leadership on this issue. The National PTA applauds your longstanding commitment to educating the public to the potential dangers associated with alcohol use and misuse. Please know that our association is committed to helping get the SAFE bill enacted into law.

Sincerely,

ARLENE ZIELKE,
Vice-President for Legislative Activity.

MOTHERS AGAINST DRUNK DRIVING,
Dallas, TX, March 13, 1991.

Hon. STROM THURMOND,
U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: It was a pleasure to visit with you and have the opportunity to recognize your contributions to anti-impaired driving efforts last month at our Legislative Reception in Washington, DC. MADD is grateful for the concern you have shown for issues affecting victims of this terrible crime.

We also are pleased to acknowledge your continued efforts in the form of the Sensible Advertising and Family Education (S.A.F.E.) Act which you and Representative Joseph Kennedy are sponsoring. As our enclosed statement indicates, MADD views this measure as a promising means of increasing awareness of the hazards attached to driving after drinking. The bill has potential also to contribute in an important manner to promoting more responsible methods of marketing and serving this product. While legal for those aged 21 and older, alcohol poses significant health and safety hazards which the producers and advertisers must acknowledge.

Again, thank you on behalf of MADD, for continuing to address issues which impact our traveling safety and health.

Sincerely,

MICKY SADOFF,
National President.

CENTER FOR SCIENCE
IN THE PUBLIC INTEREST,
Washington, DC, March 13, 1991.

Hon. STROM THURMOND,
U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: On behalf of the Center for Science in the Public Interest and our 250,000 members, I would like to commend you for your efforts to prevent alcohol-related problems in our society.

CSPI strongly supports legislation to require health and safety warnings in all alcoholic beverage advertising and promotional materials. There is growing public awareness about the health risks that can go along with drinking. That's why the vast majority of the American public, in poll after poll, supports the enactment of legislation such

as you are introducing. Polls conducted by Advertising Age, the Wall Street Journal, the Wine Spectator, and the Federal Bureau of Alcohol, Tobacco and Firearms have found as many as three-quarters of those surveyed supporting health messages in ads.

Health messages in alcohol advertising would complement the already required health messages on alcoholic beverage containers. Simple, rotating health and safety warning messages in advertising is the logical next step in a comprehensive strategy to change the way Americans think about alcohol. We must act to prevent the over 100,000 alcohol-related deaths each year and do something about the source of America's number one drug problem—alcohol.

We look forward to working with you on this critical piece of legislation and look forward to a time when our youth receive their education about alcohol from health officials, not ads glamorizing drinking.

Sincerely,

PATRICIA TAYLOR
Director, Alcohol Policies Project.

AMERICAN ACADEMY OF PEDIATRICS,
Washington, DC, March 13, 1991.

Hon. STROM THURMOND,
U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: On behalf of the American Academy of Pediatrics, whose 40,000 pediatricians are dedicated to the promotion of infant, child and adolescent health, I want to extend our strongest support for your leadership in sponsoring the new Alcoholic Beverage Advertising Act of 1991, which would place prudent health-and-safety messages on all print and broadcast alcohol advertisements.

Pediatricians are convinced that this eminently reasonable legislation would, as part of broader educational activities, help stem the tide of newborns who suffer perfectly preventable birth defects such as fetal alcohol syndrome (FAS); would help protect impressionable young children from clever, comic-strip marketing in the vein of Spuds MacKenzie; and would help restore some responsible balance to the onslaught of alcohol advertising adversely affecting (if not directly aimed at) adolescents, who remain particularly at peril.

You are obviously addressing a compelling need. The report emanating from a 1988 workshop on these issues conducted under the auspices of the United States Surgeon General recommended reasonably that the level of alcoholic beverage advertising be matched with an equal number of pro-health and pro-safety messages, and also recommended the inclusion of health warning messages in all alcohol advertising.

An earlier federally funded study found a significant relationship between youth exposure to alcoholic beverage advertising and drinking behaviors and attitudes which can lead to certain forms of problem drinking. But even more than that, the American public today is clearly indicating its baleful appreciation of the power of alcohol advertising on impressionable children and youth. More than 80 percent of 2000 adults surveyed in 1988 for the Bureau of Alcohol, Tobacco and Firearms believe that alcohol advertising influences under-age youth to drink alcoholic beverages. Two-thirds of those surveyed in a 1989 Wall Street Journal poll favor requiring warnings about the dangers of drinking on both alcoholic beverage containers (which successful political struggle you led) and in alcohol advertisments.

We know that in 1988 alcohol killed more than 125,000 persons, many of them adults who, understandably, never got the message that alcohol is the most addictive and widely consumed drug in America. The promise of your new legislation is that from this day forward more of our children will in fact get that message—and get it straight.

Sincerely,

ANTOINETTE PARISI EATON, M.D.,
President.

NATIONAL COUNCIL ON ALCOHOLISM AND DRUG DEPENDENCE, INC.,
Washington, DC, March 12, 1991.

Hon. STROM THURMOND,
U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: On behalf of the National Council on Alcoholism and Drug Dependence (NCADD), the nation's oldest private, voluntary health organization dedicated to combatting alcoholism, drug addictions and related problems, we would like to thank you for your sponsorship of the Alcoholic Beverage Advertising Act of 1991. NCADD sees this as the logical follow-up to your successful leadership on the Alcohol Beverage Labeling Act of 1988 and has made this legislation one of our top priorities in the 102nd Congress.

Far too little attention is being paid to America's favorite drug, alcohol. Day in and day out, advertisements and promotions glamorize this product and seduce consumers, both young and old, into believing that alcohol is a magic potion that will improve their lives. They say careers will be enhanced, relationships will have more meaning, and athletic success will surely be acheived. What these messages fail to convey are the true statistics associated with alcohol—40,000 babies are born each year with Fetal Alcohol Syndrome or Fetal Alcohol Effects; over 100,000 Americans die each year, including over 20,000 on our highways; the average age at which Americans begin to drink is 13; and in approximately 50% of all crimes, either the victim or perpetrator had been drinking.

Your legislation will begin to address this disparity. The five rotating health and safety messages proposed in the Alcoholic Beverage Advertising Act will finally provide Americans with concrete information about alcohol.

We appreciate your continuing interest in this issue. If there is anything we can do to assist you, please do not hesitate to contact us.

Sincerely,

CHRISTINE LUBINSKI,
Director for Public Policy.
SARAH KAYSON,
Associate Director for Public Policy.

AMERICAN COUNCIL OF LIFE INSURANCE,
Washington, DC, February 27, 1991.

Hon. STROM THURMOND,
U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: At its November, 1989 Board of Directors meeting, the American Council of Life Insurance endorsed the recommendations of the Coalition for Consumer Health and Safety related to health messages and labeling alcoholic beverages.

Specifically, ACLI supports:

Rotating health and safety labels concerning the risks of drinking while taking other drugs; the increased risk of hypertension, liver disease and cancer; and indicating that alcohol is a drug that can be addictive.

Full ingredient listings on all alcoholic beverage containers; and

Caloric labels on all alcoholic beverage containers.

The ACLI is a member of the Coalition for Consumer Health and Safety. Through the Coalition, ACLI works with consumer and health advocacy organizations and other insurance associations and companies to address threats to the nation's health and safety. Alcohol-related problems are one important area of concern.

Sincerely yours,

RICHARD S. SCHWEIKER.

By Mr. THURMOND (for himself, Mr. HELMS, and Mr. HOLLINGS):

S. 665. A bill to amend the Tariff Act of 1930 to require that certain revenues attributable to tariffs levied on imports of textile machinery and parts thereof be applied to support research for the modernization of the American textile machinery industry; to the Committee on Finance.

TEXTILE MACHINERY MODERNIZATION ACT

Mr. THURMOND, Mr. President, I rise today to introduce the Textile Machinery Modernization Act of 1991. I am pleased to be joined in introducing this bill by Senator HELMS and Senator HOLLINGS.

The textile machinery industry consists primarily of small business which produce finished machinery, parts and accessories used in the production of textile mill products. This industry is composed of approximately 500 companies, employing 17,800 people. According to the Department of Commerce, 86 percent of the textile machinery firms employ less than 50 people.

The textile machinery industry, like many other industries, has lost domestic market share due to the increased level of imports. The U.S. market held by imported machinery has risen steadily, from 6.9 percent in 1960 to 57.5 percent in 1986. Further, employment in this industry has dropped from 28,500 to 17,800 during the last two decades.

The legislation being introduced today will set up a textile machinery modernization fund within the Department of the Treasury to support research and development projects for machinery used in the textile industry which will enhance the competitiveness of the domestic industry. This bill will divert a small portion of revenues collected from tariffs of imported textile machinery to support this fund. The tariffs will not be increased above current levels, only redirected from the General Treasury. This fund is capped at 10 percent or $10 million of the import duties, whichever is greater.

The Secretary of Commerce, in consultation with industry representatives, would administer the funds in the form of research and development project grants. To demonstrate the commitment to the projects on the part of the industry, all potential grant recipients must have incurred the total costs associated with the research project prior to being awarded a grant. Additionally, the funds from the Fed-

eral Government cannot exceed 60 percent of the total cost of the project.

To help ensure that smaller firms without the capital to invest in research and development are able to participate, the Secretary of Commerce may give a company a prior commitment that the project is eligible, thereby assuring that the firm will be reimbursed for their expenses. This prior commitment could then be used by the small firm to help secure financial backing for the project.

This legislation is identical to H.R. 713 which was introduced in the House of Representatives on January 30, 1991 and has gathered widespread bipartisan support.

Mr. President, this measure will not limit the amount of textile machinery imported into this country. It will provide an incentive for the domestic companies to produce equipment that can compete in the world marketplace for textile machinery equipment. I hope the Senate will consider this measure expeditiously.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 665

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

SECTION 1. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) since the late 18th century, the United States textile machinery industry has played an important role in the development of the world textile industry;

(2) the United States textile machinery industry currently consists of approximately 500 companies, primarily small businesses, producing machinery, parts and accessories used in the production of textile mill products for apparel, defense, furniture and industrial application;

(3) the textile machinery industry is overwhelmingly comprised of firms with 50 or fewer employees;

(4) the textile machinery industry is one of 92 industries in the United States considered essential to our defense needs;

(5) during the last decade, the textile machinery industry has been among those industries most weakened due to a dramatic rise in imports and foreign trade barriers which thwart United States exports;

(6) further erosion of the textile machinery industry will expose the United States textile and apparel complex to offshore pricing, delivery and service resulting in less competition and limited choice;

(7) shipments of textile machinery, parts and accessories were approximately 26 percent lower in 1988 than in 1980, while imports rose by an astounding 100 percent during this same period;

(8) such erosion of the textile machinery industry will result in loss of tariff revenue to the Treasury of the United States;

(9) the textile industry is among the largest five employers in the country;

(10) there are many economic benefits of the textile machinery industry, including tariffs on imports, corporate and employee taxes, preservation of jobs and small businesses, industrial growth, manufacturing skills, maintenance of basic industries, increased exports, and a lower trade deficit;

(11) over the last two decades, employment in the textile machinery industry has shrunk from 28,500 individuals to 17,800;

(12) recapturing the textile machinery market will be a positive contribution to the balance of trade;

(13) trade impacted businesses should have direct access to capital from the source of subsidized competition; and

(14) government studies recommend that research and development programs be developed to help sustain and expand the textile machinery industry.

SEC. 2. TEXTILE MACHINERY MODERNIZATION FUND.

Part I of title III of the Tariff Act of 1930 (19 U.S.C. 1303-1323) is amended by inserting after section 323 the following new section:

"SEC. 324. TEXTILE MACHINERY MODERNIZATION FUND.

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

"(1) The term 'Fund' means the Textile Machinery Modernization Fund established under subsection (b).

"(2) The term 'qualified organization' means any entity organized under the laws of the United States with principal manufacturing facilities located in the United States that manufactures and markets any of the following for utilization by the textile industry worldwide:

"(A) Machinery.

"(B) Parts.

"(C) Accessories.

"(D) Related systems.

"(3) The term 'qualified research project' means a research project, conducted within the United States, for machinery and equipment used predominantely, if not exclusively, by the textile industry, or for major capital expenditure items of the textile industry.

"(4) The term 'Secretary' means the Secretary of Commerce.

"(5) The term 'textile machinery and parts thereof includes all articles provided for in subheadings 8420.10.10, 8420.91.10, 8420.00.10, 8443,50.10, and 8443.90.10 and in headings 8444 through 8449 of the Harmonized Tariff Schedule of the United States and all textile machinery and parts thereof provided for in headings 8450 through 8452 of such Schedule.

"(b) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States the Textile Machinery Modernization Fund. The Fund consists of such amounts as may be appropriated to it.

"(c) PURPOSES OF FUND.—Monies in the Fund shall be available, as provided for in advance in appropriation Acts, for—

"(1) grants made in accordance with subsection (d) to qualified organizations to assist such organizations to carry out qualified research projects; and

"(2) the administration of this section, and the carrying out of textile machine industry-wide research and promotion, by the Secretary.

"(d) GRANTS.—

"(1) IN GENERAL.—Subject to paragraphs (3) and (4) and to such terms and conditions (including those necessary to protect the interests of the United States) as the Secretary shall by regulation prescribe, the Secretary may make one or more grants to any qualified organization for the purpose of reimbursing that organization for costs incurred by it in carrying out one or more qualified research projects.

"(2) STATEMENTS OF INTENT.—The Secretary may in advance of any qualified organization commencing a qualified research project, provide to such organization a statement indicating the Secretary's intent to make one or more grants to such organization for the purpose of funding one or more qualified research projects.

"(3) CONSULTATION AND DETERMINATIONS REGARDING APPLICATIONS.—The Secretary must—

"(A) make grants under this section in consultation with appropriate representatives from the textile and textile machinery industries and the public; and

"(B) make a determination whether or not to award any grant under this section within 12 months after the grant is applied for.

"(4) LIMITATIONS.—(A) No grant made under this section with respect to a qualified research project may exceed 60 percent of the cost of the project.

"(B) The aggregate amount of the grant or grants made to a qualified organization under this section during any fiscal year is limited to expenditures above that organization's base line average of annual expenditures during the 3 previous fiscal years for qualifying textile machingery research, development, and product engineering, as defined in section 174 of the Internal Code of 1986. Grants awarded under this section shall be excluded from baseline calculations.

"(C) If the total amount of monies available in the Fund for the payment of grants for a fiscal year is less than that total amount of the grants approved for disbursement under this section for that fiscal year, the amount of the grants paid during such year shall be equitably prorated.

"(e) APPROPRIATIONS TO FUND.—

"(1) IN GENERAL.—There is appropriated to the Fund for each fiscal year after fiscal year 1992, from the revenues attributable to the customs duties imposed on textile machinery and parts thereof imported into the United States during the preceding fiscal year, the greater of—

"(A) an amount equal to 10 percent of such revenues; or

"(B) $10,000,000;

of which not to exceed $500,000 shall be available for the purposes specified in subsection (c)(2).

"(2) LIMITATION.—The aggregate amount of monies in the Fund during any fiscal year may not exceed $10,000,000.".

By Mr. SIMON:

S. 666. A bill to guarantee a work opportunity for all Americans, and for other purposes; to the Committee on Labor and Human Resources.

GUARANTEED JOB OPPORTUNITY ACT

Mr. SIMON. Mr. President, today I am reintroducing the Guaranteed Job Opportunity Act, a bill I originally introduced in the 100th Congress. I am reintroducing this bill today because I am committed to putting America back to work, and injecting new lifeblood into our sagging economy.

In my home State of Illinois, more than 400,000 Illinoisians are jobless. According to the Bureau of Labor Statistics, over 8 million people are currently unemployed. Significantly, these estimates do not include the millions of part-time workers who would like to have full-time work or the so-called discouraged workers, the people

who have given up, who are no longer looking for a job. These two groups currently total an additional 7 million people. Millions of citizens who are eager to work and contribute to our country, are for various reasons—including language barriers, lack of basic and occupational skills, layoffs—simply unable to find a job. National studies have shown that we simply do not have enough jobs for our unemployed. In fact, according to national studies conducted by Katherine Abraham and Harry Holzer, the number of unemployed individuals consistently exceeds the number of unfilled jobs by ratios, ranging from 10:1 to 3:1. The end result of this shortage is that millions of Americans find themselves without employment, and are unable to support themselves or their families. As a result, the number of welfare recipients increases, and the economy as a whole suffers. Our Nation need not tolerate this massive waste of our human resources, and indeed, cannot.

We now find ourselves in the midst of a recession. Economic indicators are down across the board, and joblessness is increasing. By guaranteeing jobs for all Americans, we not only greatly reduce the number of unemployed, we help to strengthen the economy as well.

In 1946, under the leadership of President Truman, Congress passed the Full Employment Act, making a commitment in words to provide employment opportunities to all Americans. At that time, there were about 1 million people unemployed. Forty-five years later, with over 8 million people unemployed, the hope and the promise of that dream remain unfulfilled. Even worse, the burden of unemployment is being borne disproportionately by groups who have been the subject of historic discrimination. The Bureau of Labor Statistics estimates the February 1991 unemployment rate for whites at 5.9 percent—14.5 for white teenagers—the rate for blacks is twice as high, 11.8 percent—35.4 for black teenagers—and the rate for Hispancis is 9.5 percent. Some other unemployment estimates are staggering. According to the Census Bureau's current population study for 1988, 68.4 percent of people with work disabilities are not in the labor force, and the Bureau of Indian Affairs estimates that as many as 48 percent of American Indians are out of work. In fact, unemployment rates on many American Indian reservations often exceed 60 percent, and reach a high of 90 percent on the Rosebud Reservation in South Dakota. Mr. President, something must be done to address this problem.

As I've consistently said throughout my fight to eliminate unemployment, since we are not going to let people in America starve, we have two options—to pay people for doing nothing or to pay them for doing something. It makes infinitely more sense to pay people to work.

The legislation I am introducing today would establish a Guaranteed Job Opportunity Program [GJOP] to ensure that every American has an opportunity to work productively at a job. In each community, a local board composed of equal numbers of business, labor, and public sector representatives would develop employment projects, and those who have been unemployed for at least 5 weeks would be afforded the opportunity to work on the projects.

At a maximum of 32 hours per week, a participant would work on a project in the local area. These projects could include repairing sidewalks, tearing down condemned buildings, tutoring the illiterate or non-English speaking people, assisting day-care centers for children so unemployed single parents can seek and accept employment, and tutoring grade school and high school students who need special help.

Many who criticize job programs, such as the Works Progress Administration under President Roosevelt's New Deal, picture people leaning up against shovels and digging ditches. But the fact is that the Guaranteed Job Opportunity Act, like the WPA, would turn unemployed, hopeless people into happier, productive people. And an opportunity to work gives people self-esteem, something we all need.

For those who ask how much does it cost and insist on the bottom line for the budget, a preliminary cost estimate suggests that, if fully implemented GJOP would cost about $8 billion. How much is that? From 1985 to 1987 we appropriated exactly $8.2 billion for the Strategic Defense Initiative (SDI). I am confident that we can spend that much to fully develop our human resources.

In fact, much of the costs of the GJOP would be offset by the savings in programs that assist the unemployed.

A conservative estimate is that the Federal expenditure for food stamps, welfare, unemployment compensation, Medicaid, and a host of other expenditures, plus loss of revenue, amounts to $25 billion for each million unemployed. Eight million people unemployed amounts to a loss of $200 billion annually. Unemployment, an inexcusable waste of humanity, is slowly but certainly eroding our economic future.

Furthermore, the costs of unemployment extend throughout our economy. All businesses are harmed by unemployment. Obviously, people who do not work cannot buy as many cars or air conditioners or suits. Tax incentives to stimulate business investment sometimes can be effective, but creating an economic climate in which people are working and buying always stimulates the economy.

The Guaranteed Job Opportunity Act would provide assistance and training to people with limited job, English, and reading and writing skills. It would allow millions of Americans presently confined within the constraints of the welfare system to contribute to our country and lift themselves out of poverty. Mostly, it would turn unemployed and often, hopeless people, into happier, productive workers.

While there are some who say we can't afford to make the investments it takes to eliminate unemployment and poverty, I say, once again, we can't afford not to.

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. 666

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 "Guaranteed Job Opportunity Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the relationship between a strong educational system, practical and realistic training and retraining programs, and a healthy national economy is inseparable in an era in which economic growth is dependent on technology and is imperiled by unemployment and by increasing numbers of unskilled, ill-trained and undereducated individuals who are in the workforce or seeking employment;

(2) restoring the competitiveness and enhancing the productivity of the United States will require that all workers possess basic educational skills and job experience; and

(3) the United States must recognize the substantial impact that an investment in human capital will have on increasing productivity.

(b) PURPOSES.—It is the purpose of this Act to establish a national program designed—

(1) to improve the productivity and competitive position of the United States by investing in human capital; and

(2) to assist adults and youths to become productive workers in a competitive economy by authorizing a job opportunity program.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) GOVERNOR.—The term "Governor" means the chief executive of a State.

(2) PARTICIPANT.—The term "participant" means an individual who is determined to be eligible under section 6.

(3) PROJECT.—The term "project" means the definable task or group of tasks that—

(A) will be carried out by a public agency, a private nonprofit organization, or a private contractor;

(B) will meet the requirements of section 8(f);

(C) will result in a specific product or accomplishment; and

(D) would not otherwise be conducted with existing funds.

(4) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(5) STATE.—The term "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the

Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

SEC. 4. ESTABLISHMENT OF PROGRAM.

From the sums appropriated pursuant to section 15 for a fiscal year, the Secretary shall make grants to District Executive Councils established in accordance with section 5 for the purpose of assisting local job projects that meet the requirements of this Act.

SEC. 5. DISTRICT EXECUTIVE COUNCIL.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—An eligible area that desires to receive funds under this Act shall establish a District Executive Council. The Council shall be composed of at least 13 members—

(A) four of whom shall be appointed by the Governor of the State within which the eligible area is located;

(B) four of whom shall be appointed by the mayor or chief executive of the largest municipality located in the eligible area; and

(C) five of whom shall be appointed by the chief executives of governmental units comprising or located in the eligible area.

(2) TERM.—A member of the Council shall serve for a term of 3 years.

(3) POLITICAL AFFILIATION.—

(A) APPOINTMENTS BY GOVERNOR AND MAYOR.—Not more than two members of the Council appointed under paragraph (1)(A) and not more than two members of the Council appointed under paragraph (1)(B) may be members of the same political party.

(B) APPOINTMENTS BY CHIEF EXECUTIVE OF GOVERNMENTAL UNITS.—Not more than three members of the Council appointed under paragraph (1)(C) shall be members of the same political party.

(4) REPRESENTATION.—The members of the Council appointed under paragraph (1) shall, in the aggregate, include—

(A) at least four representatives of the business community in the eligible area;

(B) at least four representatives of labor organizations in the eligible area; and

(C) at least one member representing the education community of the eligible area.

(5) SERVICE DELIVERY AREAS.—In any eligible area that is substantially the same as a service delivery area under title I of the Job Training Partnership Act (29 U.S.C. 1511 et seq.), the private industry council for the area may, on a two-thirds vote of the members of the Council, petition the Governor to be designated as the District Executive Council for that area. On receiving such a petition, the Governor shall appoint members pursuant to paragraph (1)(A) and make arrangements to ensure that the membership of the private industry council, for the purpose of this Act, substantially meets the requirements of paragraphs (1) and (2). The private industry council so reconstituted shall be the District Executive Council, for the purpose of this Act, for the appropriate eligible area.

(b) FUNCTIONS OF THE COUNCIL.—Each District Executive Council shall—

(1) select the projects to be assisted under this Act pursuant to criteria prescribed by the Secretary;

(2) prepare and submit a plan for the conduct of projects to be assisted under this Act; and

(3) prepare and submit an annual report to the Secretary on the activities of the District Executive Council.

(c) PERSONNEL.—Each District Executive Council shall—

(1) employ an Administrator and sufficient support personnel, including at least one counselor, sufficient to carry out the functions of the Council under this Act; and

(2) select a manager for each job project assisted under this Act, in accordance with criteria established by the Secretary.

(d) LIMITATIONS ON ADMINISTRATIVE COSTS.—Not more than 10 percent of the amount available to the District Executive Council of each eligible area may be used for administrative expenses.

(e) ESTABLISHMENT OF ELIGIBLE AREA.—For the purpose of this Act—

(1) an "eligible area" shall be a county or comparable unit of general local government as designated by the Secretary after consultation with elected officials in each State; and

(2) no eligible area may have a population in excess of 300,000 individuals, unless the Secretary waives the requirement of this paragraph.

SEC. 6. PROGRAM ELIGIBILITY.

(a) IN GENERAL.—For the purpose of this Act, an individual shall be eligible to participate in a job project assisted under this Act if the individual—

(1)(A) has a high school diploma or its equivalent; or

(B) is at least 18 years of age;

(2) has resided in the eligible area for at least 30 days;

(3) has been unemployed for 35 days prior to the determination of employment for a job project assisted under this Act; and

(4) is a citizen of the United States, is a national of the United States, is a lawfully admitted permanent resident alien, is a lawfully admitted refugee and parolee, or is otherwise authorized by the Attorney General to work in the United States.

(b) LIMITATIONS.—

(1) MAXIMUM ELIGIBLE INDIVIDUALS PER HOUSEHOLD.—Not more than two individuals who reside in any household may be eligible for a job assisted under this Act.

(2) MAXIMUM INCOME.—No individual—

(A) whose earned income for the year preceding the year in which the determination of employment under this Act is made is equal to or more than $17,000; or

(B) who has a family income in the year in which the determination of employment under this Act is made that is paid for the month prior to the determination at a rate of $17,000 a year,

may be eligible for a job assisted under this Act.

(3) MAXIMUM COMPENSATED HOURS PER WEEK.—An individual participating in a job opportunity project assisted under this Act may not work in any compensated job other than the job assisted under this Act for more than 16 hours per week.

(4) EMPLOYMENT SEARCH.—An individual participating in a job project assisted under this Act shall demonstrate, to the project manager of the job project assisted under this Act, that the individual sought employment in the private sector during the 35 days prior to making application for employment under this Act and will continue to seek employment during the period of employment assisted under this Act.

(5) RETIREMENT BENEFITS.—Any individual eligible for retirement benefits under the Social Security Act (42 U.S.C. 301 et seq.), under any retirement system for Federal Government employees, under the railroad retirement system, under the military retirement system, or any private pension program is not eligible to participate in a job project assisted under this Act.

SEC. 7. TESTING AND EDUCATION REQUIREMENTS.

(a) TESTING.—Each participant in a job project assisted under this Act shall be tested for basic reading and writing competence by the District Executive Council prior to employment under the job project.

(b) EDUCATION REQUIREMENT.—

(1) FAILURE TO SATISFACTORILY COMPLETE TEST.—Each participant who fails to complete satisfactorily the basic competency test required by subsection (a) shall be furnished counseling and instruction.

(2) PROGRESS TOWARD DIPLOMA.—Each participant in a job project assisted under this Act who has not received a high school diploma or its equivalent shall, in order to continue the employment, maintain satisfactory progress towards receiving a high school diploma or its equivalent.

(3) LIMITED ENGLISH.—Each participant with limited English speaking ability may be furnished such instruction as the District Executive Council considers appropriate.

SEC. 8. LOCAL JOB PROJECTS.

(a) IN GENERAL.—Each District Executive Council shall select job projects to be assisted under this Act. Each such job project selected for assistance shall provide employment to eligible participants.

(b) PROJECT OBJECTION.—No project may be selected under this section if an objection to the project is filed by two representatives appointed under paragraph (3)(A) of section 5(a) or by two representatives appointed under paragraph (3)(B) of such section.

(c) POLITICAL AFFILIATION PROHIBITED.—No manager and no other officer or employee of a District Executive Council, or of the job project assisted under this Act, may select eligible participants for employment in the project on the basis of political affiliation.

(d) LIMITATIONS.—

(1) MAXIMUM EXPENSES FOR TRANSPORTATION AND EQUIPMENT.—Not more than 10 percent of the total expenses in any fiscal year of the job project may be used for transportation and equipment.

(2) MAXIMUM NUMBER OF SUPERVISORS.—Not more than one-tenth of the individuals employed in any job project assisted under this Act may be employed to supervise the project. Individuals selected for supervision may be selected without regard to section 6 and may receive wages in excess of the rate determined under section 9. This paragraph shall not apply to in any case in which, pursuant to objective criteria prescribed by the Secretary, more supervision of eligible participants will contribute to carrying out the objectives of this Act.

(e) MAXIMUM HOURS PER WEEK EMPLOYED.—An eligible participant employed in a job project assisted under this Act may not be employed on the project for more than 32 hours per week.

(f) PROJECT DURATION.—Each job project assisted under this Act and selected under this section shall be capable of completion within 18 months.

(g) PROJECT PROGRESS REPORTS.—Each project manager of a job project asssisted under this Act shall prepare and submit to the District Executive Council monthly progress reports on the job project.

SEC. 9. BENEFITS; SUPPORTIVE SERVICES; JOB CLUBS.

(a) WAGES.—Each eligible participant who is employed in a job project assisted under this Act shall receive wages equal to the higher of—

(1) the minimum wage established under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1));

(2) the minimum wage established under the applicable minimum wage law; or

(3) the amount that the eligible participant receives in assistance pursuant to a State plan approved under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or in the form of unemployment compensation, if applicable, plus 10 percent of the amount, whichever is higher.

(b) BENEFITS.—Each eligible participant who is employed in a project assisted under this Act shall be furnished benefits and employment conditions comparable to the benefits and conditions provided to other employees employed in similar occupations by a comparable employer, except that no such participant shall be eligible for unemployment compensation during or on the basis of employment in such a project.

(c) SUPPORTIVE SERVICES.—Each eligible participant who is employed in a project assisted under this Act shall be eligible for supportive services, which may include transportation, health care, special services and materials for the handicapped, child care, and other services that are necessary to enable the individual to participate.

(d) JOB CLUBS.—Each District Executive Council shall establish for the eligible area job clubs to assist eligible participants with the preparation of resumes, the development of interviewing techniques, and evaluation of individual job search activities.

SEC. 10. LABOR STANDARDS APPLICABLE TO JOB PROJECTS.

(a) CONDITIONS OF EMPLOYMENT.—

(1) IN GENERAL.—Conditions of employment and training shall be appropriate and reasonable in light of such factors as the type of work, geographical region, and proficiency of the participant.

(2) HEALTH AND SAFETY STANDARDS.—Health and safety standards established under Federal and State law, otherwise applicable to working conditions of employees, shall be equally applicable to working conditions of participants. With respect to any participant in a job project conducted under this Act who is engaged in activities that are not covered by health and safety standards under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Secretary shall prescribe, by regulation, such standards as may be necessary to protect the health and safety of the participant.

(3) RETIREMENT SYSTEMS OR PLANS.—No funds available under this Act may be used for contributions on behalf of any participant to retirement systems or plans.

(b) DISPLACEMENT RULES.—

(1) CURRENT EMPLOYEES.—No currently employed worker shall be displaced by any participant (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits).

(2) EXISTING CONTRACTS AND COLLECTIVE BARGAINING AGREEMENTS.—No job project shall impair an existing contract for services or a collective bargaining agreement. No job project under this Act that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization and employer concerned.

(3) LAYOFFS AND TERMINATIONS.—No participant shall be employed or job opening filled—

(A) when any other individual is on layoff from the same or any substantially equivalent job; or

(B) when the employer has terminated the employment of any regular employee or otherwise reduced its workforce with the intention of filling the vacancy so created by hiring a participant whose wages are subsidized under this Act.

(4) PROMOTIONS.—No job shall be created in a promotional line, as a result of a job project assisted under this Act, that will infringe in any way on the promotional opportunities of currently employed individuals.

(c) SPECIAL LIMITATIONS.—Where a labor organization represents a substantial number of employees who are engaged in similar work or training in the same area as that proposed to be funded under this Act, an opportunity shall be provided, at least 30 days before the project is approved, for the organization to submit comments with respect to the proposal.

(d) SPECIAL WAGE RULE.—

(1) IN GENERAL.—All laborers and mechanics employed by contractors or subcontractors in any construction, alteration, or repair, including painting and decorating, of projects, buildings, and works that are federally assisted under this Act shall be paid wages at rates that are not less than those prevailing on similar construction in the locality as determined by the Secretary in accordance with the Act of March 3, 1931, commonly known as the Davis-Bacon Act (40 U.S.C. 276a et seq.). The Secretary shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267; 5 U.S.C. App. 1) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

(2) APPLICATION OF RULE.—This subsection shall not apply to an eligible participant in a project assisted under this Act.

SEC. 11. NONDISCRIMINATION.

(a) IN GENERAL.—

(1) APPLICATION OF EXISTING PROHIBITIONS.—For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), on the basis of handicap under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), on the basis of sex under title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), projects and activities funded or otherwise financially assisted in whole or in part under this Act are considered to be programs and activities receiving Federal financial assistance.

(2) PROHIBITION.—No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any such project because of race, color, religion, sex, national origin, age, handicap, or political affiliation or belief.

(3) RELIGIOUS INSTRUCTION OR WORSHIP.—No participant shall be employed on the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship.

(4) PARTICIPATION.—With respect to terms and conditions affecting, or rights provided to, individuals who are participants in activities supported by funds provided under this Act, such individuals shall not be discriminated against solely because of their status as such participants.

(b) NONCOMPLIANCE.—Whenever the Secretary finds that a recipient has failed to comply with a provision of law referred to in subsection (a)(1), with paragraph (2), (3), or (4) of subsection (a), or with an applicable regulation prescribed to carry out such paragraph, the Secretary shall notify the recipient and shall request the recipient to comply. If within a reasonable period of time, not to exceed 60 days, the recipient fails or refuses to comply, the Secretary may—

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), or section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as may be applicable; or

(3) take such other action as may be provided by law.

(c) REFERRAL TO ATTORNEY GENERAL.—When a matter is referred to the Attorney General pursuant to subsection (b)(1), or whenever the Attorney General has reason to believe that a recipient is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) or in violation of paragraph (2), (3), or (4) of subsection (a), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

SEC. 12. EVALUATION FILES.

(a) IN GENERAL.—Each District Executive Council shall establish and maintain an evaluation file for each individual employed in a project assisted under this Act.

(b) AVAILABILITY.—The evaluation file shall be made available to the participant monthly and shall not be available to any other person without the consent of the employee. In carrying out this section, each such Council shall ensure that the participant will be afforded the opportunity to discuss any matter contained in, or omitted from, the file.

SEC. 13. ALLOTMENT AND ALLOCATION.

(a) ALLOTMENT.—The Secretary shall allot the amount available in each fiscal year under section 15 to each State so that—

(1) 33⅓ percent shall be allotted on the basis of the relative number of unemployed individuals residing in areas of substantial unemployment in each State as compared to the total number of such unemployed individuals in all such areas of substantial unemployment in all States;

(2) 33⅓ percent shall be allotted on the basis of the number of workers displaced by plant closings or mass layoffs in such State in the most recent period for which satisfactory data are available under section 462(e) of the Job Training Partnership Act (29 U.S.C. 1752(e)) compared to the total number of such workers in all States; and

(3) 33⅓ percent shall be allotted on the basis of the relative number of individuals receiving public assistance under State and local laws and the number of individuals receiving assistance under a State plan approved under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) within the State compared to the total number of such individuals in all States.

(b) SUBSTATE ALLOCATION.—

(1) IN GENERAL.—The Governor shall allocate 100 percent of the allotment to the State for each fiscal year among the District Executive Councils within the State in accordance with paragraph (2).

(2) BASIS.—Of the amount allocated under this subsection—

(A) 33⅓ percent shall be allocated on the basis of the relative number of unemployed individuals residing in each eligible area as compared to the total number of such unem-

ployed individuals in all such eligible areas in the State;

(B) 33⅓ percent shall be allocated on the basis of the number of workers displaced by plant closings or mass layoffs in eligible areas in the most recent period for which satisfactory data are available under section 462(e) of the Job Training Partnership Act (29 U.S.C. 1752(e)) as compared to the total of such workers in all eligible areas in the State; and

(C) 33⅓ percent shall be allocated on the basis of the relative number of individuals receiving public assistance under State and local laws and the number of individuals receiving assistance under a State plan approved under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in an eligible area within the State compared to the total number of such individuals in all eligible areas in the State.

(c) REALLOTMENT.—

(1) REALLOTMENT BY SECRETARY.—The Secretary shall, beginning after September 30, 1991, reallot amounts appropriated and allotted to any State that is equal to the unexpended balance of the allotment of the State at the end of the fiscal year prior to the fiscal year for which the determination is made if the unexpended balance exceeds 20 percent of the State's allotment for that fiscal year.

(2) OBJECTIVES.—The Secretary shall reallot the amounts available under paragraph (1) to any State that demonstrates that the State is making progress toward achieving the stated objectives in carrying out this Act and that the State required additional funds in order to accomplish the objectives.

SEC. 14. ADMINISTRATION.

(a) REGULATORY AUTHORITY.—

(1) IN GENERAL.—The Secretary may, in accordance with chapter 5 of title 5, United States Code, prescribe such rules and regulations (including performance standards) as the Secretary considers necessary.

(2) USE OF EXISTING STATE OR MULTIMEMBER AGENCY.—The rules and regulations may include adjustments authorized by section 6504 of title 31, United States Code.

(3) PUBLICATION.—All such rules and regulations shall be published in the Federal Register at least 30 days prior to their effective date.

(4) TRANSMITTAL TO CONGRESS.—Copies of all such rules and regulations shall—

(A) be transmitted to the appropriate committees of Congress at the same time as publication under paragraph (3); and

(B) contain, with respect to each material provision of the rules and regulations, a citation to the particular substantive section of law that is the basis for the rule or regulation.

(b) ACCEPTING PROPERTY FOR USE UNDER THIS ACT.—The Secretary is authorized, in carrying out this Act, to—

(1) accept, purchase, or lease in the name of the Department of Labor, and employ or dispose of in furtherance of the purpose of this Act, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise; and

(2) accept voluntary and uncompensated services, notwithstanding section 1342 of title 31, United States Code.

(c) GENERAL ADMINISTRATIVE AUTHORITY.—The Secretary may make such grants, contracts, or agreements, establish such procedures and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend funds under this Act as necessary to carry out this Act, including expenditures for construction, repairs, and capital improvements, and including necessary adjustments in payments on account of overpayments or underpayments.

(d) WAIVER AUTHORITY.—The Secretary may waive—

(1) the testing requirement established under section 7(a) for individuals with handicaps;

(2) the education requirement established under section 7(b)(2); and

(3) subject to a ⅔ vote of each District Executive Council, the requirement relating to a 32-hour work week under section 8(e) for unusual circumstances.

(e) REPORT.—The Secretary shall prepare and submit to Congress an annual report of the administration of this Act. The Secretary shall include in the report—

(1) a summary of the achievements, failures, and problems of the programs authorized in this Act in meeting the objective of this Act; and

(2) such recommendations, including recommendations for legislative or administrative action, as the Secretary considers appropriate.

(f) AUDIT.—The Comptroller General of the United States, and authorized representatives of the General Accounting Office, shall have access for the purpose of audit and examination to any books, documents, papers, and records, of any recipient under this Act that are pertinent to the amounts received and disbursed under this Act.

SEC. 15. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act $5,000,000,000 for fiscal year 1991, $8,000,000,000 for the fiscal year 1992, and such sums as may be necessary for fiscal year 1993 and each of the succeeding fiscal years ending prior to October 1, 1996.

By Mr. MCCAIN (for himself, Mr. INOUYE, and Mr. BURDICK):

S. 667. A bill to provide support for and assist the development of tribal judicial systems, and for other purposes; to the Select Committee on Indian Affairs.

TRIBAL JUDICIAL ENHANCEMENT ACT

• Mr. MCCAIN. Mr. President, I rise today to introduce the tribal Judicial Enhancement Act. I am pleased to be joined by Senators INOUYE and BURDICK as cosponsors of this very important legislation.

During the last several years, the Select Committee on Indian Affairs, under the leadership of Senator INOUYE, has held several hearings and tribal forums at which tribal leaders have raised, among other concerns, the inadequate funding levels for tribal judicial systems. Likewise, in my personal visits with tribal leaders and judges in Arizona, I have also heard about the need for support services to tribal courts including ready access to law libraries, improved court records management systems, continuing legal education, and technical assistance. At a time when tribal courts are hearing major tax disputes, personal injury, criminal, and regulatory cases, it is essential for tribal courts to be well equipped to handle the decisions before them.

The legislation I am introducing today for discussion offers one approach to establishing appropriate support structures and funding mechanisms for developing tribal judicial systems. This legislation is the result of numerous meetings and discussions with the representatives of Indian tribes, tribal judges and tribal court personnel. It is my hope that this bill will stimulate thoughtful discussion as the Congress considers the issues of tribal court development and enhancement.

This bill is not meant to be all encompassing. I am fully aware that there are other issues, such as full faith and credit, appellate review, and the role of the BIA with regard to tribal courts which merit careful consideration. I am confident, however, that the discussions and the extensive committee hearings which will follow will enable the Select Committee on Indian Affairs to further refine the concepts in this legislation to ensure that the end product truly meets the needs of Indian tribes and tribal judicial systems.

The Tribal Judiciary Enhancement Act would create an Office of Tribal Judicial Support within the Bureau of Indian Affairs which would be responsible for providing funds for the development, enhancement, and continuing operation of tribal judicial systems. The Office would also provide training and technical assistance to tribal judicial systems. Finally, the Office would be responsible for the development of recommended standards for judicial administration and court management.

Under this bill, the Director of the Office of Tribal Judicial Support would be required to conduct a survey of the conditions of tribal judicial systems across the country. This survey will provide the base line information necessary to determine funding, staffing and facilities needs for tribal courts. The results of the survey of tribal judicial systems would be included in an annual report to the Secretary and the Congress.

The Tribal Judicial Enhancement Act requires the Secretary to develop a formula for base support funding for tribal judicial systems. This funding would be independent of the Indian priority system and based on objective criteria including reservation size and population, the volume of tribal court cases, and the staffing levels of tribal judicial systems. It would require the Secretary of the Interior to develop appropriate caseload standards and staffing requirements for tribal judicial systems which are comparable to standards developed by the Judicial Conference of the United States, the National Center for State Courts, and the American Bar Association.

The bill would establish a Commission on Tribal Judicial Systems which would be made up of 12 tribal judges selected from each of the area offices of

the BIA. Members of the Commission would be selected by tribal judges and serve for a term of 3 years. The Commission shall provide advice to, and consult with, the Director of the Office of Tribal Judicial Support on the improvement of tribal judicial systems. In addition, the Commission shall develop recommended standards for judicial administration, court management and judicial performance, and develop recommended training and educational requirements for judicial personnel. The Commission shall promote increased communication and cooperation among Indian, State, and Federal judicial systems.

Finally, the bill authorizes $5 million for fiscal years 1992 through 1996 for the operations of the Office of Tribal Judicial Support and $30 million to provide base support funding to tribal judicial systems for fiscal years 1992 through 1996. The level of administrative costs is capped at 5 percent.

Mr. President, I am looking forward to continued discussion with my colleagues on the Indian Affairs Committee and with tribal representatives, tribal judges, and tribal court personnel on these very important issues. I believe that only through thoughtful dialog can this legislation be refined to reflect the views of Indian tribes and provide for the needs of tribal judicial systems.

Mr. President, I ask unanimous consent that the full text of the Tribal Judicial Enhancement Act and the section-by-section summary be printed in the RECORD immediately following my remarks.

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

S. 667

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 "Tribal Judicial Enhancement Act".

SEC. 2. FINDINGS.

The Congress finds and declares that—

(1) the United States and Indian tribes have a government-to-government relationship;

(2) Congress, through statutes, treaties, and the exercise of administrative authorities, has encouraged the self-determination, self-reliance, and independence of Indian tribes;

(3) Indian tribes have reserved the inherent authority to establish and empower tribal judicial systems;

(4) tribal courts are an essential element of tribal self-government and integral to the fulfillment of the Federal Government's policy of self-determination; and

(5) tribal judicial systems are currently inadequately funded and such lack of adequate funding limits their ability to effectively administer justice.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the term "Bureau" means the Bureau of Indian Affairs of the Department of Interior;

(2) the term "Commission" means the Commission on Tribal Judicial Systems;

(3) the term "Director" means the Director of the Office of Tribal Judicial Support;

(4) the term "Indian" means an individual who is a member of an Indian tribe;

(5) the term "Indian tribe" means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native entity which administers justice under the authority of the United States or the inherent authority of the native entity, and which is recognized as eligible for the special programs and services provided by the United States to Indian tribes because of their status as Indians;

(6) the term "judicial personnel" means any judge, magistrate, court counselor, court clerk, court administrator, bailiff, probation officer, or other court employee;

(7) the term "Office" means the Office of Tribal Judicial Support within the Bureau of Indian Affairs;

(8) the term "Secretary" means the Secretary of the Interior; and

(9) the term "tribal judicial system" means the entire judicial branch of an Indian tribe, including all tribal courts whether or not they constitute a court of record, and the employees thereof.

SEC. 4. OFFICE OF TRIBAL JUDICIAL SUPPORT.

(a) There is hereby established within the Bureau the "Office of Tribal Judicial Support", whose purpose it shall be to further the development and enhancement of tribal judicial systems.

(b) It shall be the function of the Office in consultation with the Commission on Tribal Judicial Systems—

(1) to develop recommended standards for judicial administration and management of tribal judicial systems;

(2) to develop and conduct programs of continuing education and training for personnel of tribal judicial systems;

(3) to provide funds to Indian tribes for the development, enhancement and continuing operation of tribal judicial systems;

(4) to provide advice, technical assistance and consultation to Indian tribes, tribal organizations, and intertribal consortia upon request; and

(5) to conduct research and study the operation of tribal judicial systems.

(c) The Office shall, insofar as may be consistent with the performance of the other functions set forth in this section, provide staff, research, and planning assistance to the Commission.

(d) The Office shall work in concert with the Commission to promote cooperation and coordination between the Commission, the Federal Judicial Center, the National Center for State Courts, and the Office.

SEC. 5. TECHNICAL ASSISTANCE.

(a) The Office shall provide training and technical assistance to any Indian tribe upon request. Technical assistance and training to be provided by the Office shall include, but is not limited to—

(1) tribal code development and rules of procedure;

(2) tribal court administration and court records management systems;

(3) methods of reducing case delays;

(4) methods for alternative dispute resolution;

(5) standards for judicial administration;

(6) development of tribal standards for training and education of judicial personnel; and

(7) development of long-range plans for the enhancement of tribal judicial systems.

(b) The Office shall provide technical assistance and training, either through direct services or contracts with independent entities, to Indian tribes and tribal judicial systems.

(c) The Secretary, through the Office, shall establish an information clearinghouse on tribal judicial systems, including but not limited to, personnel, funding, judicial activities and decisions.

SEC. 6. SURVEY OF TRIBAL JUDICIAL SYSTEMS.

(a) The Director shall, within 12 months following the date of enactment of this Act, make a survey of conditions of tribal judicial systems to determine the number of full- or part-time judges required by Indian tribes to provide for expeditious and effective administration of justice. The Director shall annually update the information and findings contained in the survey required under this section.

(b) In the course of any annual survey, the Director shall take into account local conditions on each reservation including, but not limited to—

(1) the reservation size and population to be served;

(2) the levels of functioning and capacity of the tribal judicial system;

(3) the volume and complexity of the caseloads;

(4) the available facilities and program resources;

(5) funding levels and personnel staffing levels;

(6) the relative experience and qualifications of judicial personnel; and

(7) the training and technical assistance needs of the tribal judicial system.

(c) The Director shall, in preparing the survey, consult with and consider the recommendations of the Commission on Tribal Judicial Systems.

(d) The Director shall report to the Secretary and the Congress on the results of the survey of tribal judicial systems.

SEC. 7. BASE SUPPORT FUNDING FOR TRIBAL JUDICIAL SYSTEMS.

(a) The Secretary, through the Office, is authorized to enter into contracts, grants or agreements with Indian tribes, tribal organizations, or intertribal consortia pursuant to the Indian Self-Determination Act for the development, enhancement, or continuing operation of tribal judicial systems on Indian reservations. Financial assistance provided through contracts, grants, or agreements entered into pursuant to this section may be used for—

(1) the employment of judicial personnel;

(2) training programs and continuing education for tribal judicial personnel;

(3) the development of a law library or computer assisted legal research capacities;

(4) the development of rules of practice, rules of court procedure, and standards of judicial performance;

(5) the development of a records management system;

(6) the construction or renovation of facilities for the tribal court; and

(7) the development of such other innovative and culturally relevant programs and projects as the Director may approve, including programs and projects for—

(A) alternative dispute resolution;

(B) tribal victims assistance or victims services; and

(C) tribal probation services or diversion programs.

(b)(1) The Secretary, with the participation of Indian tribes, shall establish and promulgate by regulations, a formula which estab-

lishes base support funding for tribal judicial systems.

(2) In the development of regulations for base support funding for tribal judicial systems, the Secretary shall develop, in consultation with Indian tribes and the Commission, appropriate caseload standards and staffing requirements which are comparable to standards developed by the Judicial Conference of the United States, the National Center for State Courts, and the American Bar Association. Each level of funding assistance shall correspond to the staffing requirements established by the Secretary pursuant to this section.

(3) Factors to be considered in the development of the base support funding formula shall include, but are not limited to—

(A) the reservation size and population to be served;

(B) the volume and complexity of the caseloads;

(C) the projected number of cases per month;

(D) the projected number of persons receiving probation services or participating in diversion programs; and

(E) any special circumstances warranting additional financial assistance.

(4) In any fiscal year that appropriations are not sufficient to fully fund tribal judicial systems at each level of assistance under the formula required to be established in this section, available funds for each level of assistance shall be evenly divided among the tribes qualifying for that level of assistance.

SEC. 8. COMMISSION ON TRIBAL JUDICIAL SYSTEMS.

(a)(1) There is established the Commission on Tribal Judicial Systems.

(2) The Commission is composed of 12 members. The members shall be appointed by the tribal judges of those Indian tribes served by each of the 12 Bureau of Indian Affairs area offices. Each such area shall be entitled to appoint one member, who shall be a tribal judge from that area.

(3) The term of office for a member of the Commission shall be 36 months. Only tribal judges in regular active service shall serve as members of the Commission.

(4) In the event that a member of the Commission is no longer in active service or is otherwise unable to serve the remainder of his term, a replacement member shall be appointed by the tribal judges from the area in which the vacancy occurred to serve the remainder of the unexpired term.

(5) The Secretary shall call the first meeting of the Commission within 90 days following the date of enactment of this Act. A Chairman shall be chosen by a vote of the membership of the Commission at its first meeting. The Commission shall have such other officers as it may determine.

(6) Regular meetings of the Commission shall be held quarterly. Special meetings may be held from time to time upon the call of the Chairman, acting at his own discretion, and shall be held pursuant to the petition of any six members.

(7) Each member of the Commission shall be entitled to one vote. A simple majority of the membership shall constitute a quorum for the conduct of business. The Commission shall act upon the concurrence of a simple majority of the members present and voting.

(8) Members of the Commission shall serve without additional compensation, but shall be reimbursed for actual and necessary expenses incurred in connection with service on the Commission at the current per diem rates established for independent commissions by the Office of Personnel Management.

(b) The Commission shall—

(1) develop, in cooperation with the Director, recommendations for the improvement of the administration and management of tribal judicial systems;

(2) formulate recommendations for improvements in the administration of tribal judicial systems, in the training of judicial personnel, and in the management of their resources;

(3) consult with and make recommendations to the Director in the development of the Survey on Tribal Judicial Systems required under section 6 of this Act;

(4) promote increased communication among Indian tribal judicial systems and State and Federal judicial systems; and

(5) develop recommended standards for—

(A) judicial administration and management of tribal judicial systems;

(B) judicial performance and rules of ethics;

(C) training and educational requirements for judicial personnel; and

(D) judicial recruitment and retention.

(c) The Commission shall carry on a continuous study and review of the operation of tribal judicial systems.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) There are authorized to be appropriated to carry out the provisions of sections 4, 5, and 6 of this Act $5,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996.

(b) There are authorized to be appropriated to carry out the provisions of section 7 of this Act $30,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996.

(c) All funds appropriated pursuant to authorizations contained in this Act may be made available for the purposes of this Act without regard to the Indian Priority System.

(d) No more than 5% of all funds appropriated pursuant to authorizations contained in this Act may be used by the Bureau of Indian Affairs for administrative costs.

SEC. 10. DISCLAIMER.

Nothing in this Act shall be construed to diminish or expand the existing jurisdiction of any Indian tribe.

SECTION-BY-SECTION SUMMARY ANALYSIS OF THE TRIBAL JUDICIAL ENHANCEMENT ACT

SECTION 1

Section 1 cites the short title of the Act as the "Tribal Judicial Enhancement Act."

SECTION 2

Section 2 sets out the findings of the Congress.

SECTION 3

Section 3 of this bill sets out the definitions used in the Act.

SECTION 4

Section 4 of this bill provides that there will be established within the Bureau of Indian Affairs an "Office of Tribal Judicial Support". The Office shall develop, in consultation with the Commission on Tribal Judicial Systems, recommended standards for judicial administration and court management, establish programs for continuing education and training for judicial personnel, and provide technical assistance to Indian tribes upon request. The Office shall provide funds to Indian tribes for the development, enhancement, and continuing operation of tribal judicial systems. Finally, the Office shall conduct research and study the operation of tribal judicial systems.

SECTION 5

Section 5 provides that the Office of Tribal Judicial Support shall provide training and technical assistance to any Indian tribe upon request. This section describes the types of assistance and training to be provided by the Office including the development of tribal codes, rules of procedure, court records management systems, and plans for the enhancement of tribal judicial systems. Finally, this section would establish an information clearinghouse on tribal judicial systems.

SECTION 6

Section 6 requires the Director of the Office of Tribal Judicial Support to conduct a survey of the conditions of tribal judicial systems within one year of enactment. This survey shall be updated annually and a report shall be provided to the Secretary and the Congress. This survey shall determine the number of full or part-time judges required by Indian tribes to provide expeditious and effective administration of justice. In addition, the survey shall consider local conditions including reservation size and service population, the volume and complexity of the caseload, facilities needs and staffing levels of the tribal judicial systems. In developing this survey the Director shall be required to consult with the Commission on Tribal Judicial Systems.

SECTION 7

Section 7 provides that the Secretary of the Interior through the Office of Tribal Judicial Support is authorized to enter into agreements or contracts to provide financial assistance to any Indian tribe for the development, enhancement, or continuing operation of a tribal judicial system pursuant to the Indian Self-Determination Act. This section provides that funds may be used for employment of judicial personnel, training programs, development of law libraries, development of rules of practice and court procedure and such other innovative and culturally relevant projects as the Director may approve.

Finally, this section requires the Secretary to promulgate regulations, with the participation of Indian tribes, a base support funding formula for tribal judicial systems. It further requires the Secretary to establish appropriate caseload standards and staffing requirements which are comparable to standards developed by the Judicial Conference of the United States, the National Center for State Courts and the American Bar Association. Each level of funding assistance shall correspond to the staffing requirements established by the Secretary. Factors to be considered in the development of the formula shall include the reservation size, service population, and the volume and complexity of the caseload.

SECTION 8

Section 8 establishes the Commission on Tribal Judicial Systems. The Commission shall be composed of 12 members appointed by tribal judges from each of the 12 Bureau of Indian Affairs area offices. Each area shall be entitled to one member. Only tribal judges in regular active service shall serve as members of the Commission. The Commission shall meet quarterly. The Commission shall develop recommendations for the improvement of the administration and management of tribal judicial systems, shall consult with the Director on the development of the Survey on Tribal Judicial Systems, and promote increased communication among tribal, State and Federal judicial systems.

SECTION 9

Section 9 provides that $5,000,000 shall be authorized for each of the fiscal years 1992 through 1996 to carry out the provisions of Sections 4, 5, and 6 of this Act. This section

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also authorizes $30,000,000 to carry out the provisions of Section 7 of this Act for each of the fiscal years 1992 through 1996. Finally, this section provides that the funds appropriated pursuant to these authorizations shall be made available without regard to the Indian Priority System.

SECTION 10

Section 10 states that nothing in this Act shall be construed to diminish or expand the existing jurisdiction of any Indian tribe.●

By Mr. McCAIN (for himself, Mr. INOUYE, and Mr. SIMON):

S. 668. A bill to authorize consolidated grants to Indian tribes to regulate environmental quality on Indian reservations; to the Select Committee on Indian Affairs.

REGULATION OF ENVIRONMENTAL QUALITY ON INDIAN RESERVATIONS

● Mr. McCAIN. Mr. President, I rise today to introduce the Indian Environmental Consolidated Grant Program Act of 1991. I am pleased to be joined by Senator INOUYE as a cosponsor of this important legislation. For nearly 20 years, Congress neglected to include tribal governments in the Federal Environmental Regulatory System. We have recently acted to correct this oversight in the Clean Water Act, Clean Air Act, and the Safe Drinking Water Act. However, we have not provided adequate financial resources to assist the tribes in their efforts to promote environmental quality. We can and must do more to provide an adequate level of funding for Indian environmental programs. Concurrently, we must also act to ensure that every dollar appropriated can be put to the best use on each reservation. My bill seeks to address this second concern by providing much needed flexibility to Federal and tribal efforts to develop sound environmental regulatory programs on Indian lands.

The Indian Environmental Consolidated Grant Program Act of 1991 would authorize the Administrator of the Environmental Protection Agency to consolidate any or all grants made to an Indian tribe under any law administered by the Environmental Protection Agency. The bill would allow Indian tribes to consolidate grant awards and utilize the funds in several environmental media areas for the maximum benefit to the reservation environment. This authority would minimize the burdens on Indian tribes with regard to multiple grants awarded by the Environmental Protection Agency by allowing an Indian tribe to submit one application and provide a consolidated accounting for grant awards. It would provide to Indian tribes the same flexibility for the administration of environmental grant awards that is currently enjoyed by trust territories and insular areas of the United States.

Many Indian tribes today are faced with growing environmental problems on their reservations. In order to address these problems, a growing number of Indian tribes are seeking to obtain regulatory primacy under the provisions of the Clean Water Act and other Federal statutes. Unfortunately, there is little Federal funding available through the Environmental Protection Agency to provide badly needed resources for the establishment of Indian environmental regulatory programs. By providing this authority to the Administrator of the Environmental Protection Agency, Indian tribes would be able to establish multimedia environmental programs for the maximum benefit to Indian tribes. It would allow Indian tribes a greater degree of flexibility to allocate funds from the consolidated grant award among authorized purposes and programs. Indian tribes would be able to uniquely tailor the environmental regulatory programs to meet changing reservations needs and priorities.

Mr. President, I ask unanimous consent that the full text of the Indian Environmental Consolidated Grant Program Act of 1991 and the section-by-section summary be printed in the RECORD immediately following my remarks.

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

S. 668

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

SECTION 1. AMENDMENT.

The Act entitled "An Act to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes", approved October 15, 1977 (91 Stat. 1159), is amended by adding at the end thereof the following:

"SEC. 502. CONSOLIDATED GRANT PROGRAM.

"(a) SHORT TITLE.—This section may be cited as the 'Indian Environmental Consolidated Grant Program Act of 1991'.

"(b) CONSOLIDATION OF GRANTS.—In order to minimize the burden caused by existing application and reporting procedures for certain grant-in-aid programs available to Indian tribes, the Administrator of the Environmental Protection Agency is authorized, upon application of any Indian tribe in accordance with this section, to consolidate any or all grants made to such Indian tribe under any law administered by the Environmental Protection Agency for any fiscal year or years.

"(c) NO REDUCTION IN AMOUNTS.—In no case shall the amount of a consolidated grant for any Indian tribe under this section be less than the aggregate sum of all grants so consolidated.

"(d) EXPENDITURE OF CONSOLIDATED GRANT.—The proceeds of any consolidated grant under this section shall be expended in furtherance of the programs and purposes authorized by the law authorizing the grants so consolidated. In expending such proceeds, the Indian tribe receiving the consolidated grant shall have the authority to determine the proportion of such proceeds which shall be allocated among such programs and purposes.

"(e) PROCEDURES.—(1) Within 90 days following the date of the enactment of this section, the Administrator of the Environmental Protection Agency shall issue such regulations as may be necessary to establish procedures under which an Indian tribe may apply for a consolidation of grants under this section.

"(2) In establishing such procedures, the Administration shall permit an Indian tribe to submit a single application for a consolidated grant for any fiscal year. In no case shall such procedures require more than a single report to the Environmental Protection Agency for any one consolidated grant.

"(3) The Administrator of the Environmental Protection Agency shall publish regulations issued pursuant to this section in the Federal Register.

"(4) Nothing in this section shall be construed as precluding the Administrator of the Environmental Protection Agency from establishing adequate procedures for accounting, auditing, evaluating, and reviewing any programs or activities funded in whole or in part from the proceeds of a consolidated grant under this section.

"(f) WAIVER.—The Administrator is authorized, in his discretion, to—

"(1) waive any or all requirements for matching funds otherwise required by law to be provided by an Indian tribe in connection with a grant consolidated pursuant to this section;

"(2) waive any requirement that an Indian tribe submit an application or report in writing with respect to any consolidated grant under this section; and

"(3) adjust or otherwise modify maintenance or level of effort requirements for any Indian tribe with respect to any consolidated grant.".

SECTION-BY-SECTION SUMMARY ANALYSIS OF THE INDIAN ENVIRONMENTAL CONSOLIDATED GRANT PROGRAM ACT OF 1991

Section 1

Section 1 amends the Omnibus Territories Act (91 Stat. 1159) by adding at the end thereof the following new section:

Section 502

Subsection (a) cites the short title of the Act as the "Indian Environmental Consolidated Grant Program Act of 1991."

Subsection (b) provides that the Administrator of the Environmental Protection Agency shall be authorized, upon application by an Indian tribe, to consolidate any or all grants to the tribe under any law administered by the Environmental Protection Agency for any fiscal year. Subsection (c) provides that in no event shall the amount of the consolidated grant be less than the aggregate sum of all the grants.

Subsection (d) of this section provides that an Indian tribe receiving a consolidated grant shall have authority to determine the proportion of the consolidated grant funds to be allocated among the purposes and programs authorized under the law providing said grants.

Subsection (e) of this section provides that within 90 days of enactment, the Administrator shall issue such regulations as may be necessary to establish procedures for grant consolidation. It also provides that the Administrator may permit an Indian tribe to submit a single application for a consolidated grant for any fiscal year.

Subsection (f) of this section authorizes the Administrator to waive any or all requirements for matching funds required under law to be provided by an Indian tribe, to waive any requirement that an Indian tribe submit an application or report in writ-

ing pursuant to a consolidated grant, and to adjust or otherwise modify maintenance or level of effort requirements for any Indian tribe with respect to any consolidated grant.•

By Mr. SIMON:

S. 670. A bill directing the Secretary of State and the Director of the Foreign Commercial Service to appoint permanent cultural and commercial representatives to the Baltic States, to encourage the President to appoint a special envoy to encourage Baltic-Soviet negotiations, and to extend certain assistance to the Baltic States; to the Committee on Foreign Relations.

U.S. POLICY TOWARD THE BALTIC STATES

• Mr. SIMON. Mr. President, today I am introducing legislation that I hope will move us in a direction that will ultimately lead to a stronger U.S. policy toward the Baltic States. I thought about offering this as an amendment to the resolutions we had in early January of this year, after the crackdown in the Baltics, but I wanted to wait until we had some hearings in the Foreign Relations Committee. The time is now right to move ahead.

Let me briefly describe what my bill does:

First, the bill directs the Secretary of State, in consultation with the Director of the U.S. Information Agency, to appoint within 90 days a permanent cultural representative to each of the three Baltic States—Lithuania, Latvia, and Estonia. This will give us the opportunity to expand cultural contacts as well as citizen, academic, professional and other exchanges with the Baltic peoples. We need to understand that the Baltics are not a part of the Soviet Union, except by force, and in this way we can learn more about the separate cultural identities and traditions of the Baltic nations.

Second, the bill directs the Foreign Commercial Service to appoint, within 90 days, a permanent commercial representative to each of the three Baltic States. In this way, we can expand U.S.-Baltic commercial relations.

The bill does not specify where these representatives shall be located. If it were not for the problem of recognizing the annexation of the Baltic States, my preference would be to locate these people in Vilnius, Riga, and Tallinn. But in view of the concern that could be raised if it were done as part of our Moscow or Leningrad diplomatic missions, I am not specifying where these diplomats will be located.

Third, the bill urges the President to appoint a special envoy to encourage Baltic-Soviet negotiations leading to independence. I hope this idea can be acted upon, as one way to break the current deadlock. The bill also urges that we raise the question of Baltic independence at the September 1991 U.N. General Assembly session. After 50 years of Soviet occupation, we really ought to bring this up before the international community and work in that forum as well.

Fourth, this bill makes the Baltic States eligibile for United States assistance and related benefits established under the SEED authorization bill and the fiscal year 1991 foreign operations appropriations bill. The Baltic States can clearly benefit from these programs, and I see no reason why we can't include them in our aid efforts in Eastern Europe—particularly given our policy of non-recognition of the Soviet annexation of the Baltic States. And the bill calls for a progress report within 180 days.

Let me add that we have recently paid a great deal of attention to one part of the world, and for good reason—the Persian Gulf. But what is happening in the Baltics has not received the kind of attention that it deserves. We really have to lead in persuading Gorbachev to let the Baltic States become independent.

In Taiwan, in Cuba, we have interest sections, and we encourage trade, we encourage cultural contacts. If we do this for the Baltic States, we are saying to them, "You are not alone. We respect your desire for freedom and independence." And to Gorbachev, we hold out the promise of economic help, technical training and a much improved relationship if the Baltic States are set free.

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

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

S. 670

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

SECTION 1. APPOINTMENT OF DIPLOMATIC PERSONNEL.

(a) The Secretary of State, in consultation with the Director of the United States Information Agency, shall appoint, within ninety days of the date of enactment of this Act, a permanent cultural representative to each of the three Baltic States (Lithuania, Latvia and Estonia) for the purpose of expanding US-Baltic cultural contacts and citizen, academic, professional and other exchange programs with each of these three countries; and that

(b) The Director of the Foreign Commercial Service shall further appoint, within ninety days of the date of enactment of this Act, a permanent commercial representative to each of the three Baltic States for the purpose of expanding US-Baltic commercial relations.

(c) It is the Sense of the Senate that the President should appoint a special envoy to encourage Baltic-Soviet negotiations leading to independence for each of the three Baltic States, and it is further the sense of the Senate that the United States should raise the question of Baltic independence during the September 1991 session of the United Nations General Assembly.

(d) Each of the Baltic States shall be eligible for US assistance and related benefits established under Public Law 101-179 and Public Law 101-513, subject to the same terms and conditions as are applicable to such assistance under those provisions of law.

SEC. 2. REPORT.

The Secretary of State shall submit, no later than 180 days after the date of enactment of this Act, a report on the progress made in fulfilling the requirements mandated by Section 1 of this Act.•

By Mr. LEAHY (for himself, Mr. JEFFORDS, Mr. KOHL, Mr. KASTEN, and Mr. SANFORD):

S. 671. A bill to establish on a temporary basis a minimum basic formula price for the computation of class I milk prices; to the Committee on Agriculture, Nutrition, and Forestry.

MINIMUM BASIC FORMULA PRICE

• Mr. LEAHY. Mr. President, I am introducing a revised emergency dairy bill, which is similar to S. 520, which I introduced on February 28, 1991. As a result of extension discussions with dairy leaders from across the country and with my own dairy farmers in Vermont, I have broadened the benefits of this emergency legislation to benefit dairy farmers more equitably.

Simply put, my original bill provides for an increase in the price paid to farmers for their product which is used as fluid milk. The revision that I am offering today would pool this increased price among all grade A producers.

I have asked the Congressional Budget Office to score this revised bill. As I understand it, this bill will have no cost in the first year, and will probably generate savings in the outyears.

Mr. President, I urge my colleagues who have heard from their dairy farmers to support this bill. It responds to a very real crisis, a sudden and dramatic fall in the market price.•

By Mr. FORD:

S. 672. A bill to amend the Petroleum Marketing Practices Act; to the Committee on Energy and Natural Resources.

PETROLEUM MARKETING PRACTICES AMENDMENTS ACT

• Mr. FORD. Mr. President, today I am reintroducing the Petroleum Marketing Practices Act Amendments Act, which makes minor modifications to the PMPA to restore the original intent of that legislation. Identical legislation has been introduced in each Chamber during each of the last two sessions of Congress. Last year, H.R. 830, the Fairness in Bargaining Act, enjoyed 119 cosponsors and was favorably considered by the House Energy and Commerce Subcommittee on Energy and Power.

It is my hope that we can build upon this progress in considering a final solution. The PMPA was enacted in 1978 to assure fairness and equalize the bargaining positions between franchisors and franchisees during the renewal or renegotiation of their contracts. The legislation was designed to promote fair competition, prevent unreasonable

terminations and nonrenewals, and enhance stability in the marketing of gasoline at the retail level. For service station dealers, it was known as the "dealer's day in court" bill, promoting fairness in bargaining among parties whose resources were sometimes vastly different.

There is now some concern as to whether the bill has actually worked to promote fairness. There is a concern as to whether dealers are really assured their day in court. Through certain straightforward and important changes, the legislation which I am introducing today attempts to assure fairness and the sense of balance originally intended through the PMPA. Most importantly, the bill requires any changes proposed at the time of renewal of a franchise agreement to be fair and reasonable. Present law allows franchise nonrenewals based on a failure to agree to changes or additions to the underlying franchise agreement, so long as such changes or additions are made in good faith and not for the purpose of preventing the renewal of the franchise relationship. This standard poses the danger of requiring overly subjective assessments of the motivation underlying changes or additions to the franchise agreement. And it is inconsistent with other areas of the act where the reasonableness standard is followed.

For instance, termination or nonrenewal of a franchise is permissible under current law upon the occurrence of a relevant event, categories of which are delineated in the act, which makes such termination or nonrenewal reasonable. In addition, the act allows nonrenewal where the franchisor determines, in good faith, that the continuation of the relationship would be uneconomical despite any reasonable changes or additions which might be made to the agreement.

And termination or nonrenewal is allowed where the franchise fails to comply with any provision of the franchise which is both reasonable and of material significance. Mr. President, consider the implications of this provision. The statute is internally inconsistent. If a dealer refuses to agree to a new condition during negotiations and the franchise is not renewed, the franchisor has acted properly under the act if the new condition was demanded in good faith. However, if that same condition is accepted by the dealer during renegotiation and then the dealer fails to fully comply with the condition, the franchise may only be terminated if the new condition is reasonable and of material significance. Under current law, therefore, we have two very different standards to assess the same new condition. This unusual inconsistency in the original act may in fact result in unintended affects on the negotiating strategies of franchisors and franchisees. It is my view that the original intentions of the PMPA would be better served if we had a similar standard to judge new conditions.

Mr. President, I am aware of informal discussions which are currently being held among various parties affected by the PMPA in different ways. I am greatly encouraged by the fact that these discussions are occurring. And I join with my colleagues on the House side who have expressed a strong desire in reaching a solution to this issue which will be acceptable to all interested parties. It is my hope that we can reach a fair solution and move forward quickly with this matter.●

By Mr. DODD (for himself, Mr. LIEBERMAN, Mr. PELL, Mr. HARKIN, Mr. KENNEDY, Mr. METZENBAUM, Mr. SIMON, and Mr. ADAMS):

S. 673. A bill to amend the Occupational Safety and Health Act of 1970 to establish an Office of Construction Safety, Health, and Education, to improve inspections, investigations, reporting, and recordkeeping on construction sites, to require the designation of project contractors who have overall responsibility for safety and health on construction sites, to require project constructors to establish safety and health plans, to require construction employers to establish safety and health programs, and for other purposes; to the Committee on Labor and Human Resources.

CONSTRUCTION SAFETY, HEALTH, AND EDUCATION IMPROVEMENT ACT

● Mr. DODD. Mr. President, on behalf of myself and Senators LIEBERMAN, PELL, HARKIN, KENNEDY, SIMON, METZENBAUM, and ADAMS, I rise to introduce the Construction Safety, Health, and Education Improvement Act of 1991.

Mr. President, there can be no dispute that the current record of occupational safety and health in the construction industry is horrendous.

Since 1970, when the Occupational Safety and Health Act was passed, there have been 47,500 deaths and 5 million serious injuries to construction workers. In 1969, construction workers constituted 4 percent of the total work force and accounted for 15 percent of the total fatalities. Today, construction workers constitute 5 percent of the total work force and account for 26 percent of the fatalities. Moreover, the problem is not limited to large construction projects employing large numbers of employees. OSHA's statistics indicate that 45 percent of all fatalities and 42 percent of all serious violations of the OSHA Act are attributable to construction workplaces with 25 or fewer employees.

We all know that construction is a dangerous industry. However, the current record of occupational safety and health in this industry is unacceptable.

Blame for the present tragic state of affairs in the construction industry should not be placed wholly on the Occupational Safety and Health Administration. It is too easy for unions and employers to point to OSHA when accidents occur and say that the Agency failed to prevent the accident.

However, there are numerous deficiencies in the Occupational Safety and Health Act and in OSHA's administration of the act. The fact is, we need more vigorous enforcement of existing law by OSHA, and stronger standards governing the construction industry.

In the past 3 years, I have chaired two hearings in the Labor and Human Resources Committee concerning construction safety and health. During the course of those hearings, testimony was given by all segments of the construction industry including contractors, unions, OSHA, and engineering groups. The testimony clearly demonstrated the need for improved safety and health precautions for construction workers and a stronger Federal role in enforcing OSHA regulations to ensure a safer workplace.

While many employers offered examples of excellent safety and health programs that have enabled projects to be completed on or ahead of schedule, below budget, and with few lost time injuries, the consensus was that a significant number of employers do not follow even the basic provisions of job site safety.

The Construction Safety, Health, and Education Improvement Act of 1991 would establish national uniform requirements and procedures for OSHA and employers to improve worker protection throughout the country. The bill would ensure that all contractors take health and safety precautions—especially those who ignore the safety and health of their employees, at the expense of workers' lives and limbs, to maximize their profits.

The bill contains six major elements which, together, would strengthen construction safety and health; provide construction workers the protection they have long deserved, and help OSHA to focus limited resources on the types and locations of worksites that are most hazardous to workers. They are:

Establishment of contractor safety and health programs;

Establishment of onsite project safety and health plans monitored by project safety coordinators;

An improved system for OSHA investigation of fatalities, serious injuries, and structural failures on construction projects;

Establishment of a rational and coherent inspection targeting system by OSHA;

Development of a cadre of OSHA compliance officers with expertise in recognizing and helping to correct im-

minent dangers and other hazards on construction sites; and

Establishment of a new office of construction safety, health, and education.

While the bill requires new safety plans and programs, the Secretary of Labor would be authorized to make determinations that certain types of construction projects and operations should not be covered by some or all of the requirements. Such determinations must be based on the Secretary's conclusion that compliance with such requirements is not feasible. In making such determinations, the Secretary would take into consideration the many variables that exist with respect to construction projects, operations, and employers. Where such a determination is made, the Secretary would establish alternative requirements by regulation to promote employee safety and health.

The bill also states that construction work done for a homeowner, on his or her home, would not be covered by this measure, unless such work involves specified operations that pose a risk of death or serious injury.

As you know, opponents of this measure have contended that new legislation is not needed now that OSHA has recently implemented several new administrative measures. While I am encouraged by some of OSHA's administrative changes in the construction safety and health areas, the number of construction deaths and injuries obviate the need for major reform in the area of OSHA construction safety and health. The OSHA Construction Safety, Health, and Education Act of 1991 suggests reforms necessary to reduce a continuing annual toll of 2,500 deaths and 200,000 serious injuries to construction workers in the United States.

Moreover, many of this measure's most important provisions are not among the administrative measures adopted by OSHA. Legislation action on this matter better ensures that worker safety and health is a long-term, permanent priority of the Federal Government.

Mr. President, the Construction Safety, Health, and Education Improvement Act would improve OSHA's ability to assure safe and healthful workplaces for working men and women in the construction industry. It does provide the Secretary of Labor administrative flexibility to determine if alternative regulations should be created for certain sectors of the construction industry. This measure is a balanced, reasonable, and needed initiative and I urge my colleagues to join me as cosponsors.

Mr. President, I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 673

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

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Construction Safety, Health, and Education Improvement Act of 1991".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Occupational Safety and Health Act of 1970 (29 U.S.C. et seq.).

(c) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; reference; table of contents.
Sec. 2. Definitions.
Sec. 3. Office of Construction Safety, Health, and Education.
Sec. 4. Construction safety and health plans and programs.
Sec. 5. Inspections, investigations, reporting, and recordkeeping.
Sec. 6. Construction Safety and Health Academy.
Sec. 7. National Institute for Occupational Safety and Health.
Sec. 8. Advisory Committee on Construction Safety and Health.
Sec. 9. State construction safety and health plans.
Sec. 10. Grants to States.
Sec. 11. Reports.
Sec. 12. Application.
Sec. 13. Federal construction contracts.
Sec. 14. Effective date and timetable for regulations.

SEC. 2. DEFINITIONS.

Section 3 (29 U.S.C. 652) is amended by adding at the end thereof the following:

"(15) The term 'Academy' means the Construction Safety and Health Academy established under section 30.

"(16) The term 'Advisory Committee on Construction Safety and Health' means the Advisory Committee established under section 107(e) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333(e)).

"(17) The term 'qualified person' means an individual who, by possession of a recognized degree, certificate, or professional standing and by extensive knowledge, training, and experience, has successfully demonstrated the ability to solve or resolve problems relating to worker safety and health involving construction work.

"(18) For purposes of subsections (h) through (l) of section 8 and sections 18(i), 28, and 29:

"(A) The term 'competent person' means one who, by knowledge, training, and experience is capable of identifying existing and predictable hazards in the surroundings or working conditions that are unsanitary, hazardous, or dangerous to construction employees of the construction employer who appointed the competent person, and who has authorization from the construction employer to take prompt corrective measures.

"(B) The term 'construction employer' means an employer (including a self-employed person) engaged primarily in the building and construction industry or who performs construction work under a contract with a construction owner.

"(C) The term 'construction employee' means an employee of a construction employer, including a self-employed construction employer, at such times as the employer personally performs construction work.

"(D) The term 'construction owner' means a person who owns, leases, or has effective control of property, with or without improvements, a structure, or other improvement on real property on which construction work is being, or will be, performed.

"(E) The term 'construction work' means work for construction, alteration, demolition, or repair, or any combination thereof, including painting and decorating, and including such work performed under a contract between a construction employer and an agency of the United States or any State or political subdivision of a State.

"(F) The term 'construction worksite' means a site where construction work is performed by one or more construction employers.

"(G) the term 'incident' means an event occurring at a construction worksite that involves—

"(i) a structural failure;

"(ii) a fire or explosion; or

"(iii) any other class of incident as determined in regulations promulgated by the Secretary that could have caused death or serious injury had an individual been in proximity.

"(H) The term 'project constructor' means a person (including a construction owner, construction manager, prime contractor, general contractor, or construction employer) who assumes the responsibilities of a project constructor.

"(I) The term 'project safety coordinator' means an individual who is designated by a project constructor to perform the duties prescribed by section 29, and who is certified by the Secretary or by an organization approved by the Secretary as having fulfilled the requirements of a standardized training course and testing program developed or approved by the Secretary, with the advice of the Advisory Committee on Construction Safety and Health.

"(J) the term 'serious injury' means bodily injury or illness that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.".

SEC. 3. OFFICE OF CONSTRUCTION SAFETY, HEALTH, AND EDUCATION.

The Act (29 U.S.C. 651 et seq.) is amended—

(1) by repealing sections 28 through 31 and section 34; and

(2) by inserting after section 27 (29 U.S.C. 676) the following new section:

"SEC. 28. OFFICE OF CONSTRUCTION SAFETY, HEALTH, AND EDUCATION.

"(a) ESTABLISHMENT.—There is established in the Occupational Safety and Health Administration an Office of Construction Safety, Health, and Education (hereafter in this section referred to as the 'Office') to ensure safe and healthful working conditions in the performance of construction work.

"(b) DUTIES.—The Secretary shall—

"(1) develop mandatory standards for construction safety and health plans and programs established under section 29;

"(2) assume control of a construction site to—

"(A) prevent the destruction of any evidence that would assist in the investigation of a fatality, serious injury, or incident unless it must be moved or destroyed as a part of rescue operations; and

"(B) monitor the rescue operations conducted in response to the incident;

"(3) assist the Advisory Committee on Construction Safety and Health in the development of training courses and curriculum for

the Construction Safety and Health Academy;

"(4) in carrying out the duties of the Secretary under section 21(c), consult with and advise construction employer associations, construction employers, construction employees, and labor organizations as to effective means of preventing serious injuries in construction work and ensuring equal access to the consultative services;

"(5) increase awareness of construction site safety through education, training, and outreach programs;

"(6) promulgate regulations requiring construction employers who have high frequency rates of fatalities or serious injuries or who have demonstrated a pattern of noncompliance with health and safety standards, rules or regulations to establish, implement, and comply with special health and safety programs to be approved by the Secretary;

"(7) make available materials necessary for compliance with this Act to project constructors, employers, and employees; and

"(8) carry out the other duties set forth in this Act.

"(c) PERSONNEL.—

"(1) DEPUTY ASSISTANT SECRETARY OF LABOR FOR CONSTRUCTION.—

"(A) ESTABLISHMENT.—There is established within the Occupational Safety and Health Administration the position of Deputy Assistant Secretary of Labor for Construction, to be appointed by the Secretary.

"(B) DUTIES.—The Deputy Assistant Secretary of Labor for Construction shall—

"(i) coordinate the activities of the Office with the activities of other offices and directorates within the Occupational Safety and Health Administration to the extent that the activities of those other offices and directorates relate to safety, health, and education in the construction industry; and

"(ii) coordinate the activities and advice of the Advisory Committee on Construction Safety and Health with the activities of all offices and directorates within the Occupational Safety and Health Administration relating to safety, health, and education in the construction industry, and to ensure that the Advisory Committee performs the functions set forth in this Act and the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.).

"(2) QUALIFICATIONS AND TRAINING OF INSPECTORS.—The Secretary, with the advice of the Advisory Committee on Construction Safety and Health, shall determine the necessary qualifications and training requirements of inspectors performing inspections of construction worksites. The qualifications and requirements shall, at a minimum, include—

"(A) a full understanding of this Act and the Secretary's standards and regulations applicable to the construction industry; and

"(B) at least 5 years of experience working in the construction industry.

"(3) SMALL BUSINESS LIAISON.—

"(A) DESIGNATION.—The Secretary shall designate an employee of the Office to serve as a small business liaison.

"(B) DUTIES.—The liaison shall be responsible for providing assistance for complying with new and existing standards under this Act for the performance of construction work (in the form of manuals, videos, and audiotapes and other research programs) to trade associations and other small businesses.".

SEC. 4. CONSTRUCTION SAFETY AND HEALTH PLANS AND PROGRAMS.

The Act (as amended by section 3 of this Act) is further amended by inserting after section 28 the following new section:

"SEC. 29. CONSTRUCTION SAFETY AND HEALTH PLANS AND PROGRAMS.

"(a) PROJECT CONSTRUCTOR.—

"(1) IN GENERAL.—For every construction project covered by this Act, the construction owner shall be responsible for designating a project constructor. If no project constructor is so designated, the construction owner shall be the project constructor.

"(2) DUTIES.—The project constructor shall have overall responsibility for the safety and health of all construction employees on a construction project and shall perform the duties of project constructors set out in this Act and the regulations issued under this Act.

"(b) PROJECT SAFETY AND HEALTH PLAN.—

"(1) IN GENERAL.—The project constructor for every construction project shall develop and implement a written safety and health plan (hereafter referred to in this section as 'the plan'). The plan shall be prepared prior to the commencement of construction work, except that if it is not practicable to prepare the plan for the project in its entirety before the commencement of construction work, the plan shall be prepared in stages prior to the commencement of each major phase of construction work.

"(2) REQUIREMENTS.—

"(A) CONTRACT DOCUMENTS.—The plan shall be set forth, or incorporated by reference, in the contract documents for the project.

"(B) APPROVAL.—The project constructor shall indicate approval of the plan in writing on plan documents.

"(C) COPIES.—Copies of the plan shall be made available to each construction employer prior to commencement of construction work by that employer.

"(D) HAZARD ANALYSIS.—The plan shall include a hazard analysis that identifies the potential for hazards in the construction process and provides instructions for their prevention.

"(E) CONSTRUCTION PROCESS PLAN.—The plan shall include a construction process plan that—

"(i) describes the construction process to be used, with specific reference to critical points and conditions in the process that require special attention;

"(ii) identifies the means that will be used to ensure the structural stability of all buildings, structures, and excavations during the construction process;

"(iii) contains a list of all inspections and tests required (including a schedule for the inspections and tests) and the criteria established for continuation of construction based on the inspection and test results; and

"(iv) makes appropriate reference to the hazard analysis prepared in accordance with subparagraph (D).

"(c) PROJECT SAFETY COORDINATOR.—

"(1) IN GENERAL.—For every construction project, the project constructor shall designate a project safety coordinator, and shall ensure that all construction employers on the project are notified of the identity and duties of the project safety coordinator. Notwithstanding the designation of the project safety coordinator, the project constructor shall retain overall responsibility for the safety of all construction employees on a construction project.

"(2) DUTIES.—The project safety coordinator, on behalf of the project constructor, shall—

"(A) monitor compliance by every construction employer on a project with the project safety and health plan, the employer's own safety and health program, this Act and all applicable standards and regulations issued by the Secretary under this Act;

"(B) maintain a detailed safety record with respect to the construction project, including fatalities, injuries, and incidents on the project, and information concerning hazardous conditions and unsafe practices;

"(C)(i) notify affected construction employers of any hazardous conditions discovered at a construction worksite, or of noncompliance by a construction employer with the project safety and health plan, the employer's own safety and health program, this Act, or with the Secretary's standards or regulations issued under this Act; and

"(ii) if the hazard or noncompliance is not corrected, notify the Secretary, the construction owner, and the project constructor;

"(D) review the safety and health program of each construction employer prior to the commencement of construction work by that employer to ensure that each program meets the requirements of the project safety and health plan, this Act, and the standards and regulations of the Secretary issued under this Act; and

"(E) ensure compliance by construction employers with reporting requirements established under the Act and the standards and regulations of the Secretary thereunder.

"(d) PERMIT SYSTEM.—

"(1) IN GENERAL.—For every construction project, the project constructor shall develop and implement a permit system to authorize construction employers to engage in operations determined to pose a risk of death or serious injury.

"(2) COVERED OPERATIONS.—The operations covered by this subsection shall include—

"(A) the construction of trenches and excavations;

"(B) the erection and dismantling of scaffolding;

"(C) the demolition of any building or structure;

"(D) operations of cranes and derricks;

"(E) operations requiring employees to enter confined or enclosed spaces;

"(F) operations involving exposure to asbestos and other toxic materials; and

"(G) other operations that the Secretary by regulation shall designate.

The Secretary shall conduct an annual review to determine whether additional operations should be designated under subparagraph (G).

"(3) COMPLIANCE.—In issuing a permit, the project safety coordinator shall ensure that the construction employer—

"(A) is knowledgeable of and evidences intent and ability to comply with the requirements of this Act and all standards and regulations issued by the Secretary under this Act; and

"(B) has developed a safety and health program that adequately addresses the hazards presented by the covered operation in which the employer seeks to engage.

"(e) SAFETY AND HEALTH PROGRAM.—

"(1) IN GENERAL.—Each construction employer on a construction project shall develop and implement a safety and health program (hereafter in this section referred to as the 'program') commensurate with the scope of work of the employer on the project.

"(2) ADMINISTRATION.—The program shall provide that—

"(A) the construction employer shall appoint a competent person to be responsible

for the general administration of the program;

"(B) a competent person shall be at each construction worksite at all times that the construction employer is engaged in construction work; and

"(C) the responsibilities and authorities of competent persons shall include frequent inspections of construction worksites and the taking of all actions necessary to eliminate hazards, including the stoppage of work or removal of affected employees if necessary.

"(3) TRAINING.—

"(A) IN GENERAL.—The program shall provide that all construction employees shall receive, or have received within the immediately preceding 12-month period, general safety and health training in a manner prescribed by the Secretary.

"(B) COMPLIANCE.—The Secretary shall promulgate regulations establishing a procedure under which the Secretary can ensure that the training requirements are complied with.

"(4) CONSTRUCTION WORKSITE INSTRUCTION.—The program shall provide applicable worksite-specific instruction to construction employees in—

"(A) the recognition and avoidance of unsafe and unhealthy conditions;

"(B) the standards and regulations applicable to the work activities of each construction employee;

"(C) the use of construction worksite equipment and required personal protective equipment;

"(D) the handling and use of poisons, caustics, flammable liquids, gases, and other toxic or harmful substances; and

"(E) other matters that the Secretary may by regulation prescribe.

"(5) EMERGENCY EVACUATION.—The program shall provide for an emergency evacuation plan, including the location of first-aid facilities and the routes of exiting from areas during emergencies.

"(6) INSPECTIONS.—The program shall provide for frequent and regular inspections of the construction worksite by the construction employer and for such emergency and special inspections as may be appropriate.

"(7) REPORTING AND RECORDKEEPING.—The program shall provide for the reporting and recordkeeping of fatalities, serious injuries, and incidents in accordance with the requirements of this Act and other applicable laws, standards, and regulations.

"(8) EMPLOYEE-REQUESTED EVALUATIONS AND INSPECTIONS.—The program shall—

"(A) provide a procedure under which a construction employee or employee representative may obtain an immediate inspection or a written evaluation, or both, of a perceived hazardous condition or harmful substance by a qualified person at any time in the construction process; and

"(B) provide that if it is determined that such a hazardous condition or harmful substance presents an imminent danger, the project constructor shall stop work at, or remove affected construction employees from, the area in which the imminent danger exists.

"(9) OTHER REQUIREMENTS.—The program shall—

"(A) establish benchmarks and procedures for monitoring compliance with the program;

"(B) provide that the construction employer shall notify its employees of the existence of the program, the identity and means of contacting the competent person responsible for general administration of the program, and the identity and means of contacting the project safety coordinator;

"(C) provide that the construction employer shall maintain a copy of the program on the construction worksite and make it available to all construction employees and their representatives on request; and

"(D)(i) provide for scheduled safety and health meetings to be conducted with construction employees at the construction worksite during working hours at least once during the first week of a new construction project and at least once every month thereafter to review and update the program; and

"(ii) provide that a meeting must be held with a new employee, or an employee engaging in an activity with which the employee is unfamiliar, before the employees may begin work.

"(f) EMERGENCY WAIVER.—If, in order to prevent injury to any person, it is necessary to perform construction work on a construction worksite before compliance with the requirements of this section and subsections (i) through (l) of section 8, the work may be commenced prior to compliance with the requirements, and compliance shall be effected as soon as practicable thereafter.".

SEC. 5. INSPECTIONS, INVESTIGATIONS, REPORTING, AND RECORDKEEPING.

Section 8 (29 U.S.C. 657) is amended by adding at the end the following:

"(h)(1) The Secretary shall by regulation establish an effective system for construction worksite inspections. In establishing the system, the Secretary shall accord inspection priorities for construction worksites and operations on the basis of their potential for fatalities or serious injuries.

"(2) In establishing priorities under paragraph (1) with respect to construction worksites, the Secretary shall give due weight to—

"(A) the records of compliance with this Act of the construction employers on the worksites, including compliance with recordkeeping and reporting requirements of this Act and with standards established under this Act and the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.);

"(B) the records of compliance with this Act of the construction owners of the worksites; and

"(C) the frequency and severity rates of fatalities, serious injuries, and incidents attributable to particular construction owners and construction employers and particular types of construction projects, worksites, and operations.

"(3) The Secretary shall use reports and notices filed under subsections (i) and (l) and other pertinent information to develop the system of prioritized inspections required under this subsection.

"(4) The inspection priority system required by paragraph (1) shall not have the effect of limiting—

"(A) inspections conducted by the Secretary on the basis of complaints by construction employees or construction employee representatives or complaints of imminent dangers; or

"(B) inspections intended as a followup to prior enforcement actions or proceedings.

"(5) No construction owner or construction employer engaged in construction work shall be excluded by the Secretary from inspections conducted under this Act.

"(i) Before the commencement of construction work on a construction project, the project constructor for the project shall provide to the Secretary notice in writing that provides—

"(1) a description of the project;

"(2) the name, principal business address, and telephone number of the construction owner and the project constructor and the name of the project safety coordinator;

"(3) the type of work to be performed;

"(4) the project address;

"(5) the date construction work will commence and the anticipated duration of the work;

"(6) the expected number of construction employees to be employed by all construction employers on the project;

"(7) a statement that the Secretary or the Secretary's authorized representative shall have a right of entry to the project—

"(A) to inspect or investigate compliance with this Act or compliance with any standard, regulation, rule, or order promulgated issued under this Act; and

"(B) to carry out the duties of the Secretary under this Act; and

"(8) any other information required in regulations issued by the Secretary.

"(j)(1) Every project constructor shall make and maintain accurate records concerning fatalities, serious injuries, and incidents on a project.

"(2) Every construction employer shall make and maintain accurate records concerning fatalities, serious injuries, and incidents involving that employer's own employees.

"(3) The records required under paragraphs (1) and (2) shall contain—

"(A) the name, business address, and telephone number of the construction owner and project constructor and the name of the project safety coordinator;

"(B) the location of the construction worksite where the fatalities, serious injuries, or incidents occurred;

"(C) the name, business address, and telephone number of the construction employer whose construction employee was killed or injured;

"(D) the date and time of the fatalities, serious injuries, and incidents covered by the report;

"(E) the type of fatalities, serious injuries, and incidents (such as whether the fatalities, serious injuries, and incidents involved a fire, explosion, or building collapse) covered by the report;

"(F) the number and nature of fatalities or serious injuries;

"(G) the number of persons who were hospitalized or received medical treatment as a result of the fatalities, serious injuries, or incidents;

"(H) the number of persons unaccounted for at the time the report is made; and

"(I) the identity and mailing address of the individual responsible for investigating the fatalities, serious injuries, and incidents covered by the report.

"(4) The information shall be available for any inspection conducted under this Act.

"(k)(1) Except as otherwise provided in this subsection, a construction employer shall report to the Secretary by telephone or telegraph, within 4 hours, any occurrence involving construction work that results in a serious injury or fatality of an employee of the construction employer.

"(2) Except as otherwise provided in this subsection, a project constructor for a construction worksite shall report to the Secretary by telephone or telegraph, within 4 hours, the occurrence of any structural failure on the construction worksite.

"(3) Each report required under paragraphs (1) and (2) shall specify—

"(A) the name, business address, and telephone number of the construction owner of the project;

"(B) the location of the project and the name of the project constructor and the project safety coordinator;

"(C) the name, business address, and telephone number of the construction employer whose construction employee was killed or seriously injured;

"(D) the date and time of the occurrence of the fatality, serious injury, or structural failure with respect to which the report was made;

"(E) the nature of the occurrence;

"(F) the number of fatalities and serious injuries; and

"(G) the number of persons who were hospitalized or received medical treatment.

"(4)(A) The Secretary shall conduct an inspection of the construction worksite, or the pertinent area of the site, to investigate all reports of incidents described in this subsection as the Secretary, by regulation, prescribes.

"(B) The Secretary shall be granted access to the site.

"(C) The Secretary shall commence the inspection within 24 hours after receipt of a report under paragraph (1) or (2), unless the Secretary determines that conditions at the site would make an inspection dangerous.

"(5) The project constructor shall take appropriate measures (as defined in regulations issued by the Secretary) to prevent the destruction of any evidence that would assist the Secretary in the investigation of the incident with respect to which the report was made.

"(6)(A) As soon as practicable after the investigation, the Secretary shall prepare and make public a narrative description of the occurrence.

"(B) The description shall include a statement of all of the items referred to in paragraph (2) and shall contain appropriate recommendations for the prevention of a similar incident in the future.

"(C) A copy of the description shall be made available by the Secretary to the project constructor and shall be made available to employees and their representatives on request.

"(l)(1) At the completion of a construction project, or (if the project has more than a 1-year duration) 1 year after the commencement of the project, and each year thereafter until the project is completed, the project constructor shall submit to the Secretary a report of all fatalities and serious injuries suffered by employees, and of all structural failures that occurred, on the project. If there have been no fatalities or serious injuries or structural failures, no report shall be required.

"(2) The report under paragraph (1) shall provide—

"(A) the name, business address, and telephone number of the construction owner and project constructor and the name of the project safety coordinator;

"(B) the name of each construction employer whose employee suffered death or serious injury;

"(C) a description of the nature of the work performed by the construction employer on the project;

"(D) a description of the nature of the work performed by each construction employee at the time the construction employee suffered death or serious injury; and

"(E) the date of each such occurrence.".

SEC. 6. CONSTRUCTION SAFETY AND HEALTH ACADEMY.

The Act (as amended by section 4 of this Act) is further amended by inserting after section 29 the following new section:

"SEC. 30. CONSTRUCTION SAFETY AND HEALTH ACADEMY.

"(a) ESTABLISHMENT.—There is established in the Occupational Safety and Health Administration a Construction Safety and Health Academy.

"(b) FUNCTIONS.—The Academy shall be responsible for the training of—

"(1) employees of the Occupational Safety and Health Administration who conduct inspections of construction worksites;

"(2) construction employers and employees; and

"(3) other persons as the Secretary, with the advice of the Advisory Committee on Construction Safety and Health, shall consider appropriate.

"(c) COOPERATIVE AGREEMENTS.—In carrying out this section, the Secretary may enter into cooperative educational and training agreements with educational institutions, State governments, local organizations, and construction industry employers.

"(d) ACCESS.—The Secretary shall ensure that construction employees, construction employee representatives, and construction employees have access to the services made available pursuant to this section.".

SEC. 7. NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH.

Section 22 (29 U.S.C. 671) is amended—

(1) in subsection (a), by striking "Department of Health, Education, and Welfare" and inserting "Department of Health and Human Services"; and

(2) in subsection (b)—

(A) by striking "in the Department of Health, Education, and Welfare" and inserting "as an agency of the National Institutes of Health"; and

(B) by striking "Secretary of Health, Education, and Welfare" each place it appears and inserting "Secretary of Health and Human Services.".

SEC. 8. ADVISORY COMMITTEE ON CONSTRUCTION SAFETY AND HEALTH.

Section 7 (29 U.S.C. 656) is amended by adding at the end the following new subsection:

"(d)(1) The Advisory Committee on Construction Safety and Health shall advise, consult with, and make recommendations to the Secretary and the Secretary of Health and Human Resources on construction safety and health standards and other regulations, and with respect to policy matters arising in the administration of the Act. The Committee shall hold no fewer than four meetings during each calendar year. All meetings of the Committee shall be open to the public and a transcript shall be kept and made available for public inspection.

"(2) The Secretary shall divide the members of the Advisory Committee on Construction Safety and Health serving on the effective date of this subsection into three classes of equal size. No more than two representatives of any interest (for example, employers and employees) shall be assigned to the same class. The Secretary shall then adjust the terms of the members of the Committee so that—

"(A)(i) the terms of the members in the first class shall expire on the first anniversary of the effective date of this subsection;

"(ii) the terms of the members in the second class shall expire on the second anniversary of the effective date of this subsection; and

"(iii) the terms of the members in the third class shall expire on the third anniversary of the effective date of this subsection; and

"(B) after the expiration of the terms of the members of the Advisory Committee on Construction Safety and Health serving on the effective date of this subsection, the terms of Committee members shall be for a period of 3 years.

"(3) A member of the Advisory Committee on Construction Safety and Health whose term has expired, but is otherwise qualified to serve on the Committee, shall continue to serve until a successor is appointed, unless the member resigns or becomes unable to serve.

"(4) The Secretary shall respond in writing to any recommendation made by the Advisory Committee on Construction Safety and Health within sixty days of the Committee's issuance of the recommendation.

"(5) In the performance of its duties prescribed in this section and in section 107(e) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333(e)), the Advisory Committee on Construction Safety and Health shall have the authority to schedule meetings and set meeting agendas, establish subcommittees, conduct research, and issue reports. The Secretary shall provide to the Committee the services of such experts and consultants, secretarial and clerical personnel, as well as office equipment and research material, as the Committee may request to carry out its functions.".

SEC. 9. STATE CONSTRUCTION SAFETY AND HEALTH PLANS.

Section 18 (29 U.S.C. 667) is amended by adding at the end the following new subsection:

"(i) Any State plan that covers construction safety and health shall—

"(1) comply with the requirements listed in subsection (c); and

"(2) provide for the development and enforcement of requirements that (and the enforcement of which requirements) are and will be at least as effective, in providing safe and healthful employment and places of employment in the construction industry, as the requirements imposed by (and the enforcement of requirements under) this Act and the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.), including requirements relating to—

"(A) inspections, investigations, reporting, and recordkeeping;

"(B) construction safety and health programs;

"(C) construction safety and health plans;

"(D) project safety coordinators; and

"(E) the training and certification of State agency construction inspectors.".

SEC. 10. GRANTS TO STATES.

Section 23 (29 U.S.C. 672) is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection:

"(h)(1) The Secretary is authorized to make grants to States to assist the States in administering and enforcing provisions of the Construction Safety, Health, and Education Improvement Act of 1991, and amendments made by such Act, for programs approved by the Secretary pursuant to section 18.

"(2)(A) The Federal share for each State grant under this subsection shall, subject to appropriations, for the first 3 years the plan is in operation, be up to 90 percent of the additional cost to the State of such a program.

"(B) Beginning with the fourth year the plan is in operation—

"(i) the Federal share for the plan shall constitute up to 50 percent of the additional cost to the State of the program; and

"(ii) if the Federal share for all States under this subsection is not the same, the

differences among the States shall be established on the basis of objective criteria.".

SEC. 11. REPORTS.

The Act (as amended by section 6 of this Act) is further amended by inserting after section 30 the following new section:

"SEC. 31. REPORTS.

"(a) ANNUAL REPORTS.—The Secretary, with the advice and assistance of the Advisory Committee on Construction Safety and Health, shall prepare and submit to the President for transmittal to Congress an annual report on the same general subjects as are set forth in section 26, as the subjects relate to the construction industry, including the operation of the Office of Construction Safety, Health and Education.

"(b) EFFECTIVENESS REPORT.—Within 120 days following the conclusion of 3 years of operation of the Office, the Secretary, with the advice and assistance of the Advisory Committee on Construction Safety and Health, shall prepare and submit to the President for transmittal to Congress a report concerning whether the then existing conditions of occupational safety and health in the construction industry, the effectiveness of regulation and enforcement under this Act, and any other relevant information supports the continued existence of the Office within the Occupational Safety and Health Administration or supports the enactment of legislation to establish in the Department of Labor a Construction Industry Safety and Health Administration to be headed by an Assistant Secretary of Labor for Construction Safety and Health.".

SEC. 12. APPLICATION.

Section 4 (29 U.S.C. 653) is amended by adding at the end the following new subsections:

"(c)(1) The Secretary of Labor may determine that certain types' of construction projects or operations should not be covered by the requirements of section 29 and subsections (h) through (l) of section 8, or portions thereof, on the grounds that compliance with such requirements is not feasible and will not promote a significant increase in construction employee safety and health. The Secretary's determination in this regard shall be established in accordance with section 553 of title 5, United States Code.

"(2) In making the determinations referred to in paragraph (1), the Secretary shall take into account—

"(A) the number of construction employees working on construction projects or operations;

"(B) the duration of construction projects or operations;

"(C) the type of work being performed on construction projects or operations, particularly the risk of death or serious injury associated with the type of work being performed;

"(D) the frequency and severity rates of deaths, serious injuries, and incidents of the construction employers and construction owners working on or involved with construction projects or operations; and

"(E) the record of compliance with Federal and State safety and health laws and regulations of the construction employers and construction owners working on or involved with construction projects or operations.

"(3) Any person who may be adversely affected by a determination made under paragraph (1) or (2) may (at any time prior to the 60th day after the determination is issued) file a petition challenging the validity of the determination with the United States court of appeals for the circuit in which the person resides or has the person's principal place of business, for a judicial review of the determination. A copy of the petition shall be transmitted by the clerk of the court to the Secretary. The filing of the petition shall not, unless otherwise ordered by the court, operate as a stay of the determination. The determinations of the Secretary shall be conclusive if supported by substantial evidence in the record considered as a whole.

"(4) Notwithstanding the preceding provisions of this subsection, the requirements of section 8(k) for the submission of reports concerning the death or serious injury of any construction employee, or any structural failure, shall apply to all construction employers.

"(5) Each type of construction project or operation that the Secretary determines is not covered by section 29 and subsections (h) through (l) of section 8, or portions thereof, shall be required to comply with alternative requirements, to be established by the Secretary, with the advice of the Advisory Committee on Construction Safety and Health, that are determined by the Secretary to be feasible for that type of project or operation, and that are capable of promoting construction employee safety and health.

"(6) Unless and until the Secretary establishes a contrary determination, section 29 and subsections (h) through (l) of section 8 shall cover all construction projects and operations.

"(d)(1) Except as provided in paragraph (2), section 29 and subsections (h) through (l) of section 8 shall not apply to construction work performed under a contract between a construction employer and a homeowner for work on the homeowner's own residence.

"(2) Paragraph (1) shall not apply if the work involves a covered operation referred to in section 29(d)(2).".

SEC. 13. FEDERAL CONSTRUCTION CONTRACTS.

(a) REVIEW.—The Secretary of Labor shall review all laws and regulations describing criteria by which contracts subject to section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) are awarded.

(b) RECOMMENDATIONS.—Within 90 days after the date of the enactment of this Act, the Secretary shall deliver to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives the recommendations of the Secretary regarding legislative changes required to make the safety records (including records of compliance with safety and health laws and regulations) one criterion considered in the awarding of contracts.

SEC. 14. EFFECTIVE DATE AND TIMETABLE FOR REGULATIONS.

(a) IN GENERAL.—This Act and the amendments made by this Act shall become effective on October 1, 1991.

(b) TIMETABLE FOR REGULATIONS.—

(1) IN GENERAL.—In promulgating the rules, standards or other regulations that are required or authorized by the amendments made by sections 3, 4 and 5 of this Act, the Secretary of Labor shall comply with the timetable prescribed in this subsection.

(2) INTERIM REGULATIONS.—

(A) IN GENERAL.—Not later than 60 days after the effective date of this Act, the Secretary shall promulgate interim regulations to carry out the amendments made by sections 3, 4 and 5 of this Act.

(B) EFFECTIVE DATE.—The interim regulations shall take effect on issuance and shall apply until final regulations become effective under paragraph (3).

(3) FINAL REGULATIONS.—

(A) IN GENERAL.—Not later than 180 days after the effective date of this Act, the Secretary shall develop and implement final regulations to carry out the amendments made by sections 3, 4 and 5 of this Act.

(B) EFFECTIVE DATE.—The final regulations shall become effective 60 days after the date on which the regulations are promulgated.

(c) RELATIONSHIP TO EXISTING LAW AND REGULATIONS.—Nothing contained in this Act, the amendments made by this Act, or the regulations issued to carry out this Act or the amendments shall limit the application of, or lessen, any of the requirements of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) or the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.), or the standards or regulations issued by the Secretary of Labor to carry out either such Act.•

By Mr. CRANSTON (for himself, Mr. SPECTER, Mr. DECONCINI, Mr. ROCKEFELLER, Mr. GRAHAM, and Mr. AKAKA):

S. 675. A bill to amend title 38, United States Code, to improve the capability of the Department of Veterans Affairs to recruit and retain physicians and dentists through increase on special pay authorities and to authorize collective bargaining over conditions of employment for health care employees of the Department of Veterans Affairs; ordered to be placed on the calendar.

DEPARTMENT OF VETERANS AFFAIRS HEALTH-CARE PERSONNEL ACT

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I am today introducing S. 675, the proposed Department of Veterans Affairs Health-care Personnel Act of 1991. Joining as cosponsors is the ranking member, Senator SPECTER and five committee members, Senators DECONCINI, ROCKEFELLER, GRAHAM, AKAKA, and JEFFORDS in addition to Senator DURENBERGER. This measure represents the final stage in an extended process, which I will describe in more detail in a moment, to enact legislation in two key areas—special pay for VA physicians and dentists and labor relations matters involving VA health care personnel.

TITLE I—PHYSICIAN AND DENTIST RECRUITMENT AND RETENTION ACT OF 1991

Mr. President, the goal of title I, the Physician and Dentist Recruitment and Retention Act of 1991, is to give VA the tools with which to act with flexibility and speed in setting levels of pay for physicians and dentists that are necessary to ensure the effective functioning of VA facilities and the high quality of care that the Nation desires VA to provide. These provisions would substantially raise the upper limits on the categorical rates, and total amounts, of special pay for VA physicians and dentists. The pay provisions reflect the same goal as the committee sought to achieve in the Department of Veterans Affairs Nurse Pay Act of 1990, Public Law 101-366, namely, enabling VA to recruit and retain highly-quali-

fied health care professionals, while not paying more than it must in order to do so.

Mr. President, I believe the widespread support in the Congress for legislation to reform pay for VA physicians and dentists demonstrates a recognition of the vital need to address the pay disincentives confronting VA-employed physicians and dentists and others who might consider a VA career.

In addition to the many Members of Congress who are supporting such legislation, there is strong administration support for physician and dentist special pay modifications to improve recruitment and retention. Building upon the data and recommendations of the Quadrennial Report to the President on the Adequacy of Special Pay for Physicians and Dentists and the VA Task Force which reviewed it, the Committee on Veterans' Affairs has worked with the House Committee and VA to develop a bill which I believe will enable VA to improve the recruitment and retention of high-quality physicians and dentists.

Mr. President, I first introduced physician and dentist pay provisions as S. 2701 on May 24, 1990. S. 2701 was derived in substantial part from title I of H.R. 4557 as passed by the House of Representatives on May 1, 1990. The Senate Veterans Affairs' Committee received testimony on S. 2701 and H.R. 4557 at its June 14 hearing. Based on that testimony and other information, I made certain revisions to the bill which were adopted by the committee at its June 28, 1990, meeting and incorporated into S. 2100, the proposed "Veterans Benefits and Health Care Amendments of 1990", as that bill was reported on July 19 of last year.

Unfortunately, differences with regard to unrelated agent orange and other provisions of S. 2100 prevented the Senate from considering the bill before the end of the 101st Congress and precluded the House and Senate Committees on Veterans' Affairs from reaching a compromise on a number of legislative proposals, including physician and dentist special pay.

Mr. President, this Congress, on January 15, 1991, I introduced S. 127, the proposed Veterans Benefits and Health-Care Amendments of 1991, which includes the same physician or dentist special pay provisions as S. 2100 of the 101st Congress. My counterpart in the House, Representative SONNY MONTGOMERY, chairman of the House Veterans' Affairs Committee, introduced H.R. 598 on January 23, 1991, a bill which basically reflected the agreements reached between House and Senate staff by the end of the 101st Congress. The House passed H.R. 598 by a vote of 399 to 0 on January 30, 1991. The bill we are introducing today reflects the final compromise agreement between the House and Senate committees with regard to physician and dentist special pay and, I am pleased to note, is generally satisfactory to VA.

Mr. President, I acknowledge the debt that our committee owes in the crafting of the initial special pay provisions in S. 2701 of the 101st Congress to the excellent work of the House committee and its leadership, Chairman SONNY MONTGOMERY and ranking minority member BOB STUMP. The invaluable work done by the House committee in developing title I of H.R. 4557 provided a strong foundation upon which our committee could build. Since that time, the provisions in the compromise agreement have been finely honed by the combined efforts of House and Senate staff members, interested professional and veterans groups, and VA officials. Finally, the committee is indebted to many officials in VA for their cooperation in answering numerous inquires and providing a large volume of technical data.

I note that in the past some Senators have expressed reservations about the cost of the physician and dentist pay provisions in earlier versions of this bill. While I share their interest in holding down costs, I believe that, if we want VA to continue to provide high-quality medical care to our Nation's veterans—and I'm certain every member of the Senate does—we must be able to pay the salaries necessary to recruit and retain highly qualified physicians and dentists. I note that the predominate rate-setting mechanism of this bill involves large, authorized ranges of rates of pay for various categories of special pay. Therefore, within the confines of the bill we are introducing today, VA would have considerable discretion in setting pay levels that it considers prudent but still adequate.

To continue to fail to pay VA doctors salaries which are competitive with those offered by other health-care employers, however, would be highly cost-ineffective. That practice results in VA having to spend exorbitant sums to contract for care and services not available from VA staff doctors. Moreover, another cost of unwise frugality in physician and dentist pay is declining morale and a diminishing core of dedicated full-time VA clinicians. The cost of this phenomenon is high and, although not precisely measurable, has adverse implications for patient care. The testimony our committee has received showed the anger and hopelessness that VA clinicians feel and which could very well lead to a mass exodus which would make the already dramatic recruitment and retention problems pale by comparison, unless adequate special pay legislation is enacted as quickly as possible.

Many highly skilled doctors work for VA; not all of them can be rewarded financially at a level that would match what some physicians and dentists can earn in the private market. What should be offered to all of them, however, is pride in VA and trust that VA and Congress will continue on an ongoing basis to do their best to provide fair and appropriate compensation. The approach in the committee bill would work to the benefit of all veterans receiving VA health care.

TITLE II—DEPARTMENT OF VETERANS AFFAIRS LABOR RELATIONS IMPROVEMENT ACT OF 1991

Mr. President, the bill we are introducing today contains, in title II, the Department of Veterans Affairs Labor Relations Improvement Act of 1991, provisions which address many long-standing concerns regarding labor-management relations within VA. We have long recognized the serious problems that exist with regard to both the current disciplinary procedures applicable to title 38 employees and the lack of clear guidance as to the scope of collective bargaining for title 38 employees in the aftermath of the decision handed down in 1988 by the U.S. Court of Appeals for the DC Circuit in the case Colorado Nurse Association versus Federal Labor Relations Authority.

The measure we are introducing today represents a compromise between provisions contained in H.R. 4557, passed by the House of Representatives on May 1, 1990, and those contained in Senate legislation, most recently, in S. 127, introduced on January 14, 1991. The Senate has passed similar legislation dealing with VA labor management issues in S. 2011 on October 18, 1988, and in S. 13 on October 3, 1989, and the committee again reported such provisions in S. 2100 on July 19, 1990.

Specifically, the provisions in the compromise agreement would provide limited collective-bargaining rights similar to those which exist under title 5 to VA employees employed under the title 38 personnel system—physicians, dentists, nurses, podiatrists, optometrists, physician assistants, and expanded function dental auxiliaries. In addition, the VA system of disciplinary actions and grievance procedures would be restructured but would retain its peer review component and would ensure VA employees due process rights substantively similar to those available to title 5 employees. We believe these measures would improve the relationship between VA and health-care professionals employed under the title 38 personnel system, and we are pleased that a successful resolution to these important matters is at hand.

ADMINISTRATIVE REORGANIZATION

Mr. President, section 303 of the bill we are introducing today would modify section 210(b) of title 38, which contains report-and-wait requirements for VA administrative reorganizations, in order to establish a better balance between the need for VA to change and adapt and the needs of oversight committees to have advance notice of significant VA reorganizations. An administrative reorganization is defined

under current law as one that involves a loss or transfer of functions away from a covered VA facility or office resulting in personnel reductions that exceed specified levels. VA cannot implement an administrative reorganization during a given fiscal year unless a detailed plan and justification has been sent to Congress not later than the date on which the President's budget for that fiscal year is submitted to Congress.

This measure would amend the report-and-wait restrictions in three ways. First, VA would be allowed to submit a reorganization proposal to Congress at any time and the waiting period before implementation would be shortened to 90 days. Second, administrative reorganizations involving the transfer of personnel between the Veterans Benefits Administration and the Veterans Health Services and Research Administration at the same facility would be exempt if the number of employees at that facility remained the same. Third, this measure would increase the level of personnel reductions at which report-and-wait restrictions would be triggered.

These modifications would preserve the original intent underlying section 210(b)—to protect the provision of care and service to veterans—while allowing VA greater flexibility in carrying out its mission.

TECHNICAL RESTRUCTURING OF VA HEALTH-CARE SYSTEM PROVISIONS

Mr. President, this measure also includes a technical restructuring of the provisions in current chapter 73 of title 38, relating to the organization of VA's health care system.

These changes, which are purely technical in nature and meant to have no substantive impact, are the first of what will be a number of technical revisions of title 38 to reflect and codify the elevation of VA to a Cabinet level department which occurred on March 15, 1989, pursuant to Public Law 100-527. Other related changes to other chapters of title 38 will be proposed in the coming months.

Mr. President, the changes which are proposed in the pending measure would divide existing chapter 73 into two new chapters—chapter 73, entitled "Veterans Health Administration—Organization and Functions", which, as the title suggests, contains the provisions dealing with the overall organization of VA's health system, and chapter 74, entitled "Veterans Health Administration—Personnel", which includes all of the personnel-related provisions relating to VA's health care system.

In addition, the measure would make various technical, stylistic changes at appropriate points in the two new chapters, such as substituting "Secretary" for "Administrator" and redesignating the Veterans Health Services and Research Administration as the Veterans Health Administration. Also, as the first step in what will be an overall renumbering of title 38 so that the section numbers conform to the chapters in which they are placed, the existing sections of chapter 73, which all are numbered in the 4100's, would be renumbered to begin with 73 or 74 as the first two digits depending on the new chapter in which they appear.

CONCLUSION

Mr. President, I look forward to prompt Senate action on this measure of vital importance to VA health-care personnel and, therefore, to the health of veterans seeking care in VA facilities. I urge all my colleagues to support this legislation.

Mr. President, I ask unanimous consent that titles I and II 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. 675

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

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Department of Veterans Affairs Health-Care Personnel Act of 1991".

(b) REFERENCES TO TITLE 38.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. RENAMING OF VETERANS HEALTH SERVICES AND RESEARCH ADMINISTRATION.

(a) RENAMING.—The establishment in the Department of Veterans Affairs known as the Veterans Health Services and Research Administration is hereby redesignated as the Veterans Health Administration.

(b) REFERENCES.—Any reference to the Veterans Health Services and Research Administration (or to the Department of Medicine and Surgery of the Veterans' Administration) in any Federal law, Executive order, regulation, delegation of authority, or document of or pertaining to the Department of Veterans Affairs shall be deemed to refer to the Veterans Health Administration.

TITLE I—SPECIAL PAY FOR PHYSICIANS AND DENTISTS

SEC. 101. SHORT TITLE.

This title may be cited as the "Department of Veterans Affairs Physician and Dentist Recruitment and Retention Act of 1991".

SEC. 102. REVISION AND REORGANIZATION OF SPECIAL PAY STATUTE.

Part V is amended by inserting after chapter 73 the following new chapter:

"CHAPTER 74—VETERANS HEALTH ADMINISTRATION—PERSONNEL

"SUBCHAPTER III—SPECIAL PAY FOR PHYSICIANS AND DENTISTS

"7431. Special pay: authority.
"7432. Special pay: written agreements.
"7433. Special pay: full-time physicians.
"7434. Special pay: part-time physicians.
"7435. Special pay: full-time dentists.
"7436. Special pay: part-time dentists.
"7437. Special pay: general provisions.
"7438. Special pay: coordination with other benefits laws.
"7439. Periodic review of pay of physicians and dentists; quadrennial report.
"7440. Annual report.

"SUBCHAPTER III—SPECIAL PAY FOR PHYSICIANS AND DENTISTS

"§ 7431. Special pay: authority

"(a) In order to recruit and retain highly qualified physicians and dentists in the Veterans Health Administration, the Secretary shall provide special pay under this subchapter. Such special pay shall be provided under regulations that the Secretary shall prescribe to carry out this subchapter. Before prescribing regulations under this subchapter, the Secretary shall receive the recommendations of the Chief Medical Director with respect to those regulations.

"(b) Special pay may be paid to a physician or dentist under this subchapter only upon the execution of, and for the duration of, a written agreement entered into by the physician or dentist in accordance with section 7432 of this title.

"(c) A physician or dentist serving a period of obligated service pursuant to chapter 76 of this title is not eligible for special pay under this subchapter during the first three years of such obligated service, except that, at the discretion of the Secretary and upon the recommendation of the Chief Medical Director, such a physician or dentist may be paid special pay for full-time status during those three years.

"(d)(1) The Secretary may determine categories of positions applicable to either physicians or dentists, or both, in the Veterans Health Administration as to which there is no significant recruitment and retention problem. While any such determination is in effect, the Secretary may not enter into an agreement under this subchapter with a physician or dentist serving in a position covered by the determination. Before making a determination under this paragraph, the Secretary shall receive the recommendations of the Chief Medical Director with respect to the determination.

"(2) Not later than one year after making any such determination with respect to a category of positions, and each year thereafter that such determination remains in effect, the Secretary shall make a redetermination.

"(3) Any determination under this subsection shall be in accordance with regulations prescribed to carry out this subchapter.

"(e) If the Chief Medical Director determines that payment of special pay to a physician or dentist who is employed on a less than half-time basis is the most cost-effective way available for providing needed medical or dental specialist services at a Department facility, the Chief Medical Director may authorize the payment of special pay for factors other than for full-time status to that physician or dentist at a rate computed on the basis of the proportion that the part-time employment of the physician or dentist bears to full-time employment.

"(f) Special pay may not be paid under this section to a physician or dentist who—

"(1) is employed on less than a quarter-time basis or on an intermittent basis;

"(2) occupies an internship or residency training position; or

"(3) is a reemployed annuitant.

"(g)(1) In the case of a physician or dentist who is employed in a position that is covered by a determination by the Secretary under subsection (d)(1) that the Administration

does not have a significant recruitment or retention problem with respect to a particular category of positions and who on the day before the effective date of this subchapter was receiving special pay under an agreement entered into under section 4118 of this title (as in effect before such date), the Secretary may pay to that physician or dentist, in addition to basic pay, retention pay under this subsection.

"(2) The annual rate of such retention pay for any individual may not exceed the rate which, when added to the rate of basic pay payable to that individual, is equal to the sum of the annual rate of basic pay and the annual rate of special pay paid to that physician or dentist pursuant to the final agreement with that individual under such section 4118.

"(3) Such retention pay shall be treated for all purposes as special pay paid under subchapter III of chapter 74 of this title.

"(4) Retention pay under this subsection shall be paid under such regulations as the Secretary may prescribe.

"§ 7432. Special pay: written agreements

"(a) An agreement entered into by a physician or dentist under this subchapter shall cover a period of one year of service in the Veterans Health Administration unless the physician or dentist agrees to an agreement for a longer period of service, not to exceed four years, as specified in the agreement. A physician or dentist who has previously entered into such an agreement is eligible to enter into a subsequent agreement unless the physician or dentist has failed to refund to the United States any amount which the physician or dentist is obligated to refund under any such previous agreement.

"(b)(1) An agreement under this subchapter shall provide that, if the physician or dentist entering into the agreement voluntarily, or because of misconduct, fails to complete any of the years of service covered by the agreement (measured from the anniversary date of the agreement), the physician or dentist shall refund an amount of special pay received under the agreement for that year equal to—

"(A) in the case of a failure during the first year of service under the agreement, 100 percent of the amount received for that year;

"(B) in the case of a failure during the second year of service under the agreement, 75 percent of the amount received for that year;

"(C) in the case of a failure during the third year of service under the agreement, 50 percent of the amount received for that year; and

"(D) in the case of a failure during the fourth year of service under the agreement, 25 percent of the amount received for that year.

"(2) The Secretary may waive (in whole or in part) the requirement for a refund under paragraph (1) in any case if the Secretary determines (in accordance with regulations prescribed under section 7431(a) of this title) that the failure to complete such period of service is the result of circumstances beyond the control of the physician or dentist.

"(3) Any such agreement shall specify the terms under which the Department and the physician or dentist may elect to terminate the agreement.

"(c)(1) If a proposed agreement under this subchapter will provide a total annual amount of special pay to be provided to a physician or dentist who has previously entered into an agreement under this subchapter (or under section 4118 of this title as in effect before the effective date of the Department of Veterans Affairs Physician and Dentist Recruitment and Retention Act of 1991) that will exceed the previous annual amount of special pay provided for the physician or dentist by more than 50 percent (other than in the case of a physician or dentist employed in an executive position in the Central Office of the Department), or that will be less than the previous annual amount of special pay provided for the physician or dentist by more than 25 percent, the proposed agreement shall be promptly submitted to the Secretary. The proposed agreement shall not take effect if it is disapproved by the Secretary within 60 days after the date on which the physician or dentist entered into the proposed agreement.

"(2) For purposes of paragraph (1), the previous annual amount of special pay provided for a physician or dentist is the total annual amount of special pay provided, or to be provided, to the physician or dentist for the most recent year covered by an agreement entered into by the physician or dentist under this subchapter or under section 4118 of this title. In the case of an agreement entered into under section 4118 of this title, incentive pay shall be treated as special pay for purposes of this paragraph.

"(3) The Secretary shall adjust special pay as necessary for purposes of this subsection to reflect appropriately any change in the status of a physician or dentist (A) from full-time status to part-time status, (B) from part-time status to full-time status, or (C) from one proportion of time spent as a Department employee under part-time status employment to a different proportion.

"(d)(1) If a proposed agreement under this subchapter (other than an agreement in the case of the Chief Medical Director) will provide a total annual amount of special pay to be provided to a physician or dentist which, when added to the amount of basic pay of the physician or dentist, will be in excess of the amount payable for positions specified in section 5312 of title 5, the proposed agreement shall be promptly submitted for approval to the Secretary through the Chief Medical Director. The agreement shall take effect at the end of the 60-day period beginning on the date on which the physician or dentist entered into the proposed agreement if it is neither approved nor disapproved within that 60-day period. If the agreement is approved within that period, the agreement shall take effect as of the date of the approval. A proposed agreement may be disapproved under this paragraph only if it is determined that the amounts of special pay proposed to be paid are not necessary to recruit or retain the physician or dentist.

"(2) A proposed agreement under this subchapter with the Chief Medical Director may provide for payment of special pay for which the Chief Medical Director is eligible under this subchapter (other than that specified in section 7433(b)(4)(B) of this title) only to the extent specifically approved by the Secretary.

"(3) The Secretary shall include in the annual report required by section 7440 of this title—

"(A) a statement of the number of agreements entered into during the period covered by the report under which the total amount of special pay to be provided, when added to the amount of basic pay of the physician or dentist, will be in excess of the amount payable for positions specified in section 5312 of title 5;

"(B) a statement of the number of proposed agreements which during the period covered by the report were disapproved under this subsection; and

"(C) a detailed explanation of the basis for disapproval of each such proposed agreement which was disapproved under this subsection.

"(4) This subsection does not apply to any proposed agreement entered into after September 30, 1994.

"§ 7433. Special pay: full-time physicians

"(a) The Secretary shall provide special pay under this subchapter to eligible physicians employed on a full-time basis based upon the factors, and at the annual rates, specified in subsection (b).

"(b) The special pay factors, and the annual rates, applicable to full-time physicians are as follows:

"(1) For full-time status, $9,000.

"(2)(A) For length of service as a physician within the Veterans Health Administration—

"Length of Service	Rate	
	Minimum	Maximum
2 years but less than 4 years	$4,000	$6,000
4 years but less than 8 years	6,000	12,000
8 years but less than 12 years	12,000	18,000
12 years or more	12,000	25,000

"(B) The Chief Medical Director shall specify a uniform national rate for each range of years of service established by or under this paragraph. The Chief Medical Director may, as to length of service in excess of 12 years, establish uniform national rates for such ranges of years of service as the Chief Medical Director considers appropriate.

"(3)(A) For service in a medical specialty with respect to which there are extraordinary difficulties (on a nation-wide basis or on the basis of the needs of a specific medical facility) in the recruitment or retention of qualified physicians, an annual rate of not more than $40,000.

"(B) For service by a physician who serves only a portion of a year in a medical specialty for which special pay is paid under subparagraph (A), the annual rate shall be calculated on the basis of the proportion of time served in the specialty for which the special pay is paid.

"(4)(A) For service in any of the following executive positions, an annual rate not to exceed the rate applicable to that position as follows:

"Position	Rate	
	Minimum	Maximum
Service Chief (or in a comparable position as determined by the Secretary).	$4,500	$15,000
Chief of Staff or in an Executive Grade.	14,500	25,000
Director Grade	0	25,000

"(B) For service in any of the following executive positions, the annual rate applicable to that position as follows:

"Position	Rate
"Deputy Service Director	$20,000
"Service Director	25,000
"Deputy Assistant Chief Medical Director	27,500
"Assistant Chief Medical Director	30,000
"Associate Deputy Chief Medical Director	35,000
"Deputy Chief Medical Director	40,000
"Chief Medical Director	45,000

"(C) For service by a physician who serves only a portion of a year in an executive position listed in subparagraph (A) or (B) or who serves a portion of a year in such a position and also serves a portion of that year in another position or grade for which special pay is provided under this section, the annual rate shall be calculated on the basis of the proportion of time served in the position or positions for which special pay is provided.

"(5) For specialty certification or first board certification, $2,000, and for subspecialty certification or secondary board certification, an additional $500.

"(6) For service in a specific geographic location with respect to which there are extraordinary difficulties in the recruitment or retention of qualified physicians in a specific category of physicians, an annual rate of not more than $17,000.

"(7)(A) For service by a physician with exceptional qualifications within a specialty, an annual rate of not more than $15,000.

"(B) Special pay under this paragraph may be paid to a physician only if the payment of such pay to that physician is approved by the Chief Medical Director personally and on a case-by-case basis and only to the extent that the rate paid under this paragraph, when added to the total of the rates paid to that physician under paragraphs (1) through (6), does not exceed the total rate that may be paid under those paragraphs to a physician with the same length of service, specialty, and position as the physician concerned.

"§ 7434. Special pay: part-time physicians

"(a) Subject to section 7431(e) of this title and subsection (b) of this section, special pay under this subchapter for physicians employed on a part-time basis shall be based on the special-pay factors and annual rates specified in section 7433 of this title.

"(b) The annual rate of special pay paid to a physician employed on a part-time basis shall bear the same ratio to the annual rate that the physician would be paid under section 7433 (other than for full-time status) if the physician were employed on a full-time basis as the amount of part-time employment by the physician bears to full-time employment, except that such ratio may not exceed 3/4.

"§ 7435. Special pay: full-time dentists

"(a) The Secretary shall provide special pay under this subchapter to eligible dentists employed on a full-time basis based upon the factors, and at the annual rates, specified in subsection (b).

"(b) The special pay factors, and the annual rates, applicable to full-time dentists are as follows:

"(1) For full-time status, $3,500.

"(2)(A) For length of service as a dentist within the Veterans Health Administration—

"Length of Service	Rate	
	Minimum	Maximum
2 years but less than 4 years	$1,000	$2,000
4 years but less than 8 years	2,000	3,000
8 years but less than 12 years	3,000	3,500
12 years or more	3,000	4,000

"(B) The Chief Medical Director shall specify a uniform national rate for each range of years of service established by or under this paragraph. The Chief Medical Director may, as to length of service in excess of 12 years, establish uniform national rates for such ranges of years of service as the Chief Medical Director considers appropriate.

"(3)(A) For service in a dental specialty with respect to which there are extraordinary difficulties (on a nation-wide basis or on the basis of the needs of a specific medical facility) in the recruitment or retention of qualified dentists, an annual rate of not more than $20,000.

"(B) For service by a dentist who serves only a portion of a year in a dental specialty for which special pay is paid under subparagraph (A), the annual rate shall be calculated on the basis of the proportion of time served in the specialty for which the special pay is paid.

"(4)(A) For service in any of the following executive positions, an annual rate not to exceed the rate applicable to that position as follows:

"Position	Rate	
	Minimum	Maximum
Service Director	$1,000	$9,000
Deputy Service Director	1,000	8,000
Chief of Staff or in an Executive Grade.	1,000	8,000
Director Grade	0	8,000
Service Chief (or in a comparable position as determined by the Secretary).	1,000	5,000

"(B) For service in any of the following executive positions, the annual rate applicable to that position as follows:

"Position	Rate
Assistant Chief Medical Director (or in a comparable position as determined by the Secretary)	$10,000
Deputy Assistant Chief Medical Director	10,000

"(C) For service by a dentist who serves only a portion of a year in an executive position listed in subparagraph (A) or (B) or who serves a portion of a year in such a position and also serves a portion of that year in another position or grade for which special pay is provided under this section, the annual rate shall be calculated on the basis of the proportion of time served in the position or positions for which special pay is provided.

"(5) For specialty or first board certification, $2,000 and for subspecialty or secondary board certification, an additional $500.

"(6) For service in a specific geographic location with respect to which there are extraordinary difficulties in the recruitment or retention of qualified dentists in a specific category of dentists, an annual rate not more than $5,000.

"(7)(A) For service by a dentist with exceptional qualifications within a specialty, an annual rate of not more than $5,000.

"(B) Special pay under this paragraph may be paid to a dentist only if the payment of such pay to that dentist is approved by the Chief Medical Director personally and on a case-by-case basis and only to the extent that the rate paid under this paragraph, when added to the total of the rates paid to that dentist under paragraphs (1) through (6), does not exceed the total rate that may be paid under those paragraphs to a dentist with the same length of service, specialty, and position as the dentist concerned.

"§ 7436. Special pay: part-time dentists

"(a) Subject to section 7431(e) of this title and subsection (b) of this section, special pay under this subchapter for dentists employed on a part-time basis shall be based on the special-pay factors and annual rates specified in section 7435 of this title.

"(b) The annual rate of special pay paid to a dentist employed on a part-time basis shall bear the same ratio to the annual rate that the dentist would be paid under section 7435 of this title (other than for full-time status) if the dentist were employed on a full-time basis as the amount of part-time employment by the dentist bears to full-time employment, except that such ratio may not exceed 3/4.

"§ 7437. Special pay: general provisions

"(a) A physician who is provided special pay for service in an executive position under paragraph (4)(B) of section 7433(b) of this title may not also be provided scarce specialty special pay under paragraph (3) of that section. A dentist who is provided special pay for service in an executive position under paragraph (4) of section 7435(b) of this title for service as a Service Director, Deputy Service Director, Deputy Assistant Chief Medical Director, or Assistant Chief Medical Director may not also be provided scarce specialty special pay under paragraph (3) of that section.

"(b) The following determinations under this subchapter shall be made under regulations prescribed under section 7431 of this title:

"(1) A determination that there are extraordinary difficulties (on a nation-wide basis or on the basis of the needs of a specific medical facility) in the recruitment or retention of qualified physicians in a medical specialty or in the recruitment or retention of qualified dentists in a dental specialty.

"(2) A determination of the rate of special pay to be paid to a physician or dentist for a factor of special pay for which the applicable rate is specified as a range of rates.

"(3) A determination of whether there are extraordinary difficulties in a specific geographic location in the recruitment or retention of qualified physicians in a specific category of physicians or in the recruitment or retention of qualified dentists in a specific category of dentists.

"(c) A determination for the purposes of this subchapter that there are extraordinary difficulties in the recruitment or retention of qualified physicians in a medical specialty, or in the recruitment or retention of qualified dentists in a dental specialty, on the basis of the needs of a specific medical facility may only be made upon the request of the director of that facility.

"(d) A physician or dentist may not be provided scarce specialty pay under section 7433(b), 7434(b), 7435(b), or 7436(b) of this title (whichever is applicable) on the basis of the needs of a specific medical facility unless the Secretary also determines that geographic location pay under that section is insufficient to meet the needs of that facility for qualified physicians or dentists, as the case may be.

"(e)(1) A physician or dentist shall be paid special pay under this subchapter at a rate not less than the rate of special pay the physician or dentist was paid under section 4118 of this title as of the day before the effective date of this subchapter if the physician or dentist—

"(A) is employed on a full-time basis in the Veterans Health Administration;

"(B) was employed as a physician or dentist on a full-time basis in the Administration on the day before such effective date; and

"(C) on such effective date was being paid only for the special-pay factors of primary, full-time, and length of service.

"(2) A physician or dentist shall be paid special pay under this subchapter at a rate not less than the rate of special pay the physician or dentist was paid under section 4118 of this title as of the day before the effective date of this subchapter if the physician or dentist—

"(A) is employed on a part-time basis in the Veterans Health Administration;

"(B) was employed as a physician or dentist on a part-time basis in the Administration on the day before such effective date; and

"(C) on such effective date was being paid only for the special-pay factors of primary and length of service.

"(f) Any amount of special pay payable under this subchapter shall be paid in equal installments in accordance with regularly established pay periods.

"(g) Except as otherwise expressly provided by law, special pay may not be provided to a physician or dentist in the Veterans Health Administration for any factor not specified in section 7433, 7434, 7435, or 7436, as applicable, of this title.

"(h) In no case may the total amount of compensation paid to a physician or dentist under this title in any year exceed the amount of annual compensation (excluding expenses) specified in section 102 of title 3.

"§ 7438. Special pay: coordination with other benefits laws

"(a) Special pay paid under this subchapter shall be in addition to any other pay and allowances to which a physician or dentist is entitled.

"(b)(1) A physician or dentist who has no section 4118 service and has completed not less than 15 years of service as a physician or dentist in the Veterans Health Administration shall be entitled to have special pay paid to the physician or dentist under this subchapter considered basic pay for the purposes of chapter 83 or 84 of title 5, as appropriate.

"(2) A physician or dentist who has section 4118 service and has completed a total of not less than 15 years of service as a physician or dentist in the Veterans Health Administration shall be entitled to have special pay paid to the physician or dentist under this subchapter considered basic pay for the purposes of chapter 83 or 84, as appropriate, of title 5 as follows:

"(A) In an amount equal to the amount that would have been so considered under section 4118 of this title on the day before the effective date of this section based on the rates of special pay the physician or dentist was entitled to receive under that section on the day before such effective date.

"(B) With respect to any amount of special pay received under this subchapter in excess of the amount such physician or dentist was entitled to receive under section 4118 of this title on the day before the effective date of this section, in an amount equal to 25 percent of such excess amount for each two years that the physician or dentist has completed as a physician or dentist in the Veterans Health Administration after the effective date of this section.

"(3) All special pay paid under this subchapter shall be included in average pay (as defined in sections 8331(4) or 8401(3) of title 5, as appropriate) for purposes of computing benefits paid under section 8337, 8341(d) or (e), 8442(b), 8443, or 8451 of such title.

"(4) Special pay paid under section 4118 of this title, as in effect before the effective date of this section, to a physician or dentist who has section 4118 service shall be credited to the physician or dentist for the same purposes and in the same manner and to the same extent that such special pay was credited to the physician or dentist before such effective date.

"(5) For purposes of this subsection:

"(A) The term 'physician or dentist who has no section 4118 service' means a physician or dentist employed as a physician or dentist in the Veterans Health Administration who has no previous service as a physician or dentist in the Administration (or its predecessor) before the effective date of this section.

"(B) The term 'physician or dentist who has section 4118 service' means a physician or dentist employed as a physician or dentist in the Veterans Health Administration who has previous service as a physician or dentist in the Administration (or its predecessor) before the effective date of this section.

"(C) Service in any predecessor entity of the Veterans Health Administration shall be considered to be service in the Veterans Health Administration.

"(c) Compensation paid as special pay under this subchapter or under an agreement entered into under section 4118 of this title (as in effect on the day before the effective date of the Department of Veterans Affairs Physician and Dentist Recruitment and Retention Act of 1991) shall be considered as annual pay for the purposes of chapter 87 of title 5, relating to life insurance for Federal employees.

"§ 7439. Periodic review of pay of physicians and dentists; quadrennial report

"(a) In order to make possible the recruitment and retention of a well-qualified work force of physicians and dentists capable of providing quality care for eligible veterans, it is the policy of Congress to ensure that the levels of total pay for physicians and dentists of the Veterans Health Administration are fixed at levels reasonably comparable—

"(1) with the levels of total pay of physicians and dentists employed by or serving in other departments and agencies of the Federal Government; and

"(2) with the income of non-Federal physicians and dentists for the performance of services as physicians and dentists.

"(b)(1) To assist the Congress and the President in carrying out the policy stated in subsection (a), the Secretary shall—

"(A) define the bases for pay distinctions, if any, among various categories of physicians and dentists, including distinctions between physicians and dentists employed by the Veterans Health Administration and physicians and dentists employed by other departments and agencies of the Federal Government and between all Federal sector and non-Federal sector physicians and dentists; and

"(B) obtain measures of income from the employment or practice of physicians and dentists outside the Administration, including both the Federal and non-Federal sectors, for use as guidelines for setting and periodically adjusting the amounts of special pay for physicians and dentists of the Administration.

"(2) The Secretary shall submit to the President a report, on such date as the President may designate but not later than December 31, 1994, and once every four years thereafter, recommending appropriate rates of special pay to carry out the policy set forth in subsection (a) with respect to the pay of physicians and dentists in the Veterans Health Administration. The Secretary shall include in such report, when considered appropriate and necessary by the Secretary, recommendations for modifications of the special pay levels set forth in this subchapter whenever—

"(A) the Department is unable to recruit or retain a sufficient work force of well-qualified physicians and dentists in the Administration because the incomes and other employee benefits, to the extent that those benefits are reasonably quantifiable, of physicians and dentists outside the Administration who perform comparable types of duties are significantly in excess of the levels of total pay (including basic pay and special pay) and other employee benefits, to the extent that those benefits are reasonably quantifiable, available to those physicians and dentists employed by the Administration; or

"(B) other extraordinary circumstances are such that special pay levels are needed to recruit or retain a sufficient number of well-qualified physicians and dentists.

"(c) The President shall include in the budget transmitted to the Congress under section 1105 of title 31 after the submission of each report of the Secretary under subsection (b)(2) recommendations with respect to the exact rates of special pay for physicians and dentists under this subchapter and the cost of those rates compared with the cost of the special pay rates in effect under this subchapter at the time the budget is transmitted.

"§ 7440. Annual report

"The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an annual report on the use of the authorities provided in this subchapter. The report shall be submitted each year as part of the budget justification documents submitted by the Secretary in support of the budget of the President submitted pursuant to section 1105 of title 31 that year. Each such report shall include the following:

"(1) A review of the use of the authorities provided in this subchapter (including the Secretary's and Chief Medical Director's actions, findings, recommendations, and other activities under this subchapter) during the preceding fiscal year and the fiscal year during which the report is submitted.

"(2) The plans for the use of the authorities provided in this subchapter for the next fiscal year.

"(3) A description of the amounts of special pay paid during the preceding fiscal year, shown by category of pay.

"(4) A list of those geographic areas, and those scarce specialties, for which special pay was paid during the preceding fiscal year, those for which special pay is being paid during the current fiscal year, and those for which special pay is expected to be paid during the next fiscal year, together with a summary of any differences among those three lists.

"(5) The number of physicians and dentists (A) who left employment with the Veterans Health Administration during the preceding year, (B) who changed from full-time status to part-time status, (C) who changed from part-time status to full-time status, as well as (D) a summary of the reasons therefor.

"(6) By specialty, the number of positions created and the number of positions abolished during the preceding fiscal year and a summary of the reasons for such actions.

"(7) The number of unfilled physician and dentist positions in each specialty in the Veterans Health Administration, the average and maximum lengths of time that such positions have been unfilled, and a summary of the reasons that such positions remain unfilled and, in the case of any specialty not

designated as a scarce specialty for purposes of special pay under this subchapter, an explanation (including comparisons with other specialties that have been so designated) of why the specialty has not been so designated.".

SEC. 103. OTHER COMPENSATION BENEFITS.

(a) IN GENERAL.—Subchapter I of chapter 74 (as added by section 401(b)(2)) is amended by adding at the end the following sections:

"§ 7410. Additional pay authorities

"The Secretary may authorize the Chief Medical Director to pay advance payments, recruitment or relocation bonuses, and retention allowances to the personnel described in paragraph (1) of section 7401 of this title, or interview expenses to candidates for appointment as such personnel, in the same manner, and subject to the same limitations, as in the case of the authority provided under sections 5524a, 5706b, 5753, and 5754 of title 5.

"§ 7411. Full-time board-certified physicians and dentists: reimbursement of continuing professional education expenses

"The Secretary shall reimburse any full-time board-certified physician or dentist appointed under section 7401(1) of this title for expenses incurred, up to $1,000 per year, for continuing professional education.".

(2) The table of sections at the beginning of chapter 74 (as amended by section 401(b)(1)(A)) is amended by inserting after the item relating to section 7409 the following:

"7410. Additional pay authorities.
"7411. Full-time board-certified physicians and dentists: reimbursement of continuing professional education expenses.".

(b) EFFECTIVE DATE.—Section 7411 of title 38, United States Code, as added by subsection (a), shall apply with respect to expenses incurred for continuing professional education that is pursued after September 30, 1991.

SEC. 104. EFFECTIVE DATE AND TRANSITION.

(a) EFFECTIVE DATE.—Subchapter III of chapter 74 of title 38, United States Code, as added by section 102, shall take effect on the first day of the first pay period beginning after the earlier of—

(1) July 1, 1991; or

(2) the end of the 90-day period beginning on the date of the enactment of this Act.

(b) TRANSITIONS PROVISIONS.—(1) In the case of an agreement entered into under section 4118 of title 38, United States Code, before the date of the enactment of this Act that expires after the effective date specified in subsection (a), the Secretary of Veterans Affairs and the physician or dentist concerned may agree to terminate that agreement as of that effective date in order to permit a new agreement under subchapter III of chapter 74 of title 38, United States Code, as added by section 102, to take effect as of that effective date.

(2) In the case of an agreement entered into under section 4118 of title 38, United States Code, before the date of the enactment of this Act that expires during the period beginning on the date of the enactment of this Act and ending on the effective date specified in subsection (a), an extension or renewal of that agreement may not extend beyond that effective date.

(3) In the case of a physician or dentist who begins employment with the Department of Veterans Affairs during the period beginning on the date of the enactment of this Act and ending on the effective date specified in subsection (a) who is eligible for an agreement under section 4118 of title 38, United States Code, any such agreement may not extend beyond that effective date.

(c) SAVINGS PROVISION.—Except as provided in subsection (b)(1), any agreement entered into under section 4118 of title 38, United States Code, before the effective date specified in subsection (a) shall remain in effect in accordance with its terms and shall be treated for all purposes in accordance with such section as in effect on the day before such effective date.

(d) PROHIBITION OF RETROACTIVE AGREEMENTS.—An agreement entered into under subchapter III of chapter 74 of title 38, United States Code, as added by section 102, may not provide special pay with respect to a period before the effective date specified in subsection (a).

TITLE II—LABOR-MANAGEMENT RELATIONS

SEC. 201. SHORT TITLE.

This title may be cited as the "Department of Veterans Affairs Labor Relations Improvement Act of 1991".

SEC. 202. COLLECTIVE BARGAINING FOR TITLE 38 EMPLOYEES.

Chapter 74, as added by section 102, is amended by inserting before subchapter III the following:

"SUBCHAPTER II—COLLECTIVE BARGAINING AND PERSONNEL ADMINISTRATION

"§ 7421. Personnel administration: in general

"(a) Notwithstanding any law, Executive order, or regulation, the Secretary shall prescribe by regulation the hours and conditions of employment and leaves of absence of employees appointed under any provision of this chapter in positions in the Veterans Health Administration listed in subsection (b).

"(b) Subsection (a) refers to the following positions:

"(1) Physicians.
"(2) Dentists.
"(3) Podiatrists.
"(4) Optometrists.
"(5) Registered nurses.
"(6) Physician assistants.
"(7) Expanded-duty dental auxiliaries.

"§ 7422. Collective bargaining

"(a) Except as otherwise specifically provided in this title, the authority of the Secretary to prescribe regulations under section 7421 of this title is subject to the right of Federal employees to engage in collective bargaining with respect to conditions of employment through representatives chosen by them in accordance with chapter 71 of title 5 (relating to labor-management relations).

"(b) Such collective bargaining (and any grievance procedures provided under a collective bargaining agreement) in the case of employees described in section 7421(b) of this title may not cover, or have any applicability to, any matter or question concerning or arising out of (1) professional conduct or competence, (2) peer review, or (3) the establishment, determination, or adjustment of employee compensation under this title.

"(c) For purposes of this section, the term 'professional conduct or competence' means any of the following:

"(1) Direct patient care.
"(2) Clinical competence.

"(d) An issue of whether a matter or question concerns or arises out of (1) professional conduct or competence, (2) peer review, or (3) the establishment, determination, or adjustment of employee compensation under this title shall be decided by the Secretary and is not itself subject to collective bargaining and may not be reviewed by any other agency.

"(e) A petition for judicial review or petition for enforcement under section 7123 of title 5 in any case involving employees described in section 7421(b) of this title or arising out of the applicability of chapter 71 of title 5 to employees in those positions, shall be taken only in the United States Court of Appeals for the District of Columbia Circuit.

"§ 7423. Personnel administration: full-time employees

"(a) The hours of employment in carrying out responsibilities under this title of any employee who is appointed in the Administration under any provision of this chapter on a full-time basis in a position listed in section 7421(b) of this title (other than an intern or resident appointed pursuant to section 7406 of this title) and who accepts responsibilities for carrying out professional services for remuneration other than those assigned under this title shall consist of not less than 80 hours in a biweekly pay period (as that term is used in section 5504 of title 5).

"(b) A person covered by subsection (a) may not do any of the following:

"(1) Assume responsibility for the medical care of any patient other than a patient admitted for treatment at a Department facility, except in those cases where the person, upon request and with the approval of the Chief Medical Director, assumes such responsibilities to assist communities or medical practice groups to meet medical needs which would not otherwise be available for a period not to exceed 180 calendar days, which may be extended by the Chief Medical Director for additional periods not to exceed 180 calendar days each.

"(2) Teach or provide consultative services at any affiliated institution if such teaching or consultation will, because of its nature or duration, conflict with such person's responsibilities under this title.

"(3) Accept payment under any insurance or assistance program established under title XVIII or XIX of the Social Security Act or under chapter 55 of title 10 for professional services rendered by such person while carrying out such person's responsibilities under this title.

"(4) Accept from any source, with respect to any travel performed by such person in the course of carrying out such person's responsibilities under this title, any payment or per diem for such travel, other than as provided for in section 4111 of title 5.

"(5) Request or permit any individual or organization to pay, on such person's behalf for insurance insuring such person against malpractice claims arising in the course of carrying out such person's responsibilities under this title or for such person's dues or similar fees for membership in medical or dental societies or related professional associations, except where such payments constitute a part of such person's remuneration for the performance of professional responsibilities permitted under this section, other than those carried out under this title.

"(6) Perform, in the course of carrying out such person's responsibilities under this title, professional services for the purpose of generating money for any fund or account which is maintained by an affiliated institution for the benefit of such institution, or for such person's personal benefit, or both.

"(c) In the case of any fund or account described in subsection (b)(6) that was established before September 1, 1973—

"(1) the affiliated institution shall submit semiannually an accounting to the Secretary and to the Comptroller General of the United States with respect to such fund or account and shall maintain such fund or account subject to full public disclosure and audit by the Secretary and the Comptroller General for a period of three years or for such longer period as the Secretary shall prescribe, and

"(2) no person in a position specified in paragraph (1)(B) may receive any cash from amounts deposited in such fund or account derived from services performed before that date.

"(d) As used in this section:

"(1) The term 'affiliated institution' means a medical school or other institution of higher learning with which the Secretary has a contract or agreement as referred to in section 7313 of this title for the training or education of health personnel.

"(2) The term 'remuneration' means the receipt of any amount of monetary benefit from any non-Department source in payment for carrying out any professional responsibilities.".

SEC. 203. ADVERSE PERSONNEL ACTIONS.

(a) REFORM OF DISCIPLINARY PROCEDURES FOR SECTION 7401(1) EMPLOYEES.—Chapter 74, as added by section 102 and amended by section 202, is further amended by adding at the end the following:

"SUBCHAPTER V—DISCIPLINARY AND GRIEVANCE PROCEDURES

"§ 7461. Adverse actions: section 7401(1) employees

"(a) Whenever the Chief Medical Director (or an official designated by the Chief Medical Director) brings charges based on conduct or performance against a section 7401(1) employee and as a result of those charges an adverse personnel action is taken against the employee, the employee shall have the right to appeal the action.

"(b)(1) If the case involves or includes a question of professional conduct or competence in which a major adverse action was taken, such an appeal shall be made to a Disciplinary Appeals Board under section 7462 of this title.

"(2) In any other case, such an appeal shall be made—

"(A) through Department grievance procedures under section 7463 of this title, in any case that involves or includes a question of professional conduct or competence in which a major adverse action was not taken or in any case of an employee who is not covered by a collective bargaining agreement under chapter 71 of title 5; or

"(B) through grievance procedures provided through collective bargaining under chapter 71 of title 5 or through Department grievance procedures under section 7463 of this title, as the employee elects, in the case of an employee covered by a collective bargaining agreement under chapter 71 of title 5 that does not involve or include a question of professional conduct or competence.

"(c) For purposes of this subchapter—

"(1) Section 7401(1) employees are employees of the Department employed on a full-time basis under a permanent appointment in a position listed in section 7401(1) of this title (other than interns and residents appointed pursuant to section 7406 of this title).

"(2) A major adverse action is an adverse action which includes any of the following:

"(A) Suspension.

"(B) Transfer.

"(C) Reduction in grade.

"(D) Reduction in basic pay.

"(E) Discharge.

"(3) A question of professional conduct or competence is a question involving any of the following:

"(A) Direct patient care.

"(B) Clinical competence.

"(d) An issue of whether a matter or question concerns, or arises out of, professional conduct or competence is not itself subject to any grievance procedure provided by law, regulation, or collective bargaining and may not be reviewed by any other agency.

"(e) Whenever the Secretary proposes to prescribe regulations under this subchapter, the Secretary shall publish the proposed regulations in the Federal Register for notice-and-comment not less than 30 days before the day on which they take effect.

"§ 7462. Major adverse actions involving professional conduct or competence

"(a)(1) Disciplinary Appeals Boards appointed under section 7464 of this title shall have exclusive jurisdiction to review any case—

"(A) which arises out of (or which includes) a question of professional conduct or competence of a section 7401(1) employee; and

"(B) in which a major adverse action was taken.

"(2) The board shall include in its record of decision in any mixed case a statement of the board's exclusive jurisdiction under this subsection and the basis for such exclusive jurisdiction.

"(3) For purposes of paragraph (2), a mixed case is a case that includes both a major adverse action arising out of a question of professional conduct or competence and an adverse action which is not a major adverse action or which does not arise out of a question of professional conduct or competence.

"(b)(1) In any case in which charges are brought against a section 7401(1) employee which arises out of, or includes, a question of professional conduct or competence which could result in a major adverse action, the employee is entitled to the following:

"(A) At least 30 days advance written notice from the Chief Medical Director or other charging official specifically stating the basis for each charge, the adverse actions that could be taken if the charges are sustained, and a statement of any specific law, regulation, policy, procedure, practice, or other specific instruction that has been violated with respect to each charge, except that the requirement for notification in advance may be waived if there is reasonable cause to believe that the employee has committed a crime for which the employee may be imprisoned.

"(B) A reasonable time, but not less than seven days, to present an answer orally and in writing to the Chief Medical Director or other deciding official, who shall be an official higher in rank than the charging official, and to submit affidavits and other documentary evidence in support of the answer.

"(2) In any case described in paragraph (1), the employee is entitled to be represented by an attorney or other representative of the employee's choice at all stages of the case.

"(3)(A) If a proposed adverse action covered by this section is not withdrawn, the deciding official shall render a decision in writing within 21 days of receipt by the deciding official of the employee's answer. The decision shall include a statement of the specific reasons for the decision with respect to each charge. If a major adverse action is imposed, the decision shall state whether any of the charges sustained arose out of a question of professional conduct or competence. If any of the charges are sustained, the notice of the decision to the employee shall include notice of the employee's rights of appeal.

"(B) Notwithstanding the 21-day period specified in subparagraph (A), a proposed adverse action may be held in abeyance if the employee requests, and the deciding official agrees, that the employee shall seek counseling or treatment for a condition covered under the Rehabilitation Act of 1973. Any such abeyance of a proposed action may not extend for more than one year.

"(4)(A) The Secretary may require that any answer and submission under paragraph (1)(B) be submitted so as to be received within 30 days of the date of the written notice of the charges, except that the Secretary shall allow the granting of extensions for good cause shown.

"(B) The Secretary shall require that any appeal to a Disciplinary Appeals Board from a decision to impose a major adverse action shall be received within 30 days after the date of service of the written decision on the employee.

"(c)(1) When a Disciplinary Appeals Board convenes to consider an appeal in a case under this section, the board, before proceeding to consider the merits of the appeal, shall determine whether the case is properly before it.

"(2) Upon hearing such an appeal, the board shall, with respect to each charge appealed to the board, sustain the charge, dismiss the charge, or sustain the charge in part and dismiss the charge in part. If the deciding official is sustained (in whole or in part) with respect to any such charge, the board shall—

"(A) approve the action as imposed;

"(B) approve the action with modification, reduction, or exception; or

"(C) reverse the action.

"(3) A board shall afford an employee appealing an adverse action under this section an opportunity for an oral hearing. If such a hearing is held, the board shall provide the employee with a transcript of the hearing.

"(4) The board shall render a decision in any case within 45 days of completion of the hearing, if there is a hearing, and in any event no later than 120 days after the appeal commenced.

"(d)(1) After resolving any question as to whether a matter involves professional conduct or competence, the Secretary shall cause to be executed the decision of the Disciplinary Appeals Board in a timely manner and in any event in not more than 90 days after the decision of the Board is received by the Secretary. Pursuant to the board's decision, the Secretary may order reinstatement, award back pay, and provide such other remedies as the board found appropriate relating directly to the proposed action, including expungement of records relating to the action.

"(2) If the Secretary finds a decision of the board to be clearly contrary to the evidence or unlawful, the Secretary may—

"(A) reverse the decision of the board, or

"(B) vacate the decision of the board and remand the matter to the Board for further consideration.

"(3) If the Secretary finds the decision of the board (while not clearly contrary to the evidence or unlawful) to be not justified by the nature of the charges, the Secretary may mitigate the adverse action imposed.

"(4) The Secretary's execution of a board's decision shall be the final administrative action in the case.

"(e) The Secretary may designate an employee of the Department to represent management in any case before a Disciplinary Appeals Board.

"(f)(1) A section 7401(1) employee adversely affected by a final order or decision of a Disciplinary Appeals Board (as reviewed by the Secretary) may obtain judicial review of the order or decision.

"(2) In any case in which judicial review is sought under this subsection, the court shall review the record and hold unlawful and set aside any agency action, finding, or conclusion found to be—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(B) obtained without procedures required by law, rule, or regulation having been followed; or

"(C) unsupported by substantial evidence.

"§ 7463. Other adverse actions

"(a) The Secretary shall prescribe by regulation procedures for the consideration of grievances of section 7401(1) employees arising from adverse personnel actions in which each action taken either—

"(1) is not a major adverse action; or

"(2) does not arise out of a question of professional conduct or competence.

Disciplinary Appeals Boards shall not have jurisdiction to review such matters, other than as part of a mixed case (as defined in section 7462(a)(3) of this title).

"(b) In the case of an employee who is a member of a collective bargaining unit under chapter 71 of title 5, the employee may seek review of an adverse action described in subsection (a) either under the grievance procedures provided through regulations prescribed under subsection (a) or through grievance procedures determined through collective bargaining, but not under both. The employee shall elect which grievance procedure to follow. Any such election may not be revoked.

"(c)(1) In any case in which charges are brought against a section 7401(1) employee which could result in a major adverse action and which do not involve professional conduct or competence, the employee is entitled to the same notice and opportunity to answer with respect to those charges as provided in subparagraphs (A) and (B) of section 7462(b)(1) of this title.

"(2) In any other case in which charges are brought against a section 7401(1) employee, the employee is entitled to—

"(A) an advance written notice stating the specific reason for the proposed action, and

"(B) a reasonable time to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer.

"(d) Grievance procedures prescribed under subsection (a) shall include the following:

"(1) A right to formal review by an impartial examiner within the Department of Veterans Affairs, who, in the case of an adverse action arising from a question of professional conduct or competence, shall be selected from the panel designated under section 7464 of this title.

"(2) A right to a prompt report of the findings and recommendations by the impartial examiner.

"(3) A right to a prompt review of the examiner's findings and recommendations by an official of a higher level than the official who decided upon the action. That official may accept, modify, or reject the examiner's recommendations.

"(e) In any review of an adverse action under the grievance procedures prescribed under subsection (a), the employee is entitled to be represented by an attorney or other representative of the employee's choice at all stages of the case.

"§ 7464. Disciplinary Appeals Boards

"(a) The Secretary shall from time to time appoint boards to hear appeals of major adverse actions described in section 7462 of this title. Such boards shall be known as Disciplinary Appeals Boards. Each board shall consist of three employees of the Department, each of whom shall be of the same grade as, or be senior in grade to, the employee who is appealing an adverse action. At least two of the members of each board shall be employed in the same category of position as the employee who is appealing the adverse action. Members of a board shall be appointed from individuals on the panel established under subsection (d).

"(b)(1) In appointing a board for any case, the Secretary shall designate one of the members to be chairman and one of the members to be secretary of the board, each of whom shall have authority to administer oaths.

"(2) Appointment of boards, and the proceedings of such boards, shall be carried out under regulations prescribed by the Secretary. A verbatim record shall be maintained of board hearings.

"(c)(1) Notwithstanding sections 5701 and 7332 of this title, the chairman of a board, upon request of an employee whose case is under consideration by the board (or a representative of that employee) may, in connection with the considerations of the board, review records or information covered by those sections and may authorize the disclosure of such records or information to that employee (or representative) to the extent the board considers appropriate for purposes of the proceedings of the board in that case.

"(2) In any such case the board chairman may direct that measures be taken to protect the personal privacy of individuals whose records are involved. Any person who uses or discloses a record or information covered by this subsection for any purpose other than in connection with the proceedings of the board shall be fined not more than $5,000 in the case of a first offense and not more than $20,000 in the case of a subsequent offense.

"(d)(1) The Secretary shall provide for the periodic designation of employees of the Department who are qualified to serve on Disciplinary Appeals Boards. Those employees shall constitute the panel from which board members in a case are appointed. The Secretary shall provide (without charge) a list of the names of employees on the panel to any person requesting such list.

"(2) The Secretary shall announce periodically, and not less often than annually, that the roster of employees on the panel is available as described in paragraph (1). Such announcement shall be made at Department medical facilities and through publication in the Federal Register. Notice of a name being on the list must be provided at least 30 days before the individual selected may serve on a Board or as a grievance examiner. Employees, employee organizations, and other interested parties may submit comments to the Secretary concerning the suitability for service on the panel of any employee whose name is on the list.

"(3) The Secretary shall provide training in the functions and duties of Disciplinary Appeals Boards and grievance procedures under section 7463 of this title for employees selected to be on the panel.".

(b) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 74, as added by section 102, is amended—

(1) by inserting before the item relating to subchapter III the following:

"SUBCHAPTER II—COLLECTIVE BARGAINING AND PERSONNEL ADMINISTRATION

"7421. Personnel administration: in general.

"7422. Collective bargaining.

"7423. Personnel administration: full-time employees."; and

(2) by adding at the end the following:

"SUBCHAPTER V—DISCIPLINARY AND GRIEVANCE PROCEDURES

"7461. Adverse actions: section 7401(1) employees.

"7462. Major adverse actions involving professional conduct or competence.

"7463. Other adverse actions.

"7464. Disciplinary Appeals Boards.".

SEC. 204. DEADLINE FOR REGULATIONS.

The Secretary of Veterans Affairs shall prescribe regulations under subchapter V of chapter 74 of title 38, United States Code (as added by section 203), not later than 180 days after the date of the enactment of this Act. Such regulations shall be published in the Federal Register for notice-and-comment not less than 30 days before the day on which they take effect.

SEC. 205. PRESERVATION OF EXISTING COLLECTIVE-BARGAINING ARRANGEMENTS AND PENDING ACTIONS.

(a) EXISTING COLLECTIVE-BARGAINING ARRANGEMENTS.—Any determination under chapter 71 of title 5, United States Code, of a collective bargaining unit within the Veterans Health Administration of the Department of Veterans Affairs, and any recognition under that chapter of an employee labor organization as the exclusive bargaining representative for employees in a collective bargaining unit of the Department of Veterans Affairs, that is in effect on the date of the enactment of this Act shall not be affected by the amendments made by this Act and shall continue in effect in accordance with the terms of such determination or regulation.

(b) PENDING CASES.—With respect to cases pending on the date of the enactment of this Act, or those cases which are brought before the establishment of either an administrative grievance procedure pursuant to section 7463 of title 38, United States Code (as added by the amendments made by this title), or a negotiated grievance procedure established under a collective bargaining agreement, such cases shall proceed in the same manner as they would have if this Act had not been enacted.

By Mr. HOLLINGS (for himself, Mr. DANFORTH, Mr. EXON, Mr. BURNS, Mr. GORTON, Mr. LOTT, Mr. BOND, Mr. COATS, Mr. D'AMATO, Mr. GRAMM, Mr. LUGAR, Ms. MIKULSKI, Mr. MCCAIN, Mr. MCCONNELL, Mr. HELMS, Mr. WALLOP, Mr. WARNER, Mr. SIMPSON, Mr. GARN, Mr. STEVENS, Mr. THURMOND, Mr. DOLE, Mr. CHAFEE, Mr. BREAUX, and Mr. SARBANES):

S. 676. A bill to provide for testing for the use, in violation of law or Federal regulation, of alcohol or controlled substances by persons who operate aircraft, trains, and commercial motor vehicles, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HOLLINGS (for himself, Mr. DANFORTH, Ms. MIKULSKI, and Mr. SARBANES):

S. 677. A bill to provide for testing for the use, in violation of law or Federal regulation, of alcohol or controlled substances by persons who operate trains; to the Committee on Commerce, Science, and Transportation.

S. 678. A bill to provide for testing for the use, in violation of law or Federal regulation, of alcohol or controlled substances by persons who operate aircraft, commercial motor vehicles, and mass transportation conveyances, and for other purposes; to the Committee on Commerce, Science, and Transportation.

TRANSPORTATION EMPLOYEE TESTING LEGISLATION

• Mr. HOLLINGS. Mr. President, today I send to the desk an omnibus bill that would require drug and alcohol testing in the commercial aviation, railroad, mass transit, and motor carrier industries. I send this bill to the desk on behalf of myself, Senator DANFORTH, and 23 other cosponsors. This is essentially the same bill that Senator DANFORTH and I introduced in the 100th and 101st Congresses. Those bills were debated, reported overwhelmingly by the Commerce Committee, and passed overwhelmingly by the Senate twice in the 100th Congress and three times in the 101st Congress. However, regrettably for transportation safety, we ended the 101st Congress without reaching agreement with our House colleagues on drug and alcohol legislation. This Congress I am hopeful that we can finally enact this important legislation.

We continue to see the need for this legislation. In the railroad industry, as recently as 2 years ago, an accident occurred every 12½ days in which either drugs or alcohol were involved. In the aviation industry, the Department of Transportation [DOT] Inspector General reported in 1989 that 10,300 certified airmen had had their drivers licenses suspended or revoked for driving while intoxicated during the preceding 7 years. In the motor carrier industry, the National Transportation Safety Board recently found that 33 percent of the fatally injured truck drivers tested positive for alcohol and other drugs of abuse, with stimulants being the most frequently identified drug class. The most frequently cited cause of accidents was fatigue—31 percent—followed by alcohol and other drug impairment—29 percent. Furthermore, of the drivers who were fatigued, 33 percent of those also were impaired by alcohol and/or other drugs.

Mr. President, our effort to require drug and alcohol testing programs for safety-sensitive transportation employees began 4 years ago, when 25 people tragically lost their lives in separate airline and rail passenger accidents. Specifically, in January 1987, 16 people died when an Amtrak passenger train was struck by a Conrail engine in Chase, MD. Two weeks later, nine people were killed when a Continental Express commuter aircraft crashed in the mountains near Durango, CO. More recently, we saw the conviction of three Northwest Airlines pilots for flying while intoxicated. The flight was between Fargo, ND, and Minneapolis, and the only reason we know these pilots were legally intoxicated is because the airport authorities called for testing under Minnesota State law. On December 29, 1990, in Boston, 33 people were injured when the trolley car driven by an operator under the influence of alcohol crashed into another trolley car.

These incidents had at least one thing in common. Proof was established that the individuals responsible for the safety of the public in their respective modes of transportation either had been drinking alcohol or had used cocaine, marijuana, or the hallucinogenic drug, PCP. This use impaired or threatened their safety and the safety of the traveling public for whom they were responsible.

DOT has issued a series of rules and regulations in this area. However, the regulations have been contested as having been enacted without authority, and more particularly, they do not include alcohol testing. Our bill includes alcohol—another drug with serious consequences to safety.

This legislation is eminently fair. It both mandates testing to protect the public and includes strong safeguards to ensure accurate testing and to protect innocent employees. It is also multimodal, covering the rail, aviation, motor carrier, and mass transit industries.

Mr. President, this legislation has broad support. The Senate has considered this critical safety legislation five times. This legislation has passed by large majorities five times. Our resolve in this 102d Congress is greater than ever. The safety of the traveling public demands nothing less than prompt enactment of drug and alcohol testing legislation for all commercial modes of travel.

It is critical that we take every step possible to improve transportation safety. By requiring drug and alcohol testing of safety-sensitive transportation workers, this legislation will significantly enhance the safety of the traveling public. It should be favorably considered by the Congress and signed into law as expeditiously as possible. Mr. President, those who drink alcohol and/or use illegal drugs have no business operating a train, plane, truck, or bus. They have no business assuming responsibility for innocent lives.

In addition to the omnibus bill I just described, I also am introducing two additional bills, the Railroad Employee Testing Act of 1991, covering only the railroad industry, and the Transportation Employee Testing Act of 1991, covering commercial aviation, motor carrier, and mass transit. The provisions of these bills are the same as those in the Omnibus Transportation Employee Testing Act of 1991 for the respective modes. I introduce these bills separately in an effort to facilitate conference with the House and enactment. I look forward to working with my Senate colleagues in passing these bills and dealing with the House Members to enact this much needed legislation.

Mr. President, I urge my colleagues to join us in supporting these important safety bills, and I ask unanimous consent that the text of the bills be printed in the RECORD at this point.

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

S. 676

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

SHORT TITLE

SECTION 1. This section may be cited as the "Omnibus Transportation Employee Testing Act of 1991".

FINDINGS

SEC. 2. The Congress finds that—

(1) alcohol abuse and illegal drug use pose significant dangers to the safety and welfare of the Nation;

(2) millions of the Nation's citizens utilize transportation by aircraft, railroads, trucks, and buses, and depend on the operators of aircraft, trains, trucks, and buses to perform in a safe and responsible manner;

(3) the greatest efforts must be expended to eliminate the abuse of alcohol and use of illegal drugs, whether on duty or off duty, by those individuals who are involved in the operation of aircraft, trains, trucks, and buses;

(4) the use of alcohol and illegal drugs has been demonstrated to affect significantly the performance of individuals, and has been proven to have been a critical factor in transportation accidents;

(5) the testing of uniformed personnel of the Armed Forces has shown that the most effective deterrent to abuse of alcohol and use of illegal drugs is increased testing, including random testing;

(6) adequate safeguards can be implemented to ensure that testing for abuse of alcohol or use of illegal drugs is performed in a manner which protects an individual's right of privacy, ensures that no individual is harassed by being treated differently from other individuals, and ensures that no individual's reputation or career development is unduly threatened or harmed; and

(7) rehabilitation is a critical component of any testing program for abuse of alcohol or use of illegal drugs, and should be made available to individuals, as appropriate.

TESTING TO ENHANCE AVIATION SAFETY

SEC. 3. (a) Title VI of the Federal Aviation Act of 1958 (49 App. U.S.C. 1421 et seq.) is amended by adding at the end thereof the following:

"SEC 614. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

"(a) TESTING PROGRAM.—

"(1) PROGRAM FOR EMPLOYERS OF CARRIERS.—The Administrator shall, in the interest of aviation safety, prescribe regulations within 12 months after the date of enactment of this section. Such regulations

shall establish a program which requires air carriers and foreign air carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of airmen, crewmembers, airport security screening contract personnel, and other air carrier employees responsible for safety-sensitive functions (as determined by the Administrator) for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Administrator may also prescribe regulations, as the Administrator considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such employees for such use in violation of law or Federal regulation.

"(2) PROGRAM FOR FAA EMPLOYEES.—The Administrator shall establish a program applicable to employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions. Such program shall provide for preemployment, reasonable suspicion, random, and post-accident testing for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Administrator may also prescribe regulations, as the Administrator considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such employees for such use in violation of law or Federal regulation.

"(3) SUSPENSION; REVOCATION; DISQUALIFICATION; DISMISSAL.—In prescribing regulations under the programs required by this subsection, the Administrator shall require, as the Administrator considers appropriate, the suspension or revocation of any certificate issued to such an individual, or the disqualification or dismissal of any such individual, in accordance with the provisions of this section, in any instance where a test conducted and confirmed under this section indicates that such individual has used, in violation of law or Federal regulation, alcohol or a controlled substance.

"(b) PROHIBITION ON SERVICE.—

"(1) PROHIBITED ACT.—It is unlawful for a person to use, in violation of law or Federal regulation, alcohol or a controlled substance after the date of enactment of this section and serve as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions.

"(2) EFFECT OF REHABILITATION.—No individual who is determined to have used, in violation of law or Federal regulation, alcohol or a controlled substance after the date of enactment of this section shall serve as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions unless such individual has completed a program of rehabilitation described in subsection (c) of this section.

"(3) PERFORMANCE OF PRIOR DUTIES PROHIBITED.—Any such individual determined by the Administrator to have used, in violation of law or Federal regulation, alcohol or a controlled substance after the date of enactment of this section who—

"(A) engaged in such use while on duty;

"(B) prior to such use had undertaken or completed a rehabilitation program described in subsection (c);

"(C) following such determination refuses to undertake such a rehabilitation program; or

"(D) following such determination fails to complete such a rehabilitation program,

shall not be permitted to perform the duties relating to air transportation which such individual performed prior to the date of such determination.

"(c) PROGRAM FOR REHABILITATION.—

"(1) PROGRAM FOR EMPLOYEES OF CARRIERS.—The Administrator shall prescribe regulations setting forth requirements for rehabilitation programs which at a minimum provide for the identification and opportunity for treatment of employees referred to in subsection (a)(1) in need of assistance in resolving problems with the use, in violation of law or Federal regulation, of alcohol or controlled substances. Each air carrier and foreign air carrier is encouraged to make such a program available to all of its employees in addition to those employees referred to in subsection (a)(1), The Administrator shall determine the circumstances under which such employees shall be required to participate in such a program. Nothing in this subsection shall preclude any air carrier or foreign air carrier from establishing a program under this subsection in cooperation with any other air carrier or foreign air carrier.

"(2) PROGRAM FOR FAA EMPLOYEES.—The Administrator shall establish and maintain a rehabilitation program which at a minimum provides for the identification and opportunity for treatment of those employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions who are in need of assistance in resolving problems with the use of alcohol or controlled substances.

"(d) PROCEDURES FOR TESTING.—In establishing the program required under subsection (a), the Administrator shall develop requirements which shall—

"(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(2) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(A) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

"(B) establish the minimum list of controlled substances for which individuals may be tested; and

"(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

"(3) require that all laboratories involved in the controlled substances testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(4) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(5) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within 3 days after being advised of the results of the confirmation test;

"(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

"(7) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"(e) EFFECT ON OTHER LAWS AND REGULATIONS.—

"(1) STATE AND LOCAL LAW AND REGULATIONS.—No State or local government shall adopt or have in effect any law, rule, or regulation, ordinance, standard, or order that is inconsistent with the regulations promulgated under this section, except that the regulations promulgated under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury or damage to property, whether the provisions apply specifically to employees of an air carrier or foreign air carrier, or to the general public.

"(2) OTHER REGULATIONS ISSUED BY ADMINISTRATOR.—Nothing in this section shall be construed to restrict the discretion of the Administrator to continue in force, amend, or further supplement any regulations issued before the date of enactment of this section that govern the use of alcohol and controlled substances by airmen, crewmembers, airport security screening contract personnel, air carrier employees responsible for safety-sensitive functions (as determined by the Administrator), or employees of the Federal Aviation. Administration with responsibility for safety-sensitive functions.

"(3) INTERNATIONAL OBLIGATIONS.—In prescribing regulations under this section, the Administrator shall only establish requirements applicable to foreign air carriers that are consistent with the international obligations of the United States, and the Administrator shall take into consideration any applicable laws and regulations of foreign countries. The Secretary of State and the Secretary of Transportation, jointly, shall call on the member countries of the International Civil Aviation Organization to strengthen and enforce existing standards to prohibit the use, in violation of law or Federal regulation, of alcohol or a controlled substance by crew members in international civil aviation.

"(f) DEFINITION.—For the purposes of this section, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) specified by the Administrator.".

"(b) That portion of the table of contents of the Federal Aviation Act of 1958 relating to title VI is amended by adding at the end thereof the following:

"Sec. 614. Alcohol and controlled substances testing.

"(a) Testing program.

"(b) Prohibition on service.

"(c) Program for rehabilitation.

"(d) Procedures.

"(e) Effect on other laws and regulations.

"(f) Definition.".

TESTING TO ENHANCE RAILROAD SAFETY

SEC. 4. Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end therefore the following:

"(4)(1) In the interest of safety, the Secretary shall, within twelve months after the date of enactment of this subsection, issue rules, regulations, standards, and orders relating to alcohol and drug use in railroad operations. Such regulations shall establish a program which—

"(A) requires railroads to conduct preemployment, reasonable suspicious, random, and post-accident testing of all railroad employees responsible for safety-sensitive functions (as determined by the Secretary) for use, in violation of law or Federal regulation, of alcohol or a controlled substance;

"(B) requires, as the Secretary considers appropriate, disqualification for an established period of time or dismissal of any employee determined to have used or to have been impaired by alcohol while on duty; and

"(C) requires, as the Secretary considers appropriate, disqualification for an established period of time or dismissal of any employee determined to have used a controlled substance, whether on duty or not on duty, except as permitted for medical purposes by law and any rules, regulations, standards or orders issued under this title.

The Secretary may also issue rules, regulations, standards, and orders, as the Secretary considers appropriate in the interest of safety, requiring railroads to conduct periodic recurring testing of railroad employees responsible for such safety sensitive functions, for use of alcohol or a controlled substance in violation of law or Federal regulation. Nothing in this subsection shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any rules, regulations, standards, and orders governing the use of alcohol and controlled substances in railroad operations issued before the date of enactment of this subsection.

"(2) In carrying out the provisions of this subsection, the Secretary shall develop requirements which shall—

"(A) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(B) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(i) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this subsection, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

"(ii) establish the minimum list of controlled substances for which individuals may be tested; and

"(iii) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this subsection;

"(C) require that all laboratories involved in the controlled substances testing of any employee under this subsection shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(D) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any employee shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(E) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibilty of tampering, so that in the event the individual's confirmation tests results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within 3 days after being advised of the results of the confirmation test;

"(F) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

"(G) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this subparagraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this subsection; and

"(H) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"(3) The Secretary shall issue rules, regulations, standards, or orders setting forth requirements for rehabilitation programs which at a minimum provide for the identification and opportunity for treatment of railroad employees responsible for safety-sensitive functions (as determined by the Secretary) in need of assistance in resolving problems with the use, in violation of law or Federal regulation, of alcohol or a controlled substance. Each railroad is encouraged to make such a program available to all of its employees in addition to those employees responsible for safety sensitive functions. The Secretary shall determine the circumstances under which such employees shall be required to participate in such program. Nothing in this paragraph shall preclude a railroad from establishing a program under this paragraph in cooperation with any other railroad.

"(4) In carrying out the provisions of this subsection, the Secretary shall only establish requirements that are consistent with the international obligations of the United States, and the Secretary shall take into consideration any applicable laws and regulations of foreign countries.

"(5) For the purposes of this subsection, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) specified by the Secretary.".

TESTING TO ENHANCE MOTOR CARRIER SAFETY

SEC. 5. (a)(1) The Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2701 et seq.) is amended by adding at the end of the following new section:

"SEC. 12020. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

"(a) REGULATIONS.—The Secretary shall, in the interest of commercial motor vehicle safety, issue regulations within twelve months after the date of enactment of this section. Such regulations shall establish a program which requires motor carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of the operators of commercial motor vehicles for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Secretary may also issue regulations, as the Secretary considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such operators for such use in violation of law or Federal regulation.

"(b) TESTING.—

"(1) POST-ACCIDENT TESTING.—In issuing such regulations, the Secretary shall require that post-accident testing of the operator of a commercial motor vehicle be conducted in the case of any accident involving a commercial motor vehicle in which occurs loss of human life, or, as determined by the Secretary, other serious accident involving bodily injury or significant property damage.

"(2) TESTING AS PART OF MEDICAL EXAMINATION.—Nothing in subsection (a) of this section shall preclude the Secretary from providing in such regulations that such testing be conducted as part of the medical examination required by subpart E of part 391 of title 49, Code of Federal Regulations, with respect to those operators of commercial motor vehicles to whom such part is applicable.

"(c) PROGRAM FOR REHABILITATION.—The Secretary shall issue regulations setting forth requirements for rehabilitation programs which provide for the identification and opportunity for treatment of operators of commercial motor vehicles who are determined to have used, in violation of law or Federal regulation, alcohol or a controlled substance. The Secretary shall determine the circumstances under which such operators shall be required to participate in such program. Nothing in this subsection shall preclude a motor carrier from establishing a program under this subsection in cooperation with any other motor carrier.

"(d) PROCEDURES FOR TESTING.—In establishing the program required under subsection (a) of this section, the Secretary shall develop requirements which shall—

"(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(2) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guildelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(A) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of spec-

imen samples collected for controlled substances testing;

"(B) establish the minimum list of controlled substances for which individuals may be tested; and

"(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

"(3) require that laboratories involved in the testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(4) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(5) provide that each specimen sample be subdivided, secured, and labeled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within 3 days after being advised of the results of the confirmation test;

"(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

"(7) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"(e) EFFECT ON OTHER LAWS AND REGULATIONS.—

"(1) STATE AND LOCAL LAW AND REGULATIONS.—No State or local government shall adopt or have in effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations issued under this section, except that the regulations issued under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to commercial motor vehicle employees, or to the general public.

"(2) OTHER REGULATIONS ISSUED BY SECRETARY.—Nothing in this section shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any regulations governing the use of alcohol or controlled substances by commercial motor vehicle employees issued before the date of enactment of this section.

"(3) INTERNATIONAL OBLIGATIONS.—In issuing regulations under this section, the Secretary shall only establish requirements that are consistent with the international obligations of the United States, and the Secretary shall take into consideration any applicable laws and regulations of foreign countries.

"(f) APPLICATION OF PENALTIES.—

"(1) EFFECT ON OTHER PENALTIES.—Nothing in this section shall be construed to supersede any penalty applicable to the operator of a commercial motor vehicle under this title or any other provision of law.

"(2) DETERMINATION OF SANCTIONS.—The Secretary shall determine appropriate sanctions for commercial motor vehicle operators who are determined, as a result of tests conducted and confirmed under this section, to have used, in violation of law or Federal regulation, alcohol or a controlled substance but are not under the influence of alcohol or a controlled substance, as provided in this title.

"(g) DEFINITION.—For the purposes of this section, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) specified by the Secretary.".

(2) The table of contents of the Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570; 100 Stat. 5223) is amended by adding at the end thereof the following:

"Sec. 12020. Alcohol and controlled substances testing.".

(b)(1) The Secretary of Transportation shall design within nine months after the date of enactment of this Act, and implement within fifteen months after the date of enactment of this Act, a pilot test program for the purpose of testing the operators of commercial motor vehicles on a random basis to determine whether an operator has used, in violation of law or Federal regulation, alcohol or a controlled substance. The pilot test program shall be administered as part of the Motor Carrier Safety Assistance Program.

(2) The Secretary shall solicit the participation of States which are interested in participating in such program and shall select four States to participate in the program.

(3) The Secretary shall ensure that the States selected pursuant to this subsection are representative of varying geographical and population characteristics of the Nation and that the selection takes into consideration the historical geographical incidence of commercial motor vehicle accidents involving loss of human life.

(4) The pilot program authorized by this subsection shall continue for a period of one year. The Secretary shall consider alternative methodologies for implementing a system of random testing of operators of commercial motor vehicles.

(5) Not later than thirty months after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a comprehensive report setting forth the results of the pilot program conducted under this subsection. Such report shall include any recommendations of the Secretary concerning the desirability and implementation of a system for the random testing of operators of commercial motor vehicles.

(6) For purposes of carrying out this subsection, there shall be available to the Secretary $5,000,000 from funds made available to carry out section 404 of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2304) for fiscal year 1990.

(7) For purposes of this subsection, the term "commercial motor vehicle" shall have the meaning given to such term in section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2716(6)).

TESTING TO ENHANCE MASS TRANSPORTATION SAFETY

SEC. 6.(a) As used in this section, the term—

(1) "controlled substance" means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) whose use the Secretary has determined has a risk to transportation safety;

(2) "person" includes any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of the United States, or any State, territory, district, or possession thereof, or of any foreign country;

(3) "Secretary" means the Secretary of Transportation; and

(4) "mass transportation" means all forms of mass transportation except those forms that the Secretary determines are covered adequately, for purposes of employee drug and alcohol testing, by either the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.) or the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2701 et seq.).

(b)(1) The Secretary shall, in the interest of mass transportation safety, issue regulations within twelve months after the date of enactment of this Act. Such regulations shall establish a program which requires mass transportation operations which are recipients of Federal financial assistance under section 3, 9, or 18 of the Urban Mass Transportation Act of 1964 (49 App. U.S.C. 1602, 1607a, or 1614) or section 103(e)(4) of title 23, United States Code, to conduct preemployment, reasonable suspicion, random, and post-accident testing of mass transportation employees responsible for safety-sensitive functions (as determined by the Secretary) for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Secretary may also issue regulations, as the Secretary considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such employees for such use in violation of law or Federal regulation.

(2) In issuing such regulations, the Secretary shall require that post-accident testing of such a mass transportation employee be conducted in the case of any accident involving mass transportation in which occurs loss of human life, or, as determined by the Secretary, other serious accidents involving bodily injury or significant property damage.

(c) The Secretary shall issue regulations setting forth requirements for rehabilitation programs which provide for the identification and opportunity for treatment of mass transportation employees referred to in subsection (b)(1) who are determined to have used, in violation of law or Federal regulation, alcohol or a controlled substance. The Secretary shall determine the circumstances under which such employees shall be required to participate in such program. Nothing in this subsection shall preclude a mass transportation operation from establishing a program under this section in cooperation with any other such operation.

(d) In establishing the program required under subsection (b), the Secretary shall develop requirements which shall—

(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

(2) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

(A) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

(B) establish the minimum list of controlled substances for which individuals may be tested; and

(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

(3) require that all laboratories involved in the testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

(4) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

(5) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within three days after being advised of the results of the confirmation test;

(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

(7) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

(e)(1) No State or local government shall adopt or have in effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations issued under this section, except that the regulations issued under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to mass transportation employees, or to the general public.

(2) Nothing in this section shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any regulations governing the use of alcohol or controlled substances by mass transportation employees issued before the date of enactment of this Act.

(3) In issuing regulations under this section, the Secretary shall only establish requirements that are consistent with the international obligations of the United States, and the Secretary shall take into consideration any applicable laws and regulations of foreign countries.

(f)(1) As the Secretary considers appropriate, the Secretary shall require—

(A) disqualification for an established period of time or dismissal of any employee referred to in subsection (b)(1) who is determined to have used or to have been impaired by alcohol while on duty; and

(B) disqualification for an established period of time or dismissal of any such employee determined to have used a controlled substance, whether on duty or not on duty, except as permitted for medical purposes by law or any regulations.

(2) Nothing in this section shall be construed to supersede any penalty applicable to a mass transportation employee under any other provision of law.

(g) A person shall not be eligible for Federal financial assistance under section 3, 9, or 18 of the Urban Mass Transportation Act of 1964 (49 App. U.S.C. 1602, 1607a, or 1614) or section 103(e)(4) of title 23, United States Code, if such person—

(1) is required, under regulations prescribed by the Secretary under this section, to establish a program of alcohol and controlled substances testing; and

(2) fails to establish such a program in accordance with such regulations.

S. 677

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

SHORT TITLE

SECTION 1. This section may be cited as the "Railroad Employee Testing Act of 1991".

FINDINGS

SEC. 2. The Congress finds that—

(1) alcohol abuse and illegal drug use pose significant dangers to the safety and welfare of the Nation;

(2) millions of the Nation's citizens utilize transportation by railroad, and depend on the operators of trains to perform in a safe and responsible manner;

(3) the greatest efforts must be expended to eliminate the abuse of alcohol and use of illegal drugs, whether on duty or off duty, by those individuals who are involved in the operation of trains;

(4) the use of alcohol and illegal drugs has been demonstrated to affect significantly the performance of individuals, and has been proven to have been a critical factor in transportation accidents;

(5) the testing of uniformed personnel of the Armed Forces has shown that the most effective deterrent to abuse of alcohol and illegal drugs is increased testing, including random testing;

(6) adequate safeguards can be implemented to ensure that testing for abuse of alcohol or use of illegal drugs is performed in a manner which protects an individual's right of privacy, ensures that no individual is harassed by being treated differently from other individuals, and ensures that no individual's reputation or career development is unduly threatened or harmed; and

(7) rehabilitation is a critical component of any testing program for abuse of alcohol or use of illegal drugs, and should be made available to individuals, as appropriate.

ALCOHOL AND CONTROLLED SUBSTANCES TESTING

SEC. 3. Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end thereof the following:

"(r)(1) In the interest of safety, the Secretary shall, within twelve months after the date of enactment of this subsection, issue rules, regulations, standards, and orders relating to alcohol and drug use in railroad operations. Such regulations shall establish a program which—

"(A) requires railroads to conduct preemployment, reasonable suspicion, random, and post-accident testing of all railroad employees responsible for safety-sensitive functions (as determined by the Secretary) for use, in violation of law or Federal regulation, of alcohol or a controlled substance;

"(B) requires, as the Secretary considers appropriate, disqualification for an established period of time or dismissal of any employee determined to have used or to have been impaired by alcohol while on duty; and

"(C) requires, as the Secretary considers appropriate, disqualification for an established period of time or dismissal of any employee determined to have used a controlled substance, whether on duty or not on duty, except as permitted for medical purposes by law and any rules, regulations, standards, or orders issued under this title.

The Secretary may also issue rules, regulations, standards, and orders, as the Secretary considers appropriate in the interest of safety, requiring railroads to conduct periodic recurring testing of railroad employees responsible for such safety sensitive functions, for use of alcohol or a controlled substance in violation of law or Federal regulation. Nothing in this subsection shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any rules, regulations, standards, and orders governing the use of alcohol and controlled substances in railroad operations issued before the date of enactment of this subsection.

"(2) In carrying out the provisions of this subsection, the Secretary shall develop requirements which shall—

"(A) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(B) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(i) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this subsection, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

"(ii) establish the minimum list of controlled substances for which individuals may be tested; and

"(iii) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this subsection;

"(C) require that all laboratories involved in the controlled substances testing of any employee under this subsection shall have

the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(D) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any employee shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(E) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within 3 days after being advised of the results of the confirmation test;

"(F) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

"(G) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this subparagraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this subsection; and

"(H) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"(3) The Secretary shall issue rules, regulations, standards, or orders setting forth requirements for rehabilitation programs which at a minimum provide for the identification and opportunity for treatment of railroad employees responsible for safety-sensitive functions (as determined by the Secretary) in need of assistance in resolving problems with the use, in violation of law or Federal regulation, of alcohol or a controlled substance. Each railroad is encouraged to make such a program available to all of its employees in addition to those employees responsible for safety sensitive functions. The Secretary shall determine the circumstances under which such employees shall be required to participate in such program. Nothing in this paragraph shall preclude a railroad from establishing a program under this paragraph in cooperation with any other railroad.

"(4) In carrying out the provisions of this subsection, the Secretary shall only establish requirements that are consistent with the international obligations of the United States, and the Secretary shall take into consideration any applicable laws and regulations of foreign countries.

"(5) For the purposes of this subsection, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) specified by the Secretary.".

S. 678

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

SHORT TITLE

SECTION 1. This section may be cited as the "Transportation Employee Testing Act of 1991".

FINDINGS

SEC. 2. The Congress finds that—

(1) alcohol abuse and illegal drug use pose significant dangers to the safety and welfare of the Nation;

(2) millions of the Nation's citizens utilize transportation by aircraft, trucks, buses, and mass transportation conveyances and depend on the operators of aircraft, trucks, buses, and mass transportation conveyances to perform in a safe and responsible manner;

(3) the greatest efforts must be expended to eliminate the abuse of alcohol and use of illegal drugs, whether on duty or off duty, by those individuals who are involved in the operation of aircraft, trucks, buses, and mass transportation conveyances;

(4) the use of alcohol and illegal drugs has been demonstrated to affect significantly the performance of individuals, and has been proven to have been a critical factor in transportation accidents;

(5) the testing of uniformed personnel of the Armed Forces has shown that the most effective deterrent to abuse of alcohol and use of illegal drugs is increased testing, including random testing;

(6) adequate safeguards can be implemented to ensure that testing for abuse of alcohol or use of illegal drugs is performed in a manner which protects an individual's right of privacy, ensures that no individual is harassed by being treated differently from other individuals, and ensures that no individual's reputation or career development is unduly threatened or harmed; and

(7) rehabilitation is a critical component of any testing program for abuse of alcohol or use of illegal drugs, and should be made available to individuals, as appropriate.

TESTING TO ENHANCE AVIATION SAFETY

SEC. 3. (a) Title VI of the Federal Aviation Act of 1958 (49 App. U.S.C. 1421 et seq.) is amended by adding at the end thereof the following:

"SEC. 614. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

"(a) TESTING PROGRAM.—

"(1) PROGRAM FOR EMPLOYERS OF CARRIERS.—The Administrator shall, in the interest of aviation safety, prescribe regulations within 12 months after the date of enactment of this section. Such regulations shall establish a program which requires air carriers and foreign air carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of airmen, crewmembers, airport security screening contract personnel, and other air carrier employees responsible for safety-sensitive functions (as determined by the Administrator) for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Administrator may also prescribe regulations, as the Administrator considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such employees for such use in violation of law or Federal regulation.

"(2) PROGRAM FOR FAA EMPLOYEES.—The Administrator shall establish a program applicable to employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions. Such program shall provide for preemployment, reasonable suspicion, random, and post-accident testing for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Administrator may also prescribe regulations, as the Administrator considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such employees for such use in violation of law or Federal regulation.

"(3) SUSPENSION; REVOCATION; DISQUALIFICATION; DISMISSAL.—In prescribing regulations under the programs required by this subsection, the Administrator shall require, as the Administrator considers appropriate, the suspension or revocation of any certificate issued to such an individual, or the disqualification or dismissal of any such individual, in accordance with the provisions of this section, in any instance where a test conducted and confirmed under this section indicates that such individual has used, in violation of law or Federal regulation, alcohol or a controlled substance.

"(b) PROHIBITION ON SERVICE.—

"(1) PROHIBITED ACT.—It is unlawful for a person to use, in violation of law or Federal regulation, alcohol or a controlled substance after the date of enactment of this section and serve as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions.

"(2) EFFECT OF REHABILITATION.—No individual who is determined to have used, in violation of law or Federal regulation, alcohol or a controlled substance after the date of enactment of this section shall serve as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions unless such individual has completed a program of rehabilitation described in subsection (c) of this section.

"(3) PERFORMANCE OF PRIOR DUTIES PROHIBITED.—Any such individual determined by the Administrator to have used, in violation of law or Federal regulation, alcohol or a controlled substance after the date of enactment of this section who—

"(A) engaged in such use while on duty;

"(B) prior to such use had undertaken or completed a rehabilitation program described in subsection (c);

"(C) following such determination refuses to undertake such a rehabilitation program; or

"(D) following such determination fails to complete such a rehabilitation program,

shall not be permitted to perform the duties relating to air transportation which such individual performed prior to the date of such determination.

"(c) PROGRAM FOR REHABILITATION.—

"(1) PROGRAM FOR EMPLOYEES OF CARRIERS.—The Administrator shall prescribe regulations setting forth requirements for rehabilitation programs which at a minimum provide for the identification and opportunity for treatment of employees referred to in subsection (a)(1) in need of assistance in resolving problems with the use, in violation of law or Federal regulation, of alcohol or controlled substances. Each air carrier and foreign air carrier is encouraged to make such a program available to all of its employees in addition to those employees referred to in subsection (a)(1). The Administrator shall determine the circumstances under which such employees shall be required to participate in such a program. Nothing in this subsection shall preclude any air carrier or foreign air carrier from estab-

lishing a program under this subsection in cooperation with any other air carrier or foreign air carrier.

"(2) PROGRAM FOR FAA EMPLOYEES.—The Administrator shall establish and maintain a rehabilitation program which at a minimum provides for the identification and opportunity for treatment of those employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions who are in need of assistance in resolving problems with the use of alcohol or controlled substances.

"(d) PROCEDURES FOR TESTING.—In establishing the program required under subsection (a), the Administrator shall develop requirements which shall—

"(1) promote, to the maximum extent practicable, individual privacy in the coalition of specimen samples;

"(2) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(A) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

"(B) establish the minimum list of controlled substances for which individuals may be tested; and

"(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

"(3) require that all laboratories involved in the controlled substances testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(4) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(5) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within 3 days after being advised of the results of the confirmation test;

"(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

"(7) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"(e) EFFECT ON OTHER LAWS AND REGULATIONS.—

"(1) STATE AND LOCAL LAW AND REGULATIONS.—No State or local government shall adopt or have in effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations promulgated under this section, except that the regulations promulgated under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury or damage to property, whether the provisions apply specifically to employees of an air carrier or foreign air carrier, or to the general public.

"(2) OTHER REGULATIONS ISSUED BY ADMINISTRATOR.—Nothing in this section shall be construed to restrict the discretion of the Administrator to continue in force, amend, or further supplement any regulations issued before the date of enactment of this section that govern the use of alcohol and controlled substances by airmen, crewmembers, airport security screening contract personnel, air carrier employees responsible for safety-sensitive functions (as determined by the Administrator), or employees of the Federal Aviation Administration with responsibility for safety-sensitive functions.

"(3) INTERNATIONAL OBLIGATIONS.—In prescribing regulations under this section, the Administrator shall only establish requirements applicable to foreign air carriers that are consistent with the international obligations of the United States, and the Administrator shall take into consideration any applicable laws and regulations of foreign countries. The Secretary of State and the Secretary of Transportation, jointly, shall call on the member countries of the International Civil Aviation Organization to strengthen and enforce existing standards to prohibit the use, in violation of law or Federal regulation, of alcohol or a controlled substance by crew members in international civil aviation.

"(f) DEFINITION.—For the purposes of this section, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) specified by the Administrator.".

(b) That portion of the table of contents of the Federal Aviation Act of 1958 relating to title VI is amended by adding at the end thereof the following:

"Sec. 614. Alcohol and controlled substances testing.
"(a) Testing program.
"(b) Prohibition on service.
"(c) Program for rehabilitation.
"(d) Procedures.
"(e) Effect on other laws and regulations.
"(f) Definition.".

TESTING TO ENHANCE MOTOR CARRIER SAFETY

SEC. 4. (a)(1) The Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2701 et seq.) is amended by adding at the end the following new section:

"SEC. 12020. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

"(a) REGULATIONS—The Secretary shall, in the interest of commercial motor vehicle safety, issue regulations within twelve months after the date of enactment of this section. Such regulations shall establish a program which requires motor carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of the operators of commercial motor vehicles for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Secretary may also issue regulations, as the Secretary considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such operators for such use in violation of law or Federal regulation.

"(b) TESTING.—

"(1) POST-ACCIDENT TESTING.—In issuing such regulations, the Secretary shall require that post-accident testing of the operator of a commercial motor vehicle be conducted in the case of any accident involving a commercial motor vehicle in which occurs loss of human life, or, as determined by the Secretary, other serious accidents involving bodily injury or significant property damage.

"(2) TESTING AS PART OF MEDICAL EXAMINATION.—Nothing in subsection (a) of this section shall preclude the Secretary from providing in such regulations that such testing be conducted as part of the medical examination required by subpart E of part 391 of title 49, Code of Federal Regulations, with respect to those operators of commercial motor vehicles to whom such part is applicable.

"(c) PROGRAM FOR REHABILITATION.—The Secretary shall issue regulations setting forth requirements for rehabilitation programs which provide for the identification and opportunity for treatment of operators of commercial motor vehicles who are determined to have used, in violation of law or Federal regulation, alcohol or a controlled substance. The Secretary shall determine the circumstances under which such operators shall be required to participate in such program. Nothing in this subsection shall preclude a motor carrier from establishing a program under this subsection in cooperation with any other motor carrier.

"(d) PROCEDURE FOR TESTING.—In establishing the program required under subsection (a) of this section, the Secretary shall develop requirements which shall—

"(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(2) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(A) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

"(B) establish the minimum list of controlled substances for which individuals may be tested; and

"(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

"(3) require that all laboratories involved in the testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(4) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(5) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within 3 days after being advised of the results of the confirmation test;

"(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

"(7) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"(e) EFFECT ON OTHER LAWS AND REGULATIONS.—

"(1) STATE AND LOCAL LAW AND REGULATIONS.—No State or local government shall adopt or have in effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations issued under this section, except that the regulations issued under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to commercial motor vehicle employees, or to the general public.

"(2) OTHER REGULATIONS ISSUED BY SECRETARY.—Nothing in this section shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any regulations governing the use of alcohol or controlled substances by commercial motor vehicle employees issued before the date of enactment of this section.

"(3) INTERNATIONAL OBLIGATIONS.—In issuing regulations under this section, the Secretary shall only establish requirements that are consistent with the international obligations of the United States, and the Secretary shall take into consideration any applicable laws and regulations of foreign countries.

"(f) APPLICATION OF PENALTIES.—

"(1) EFFECT ON OTHER PENALTIES.—Nothing in this section shall be construed to supersede any penalty applicable to the operator of a commercial motor vehicle under this title or any other provision of law.

"(2) DETERMINATION OF SANCTIONS.—The Secretary shall determine appropriate sanctions for commercial motor vehicle operators who are determined, as a result of tests conducted and confirmed under this section, to have used, in violation of law or Federal regulation, alcohol or a controlled substance but are not under the influence of alcohol or a controlled substance, as provided in this title.

"(g) DEFINITION.—For the purposes of this section, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) specified by the Secretary.".

(2) The table of contents of the Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570; 100 Stat. 5223) is amended by adding at the end thereof the following:

"Sec. 12020. Alcohol and controlled substances testing.".

(b)(1) The Secretary of Transportation shall design within nine months after the date of enactment of this Act, and implement within fifteen months after the date of enactment of this Act, a pilot test program for the purpose of testing the operators of commercial motor vehicles on a random basis to determine whether an operator has used, in violation of law or Federal regulation, alcohol or a controlled substance. The pilot test program shall be administered as part of the Motor Carrier Safety Assistance Program.

(2) The Secretary shall solicit the participation of States which are interested in participating in such program and shall select four States to participate in the program.

(3) The Secretary shall ensure that the States selected pursuant to this subsection are representative of varying geographical and population characteristics of the Nation and that the selection takes into consideration the historical geographical incidence of commercial motor vehicle accidents involving loss of human life.

(4) The pilot program authorized by this subsection shall continue for a period of one year. The Secretary shall consider alternative methodologies for implementing a system of random testing of operators of commercial motor vehicles.

(5) Not later than thirty months after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a comprehensive report setting forth the results of the pilot program conducted under this subsection. Such report shall include any recommendations of the Secretary concerning the desirability and implementation of a system for the random testing of operators of commercial motor vehicles.

(6) For purposes of carrying out this subsection, there shall be available to the Secretary $5,000,000 from funds made available to carry out section 404 of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2304) for fiscal year 1990.

(7) For purposes of this subsection, the term "commercial motor vehicle" shall have the meaning given to such term in section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2716(6)).

TESTING TO ENHANCE MASS TRANSPORTATION SAFETY

SEC. 5.(a) As used in this section, the term—

(1) "controlled substance" means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) whose use the Secretary has determined has a risk to transportation safety;

(2) "person" includes any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of the United States, or any State, territory, district, or possession thereof, or of any foreign country;

(3) "Secretary" means the Secretary of Transportation; and

(4) "mass transportation" means all forms of mass transportation except those forms that the Secretary determines are covered adequately, for purposes of employee drug and alcohol testing, by either the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.) or the Commerical Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2701 et seq.).

(b)(1) The Secretary shall, in the interest of mass transportation safety, issue regulations within twelve months after the date of enactment of this Act. Such regulations shall establish a program which requires mass transportation operations which are recipients of Federal financial assistance under section 3, 9, or 18 of the Urban Mass Transportation Act of 1964 (49 App. U.S.C. 1602, 1607a, or 1614) or section 103(e) of title 23, United States Code, to conduct preemployment, reasonable suspicion, random, and post-accident testing of mass transportation employees responsible for safety-sensitive functions (as determined by the Secretary) for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Secretary may also issue regulations, as the Secretary considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such employees for such use in violation of law or Federal regulation.

(2) In issuing such regulations, the Secretary shall require that post-accident testing of such a mass transportation employee be conducted in the case of any accident involving mass transportation in which occurs loss of human life, or, as determined by the Secretary, other serious accidents involving bodily injury or significant property damage.

(c) The Secretary shall issue regulations setting forth requirements for rehabilitation programs which provide for the identification and opportunity for treatment of mass transportation employees referred to in subsection (b)(1) who are determined to have used, in violation of law or Federal regulation, alcohol or a controlled substance. The Secretary shall determine the circumstances under which such employees shall be required to participate in such program. Nothing in this subsection shall preclude a mass transportation operation from establishing a program under this section in cooperation with any other such operation.

(d) In establishing the program required under subsection (b), the Secretary shall develop requirements which shall—

(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

(2) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

(A) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

(B) establish the minimum list of controlled substances for which individuals may be tested; and

(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and rev-

ocation of certification of laboratories to perform controlled substances testing in carrying out this section;

(3) require that all laboratories involved in the testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

(4) provide that all tests which indicate the use, in violation of law or Federal Regulation, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

(5) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within three days after being advised of the results of the confirmation test;

(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

(7) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

(e)(1) No State or local government shall adopt or have in effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations issued under this section, except that the regulations issued under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to mass transportation employees, or to the general public.

(2) Nothing in this section shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any regulations governing the use of alcohol or controlled substances by mass transportation employees issued before the date of enactment of this Act.

(3) In issuing regulations under this section, the Secretary shall only establish requirements that are consistent with the international obligations of the United States, and the Secretary shall take into consideration any applicable laws and regulations of foreign countries.

(f)(1) As the Secretary considers appropriate, the Secretary shall require—

(A) disqualification for an established period of time or dismissal of any employee referred to in subsection (b)(1) who is determined to have used or to have been impaired by alcohol while on duty; and

(B) disqualification for an established period of time or dismissal of any such employee determined to have used a controlled substance, whether on duty or not on duty, except as permitted for medical purposes by law or any regulations.

(2) Nothing in this section shall be construed to supersede any penalty applicable to a mass transportation employee under any other provision of law.

(g) A person shall not be eligible for Federal financial assistance under section 3, 9, or 18 of the Urban Mass Transportation Act of 1964 (49 App. U.S.C. 1602, 1607a, or 1614) or section 103(e)(4) of title 23, United States Code, if such person—

(1) is required, under regulations prescribed by the Secretary under this section, to establish a program of alcohol and controlled substances testing; and

(2) fails to establish such a program in accordance with such regulations.●

● Mr. DANFORTH. Mr. President, today, Senator HOLLINGS and I, along with twenty three cosponsors, are introducing legislation to require drug and alcohol testing for transportation professionals in the aviation, motor carrier, mass transit, and railroad industries. This is the third Congress in which we have introduced similar legislation.

Twice during the 100th Congress, the Senate voted overwhelmingly in favor of provisions mandating drug and alcohol testing of aviation, motor carrier and railroad employees. The House of Representatives voted 377 to 27 to accept those provisions in a House/Senate conference. Unfortunately, a few Members of the House blocked further action during the final hours of the Congress.

During the 101st Congress, legislation providing for aviation, motor carrier and railroad testing was approved by the Senate three times and considered in four separate House/Senate conferences. Again, the House refused to meet its safety obligations, and those provisions were not enacted. Also, bills calling for drug and alcohol testing of mass transit workers were introduced in both the House and the Senate for the first time, but failed to become law.

On January 4, we marked the fourth anniversary of the event that first focused the Nation's attention on the need for drug and alcohol testing in transportation. On that day in 1987, near Chase, MD, a Conrail engineer and brakeman who were smoking marijuana on-the-job ignored a series of warning signals and directed their locomotive into the path of an Amtrak train. In the resulting crash, 16 passengers died and 170 were injured.

Some progress has been made since the Chase tragedy. In 1988, the Department of Transportation issued rules requiring that transportation employees be tested for drug use only. The DOT rules fall short, however. They are not consistent among transportation modes; intrastate and interstate operators are not uniformly covered; and they do not cover alcohol.

We need only turn on the nightly news to see proof that we cannot win the battle against substance abuse in the transportation industry unless worker testing covers alcohol, as well as drug use.

On December 28, 1990, a Boston mass transit operator, with a blood alcohol content above 0.10 percent, crashed his trolley car into another, injuring 33 people. The general manager of the Massachusetts Bay Transportation Authority said, "It is clear that the operator's inability to function was the critical element * * *. There is no better argument for random drug testing than what we've seen in the last few days."

Last August, three Northwest Airlines pilots were convicted of flying while intoxicated between Fargo, ND, and Minneapolis. The blood alcohol content [BAC] of the captain of that flight was 0.13 percent 2 hours after the flight ended. He testified that he had drunk 20 rum and cokes the night prior to the 6 a.m. flight. It is only because airport authorities called for testing under Minnesota State law that we know the pilots were legally intoxicated. The Federal Aviation Administration must have the authority to keep drunk pilots out of the cockpit.

President, I urge my colleagues to continue to support this important legislation. It is a matter of life and death.●

● Ms. MIKULSKI. Mr. President, on January 4, 1987, the town of Chase, MD was the scene of a brutal crime. A southbound Conrail locomotive sped by two warning signals and through a stop sign to smash into a northbound Amtrak passenger train. Sixteen people were killed and more than 170 were injured. The engineer and the brakeman were too stoned to care about the warnings—they had been smoking marijuana before the crash.

That accident, those deaths, were entirely preventable.

I can never forget the grief of Susan and Roger Horn, whose 16-year-old daughter Ceres died that day. And I will never forget the promise I made to them: that I would fight to make sure that other parents never had to bear the same burden of grief they carry with them every day. I promised that I would fight for legislation that would catch drug and alcohol abusers in the transportation industry before they had a chance to kill.

I am proud to keep that promise today, by joining with Senators HOLLINGS and DANFORTH to cosponsor the Omnibus Transportation Employee Testing Act of 1991.

I want it to be clear that while we are fighting a war on drugs, we are not fighting a war on employees. This legislation provides for employee privacy, and ensures fairness and accuracy by incorporating the same Department of Health and Human Services laboratory and testing standards which are used in testing Federal employees.

It is a tragedy that this legislation has not yet become law, even though the U.S. Senate has passed it three times.

But more tragic is the fact that accidents and close calls continue. We can not rely on Department of Transportation regulations when they prevent the FAA from testing pilots seen drinking before takeoff; when intrastate operators, like the Boston trolley car driver who injured 33 people in an alcohol-induced crash, are not included; and when we have no idea if future administrators will even bother to enforce them.

We need to send the courts, and the people of this country a message: we will not tolerate drug and alcohol abuse by the people to whom we entrust our lives and the lives of our loved ones. We will not forget the lessons of Chase, MD and Ceres Horn.●

By Mr. BRADLEY:

S. 679. A bill to amend the Internal Revenue Code of 1986 to exclude the gross income payments made by public utilties to customers to reduce the cost of energy conservation services and measures; to the Committee on Finance.

RESIDENTIAL ENERGY EFFICIENCY POLICY ACT OF 1991

●Mr. BRADLEY. Mr. President, this past month, the Bush administration announced its own national energy strategy. I believe that this plan is deficient and unbalanced. The strategy emphasizes energy production, with drilling for oil in the pristine Arctic Wildlife Refuge as its centerpiece, and largerly overlooks energy conservation.

It is a fact that domestic oil production peaked in 1972. Not a quadrupling of prices in 1973, and not a tripling of prices in 1979, has allowed the domestic oil industries to surpass this two-decade oil peak. It's a fact that we're not going to drill our way out of our predicament.

The legislation I'm introducing today is indicative of my continued commitment to push for effective energy conservation measures. It is simply much cheaper to save a barrel of oil than it is to find a new one.

Just over 1 year ago, the IRS produced a ruling that was a giant step backward for energy conservation efforts. My legislation will reverse the IRS position and get our priorities straight.

On April 15, many people are going to face a choice: Either report energy efficiency rebates they've received from electric and gas utilities as taxable income, or overlook the assistance and risk penalties and an audit.

For the past decade, many, many utilties have participated in interactive programs with their customers. Estimates are that, nationally, nearly one-half of the electric utility customers have access to rebate programs.

Rebates have worked. Household energy consumption is down 30 percent in a decade. Utilities that have rebate programs have documented that these programs are effective. In New Jersey, one utility estimates that it has avoided the siting and construction of a moderate-sized powerplant because of its aggressive residential conservation program. One analysis showed 60 percent of customers bought energy efficient refrigerators when a $50 rebate was offered. Only 15 percent bought the superior and cost-effective refrigerator without the rebates.

So what has changed? Not long ago, the IRS said that consumers who receive rebates have to report these rebates on their tax returns. Until then, there was no tax. But, now, if a utility pays $5 cash toward the purchase of an energy efficient light bulb, or $100 toward a super efficient refrigerator, or $200 toward insulation, you've got to report the rebate as income.

The IRS ruling was a little peculiar or perverse, in that not all rebaters or financial assistance is affected. If you can wait until your electric or gas bill comes, the utility can give you a credit on your bill which is not taxable. It's an incongruity: If you get the cash up front, you're taxed. If you can wait for a month or two, it's tax free.

This is unfair: Rebates or financial assistance aren't for those who can wait. We want an effective program not an exclusive one. The poor and middle-income are most pressed and least likely to be swayed by promises of help down the road. Maybe they'll take the rebate and not report it. More likely, they will pass on energy conservation. And we'll all pay later, with more pollution, or higher energy bills as new plants are built.

Mr. President, I intend to change this policy to make it fair and effective. Utilities and consumers can and should help each other. Utilities can help consumers make more effective and sensible choices about energy efficiency Consumers, by making the right decisions, can help the utilties avoid building costly power plants or pipelines. And the IRS—if I have anything to say about it—isn't going to get in the middle.

I ask unanimous consent that the 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. 679

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 "Residential Energy Efficiency Policy Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that—

(1) enormous economic and social gains can be made by increased energy efficiency in our homes;

(2) electric and gas utilities are natural partners to homeowners, tenants, and landlords and have a long relationship of providing energy services to the community;

(3) utilities might be forced to construct new energy facilities that will be more costly to society than reducing the demand for more facilities through energy conservation measures;

(4) by reducing the need for new facilities and the consumption of energy resources, utilities can promote important social goals, such as reducing pollution, saving depletable fuels for future generations, and reducing national dependence on insecure energy supplies; and

(5) cost-effective utility assistance to homeowners, tenants, and landlords for energy conversation should not be considered as taxable income.

SEC. 3. PUBLIC UTILITY PAYMENTS TO CUSTOMERS FOR ENERGY CONSERVATION PURPOSES.

(a) IN GENERAL.—Part III of subchapter B of Chapter 1 of the Internal Revenue Code of 1986 (relating to amounts specifically excluded from gross income) is amended by redesignating section 136 as section 137 and by inserting after section 135 the following new section:

"SEC. 136. ENERGY AND WATER CONSERVATION SUBSIDIES.

"(a) GENERAL RULE.—Gross income shall not include the value of any financial assistance or service provided by a public utility to a residential customer for the purchase or installation of any energy conservation measure.

"(b) DENIAL OF DOUBLE BENEFIT.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure to the extent of any amount excluded under subsection (a) with respect to such expenditure. The adjusted basis of any property shall be reduced by the amount excluded under subsection (a) with respect to such property.

"(c) ENERGY CONSERVATION MEASURE.—For purposes of this section, the term 'energy conservation measure' means any residential energy conservation measure described in section 210(11) of the National Energy Conservation Policy Act (42 U.S.C. 8211(11)).

"(d) PUBLIC UTILITY.—For purposes of this section, ther term 'public utility' means any person, corporation, State agency or local unit of government, or Federal agency engaged in the sale of electrical energy or gas."

(b) CONFORMING AMENDMENT.—The table of sections for part III of subchapter B of Chapter 1 of such Code is amended by striking the item relating to section 137 and inserting:

"Sec. 136. Energy conservation measures.
"Sec. 137. Cross reference to other Acts."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act.●

By Mr. ROCKEFELLER (for himself, Mr. HOLLINGS, Mr. INOUYE, Mr. ROBB, Mr. DANFORTH, Mr. BRYAN, Mr. PACKWOOD, Mr. PRESSLER, Mr. STEVENS, Mr. KASTEN, Mr. MCCAIN, Mr. BURNS, Mr. GORTON, Mr. LOTT, Mr. KERRY, Mr. BREAUX, Mr. GORE, Mr. EXON, Mr. FORD, and Mr. BENTSEN):

S. 680. A bill to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism into the United States and for other purposes; to the Committee on Commerce, Science, and Transportation.

TOURISM POLICY AND EXPORT PROMOTION ACT OF 1991

• Mr. ROCKEFELLER. Mr. President, I rise today, as chairman of the Foreign Commerce and Tourism Subcommittee, to introduce the Tourism Policy and Export Promotion Act of 1991. As the title suggests, the objective of this legislation is to lend focus to, and maximize, the export potential of the travel and tourism industry.

The bill I am introducing today is the same tourism export bill which, last year, unanimously passed the Senate and was stymied on the House side. I offer the identical bill today not as the final tourism export promotion bill, but rather as a discussion draft. During last year's debate on this measure, several of my House colleagues expressed concerns about the bill and I fully intend to work with my House and Senate colleagues, industry, and other interested parties to effectively focus the Government's role in directing a vigorous and coordinated national tourism policy.

When you ask people to name our Nation's largest export, most think of agriculture or chemicals. Because tourism is not a commodity that you can put in a box and ship overseas, few think of tourism as our Nation's largest export—which it is. The travel and tourism industry is one of the rare success stories in an otherwise bleak trade picture. Last year, the industry posted a record $4 billion surplus. Foreign visitors made 40 million trips—up 9 percent—to the United States last year and spent $53 billion—up 19 percent.

Unfortunately, one of the unintended casualties of the gulf war, as well as the recession, has been the travel and tourism industry. The United States Travel and Tourism Administration [USTTA] estimates the number of international visitors to the United States has declined 27 percent in recent months.

Mr. President, in the last 2 years, the travel and tourism industry has enjoyed phenomenal growth, in part due to the decline of the dollar. Now, the industry faces its most daunting challenge—can it build upon its success or will we become content, as we have with so many other industries, to sit back and watch other nations capture market share.

The "discussion draft" I introduce today is designed to build on the past gains in this industry and alleviate its current difficulties.

The goal of the Tourism Policy and Export Promotion Act of 1991 is to reorient our current Federal tourism policy by changing its focus from marketing to export promotion. It provides the USTTA with a 3-year authorization, giving this underfunded agency the stability that it needs to pursue its mission of promoting the United States as the ultimate travel destination. It requires the USTTA to target markets which have growth potential. It also understands that no trade policy can be successful without market access. Therefore, the bill requires the Commerce Department to publish a list of barriers to entry that currently close markets to the U.S. travel and tourism industry.

In addition, this bill establishes the Rural Tourism Foundation to assist States in the development of their rural areas as tourist attractions. In my experience as Governor of the State of West Virginia, I discovered the value of tourism as a vital component of the State's economic development program. It created jobs and brought in much needed revenue.

Our efforts to promote tourism to West Virginia continue to pay a handsome dividend for my State. Tourism is now the third largest employer in West Virginia, providing paychecks for over 40,000 West Virginians. Tourists spent $2.4 billion last year in West Virginia, providing State government with a total of $108 million in annual tax revenues.

Mr. President, as I said earlier, I am introducing this measure as a way to get the discussion started on the Federal Government's tourism policy, which has not been updated since 1979. In April, I will be holding a hearing on this bill in the Foreign Commerce and Tourism Subcommittee. I welcome suggestions and ideas to strengthen USTTA's role in fostering the growth of travel and tourism, as an export.

A vigorous and coordinated Federal tourism policy, as embodied in a tourism export promotion bill, will ensure that the outlook for this industry's future remains bright.

Mr. President, I ask unanimous consent that the full 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. 680

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Tourism Policy and Export Promotion Act of 1991".

FINDINGS

SEC. 2. The Congress finds that—

(1) the travel and tourism industry is the second largest retail or service industry in the United States;

(2) travel and tourism receipts make up over 6.7 percent of the United States gross national product;

(3) travel and tourism expenditures last year were approximately $350 billion;

(4) in 1988 the travel and tourism industry generated about 6 million jobs directly and about 2.5 million indirectly;

(5) international visitors spent approximately $43 billion in the United States last year;

(6) travel and tourism services ranked as the largest United States export in 1989;

(7) advanced technologies, industrial targeting, the industrialization of the Third World, and the flight of some United States manufacturing capacity to overseas locations have affected the international competitiveness of the United States; and

(8) although the trade deficit is shrinking, imports continue at record levels and, therefore, export expansion must remain a national priority.

NATIONAL GOAL

SEC. 3. It shall be the national goal under this Act to increase and sustain United States export earnings from United States tourism and transportation services traded internationally and to maintain a travel and tourism export surplus in order to help eliminate the overall United States trade deficit.

STATISTICAL REPORT

SEC. 4.(a) SURVEY OF INTERNATIONAL AIR TRAVELERS.—The Secretary of Commerce, to the extent available resources permit, shall improve the survey of international air travelers conducted to provide the data needed to estimate the Nation's balance of payments in international travel by—

(1) expanding the survey to cover travel to and from the Middle East, Africa, South America, and the Caribbean and enhancing coverage for Mexico, Oceania, the Far East, and Europe; and

(2) improving the methodology for conducting on-board surveys by (A) enhancing communications, training, and liaison activities in cooperation with participating air carriers, (B) providing for the continuation of needed data bases, and (C) utilizing improved sampling procedures.

The Secretary of Commerce shall seek to increase the reporting frequency of the data provided by Statistics Canada and the Bank of Mexico on international travel trade between the United States and both Canada and Mexico. The Secretary shall improve the quarterly statistical report on United States international travel receipts and payments published in the Bureau of Economic Analysis document known as "The Survey of Current Services" and heighten its visibility.

(b) REPORT TO CONGRESS.—The Secretary of Commerce shall, within 18 months after the date of enactment of this Act, report of to the Congress on—

(1) the status of the efforts required by subsection (a); and

(2) the desirability and feasibility of publishing international travel receipts and payments on a monthly basis.

TOURISM TRADE BARRIERS

SEC. 5.(a) ANALYSIS AND ESTIMATES.—For calendar year 1990 and each succeeding calendar year, the Secretary of Commerce shall—

(1) identify and analyze acts, policies, or practices of each foreign country that constitute significant barriers to, or distortions of, United States travel and tourism exports;

(2) make an estimate of the trade-distorting impact on United States commerce of any act, policy, or practice identified under paragraph (1); and

(3) make an estimate, if feasible, of the value of additional United States travel and tourism exports that would have been ex-

ported to each foreign country during such calendar year if each of such acts, policies, and practices of such country did not exist.

(b) REPORT.—On or before March 31 of 1991 and each succeeding calendar year, the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the analysis and estimates made under subsection (a) for the preceding calendar year. The report shall include any recommendation for action to eliminate any act, policy, or practice identified under subsection (a).

ACTION TO FACILITATE ENTRY OF FOREIGN TOURISTS

SEC. 6.(a) FINDING.—The Congress finds that foreign tourists entering the United States border.

(b) ACTION BY SECRETARY.—The Secretary shall, in coordination with appropriate Federal agencies, take appropriate action to ensure that foreign tourists are not unnecessarily delayed when entering the United States.

TOURISM TRADE DEVELOPMENT

SEC. 7.(a) ANNUAL PLAN.—(1) Section 202(a)(15) of the International Travel Act of 1961 (22 U.S.C. 2123(a)(15)) is amended by striking "marketing" and inserting in lieu thereof "tourism trade development".

(2) Section 202 of the International Travel Act of 1961 (22 U.S.C. 2123) is amended by adding at the end the following new subsection:

"(e) Beginning with fiscal year 1991, each annual tourism trade development plan developed and submitted to the Congress by the Secretary under subsection (a)(15) of this section shall focus on those countries with respect to which tourism trade development has the greatest potential for increasing travel and tourism export revenues.".

(b) ADVISORY BOARD.—(1) Section 303(a)(3) of the International Travel Act of 1961 (22 U.S.C. 2124b(a)(3)) is amended—

(A) in subparagraph (a), by striking "and";

(B) in subparagraph (B), by striking "one" and inserting in lieu thereof "two" and by striking the period at the end and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new subparagraph:

"(C) at least one shall be a representative of a city who is knowledgeable of tourism promotion.".

(2) The last sentence of section 303(b) of the International Travel Act of 1961 (22 U.S.C. 2124b(b)) is amended by striking "two consecutive terms of three years each" and inserting in lieu thereof "six consecutive years or nine years overall".

(3) The first sentence of section 303(f) of the International Travel Act of 1961 (22 U.S.C. 2124b(f) is amended—

(A) by striking "and" and inserting in lieu thereof a comma; and

(B) by inserting immediatley before the period at the end the following: ", and when the plan is submitted to the Congress, shall send to the Congress by separate communication the comments of the Board on the plan".

(c) CONFORMING AMENDMENTS.—(1) Section 204 of the International Travel Act of 1961 (22 U.S.C. 2123b) is amended by striking "marketing" each place it appears and inserting in lieu thereof "tourism trade development".

(2) Section 301(a) of the International Travel Act of 1961 (22 U.S.C. 2124(a)) is amended—

(A) by striking "Marketing" and inserting in lieu thereof "Trade Development"; and

(B) by striking "marketing" and inserting in lieu thereof "tourism trade development".

(3) Section 303(f) of the International Travel Act of 1961 (22 U.S.C. 2124b(f)) is amended—

(A) by striking "Marketing" and inserting in lieu thereof "Trade Development"; and

(B) by striking "marketing" and inserting in lieu thereof "tourism trade development".

COORDINATION

SEC. 8. Section 301 of the International Travel Act of 1961 (22 U.S.C. 2124) is amended by adding at the end the following new subsection:

"(c) The Secretary shall ensure that the services of the United States and Foreign Commercial Service continue to be available to assist the United States Travel and Tourism Administration at locations identified by the Under Secretary of Commerce for Travel and Tourism, in consultation with the Director General of the United States and Foreign Commerical Service, as necessary to assist the Administration's foreign offices in stimulating and encouraging travel to the United States by foreign residents and in carrying out other powers and duties of the Secretary specified in section 202.".

RURAL TOURISM DEVELOPMENT FOUNDATION

SEC. 9. (a) FINDINGS; ESTABLISHMENT OF FOUNDATION.—(1) The Congress finds that increased efforts directed at the promotion of rural tourism will contribute to the economic development of rural America and further the conservation and promotion of natural, scenic, historic, scientific, educational, inspirational, or recreational resources for future generations of Americans and foreign visitors.

(2) In order to assist the United States Travel and Tourism Administration in the development and promotion of rural tourism, there is established a charitable and nonprofit corporation to be known as the Rural Tourism Development Foundation (hereafter in this section referred to as the "Foundation").

(b) FUNCTIONS.—The functions of the Foundation shall be the planning, development, and implementation of projects and programs which have the potential to increase travel and tourism export revenues by attracting foreign visitors to rural America. Initially, such projects and programs shall include but not be limited to—

(1) participation in the development and distribution of educational and promotional materials pertaining to both private and public attractions located in rural areas of the United States, including Federal parks and recreational lands, which can be used by foreign visitors;

(2) development of educational resources to assist in private and public rural tourism development; and

(3) participation in Federal agency outreach efforts to make such resources available to private enterprises, State and local governments, and other persons and entities interested in rural tourism developments.

(c) BOARD OF DIRECTORS.—(1)(A) The Foundation shall have a Board of Directors (hereafter in this section referred to as the "Board") that—

(i) during its first two years shall consist of nine voting members; and

(ii) thereafter shall consist of those nine members plus up to six additional voting members as determined in accordance with the bylaws of the Foundation.

(B)(i) The Under Secretary of Commerce for Travel and Tourism shall, within six months after the date of enactment of this Act, appoint the initial nine voting members of the Board and thereafter shall appoint the successors of each of three such members, as provided by such bylaws.

(ii) The voting members of the Board, other than those referred to in clause (i), shall be appointed in accordance with procedures established by such bylaws.

(C) The voting members of the Board shall be individuals who are not Federal officers or employees and who have demonstrated an interest in rural tourism development. Of such voting members, at least a majority shall have experience and expertise in tourism trade promotion, at least one shall have experience and expertise in resource conservation, at least one shall have experience and expertise in financial administration in a fiduciary capacity, at least one shall be a representative of an Indian tribe who has experience and expertise in rural tourism on an Indian reservation, at least one shall represent a regional or national organization or association with a major interest in rural tourism development or promotion, and at least one shall be a representative of a State who is responsible for tourism promotion.

(D) Voting members of the Board shall each serve a term of six years, except that—

(i) initial terms shall be staggered to assure continuity of administration;

(ii) if a person is appointed to fill a vacancy occurring prior to the expiration of the term of his or her predecessor, that person shall serve only for the remainder of the predecessor's term; and

(iii) any such appointment to fill a vacancy shall be made within 60 days after the vacancy occurs.

(2) The Under Secretary of Commerce for Travel and Tourism and representatives of Federal agencies with responsibility for Federal recreational sites in rural areas (including the National Park Service, Bureau of Land Management, Forest Service, Corps of Engineers, Bureau of Indian Affairs, Tennessee Valley Authority, and such other Federal agencies as the Board determines appropriate) shall be nonvoting ex-officio members of the Board.

(3) The Chairman and Vice Chairman of the Board shall be elected by the voting members of the Board for terms of two years.

(4) The Board shall meet at the call of the Chairman and there shall be at least two meetings each year. A majority of the voting members of the Board serving at any one time shall constitute a quorum for the transaction of business, and the Foundation shall have an official seal, which shall be judicially noticed. Voting membership on the Board shall not be deemed to be an office within the meaning of the laws of the United States.

(d) COMPENSATION AND EXPENSES.—No compensation shall be paid to the members of the Board for their services as members, but they may be reimbursed for actual and necessary traveling and subsistence expenses incurred by them in the performance of their duties as such members out of Foundation funds available to the Board for such purposes.

(e) ACCEPTANCE OF GIFTS, DEVISES, AND BEQUESTS.—(1) The Foundation is authorized to accept, receive, solicit, hold, administer, and use any gifts, devises, or bequests, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein for the benefit of or in connection with rural tourism, except that the Foundation may not accept any such gift, devise, or bequest which entails any expenditure other than from the resources of the Foundation. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or

future interest therein is for the benefit of rural tourism.

(2) A gift, devise, or bequest accepted by the Foundation for the benefit of or in connection with rural tourism on Indian reservations, pursuant to the Act of February 14, 1931 (25 U.S.C. 451), shall be maintained in a separate accounting for the benefit of Indian tribes in the development of tourism on Indian reservations.

(f) INVESTMENTS.—Except as otherwise required by the instrument of transfer, the Foundation may sell, lease, invest, reinvest, retain, or otherwise dispose of or deal with any property or income thereof as the Board may from time to time determine. The Foundation shall not engage in any business, nor shall the Foundation make any investment that may not lawfully be made by a trust company in the District of Columbia, except that the Foundation may make any investment authorized by the instrument of transfer and may retain any property accepted by the Foundation.

(g) USE OF FEDERAL SERVICES AND FACILITIES.—The Foundation may use the services and facilities of the Federal Government and such services and facilities may be made available on request to the extent practicable without reimbursement therefor.

"(h) PERPETUAL SUCCESSION; LIABILITY OF BOARD MEMBERS.—The Foundation shall have perpetual succession, with all the usual powers and obligations of a corporation acting as a trustee, including the power to sue and to be sued in its own name, but the members of the Board shall not be personally liable, except for malfeasance.

"(i) CONTRACTUAL POWER.—The Foundation shall have the power to enter into contracts, to execute instruments, and generally to do any and all lawful acts necessary or appropriate to its purposes.

"(j) ADMINISTRATION.—In carrying out the provisions of this section, the Board may adopt bylaws, rules, and regulations necessary for the administration of its functions and may hire officers and employees and contract for any other necessary services. Such officers and employees shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and may be paid without regard to the provisions of chapters 51 and 53 of such title relating to classification and General Schedule pay rates.

"(2) The Secretary of Commerce may accept the voluntary and uncompensated services of the Foundation, the Board, and the officers and employees of the Foundation in the performance of the functions authorized under this section, without regard to section 1342 of title 31, United States Code, or the civil service classification laws, rules, or regulations.

"(3) Neither an officer or employee hired under paragraph (1) nor an individual who provides services under paragraph (2) shall be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims.

"(k) EXEMPTION FROM TAXES, CONTRIBUTIONS.—The Foundation and any income or property received or owned by it, and all transactions relating to such income or property, shall be exempt from all Federal, State, and local taxation with respect thereto. The Foundation may, however, in the discretion of the Board, contribute toward the costs of local government in amounts not in excess of those which it would be obligated to pay such government if it were not exempt from taxation by virtue of this subsection or by virtue of its being a charitable and nonprofit corporation and may agree so to contribute with respect to property transferred to it and the income derived therefrom if such agreement is a condition of the transfer. Contributions, gifts, and other transfers made to or for the use of the Foundation shall be regarded as contributions, gifts, or transfers to or for the use of the United States.

"(l) LIABILITY OF UNITED STATES.—The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation.

"(m) ANNUAL REPORT.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress an annual report of its proceedings and activities, including a full and complete statement of its receipts, expenditures, and investments.

"(n) DEFINITIONS.—As used in this section, the term—

"(1) "Indian reservation" has the meaning given the term "reservation" in section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d));

"(2) "Indian tribe" has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450(e));

"(3) "local government" has the meaning given that term in section 3371(2) of title 5, United States Code; and

"(4) "rural tourism" means travel and tourism activities occurring outside of United States Standard Metropolitan Statistical Areas, including activities on Federal recreational sites, on Indian reservations, and in the territories, possessions, and commonwealths of the United States.

"(o) ASSISTANCE BY SECRETARY OF COMMERCE.—Section 202(a) of the International Travel Act of 1961 (22 U.S.C. 2123(a)) is amended—

"(1) by striking "and" at the end of paragraph (14);

"(2) by striking the period at the end of paragraph (15) and inserting in lieu thereof "; and"; and

"(3) by adding at the end the following new paragraph:

"(16) may assist the Rural Tourism Development Foundation, established under the Tourism Policy and Export Promotion Act of 1991, in the development and promotion of rural tourism.".

TOURISM DEVELOPMENT STUDY

SEC. 10. (a) REQUIREMENT TO ASSEMBLE INFORMATION.—The Secretary of Commerce shall assemble available information on economic activity associated with scenic and recreational travel, including but not limited to case studies of existing scenic byways. The Secretary shall consult with other departments and agencies of the United States which may have relevant data.

"(b) STUDY.—The Secretary of Commerce shall conduct a study regarding—

(1) economic effects associated with the public identification and promotion of scenic byways as tourist attractions;

(2) techniques for incorporating scenic byways into tourism development programs;

(3) economic effects associated with the public identification and promotion of Indian reservations as tourist attractions; and

(4) techniques for incorporating Indian reservations into tourism development programs.

(c) REPORT.—Not later than one year after the date of enactment of this Act, the Secretary of Commerce shall transmit to the Congress a report on the information assembled under subsection (a) and the results of the study conducted under subsection (b), including any recommendations based on that study.

POLICY CLARIFICATIONS

SEC. 11. (a) NATIONAL TOURISM POLICY.—(1) Section 101(b)(1) of the International Travel Act of 1961 (22 U.S.C. 2121(b)(1)) is amended to read as follows:

"(1) optimize the contributions of the tourism and recreation industries to the position of the United States with respect to international competitiveness, economic prosperity, full employment, and balance of payments;"

(2) Section 101(b) of the International Travel Act of 1961 (22 U.S.C. 2121(b)) is amended—

(A) by redesignating paragraph (2) through (12) as paragraphs (5) through (15), respectively; and

(B) by inserting immediately after paragraph (1) the following new paragraphs:

"(2) increase United States export earnings from United States tourism and transportation services traded internationally;

"(3) ensure the orderly growth and development of tourism;

"(4) coordinate and encourage the development of the tourism industry in rural communities which (A) have been severely affected by the decline of agriculture, family farming, or the extraction or manufacturing industries, or by the closing of military bases; and (B) have the potential necessary to support and sustain an economy based on tourism;".

(b) DUTIES OF SECRETARY OF COMMERCE.—(1) Section 201 of the International Travel Act of 1961 (22 U.S.C. 2122) is amended—

(A) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively;

(B) in paragraph (3), as so redesignated, by striking "tourist facilities," and all that follows and inserting in lieu thereof the following: "receptive, linguistic, informational, currency exchange, meal, and package tour services required by the international market;"; and

(C) by inserting immediately after paragraph (1) the following new paragraph:

"(2) provide export promotion services that will increase the number of States, local governments (as defined in section 3371(2) of title 5, United States Code), and companies in the United States that sell their tourism services in the international market, expand the number of foreign markets in which exporting States, cities, and companies are active, and inform States, cities, and companies in the United States regarding the specialized services the international market requires;".

(2) Section 202(a)(9) of the International Travel Act of 1961 (22 U.S.C. 2123(a)(9)) is amended by striking "United States travel and tourism interests" and inserting in lieu thereof "the United States national tourism interest".

(c) AUTHORIZATION REGARDING CERTAIN EXPENDITURES.—Section 202 of the International Travel Act of 1961 (22 U.S.C. 2123), as amended by section 7(a) of this Act, is further amended by adding at the end the following new subsection:

"(f) Funds appropriated to carry out this Act may be expended by the Secretary without regard to the provisions of sections 501 and 3702 of title 44, United States Code. Funds appropriated for the printing of travel promotional materials shall remain available for two fiscal years.".

(d) REPEAL.—The International Travel Act of 1961 (22 U.S.C. 2121 et seq.) is amended by repealing section 203.

(e) TOURISM POLICY COUNCIL.—(1) Section 302(b)(1) of the International Travel Act of 1961 (22 U.S.C. 2124a(b)(1)) is amended—

(A) by redesignating subparagraph (H) and (I) as subparagraphs (L) and (M); and

(B) by inserting immediately after subparagraph (G) the following new subparagraphs:

"(H) the Secretary of Agriculture;

"(I) the Chairman of the Tennessee Valley Authority;

"(J) the Commanding General of the Corps of Engineers of the Army, within the Department of Defense;

"(K) the Administrator of the Small Business Administration;".

(2) Section 302(d) of the International Travel Act of 1961 (22 U.S.C. 2124a(d)) is amended by adding at the end the following new paragraph:

"(4)(A) Each year, upon designation by the Secretary of Commerce in accordance with subparagraph (B), up to three Federal departments and agencies represented on the Council shall each detail to the Council for that year one staff person and associated resources.

"(B) In making the designation referred to in subparagraph (A), the Secretary of Commerce shall designate a different group of agencies and departments each year and shall not redesignate any agency or department until all the other agencies and departments represented on the Council have been designated the same number of years.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 12. (a) IN GENERAL.—Section 304 of the International Travel Act of 1961 (22 U.S.C. 2126) is amended to read as follows:

"SEC. 304. For the purpose of carrying out this Act, there is authorized to be appropriated an amount, not to exceed $18,000,000 for the fiscal year ending September 30, 1991, not to exceed $21,000,000 for the fiscal year ending September 30, 1992, and not to exceed $24,000,000 for the fiscal year ending September 30, 1993.".

(b) FUNDS FOR FOUNDATION.—Of the funds authorized under section 304 of the International Travel Act of 1961 (22 U.S.C. 2126), as amended by subsection (a), there are authorized to be appropriated to the Secretary of Commerce for each of fiscal years 1991, 1992, and 1993 not to exceed $500,000 to—

(1) match partially or wholly the amount or value of contributions (whether in currency, services, or property) made to the Rural Tourism Development Foundation by private persons and Federal, State, and local government agencies; and

(2) provide administrative services for the Rural Tourism Development Foundation.●

● Mr. DANFORTH. Mr. President, I am pleased to cosponsor the Tourism Policy and Export Promotion Act of 1991, a bill to help the United States capture its share of the lucrative international tourism market.

At this time, we are lagging behind. While Western Europe attracts between half and two-thirds of all world tourism earnings annually, in 1990 the United States attracted only 9.4 percent, or $52.8 billion. Ironically, this total broke all previous U.S. records and generated our country's largest export revenue earnings last year. Agriculture earnings were in second place at $40 billion, followed by chemicals at $36 billion. In fact, foreign visitors spent $4.7 billion more in our country than Americans spent abroad.

This year, however, the U.S. travel and tourism industry got off to a rough start. When the air war in the Persian Gulf began on January 16, large numbers of businessmen and tourists stopped traveling. Airports were deserted. Travel destinations were abandoned. The U.S. Travel and Tourism Administration [USTTA] estimates that international travel dropped 27 percent during the first month of 1991.

The prospects for another record-breaking year for international tourism were looking bleak, but with an allied victory, we can celebrate—and contribute to the renewal of our Nation's economic health and well-being—by getting back to business as usual, including travel for work and pleasure.

Another way we can help is to support the legislation we are introducing today. This bill directs USTTA to sustain and maintain a travel and tourism export surplus. It requires USTTA to focus trade development activities on countries with the greatest potential for increasing our travel and tourism export earnings. It creates a Rural Tourism Foundation to ensure that foreign visitors see all of the U.S.A., spreading tourism export earnings to every region of the country.

A healthy U.S. travel and tourism industry is good for State and local economies. During 1990, domestic and international tourists spent $6 billion in Missouri alone. Equally important, however, may be the fact that a healthy travel and tourism industry will build understanding among the nations of the world.●

● Mr. BURNS. Mr. President, today, we know that 37 States in this country quote tourism as being their first, second, or third leading business. It is no wonder that once again tourism is the United States largest export with a $6 billion lead over agriculture. In 1990, domestic and foreign visitors spent a total of $377 billion in this country, creating a total of 6 million jobs.

This gives us living proof that tourism is alive and well in America today. Now our job and commitment is to make sure that tourism is given every chance to maintain and even increase its performance again next year.

In the last year we have seen continued efforts to maintain the export surplus this country enjoys in the tourism industry. Through the continued research and promotion of USTTA, TIA, and the many other tourism industry associations, the tourism business progresses forward to maintain a solid future in this country's economy. These efforts will maintain our tourism balance of trade.

Today it is more important than ever that rural States like my home of Montana and others look seriously at diversifying their economic development resources. In my home State we have miles and miles of open roads and beauty and splendor that not many States have left to offer.

It is important that we don't stop with this one piece of legislation to support tourism. In future months I will be working with my colleagues to bring about changes that will help support the changes that are needed to encourage growth and prosperity in tourism. We need to build incentive for business men and women to open businesses and take on leadership roles that that will help build this industry's future.

We need to encourage innovative and creative thinking and action. But in order for this creativity to succeed we need to offer support and leadership in the right places. We need to be creative in our thinking here in the Congress. I ask my colleagues here today to act with me in the future. I know we can make a difference.●

● Mr. MCCAIN. Mr. President, I am pleased to join Senator ROCKEFELLER and my other colleagues on the Commerce Committee in again cosponsoring the Tourism Policy and Export Promotion Act.

During the last Congress, the Commerce Committee undertook a comprehensive review of the National Tourism Policy Act of 1981. The result was this legislation, which would update and upgrade our efforts to promote tourism, as well as ensure that greater resources within the Department of Commerce are made available to assist in these efforts. Furthermore, it would create a Rural Tourism Foundation to promote rural America as a travel destination and to assist in building private/public partnerships to develop and promote rural America, including Federal parks and recreational lands. I am particularly pleased that the bill includes language to require the Commerce Department to appoint a native American to the Board of the Rural Tourism Foundation, and that it calls for a study of how to promote tourism at reservations. Unfortunately, the House of Representatives did not act on the bill before Congress adjourned last fall.

This legislation is vitally important. It would give full recognition to tourism as an export. Tourism is not just marketing; it is trade development. Quite simply, tourists are a vital component of our export trade. Over the past 30 years, tourism has grown to surpass all other U.S. exports. Furthermore, in 1990, tourism was one of only a tiny handful of industries to post a trade surplus, estimated at $4.9 billion.

I admit, Mr. President, my home State of Arizona has an advantage over many other States. Arizona is the proud home of one of the seven natural wonders of the world, the Grand Canyon. This stunning site is one of the

most visited spots in the entire United States. In addition, visitors to Arizona can travel back in time to explore ancient Indian dwellings and retrace the footsteps of cowboys and mountain men. As a result of these fabulous attractions, tourism is our largest employer and the second largest industry in the State.

Recent events, however, should teach us not to take this industry for granted. During the Persian Gulf conflict, tourism both within the United States and from abroad fell off abruptly, dramatically highlighting tourism as an econmic force. The U.S. Travel and Tourism Administration's efforts and those of other government agencies to combat this development are to be commended.

Mr. President, we are fortunate that our Nation is the world's No. 1 travel destination, but in order to maintain that position in an increasingly competitive marketplace we must take strong steps now. This legislation represents a more vigorous and coordinated policy, and I urge its swift enactment.•

By Mr. NICKLES (for himself, Mr. DOLE, Mr. WARNER, and Mr. MCCAIN):

S. 681. A bill to provide an additional amount of servicemen's group life insurance for death by hostile fire, to direct the Secretary of Veterans Affairs to pay a death gratuity to certain survivors of members of the uniformed services who die in the Persian Gulf combat zone, and for other purposes; to the Committee on Veterans' Affairs.

ADDITIONAL INSURANCE FOR MEMBERS OF THE ARMED FORCES WHO DIE IN COMBAT

• Mr. NICKLES. Mr. President, I am pleased to introduce today legislation to provide additional life insurance benefits for members of the Armed Forces who die as a result of hostile fire.

The recent war in the Persian Gulf was an enormous victory for the U.S. and coalition military forces. The superior leadership, superior equipment and superior military personnel possessed by coalition forces was an important factor in ensuring not only a quick victory but also one in which casualties were kept to a minimum. But as General Schwarzkopf said, the minimal number of casualties does not seem to be a miracle to the families of those young men and women who lost their lives while serving their country.

I am proud that in the wake of Operation Desert Storm my colleagues have moved expeditiously in providing additional military and veterans benefits to those who serve in the military. Last week I introduced legislation to pay a death gratuity of up to $200,000 to the survivors of military personnel who lost their life while participating in Operation Desert Shield. In addition, my bill S. 587, would have increased the maximum amount of servicemen's group life insurance [SGLI] to $200,000 for military personnel who are killed while in a combat zone.

I am pleased that the Senate has passed legislation to increase the maximum amount of servicemen's group life insurance from $50,000 to $100,000. However, I believe that we should not impose such a low cap on the maximum amount of life insurance available to military service members.

I recognize that the increase to $100,000 was based on the average size of life insurance coverage in the civilian sector. However, there are many service personnel who would like to obtain additional coverage above $100,000. For those members who have a family and more than one dependent $100,000 simply is not enough money to ensure that their family is taken care of or that their children will receive a college education.

The legislation I am introducing today would provide supplemental coverage under SGLI to provide for double indemnity coverage to service members who die as a result of hostile fire. The bill would cover deaths of service members who die as a result of hostile fire from any source and would include military members who are serving in dangerous parts of the world even though they are not declared to be combat zones.•

By Mr. PELL (for himself, Mr. ADAMS, Mr. BIDEN, Mr. BOND, Mr. BRADLEY, Mr. BREAUX, Mr. BYRD, Mr. CRANSTON, Mr. DIXON, Mr. DOLE, Mr. DURENBERGER, Mr. FORD, Mr. FOWLER, Mr. GARN, Mr. HEFLIN, Mr. INOUYE, Mr. JEFFORDS, Mr. MACK, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. PRYOR, Mr. REID, Mr. RIEGLE, Mr. SANFORD, Mr. SIMON, Mr. THURMOND, and Mr. WARNER):

S.J. Res. 95. Joint resolution designating October 1991 as "National Breast Cancer Awareness Month"; to the Committee on the Judiciary.

NATIONAL BREAST CANCER AWARENESS MONTH

• Mr. PELL. Mr. President, I rise today to introduce a joint resolution to designate October 1991 as "National Breast Cancer Awareness Month." I am delighted that 27 of my colleagues have joined as original cosponsors, proving that the fight against breast cancer has strong bipartisan support in the Senate.

Mr. President, setting aside a time of the year to learn about breast cancer is really nothing new. For several years, health advocates have taken upon themselves the task of setting aside time in the month of October to bring attention to this frightening disease.

In cold, hard statistics, the numbers are quite staggering. In 1991, breast cancer is expected to strike an estimated 175,000 women, 25,000 more women than in 1990. And 1991 will see about 44,500 women die from the disease—an estimated 500 more women than in 1990. And breast cancer, which is already the second leading cause of cancer death among women, is likely to increase further as our population ages, since a woman's risk of developing breast cancer increases as she ages.

Mr. President, many people do not realize that breast cancer can also strike men. Though their numbers are fewer, their plight is no less serious: this year alone, about 900 men will develop breast cancer; in addition, about 300 men will die from the disease.

In my own State of Rhode Island, the incidence of breast cancer has increased. The American Cancer Society estimates that breast cancer will strike about 1,000 Rhode Island women in 1991, a full 11-percent higher than last year's estimate. Fortunately for Rhode Islanders, those same figures show a decline in our State's death rate; in 1991, about 250 Rhode Island women are expected to die of the disease, about 9-percent less than were expected to die in 1990.

Mr. President, with regard to the increased incidence of breast cancer, Rhode Island reflects a national trend. In 1990, it was estimated that 1 in every 10 women would develop breast cancer at some point in her lifetime. Current estimates indicate that 1 in every 9 women will develop breast cancer. We know the numbers are increasing, but we don't know why. The cause of breast cancer continues to elude us.

Unfortunately, Rhode Island's death rate is not representative of a national trend. In fact, the national death rate from breast cancer has remained relatively stable.

That is the bad news.

But there is good news too, and Rhode Island's statistics reflect it: we can significantly reduce breast cancer mortality through early detection: self-examination, clinical examination by a qualified health care provider, and screening mammography. The numbers illustrate this best: 50 years ago, the 5-year survival rate for localized breast cancer was 78 percent; now it is over 90 percent. The American Cancer Society estimates that the use of a combination of early detection procedures can boost the survival rate for localized breast cancer to almost 100 percent.

And yet, Mr. President, despite the proven success of early intervention, many women do not know how to self-examine, and some are afraid to do so. Some women do not seek a screening mammogram because they are afraid, either of the procedure itself, or of the diagnosis it might reveal. Still others do not seek a screening mammogram because of lack of access or cost, or because they simply don't know the vital importance of mammography screening.

All these questions, misconceptions, and problems simply must be addressed. While our Nation moves, far too slowly, I might add, toward a health care system that provides access to basic health care for all, there are steps we can and must take now to educate people about those diseases, like breast cancer, that can be treated.

For many years, health care organizations, providers, and advocates have worked to teach the very simple message that, while breast cancer can kill, it can also be conquered. That, very simply, is the message of the resolution we introduce today.

Last year, Mr. President, I introduced a similar resolution which became law, marking the first congressionally authorized National Breast Cancer Awareness Month. Sixty-three Senators joined me in cosponsoring that first resolution. This year, I hope that all of my colleagues will help mark this important month and the efforts of health advocates across the Nation to reduce the rate of breast cancer mortality by joining with me to designate October 1991 as National Breast Cancer Awareness Month.

I ask unanimous consent that the resolution be printed in full at the end of my remarks.

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

S.J. RES. 95

Whereas breast cancer will strike an estimated 175,000 women and 900 men in the United States in 1991;

Whereas 1 out of every 9 women will develop breast cancer at some point in her life;

Whereas the risk of developing breast cancer increases as a woman grows older;

Whereas breast cancer is the second leading cause of cancer death in women, killing an estimated 44,000 women and 300 men in 1990;

Whereas the 5-year survival rate for localized breast cancer has risen from 78 percent in the 1940s to over 90 percent today;

Whereas most breast cancers are detected by the woman herself;

Whereas educating both the public and health care providers about the importance of early detection will result in reducing breast cancer mortality;

Whereas appropriate use of screening mammography, in conjunction with clinical examination and breast self-examination, can result in the detection of many breast cancers early in their development and increase the survival rate to nearly 100 percent;

Whereas data from controlled trials clearly demonstrate that deaths from breast cancer are significantly reduced in women over the age of 40 by using mammography as a screening tool;

Whereas many women are reluctant to have screening mammograms for a variety of reasons, such as the cost of testing, lack of information, and/or fear;

Whereas access to screening mammography is directly related to socioeconomic status;

Whereas increased awareness about the importance of screening mammography will result in the procedure being regularly requested by the patient and recommended by the health care provider; and

Whereas it is projected that more women will use this lifesaving test as it becomes increasingly available and affordable: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1991 is designated as "National Breast Cancer Awareness Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate programs and activities.●

ADDITIONAL COSPONSORS

S. 12

At the request of Mr. HOLLINGS, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 12, a bill to amend title VI of the Communications Act of 1934 to ensure carriage on cable television of local news and other programming and to restore the right of local regulatory authorities to regulate cable television rates, and for other purposes.

S. 24

At the request of Mr. MOYNIHAN, the name of the Senator from Idaho [Mr. CRAIG] 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. 26

At the request of Mr. MOYNIHAN, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 26, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income the value of certain transportation furnished by an employer, and for other purposes.

S. 140

At the request of Mr. WIRTH, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 140, a bill to increase Federal payments in lieu of taxes to units of general local government, and for other purposes.

S. 171

At the request of Mr. ROTH, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 171, a bill to amend title 5, United States Code, to establish an optional early retirement program for Federal Government empoyees, and for other purposes.

S. 250

At the request of Mr. FORD, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 250, a bill to establish national voter registration procedures for Federal elections, and for other purposes.

S. 254

At the request of Mr. MCCONNELL, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 254, a bill to repeal the provisions of the Revenue Reconciliation Act of 1989 which require the withholding of income tax from wages paid for agricultural labor.

S. 264

At the request of Mr. COCHRAN, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 264, a bill to authorize a grant to the National Writing Project.

S. 278

At the request of Mr. SARBANES, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 278, a bill to provide for certain notice and procedures before the Social Security Administration may close, consolidate, or recategorize certain offices.

S. 284

At the request of Mr. BRADLEY, the name of the Senator from Vermont [Mr. LEAHY] 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. 311

At the request of Mr. ROTH, the name of the Senator from Wyoming [Mr. SIMPSON], and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of S. 311, a bill to make long-term care insurance available to civilian Federal employees, and for other purposes.

S. 359

At the request of Mr. BOREN, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 359, a bill to amend the Internal Revenue Code of 1986 to provide that charitable contributions of appreciated property will not be treated as an item of tax preference.

S. 360

At the request of Mr. BUMPERS, the names of the Senator from North Carolina [Mr. SANFORD], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 360, a bill to authorize the Small Business Administration to provide financial and business development assistance to military reservists' small businesses, and for other purposes.

S. 383

At the request of Mr. MCCAIN, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 383, a bill to provide tax incentives for the establishment of tax enterprise zones on Indian reservations, and for other purposes.

S. 398

At the request of Mr. WIRTH, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 398, a bill to amend the Solid Waste Disposal Act to provide management standards and recycling requirements for spent lead-acid batteries.

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S. 403

At the request of Mr. WALLOP, the name of the Senator from North Dakota [Mr. CONRAD] 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. 416

At the request of Mr. DANFORTH, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of S. 416, a bill to amend the Internal Revenue Code of 1986 to make permanent the tax credit for increasing research activities.

S. 466

At the request of Mr. GRASSLEY, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 466, a bill to amend the Internal Revenue Code of 1986 to provide for a renewable energy production credit, and for other purposes.

S. 473

At the request of Mr. DECONCINI, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 473, a bill to amend the Lanham Trademark Act of 1946 to protect the service marks of professional and amateur sports organizations from misappropriations by State lotteries.

S. 474

At the request of Mr. DECONCINI, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 474, a bill to prohibit sports gambling under State law.

S. 489

At the request of Mr. HATCH, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 489, a bill to provide grants to States to encourage States to improve their systems for compensating individuals injured in the course of the provision of health care services, to establish uniform criteria for awarding damages in health care malpractice actions, and for other purposes.

S. 509

At the request of Mr. HARKIN, the names of the Senator from Arizona [Mr. MCCAIN], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of S. 509, a bill to amend the Public Health Service Act to establish a program for the prevention of disabilities, and for other purposes.

S. 532

At the request of Mr. BOREN, the names of the Senator from Louisiana [Mr. BREAUX], and the Senator from South Dakota [Mr. DASCHLE] were added as cosponsors of S. 532, a bill to amend the Internal Revenue Code of 1986 to prohibit the retroactive application of Treasury Department regulations and rulings.

S. 534

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 534, a bill to authorize the President to award a gold medal on behalf of the Congress to Gen. H. Norman Schwarzkopf, and to provide for the production of bronze duplicates of such medal for sale to the public.

S. 542

At the request of Mr. GRASSLEY, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 542, a bill to amend the Internal Revenue Code of 1986 to restore the deduction for interest on educational loans.

S. 565

At the request of Mr. WARNER, the names of the Senator from Montana [Mr. BAUCUS], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of 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.

S. 602

At the request of Mr. SASSER, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 602, a bill to improve the food stamp and nutrition programs, and for other purposes.

S. 641

At the request of Mrs. KASSEBAUM, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 641, a bill entitled the "Improved Rural and Short-Line Railroad Service Act".

SENATE JOINT RESOLUTION 69

At the request of Mr. RIEGLE, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of Senate Joint Resolution 69, a joint resolution to designate the week commencing May 5, 1991, through May 11, 1991, as "National Correctional Officers Week".

SENATE JOINT RESOLUTION 85

At the request of Mr. KASTEN, the names of the Senator from Washington [Mr. ADAMS], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Joint Resolution 85, a 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 grade of General of the Army.

SENATE CONCURRENT RESOLUTION 12

At the request of Mr. LEVIN, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of Senate Concurrent Resolution 12, a concurrent resolution to express the sense of the Congress that the civil rights and civil liberties of all Americans, including Arab-Americans, should be protected at all times, and particularly during times of international conflict of war, and for other purposes.

SENATE CONCURRENT RESOLUTION 16

At the request of Mr. MACK, the names of the Senator from North Carolina [Mr. HELMS], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Indiana [Mr. COATS], the Senator from Maine [Mr. MITCHELL], the Senator from Arizona [Mr. MCCAIN], the Senator from Vermont [Mr. LEAHY], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Arizona [Mr. DECONCINI], the Senator from Wyoming [Mr. WALLOP], the Senator from California [Mr. CRANSTON], the Senator from Illinois [Mr. SIMON], the Senator from Hawaii [Mr. INOUYE], and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of Senate Concurrent Resolution 16, a concurrent resolution urging Arab states to recognize, and end the state of belligerency with, Israel.

SENATE CONCURRENT RESOLUTON 18

At the request of Mr. LEVIN, his name was added as a cosponsor of Senate Concurrent Resolution 18, a concurrent resolution expressing the concern of the Senate for the ongoing human rights abuses in Burma and for the status of displaced Burmese and Burmese refugees.

SENATE CONCURRENT RESOLUTION 19

At the request of Mr. LEVIN, his name was added as a cosponsor of Senate Concurrent Resolution 19, a concurrent resolution condemning the People's Republic of China's continuing violation of universal human rights principles.

SENATE CONCURRENT RESOLUTION 22—EXPRESSING APPRECIATION TO AMERICAN INDIAN VETERANS OF THE ARMED FORCES

Mr. MCCAIN (for himself, Mr. INOUYE, Mrs. KASSEBAUM, Mr. SIMON, Mr. COCHRAN, Mr. BURDICK, Mr. DASCHLE, Mr. MURKOWSKI, Mr. DECONCINI, Mr. GORTON, Mr. CONRAD, and Mr. NICKLES) submitted the following concurrent resolution; which was referred to the Select Committee on Indian Affairs:

S. CON. RES. 22

Whereas American Indians, of various Indian tribes across the nation, have a long, proud and distinguished tradition of service in the Armed Forces of the United States;

Whereas American Indians have historically served in the Armed Forces of the United States in numbers which far exceed their representation in the population of the United States;

Whereas American Indians have lost their lives in the service of their nation, and in the cause of peace, including Operations Desert Storm and Desert Shield; and

Whereas American Indians currently deployed in the Persian Gulf have continued this proud and courageous tradition of service in the Armed Forces of the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. APPRECIATION.

The Congress expresses its appreciation to:

(1) all American Indian veterans for their long, proud, and distinguished tradition of service in the Armed Forces of the United States;

(2) all American Indian service men and women currently or heretofore deployed in the Persian Gulf region as part of Operation Desert Shield and Desert Storm; and

(3) the families of American Indian service men and women and members of Indian tribes nationwide who have supported their loved ones through traditional ceremonies and have prayed for the safety and continued strength of all American forces and Allied partners.

SEC. 2. CONDOLENCES.

The Congress expresses its condolences to the families whose loved ones have made the ultimate sacrifice in the service of their nation and in the cause of peace.

• Mr. MCCAIN. Mr. President, I am pleased to submit along with Senators INOUYE, KASSEBAUM, SIMON, COCHRAN, BURDICK, DASCHLE, MURKOWSKI, DECONCINI, GORTON, and CONRAD a concurrent resolution to extend the appreciation of the Congress to all American Indian veterans for their service in the Armed Forces of the United States.

Mr. President, as events in the Persian Gulf draw to a close, the attention of the Nation is focused upon the return of the men and women who have courageously served in Operations Desert Shield and Desert Storm. As America honors these brave men and women, I believe it is also important to acknowledge the unparalleled devotion that American Indians have had to the Armed Forces of the United States. In fact, American Indians continue to be the highest percentage of any ethnic group in the United States to serve our country, including Operation Desert Storm.

Ever since Colonial times, American Indians have enlisted in the armed services of the United States. Even in pre-Revolutionary Wars, American Indians were fighting on the side of the Colonists. Perhaps the most legendary contribution by American Indians occured during World War II. When communications between Allied Forces were being continuously intercepted by our enemies, the need for a code which could not be broken became of paramount importance to our survival and success. When everything else failed, it was the Navajo code talkers whose native language provided a means of communication that eluded the most expert of codebreakers. Of all the codes developed in World War II, the Navajo language code was the only one not broken during World War II.

In Operations Desert Shield and Desert Storm hundreds of American Indians continued the proud and courageous tradition of service in the Armed Forces. From my own home State of Arizona, the Navajo Nation estimates that it has sent at least 360 men and women to the Persian Gulf. Recently, during a visit to the Tohono O'Odham Nation concerning Indian health issues, Secretary Sullivan and I had the privilege of meeting with the families of the 33 men and women serving in the Persian Gulf. It was a very moving occasion for me, one which showed the pride these families had in their sons and daughters and in the job they had been called to do.

Mr. President, the event I was able to witness in Arizona can be repeated on all, if not most, of the Indian reservations across this country. The young and old have a deep pride in their tribal members who have been or are presently called to duty; they don't take a backseat to anybody in the level of patriotism and love of country. Indeed, it was largely because of the American Indian's record of service in World War I that Congress enacted legislation in 1924 granting citizenship to all American Indians.

Yet as I reflected on these recent events, I am reminded of the services that we have failed to provide American Indian veterans. This perhaps is all too sadly captured in the life of Ira Hayes. The American public has probably never heard the full story about this American hero. He was a Pima Indian who served in the Marine Corps during the Korean conflict and is depicted in the Iwo Jima Memorial as one of the brave men who planted the American flag. Although that moment is captured in time, Ira Hayes the man was soon forgotten. He eventually died a broken man and a victim of alcoholism.

Another American hero, Senator DAN INOUYE, perhaps said it best:

Even though a great number of native American veterans have served this country with incomparable bravery and valor, the recognition and level of services which have been provided to Indian veterans remains largely undocumented. It would appear that in our efforts to mainstream our country's veterans, the needs of America's Indian veterans have been forgotten.

As this concurrent resolution extends the appreciation of the Congress, I can think of no more appropriate subsequent action that the Congress can take than to examine the problems, assess current services, and explore the solutions necessary to fulfill the needs of native American veterans. I look forward to working with my colleagues to do just that in this Congress.•

SENATE RESOLUTION 82—TO ESTABLISH A SELECT COMMITTEE ON POW/MIA AFFAIRS

Mr. SMITH (for himself, Mr. GRASSLEY, Mr. HELMS, Mr. REID, Mr. GRAHAM, Mr. MACK, Mr. THURMOND, Mr. RIEGLE, Mr. SPECTER, and Mr. LAUTENBERG) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 82

Resolved,

SEC. 1. (a) There is hereby established a select committee to be known as the Select Committee on POW/MIA Affairs (hereinafter in this resolution referred to as the "select committee"). The select committee shall be composed of ten members, who shall be evenly divided between the two major political parties and shall be appointed by the President pro tempore of the Senate upon recommendations of the majority and minority leaders of the Senate after consultation with their chairman and ranking minority member. Five of the members appointed under this subsection shall be appointed by the President pro tempore of the Senate upon the recommendation of the majority leader of the Senate and five shall be appointed by the President pro tempore of the Senate upon the recommendation of the minority leader of the Senate.

(b) The majority leader of the Senate and the minority leader of the Senate shall be ex officio members of the select committee but shall have no vote in the committee and shall not be counted for purposes of determining a quorum.

(c) At the beginning of each Congress, the Members of the select committee shall elect a chairman of the select committee and a vice chairman of the select committee; provided, however, that the chairman and vice chairman of the select committee shall not be from the same political party. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman.

SEC. 2. (a) There shall be referred to the select committee, concurrently with referral to any other committee of the Senate with jurisdiction, all messages, petitions, memorials, and other matters relating to United States personnel unaccounted for from military conflicts.

(b) Nothing in this resolution shall be construed as prohibiting or otherwise restricting the authority of any other committee of the Senate or as amending, limiting, or otherwise changing the authority of any standing committee of the Senate.

SEC. 3. The select committee may, for the purposes of accountability to the Senate, make such reports to the Senate with respect to matters within its jurisdiction as it shall deem advisable. Such select committee shall promptly call to the attention of the Senate or to any other appropriate committee or committees of the Senate any matters deemed by the select committee to require the immediate attention of the Senate or such other committee or committees. In making such reports, the select committee shall proceed in a manner consistent with the requirements of national security.

SEC. 4. (a) For the purposes of this resolution, the select committee is authorized at its discretion (1) to make investigations into any matter within its jurisdiction, (2) to hold hearings, (3) to sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate, (4) to require, by subpoena or otherwise, the attendance of witnesses and the production of correspondence, books, papers, and documents, and (5) to take depositions and other testimony.

(b) The chairman of the select committee or any member thereof may administer oaths to witnesses.

(c) Subpoenas authorized by the select committee may be issued over the signature of the chairman, the vice chairman, or any member of the select committee designated by the chairman, and may be served by any person designated by the chairman or any member signing the subpoena.

SEC. 5. No employee of the select committee or person engaged to perform services for

or at the request of such committee shall be given access to any classified information by such committee unless such employee or person has (1) agreed in writing and under oath to be bound by the rules of the Senate and of such committee as to the security of such information during and after the period of this employment or relationship with such committee; and (2) received an appropriate security clearance as determined by such committee in consultation with the Director of Central Intelligence. The type of security clearance to be required in the case of any such employee or person shall, within the determination of such committee in consultation with the Director of Central Intelligence, be commensurate with the sensitivity of the classified information to which such employee or person will be given access by such committee.

SEC. 6. The select committee shall formulate and carry out such rules and procedures as it deems necessary to prevent the disclosure, without the consent of the person or persons concerned, of information in the possession of such committee which unduly infringes upon the privacy or which violates the constitutional rights of such person or persons. Nothing herein shall be construed to prevent such committee from publicly disclosing any such information in any case in which such committee determines the national interest in the disclosure of such information clearly outweighs any infringement on the privacy of any person or persons.

SEC. 7. The select committee is authorized to permit any personal representative of the President, designated by the President to serve as a liaison to such committee, to attend any closed meeting of such committee.

SEC. 8. Subparagraph (c) of Rule XXV of the Standing Rules of the Senate is amended by adding at the end thereof the following:

"POW/MIA Affairs ..... 10."

Mr. SMITH. Mr. President, I rise today to submit a resolution to establish the Senate Select Committee on POW/MIA Affairs. I am joined in this effort by several of my distinguished colleagues, Mr. HELMS, Mr. GRASSLEY, Mr. SPECTER, Mr. REID, Mr. MACK, Mr. THURMOND, Mr. LAUTENBERG, and Mr. GRAHAM of Florida.

For nearly a decade, the executive branch has designated the fullest possible accounting of American prisoners of war to be an issue of the highest national priority. It is truly unfortunate that, despite this designation, there continues to be foot-dragging by Communist governments, specifically in Southeast Asia and North Korea.

Moreover, extremely serious charges persist concerning the deliberate mishandling of POW/MIA matters by certain policy level persons in the executive branch of our Government. These charges are serious enough to warrant further investigation by a bipartisan select committee. As an example of these charges and for the RECORD, Mr. President, I ask unanimous consent that a copy of the interim report by the minority staff of the Senate Foreign Relations Committee on the POW/MIA issue be printed at the end of my statement.

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

(See exhibit 1.)

Mr. SMITH. Thank you, Mr. President.

Let me briefly point out some of the preliminary conclusions from this report:

1. After the conclusion of Operation Homecoming in April, 1973, brought the return of the 591 POWs, official U.S. Government policy internally adopted and acted upon the presumption that all other POWs were dead, despite public asssertions that the government was still open to investigating the possibility of discovering the existence of living prisoners.

2. Following the adoption of an internal policy in April, 1973, that all POW/MIAs were presumed dead, the U.S. Government, convened commissions in each military service to consider each case on the POW/MIA list in order to make a statutory declaration of presumption of death.

3. While there is no reason to believe that the majority, if not most, of the declarations of presumptive death are incorrect, staff review of live-sighting report files at DIA found a disturbing pattern of arbitrary rejection of evidence that connected a sighting to a specific POW/MIA or U.S. POW/MIAs in general.

4. The pattern of arbitrary rejection resulted in a declaration of presumptive finding of death for every such individual case, except one.

5. The internal policy that all POW/MIAs were presumed dead resulted in an emphasis on finding and identifying remains of dead personnel, rather than search for living POW/MIAs.

6. The desire to identify specific sets of remains with specific names on the POW/MIA list led DOD to an exaggeration of the capabilities of forensic science, and identification based on dubious presumptions and illogical deductions rather than actual physical identification—a process which resulted in numerous misidentifications of remains.

7. Despite adherence to internal policies and public statements after April, 1973 that "no evidence" existed of living POWs, DIA authoritatively concluded as late as April, 1974 that several hundred living POW/MIAs were still held captive in South East Asia.

8. Although the Pathet Lao declared on April 3, 1973, that Laotian Communist forces were holding American POWs and were prepared to give an accounting, nine days later a DOD spokesman declared that there were no more American prisoners anywhere in South East Asia. No POWs held by Laotian Communist forces ever returned. The evidence indicates that the U.S. Government made a decision to abandon U.S. citizens still in the custody of the Socialist Republic of Vietnam, Laos and Cambodia, at the conclusion of U.S. involvement in the Second Indochina War.

9. U.S. casualities, including POW/MIAs in South East Asia, resulting from covert or cross border operation, may not be included on the list of those missing.

10. The executive branch has failed to address adequately the concerns of the family members of the POW/MIAs, and has profoundly mishandled the POW/MIA problem.

Mr. President, these conclusions illustrate major inconsistencies with the way the Government has handled the POW/MIA problem. I believe it's time we get to the bottom of these inconsistencies and find out the truth. That is why we are proposing a select committee, to go right back to the beginning, to the Paris peace accords in 1973, and then figure out what happened to our missing soldiers. No high level Government officials have ever been brought before the Congress to explain what happened—not President Nixon, not Secretary Kissinger, no one. I believe, if necessary, these officials should be subpoenaed before this committee, and their answers should be provided under oath. It is time we and the American people find out the truth.

Mr. President, before the allied liberation of Kuwait, my colleagues will remember the reporting which came out of this pillaged nation describing the atrocities being committed by Iraqi forces. When allied forces entered Kuwait City, we discovered that this reporting was, indeed, accurate. In fact, I want to call attention to comments made by Robert Gates, the President's Deputy National Security Adviser, on February 25, 1991, on CNN's Newsmaker Sunday.

Mr. Gates was asked whether or not Kuwaitis were being tortured and executed by Iraqis. Mr. Gates replied, "We hear that from the Kuwaiti resistance, from people who have emerged from Kuwait, and from others still in Kuwait City. We've heard enough stories from enough different sources to give us a high degree of confidence that there is a great deal of credibility to these stories."

Mr. President, in Southeast Asia, U.S. Intelligence Agencies have received over 1,400 first-hand eyewitness accounts of American prisoners of war being held in captivity since 1973. These accounts come from the Vietnamese and Lao Resistance, people fleeing from Vietnam and Laos, people still inside Vietnam and Laos, and even Bobby Garwood, an American Prisoner of war who came out 6 years after the war ended, 6 years after the Government said they were all dead.

Mr. President, I cannot emphasize enough that these are the same sources of information that were good enough to believe in Kuwait! I would also point out that our intelligence agencies have received some 10,000 additional reports relating to POW/MIA's. But despite all these reports, the official position of our Government is that no credible evidence exists to suggest that American prisoners of war were left behind at the end of the Vietnam conflict.

Moreover, this position implies that the executive branch has followed up diligently on every single one of these reports to determine that it did not fit into the category of credible evidence. Now, Mr. President, I have spent a considerable amount of time looking into this issue since I first came to Congress 7 years ago. My own investigation into this matter has convinced me that we have not followed up diligently on every one of these reports using all means at our disposal. I might also add

that many times family members of prisoners of war did not even know that reports on their loved ones even existed.

Even the Vietnamese have publicly admitted that there may be POW's living in the remote areas of Vietnam and Laos not under the control of their central government. Mr. President, Vietnam and Laos will not even let us travel to these remote areas, so how can we be so sure no one is there?

The American people find this very hard to believe that there is no credible evidence, despite the existence of nearly 12,000 live-sighting reports. And I remind my colleagues that these reports are in addition to other types of POW/MIA information which has been collected by the United States through various intelligence means.

In fact, polls indicate that the majority of the American people believe United States soldiers are still being held captive in Southeast Asia, and they have not even seen these intelligence reports. Is the evidence that overwhelming?

Mr. President, allow me to quote from just one of these reports which is declassified in part and has found its way into the public domain. In this report, which is an eyewitness account of American POW's—I actually have the report here—the Laotian source states the following:

> I saw five caucasian prisoners being held in the cave. I was told by my guard that these prisoners were American pilots. All five of the prisoners were quite tall—approximately six feet in height * * * they wore pieces of car tires tied onto their feet for shoes * * * all five of the American prisoners were quite skinny; however they all appeared to be uninjured. There were twelve guards at the camp, and there were always two guards guarding the Americans at the cave. All of the guards had guns—apparently, they were A-K guns. I did notice that when the American prisoners were sitting down that I could see a red rash on the lower part of their ankles.

Mr. President, we believed the Kuwaiti resistance and their stories of torture, yet the Defense Intelligence Agency does not believe the Vietnamese and Laotian resistance and their stories on the treatment of American POW's. Maybe they are true and maybe they are not. We do not believe them and we do not check them out.

Mr. President, there are over 1,400 first hand, eyewitness accounts of American POW's from these resistance people. Some of us in this body have tried to examine more of this evidence and have found that in doing so, it is nearly impossible to exercise oversight on how the executive branch is handling this issue. Not only is it impossible, but we have been met with resentment and obstruction from the agencies involved.

Let me explain how congressional oversight has been hindered. This past December, I decided I would like to attend a meeting of our Government's POW/MIA Interagency Group—the IAG. Mr. President, I would first like to explain exactly what this inter-agency group is.

The Department of Defense published a POW/MIA fact book in 1989 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. Membership in the IAG includes the Defense Department, the White House National Security Council Staff, the State Department, the Joint Staff, the Defense Intelligence Agency, 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.

This all sounds very nice, Mr. President, even though Members of Congress are never informed when these meetings take place. In fact, last December, I found out that one of these meetings was going to take place with General Vessey, the President's special emissary to Hanoi. It so happens that on the morning of this meeting which I had planned to attend, Deputy Secretary of State Lawrence Eagleburger barred me—a U.S. Senator—from attending the meeting, even though it says in the book that staff members can attend.

Mr. President, staff members of the Senate are by definition members of this interagency group yet I am barred from the meeting. It is very disturbing that Members of Congress have been shut out of the interagency group. Is somebody hiding something?

On top of that, when we take a look at the 1990 POW/MIA Fact Book put out by the Defense Department, we find that the line about Senate Foreign Relations staffers being part of the interagency group is now omitted.

So, from 1989 to 1990, we omit the line about Senate staffers.

Mr. President, I ask unanimous consent that the relevant sections from the 1989 and 1990 POW/MIA fact books be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. SMITH. So we find up until last year Senate and House Members were members of this IAG group and now, not only are staff members not allowed, but I, as a U.S. Senator, cannot even participate in policy discussions on the POW/MIA issue. There is a shroud of secrecy in the executive branch surrounding this issue. It is wrong and it is time we do something about it.

Let me point out to my colleagues there is one person from outside the Government who participates in these interagency groups which I, as a U.S. Senator, and you and anyone else in the Senate cannot. This person is Ann Griffiths, director of the National League of Families who purports to represent all POW families from the Vietnam conflict. In fact, Mr. President, she does not represent all families.

Mr. President, this nonelected, nongovernment person has been given access to highly sensitive, top secret documents and is allowed to shape Government policy as a member of this group. Moreover, she has been actively and secretly lobbying the Defense Department to prevent Members of the U.S. Senate from reviewing over 1,400 eyewitness accounts of POW's, the same documents that she has access to. I submit something is terribly wrong when a nonelected, nongovernment person actively lobbies to forbid elected representatives of the American people from seeing these very documents.

Mr. President, I ask unanimous consent that a copy of a memorandum dated August 2, 1990, from Ann Griffiths to the Under Secretary of Defense, and an article on the National League of Families dated April 29, 1990, be printed in the RECORD following my remarks.

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

(See exhibit 3.)

Mr. SMITH. Mr. President, the gulf war has recently concluded, and nearly all our POW's and MIA's have been accounted for. We did it right this time and I am proud of our country and I am proud of the people who served and I am proud of those who brought them home. We are achieving the fullest possible accounting.

However, we did not do it right in Vietnam. We did not do it right in North Korea. And this Senator, through this select committee, is going to get the truth. If it takes me the rest of my term here, I am going to get the truth. And I hope my colleagues will join me in finding the truth. The families of our gulf POW's found out the truth, and the families of North Korea and Vietnam POW's deserve no less.

Sadly enough, the administration's designation of this issue as the highest national priority has not convinced this Senator that we have been doing all we possibly can to resolve the fate of these men.

I come to this conclusion after having sat in on countless briefings and meetings with the Defense Intelligence Agency and the Defense Department's Office of International Security Affairs. Throughout all these briefings and meetings, I have yet to receive answers on exactly what we are doing to actively follow up on these reports.

Have we simply resigned ourselves to a presumptive finding of death for hundreds of servicemen our Government believed had been held in captivity at

the conclusion of the Vietnam and Korean conflicts?

Can we responsibly dismiss every single one of these eyewitness accounts of our men and women in captivity? And are we keeping up the pressure at the highest possible diplomatic levels to bring about a full accounting of these men? Frankly, we are not, and we are not doing enough to resolve this issue.

When the wife of a missing serviceman from Vietnam asks me if we are doing everything possible, I regretfully have to say no. We know the Vietnamese are warehousing remains, we know there are still reports coming in every day of live Americans.

We have to get out and actively investigate these reports. We cannot just shuffle paperwork back and forth in the bowels of the Pentagon.

In short, Mr. President, it is time we, in this body, in the U.S. Senate, address this issue as one of the highest national priorities. Unfortunately, 5 years have passed since any hearings in this body were held.

It is certainly time for this body to focus its energies on resolving the issue once and for all. That is why I want the select committee. That is why all of us who are on this bill want it. It is not only our duty, it is our moral obligation to our missing, to their families, to our veterans, and to the American people.

Mr. President, I ask unanimous consent that a copy of the goals for this proposed committee be printed in the RECORD, as well as a factsheet outlining why the formation of a select committee will help resolve the POW/MIA dilemma.

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

(See exhibit 4.)

Mr. SMITH. Mr. President, Col. Peter Stewart was shot down on March 15, 1966, over Vietnam. Tomorrow is the 25th anniversary of his shoot-down. He is still missing. His family is still looking for answers.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, October 26, 1990.

DEAR REPUBLICAN COLLEAGUE: Enclosed is an Interim Report by the Minority Staff of the Senate Committee on Foreign Relations on the U.S. Government's handling of the POW/MIA matter. This summary document represents a year of intensive investigation, culminating in a major breakthrough in the careful examination of DIA live-sighting reports on POW/MIAs—the first time in 17 years that an independent branch of the government has had an opportuntiy to make an objective evaluation of the methods used in accounting for those categorized as POW/MIAs in Southeast Asia.

On October 17, 1990, the Foreign Minister of Vietnam, Nguyen Cao Thac addressed a meeting at the Foreign Relations Committee and attended by Senators of the Committee as well as invited guests. In my opinion, the Department of State's invitation to Thac to visit the United States was inappropriate at a time when the Executive Branch is still unwilling to address the hard issue of living American POWs still being held captive in Southeast Asis.

The thrust of Thac's address was to call for the acceleration of the time table for renewal of relations between the government of Vietnam and the United States. Thac indicated that the resolution of the POW/MIA issue is one of two major areas of contention. Furthermore, Thac stated that he had agreed to all terms levied by the President through his special envoy, General John Vessey USA (Ret.). But in re-stating the terms to which he had agreed, Thac never once mentioned that the issue of living American POWs in Vietnam had been addressed.

The position of the Executive Branch is that there is "no evidence" that living Americans exist in SE Asia, nor were any left after American prisoners were returned in 1973.

Nevertheless, public opinion polls continue to suggest that 62% of the American people believe that U.S. POW/MIAs are still alive in Vietnam, and 84% of Vietnam veterans believe so. Clearly the U.S. Government no longer maintains credibility on this issue.

For this reason, a year ago, I assigned investigators on the Minority Staff of the Senate Foreign Relations Committee to conduct a staff investigation of the handling of the POW/MIA issue by the U.S. Government. These investigators are highly trained professionals, with a total of more than 68 years of investigative experience in the Executive Branch, including criminal investigative experience, as well as more than 17 years of experience in intelligence analysis. All served in Vietnam and are knowledgeable about the history, geography, and language of that unfortunate country.

The investigation has proceeded quietly, and without public fanfare. But much remains to be done. Information developed in the course of the inquiry was the result of the following methods: 1) face-to-face and telephonic interviews; 2) review of various classified and unclassified official documents; 3) corroborative information from government and private sources; and 4) historical research. This reports is in all respects an interim report: It is incomplete and it is a summary report of conclusions which must be further tested.

The Committee on Foreign Relations has authority to engage in oversight of POW/MIA issues implicit in its broad mandate to study and review foreign policy. Senate Rule 25.1j specifically refers to the Committee on Foreign Relations matters dealing with: "[11.] Intervention abroad and declarations of war," and "[15.] Protection of United States citizens abroad and expatriation."

The focus of the inquiry has centered on the following questions:

1. Does the U.S. Government possess valid information concerning living POWs in Southeast Asia?

2. Has the U.S. Government failed to act on information concerning living POWs in Southeast Asia?

3. Has the U.S. Government acted improperly to intimidate, coerce, or discredit sources which have valid information concerning living POWs in Southeast Asia?

I believe that the investigators have come to valid conclusions, although of course much of the material they reviewed remains classified. Moreover, I believe that the American people have the right to see that this inquiry is pursued to a proper conclusion.

I am deeply grateful for the enormous contribution of Senator Chuck Grassley who, out of his deep concern for American service personnel, joined me at the very beginning and supported and encouraged it at every step.

Sincerely,

JESSE HELMS.

Enclosure.

[By the U.S. Senate Committee on Foreign Relations Republican Staff, Oct. 29, 1990]

INTERIM REPORT ON THE SOUTHEAST ASIAN POW/MIA ISSUE

"Accountability lies in oversight by Congress or in criticism from the electorate, but not in the judgment of the courts."—From *Smith* vs. *Reagan*, United States Court of Appeals, for the Fourth Circuit, No. 87-1661, April 20, 1988, regarding the POW/MIA issue.

INTRODUCTION

One year ago, the Ranking Minority Member of the Senate Committee on Foreign Relations assigned members of the Minority Staff to investigate the following three questions:

1. Whether the United States Government has received and still possesses valid information concerning living prisoners of war/missing in action—POW/MIAs—in Southeast Asia;

2. Whether the U.S. Government has failed to act on such information; and,

3. Whether the U.S. Government has acted improperly to intimidate and discredit sources of such information.

The primary purpose of this investigation has been, and will continue to be, to determine whether the U.S. Government has handled the question in a truthful and effective manner. But if it results in a determination that even one POW may still be alive, it will result in a dividend of blessings.

The inquiry remains on-going. It is based not only on the review of thousands of classified and non-classified documents, but also upon hundreds of telephonic and face-to-face interviews with government officials and those affected by their decisions with regard to POW/MIAs. A full report will require much additional investigation and analysis. The following, however, represents an interim report at the conclusion of one year's work. It allows the presentation of some preliminary conclusions.

PRELIMINARY CONCLUSIONS

The U.S. Government states it has no evidence that POWs were left behind in Southeast Asia. The official policy assets that it is open to investigation of all reports. For example, the official Department of Defense (DOD) *POW-MIA Fact Book*, issued July, 1990, states:

"Although we have thus far been unable to prove that Americans are still detained against their will, the information available to us precludes ruling out that possibility. Actions to investigate live sighting reports receive and will continue to receive necessary priority and resources based on the assumption that at least some Americans are still held captive. Should any report prove true, we will take appropriate action to ensure the return of those involved."

Notwithstanding this professed openness to new evidence, the U.S. Government has insisted since April 12, 1973, that it has no evidence of living POWs. In fact, on that date—at the conclusion of Operation Homecoming, which brought home 591 POWs—Dr. Roger Shields, then Assistant Secretary of Defense, stated that the DOD had "no evidence that there were any more POWs still alive in all of Indochina."

This assertion has been consistent. For example, last July, Col. Joseph A. Schlatter,

then chief of the Defense Intelligence Agency's Special Office for POW/MIAs, was saying that "If we look at everything we collected during the war and everything we've collected since the war, we don't find any evidence that Americans are captive."

Furthermore, as late as October, 1990, an unnamed "senior State Department official" was quoted in the press as saying the U.S. Government has "no evidence" of living American prisoners in Southeast Asia.

However, to say that the U.S. Government has "no evidence" is not the same as saying that no evidence exists. After all, there have been nearly 11,700 reports relating to POW/MIAs over the years, including 1,400 first-hand, live-sighting reports. The question is whether every single one of these reports can be dismissed from the category of credible evidence.

The U.S. Government position makes sense only if every single one of these reports can be shown to have been fabricated, erroneous, or not relating directly to a POW/MIA—for example, some reports may relate to Europeans in the area. In fact, DIA analysts have rejected the evidence of all these reports, except for a small pool of less than 150 still considered "unresolved."

The preliminary conclusions presented by staff for review by Senators are as follows:

1. After the conclusion of Operation Homecoming in April, 1973, brought the return of the 591 POWs, official U.S. Government policy internally adopted and acted upon the presumption that all other POWs were dead, despite public assertions that the government was still open to investigating the possibility of discovering the existence of living prisoners.

2. Following the adoption of an internal policy in April, 1973, that all POW/MIAs were presumed dead, the U.S. Government, convened commissions in each military service to consider each case on the POW/MIA list in order to make a statutory declaration of presumption of death.

3. While there is no reason to believe that the majority, if not most, of the declarations of presumptive death are incorrect, staff review of live-sighting report files at DIA found a disturbing pattern of arbitrary rejection of evidence that connected a sighting to a specific POW/MIA or U.S. POW/MIAs in general.

4. The pattern of arbitrary rejection resulted in a declaration of presumptive finding of death for every such individual case, except one.

5. The internal policy that all POW/MIAs were presumed dead resulted in an emphasis on finding and identifying remains of dead personnel, rather than searching for living POW/MIAs.

6. The desire to identify specific sets of remains with specific names on the POW/MIA list led DOD to an exaggeration of the capabilities of forensic science, and identification based on dubious presumptions and illogical deductions rather than actual physical identification—a process which resulted in numerous misidentifications of remains.

7. Despite adherence to internal policies and public statements after April, 1973 that "no evidence" existed of living POWs, DIA authoritatively concluded as late as April, 1974 that several hundred living POW/MIAs were still held captive in South East Asia.

8. Although the Pathet Lao declared on April 3, 1973, that Laotian Communist forces were holding American POWs and were prepared to give an accounting, nine days later a DOD spokesman declared that there were no more American prisoners anywhere in South East Asia. No POWs held by Laotian Communist forces ever returned. The evidence indicates that the U.S. Government made a decision to abandon U.S. citizens still in the custody of the Socialist Republic of Vietnam, Laos and Cambodia, at the conclusion of U.S. involvement in the Second Indochina War.

9. U.S. casualties, including POW/MIAs in South East Asia, resulting from covert or cross border operation, may not be included on the list of those missing.

10. The executive branch has failed to address adequately the concerns of the family members of the POW/MIAs, and has profoundly mishandled the POW/MIA problem.

DEFINITION OF POW/MIA

The subject of POW/MIAs requires some definitions. After the Second Indochina War—popularly known as the Vietnam War, even though Thailand, Burma, Laos and Cambodia saw U.S. combat action—hundreds of POWs returned alive, notably in Operation Homecoming, which concluded in April, 1973.

Those who did not return home are classified by the Department of Defense into two categories: POW/MIAs—that is, those for whom there is some documentation that they were captured but never repatriated; and KIA/BNRs—that is, those believed to have been killed in action, but whose bodies were not recovered. For the latter, there is no evidence of their death except DOD's evaluation of the circumstances, even though no physical evidence of death may be available.

In April, 1973, DOD reported that 2,383 personnel were unaccounted for: 1,259 POW/MIAs, and 1,124 KIA/BNRs. This study assumes that both categories of the unaccounted for deserve review. Since 1973, DOD has announced the return of 280 sets of remains, diminishing the over-all number by that amount.

In addition, there could well be an equal number of military personnel missing in action from various U.S. covert actions during the war. Since DOD files on covert actions have not been opened, and the participants in such actions never publicly identified, this inquiry could not establish any number for covert POW/MIAs. However, public source books and interviews with participants suggest that the issue of covert operations adds a substantial, but unknown, dimension to the MIA question which has received no scrutiny.

REVIEW OF LIVE-SIGHTING DOCUMENTS

In this inquiry, staff has reviewed hundreds of U.S Government classified, declassified, and open-source documents. In addition, Senator Grassley and Committee Minority staff were given access to, and have reviewed personally, hundreds of classified live-sighting reports (accounts by Southeast Asians of live POWs in Southeast Asia) in the files of the Defense Intelligence Agency (DIA). According to DIA, this is the first time that either a United States Senator or any United States Congressional Committee staff have been given access to the raw intelligence contained in the 1,400 live-sighting reports.

Out of the 1,400 live-sighting reports, approximately 1,200 are considered by DIA to be "resolved." Each of the so-called "resolved" sightings was resolved by concluding that the live-sighting report did not pertain to U.S. POWs present after April 1979. Staff felt that in some cases such a conclusion was correct, but that in many it was not supported by the facts.

Staff began by first examining so-called resolved cases in order to study DIA methodology by which a conclusion of "resolution" was reached. Since the guidelines set by DIA for access to the files were extremely restrictive, the time available allowed review of only about one-quarter of the so-called "resolved" cases, and none of those in the category of "unresolved." Nevertheless, staff concluded that a significant number of the "resolved" cases reviewed showed that the DIA methodology was faulty, or that the evidence did not support the DIA conclusion in the case, or both.

The information collected and reviewed to date by the staff shows that the position held by the United States Government—namely, that no evidence exists that Americans are still being held against their will—cannot be supported. Rather, the information uncovered during this inquiry provides enough corroboration to cast doubt upon the veracity of the U.S. Government's conclusion.

Without revealing classfied information, staff believes that the review of the classified live-sighting reports reinforces that doubt. Although more information remains to be reviewed, the evidence this inquiry has thus far uncovered shows that:

1. living U.S. citizens, military and civilian, were held in Southeast Asia against their will after the U.S. Government's statement on April 13, 1973, that no prisoners remained alive; and

2. the information available to the U.S. Government does not rule out the probability that U.S. citizens are still being held in Southeast Asia.

In fact, classified, declassified and unclassifed information all confirm one startling fact: The DOD in April, 1974, concluded beyond a doubt that several hundred living American POWs remained in captivity in Southeast Asia. This was a full year after DOD spokesmen were saying publicly that no prisoners remained alive.

Evidence uncovered in the several hundred cases reviewed thus far clearly demonstrates that, in a disturbing number of cases, DOD made significant errors in drawing conclusions about live-sighting reports, the presumed deaths of individuals, or about individuals that were unaccounted for at the conclusion of the war. Although many cases were resolved correctly based upon the files, there were too many errors apparent to rule out the need to undertake and complete the review of the "unresolved" cases.

Staff also concluded that DOD spent an excessive amount of effort in discrediting live-sighting reports, while exaggerating or mishandling forensic data in order to confirm a presumptive finding of death than in following up reports of sightings with creative investigative work.

Furthermore, there is evidence of insensitivity on the part of the Executive Branch of the U.S. Government in providing complete and accurate information to the next-of-kin of missing American servicemen.

The classified evidence in DIA files suggests a pattern by a few U.S. Government officials of misleading Congressional inquiries by concealing information, and misinterpreting or manipulating data in government files. Interested Senators and staff with proper clearances no doubt will want to review the classified files themselves and draw their own conclusions.

THE 1973 POLICY DECISION

Those who have not dealt with the POW/MIA issue may find it difficult to understand how DOD's analysis of the information could be in error. Unfortunately, staff believes that DOD has allowed its procedures to be dictated by a pre-conceived policy finding.

The New York Times reported on April 12, 1973, as follows:

"WASHINGTON, April 12—The Pentagon, two months after the first American prisoners of war began coming home, said today that it had no evidence that there were any more prisoners still alive in all of Indochina.

"Despite the fact that interviews with all returning prisoners are nearly compelete, a Pentagon official, Dr. Roger Shields, said that none of the 1,389 Americans listed as missing were now technically considered prisoners. 'We have no indication at this time that there are any Americans missing alive in Indochina,' Dr. Shields said at a news conference."

Dr. Shields was at that time Assistant Secretary of Defense, but he was following guidance issued on that date by the Department of State in a memorandum to DOD which stated that "There are no more prisoners in Southeast Asia. They are all dead." This directive was issued immediately after the return of the last POWs in Operation Homecoming. This finding was made despite that the fact that none of the hunderds of POW/MIAs that the Pathet Lao publicly acknowledged holding were ever returned from Laos. There were hundreds of live-sighting reports on file in 1973. Thousands of such reports have continued to be received since then.

PROCESS FOR "PRESUMPTION OF DEATH"

Since it was official policy, then, that all MIAs were dead, it became a bureaucratic necessity for all "unresolved" cases to be resolved in favor of a presumed finding of death.

Each respective military service from time to time convenes its own special commissions to pronounce on individual cases. Such a commission has before it at least three categories of information: The first is intelligence-related information concerning the individual. The second is eyewitness accounts of the loss event. The third is the so-called "incident report"—the offical report of the loss incident.

If a year passes without new information, the respective military service can convene a commission to determine whether a presumptive finding of death should be declared.

The April, 1973, statement of policy was a political statement, rather than a finding according to statutory authority. As a result, the military services subsequently reviewed each individual case of those who previously had been declared dead en masse. And in every case except one, the commissions made a determination of a presumptive finding of death.

Because of this procedure, the bureaucratic necessity arose for discrediting any evidence that might cast doubt on the mass presumptive finding of death of April, 1973. From the standpoint of law and military regulations, the procedure followed in each case gave a legal affirmation to the original political statement.

Therefore, in order to discredit any information which might undermine the political thesis, the analysis of intelligence files fell into a systematic pattern of debunking information contrary to the thesis.

This systematic debunking included discrediting of reports, possible intimidation of witnesses, dismissal of credible evidence through technicalities, and—if all else failed—the arbitrary disregard of evidence contrary to the thesis.

DOD'S WORKING HYPOTHESIS

An analysis of DOD's working hypothesis for fully accounting for American MIAs is the key to understanding the discrepencies between DOD's position on the POW issue and the evidence uncovered by the staff.

DOD's premise, beginning in April, 1973, has been that all MIAs are dead; the corollary, therefore, is that DOD must never find any evidence that any MIA is alive. The best evidence, in DOD's opinion, is a set of physical remains that can be identified as a specific individual on the POW/MIA list. Once such an identification has been made, the case of that individual can be removed forever from the list. This is an easier task than to accept live-sighting reports that might point to a living POW, thereby necessitating appropriate follow-up action.

It is a reasonable assumption to remove POW/MIAs from the list when remains are identified, if the identification is correct. But the fact is that in a significant number of cases, such identifications have been made on the basis of inadequate physical evidence, using presumptive deductions that may or may not be true. The pressure to identify sets of remains even has resulted in specific cases where caskets have been buried with full military honors as the "remains" of the individual when, in fact, the casket is empty.

Therefore, DOD acts on its premise by vigorously investigating for the remains of dead MIAs. The list of MIAs presumed dead following the conclusion of the war totalled 2,383. DOD has received and claimed to have identified a total of 280 sets of remains since 1973.

Any full accounting of MIAs, according to DOD's working hypothesis, would necessarily involve only those cases in which either a presumptive finding of death could be made, or else full or partial remains could be discovered. As each presumptive finding of death is declared or set of remains is identified, DIA would remove, as accounted for, the names that matched those on the original MIA List. In this respect, DOD claims that DIA has vigorously investigated and resolved hundreds of such cases.

The policy of DOD is to focus attention on the cases where some evidence, no matter how small, of physical remains can be recovered. But even while DOD enthusiastically and vigorously investigates remains case—no matter how fragmentary—it just as vigorously discredits live-sighting and other witness accounts. Throughout the 1970s and 1980s hundreds of thousands of Asians fled Vietnam, Cambodia and Laos. These refugees provided many first-hand reports, or knew by second- or third-hand reports, of American prisoners being held in their respective countries.

To date, over 11,700 accounts have been received by DOD; 1,400 of these are first-hand, live-sighting reports. DIA claims to have analyzed fully each of these live-sighting reports, and to have left "no stone unturned" in searching for living prisoners. After analyzing the live-sighting reports, DIA has concluded that the majority are not related to living American POWs, with the possible exception of a small percentage of reports that DIA describes as "unresolved."

However, no "resolved" case has ever concluded that an American POW remains captive in Southeast Asia. In this way DIA concludes that there is no evidence of Americans currently being held captive in Southeast Asia. This contention is consistent with both the working hypothesis described above and with DIA's apparent success at removing from the MIA list names that involve only those cases in which remains are identified, or a finding of death declared.

Insofar as these discrepancies relate to the 1,400 first-hand reports of living prisoners, DOD's original premise comes into question. Numerous live-sighting reports have been erroneously discredited by DIA analysts. Moreover, staff has reason to believe that DOD has misidentified the remains of scores of MIAs, and has incorrectly presumed dead many others.

This analytical bias is typical of a bureaucracy defending an established policy at all costs, even if it means denying the obvious. It is also a typical characteristic of an out-moded paradigm that can no longer explain the real world or real facts. If the original premise of DOD had been that at least some of the 2,383 MIAs were alive, then DOD would have been forced by circumstance to view the evidence collected, including the hundreds of live-sighting reports, from an objective standpoint. The relevance and validity of each report could have been judged on its own merits rather than whether it supported a pre-determined hypothesis that no living POW/MIAs remained.

Unfortunately, DOD choose to make its own analysis, without proper legislative oversight. Claiming extreme sensitivity and possible threats to sources and methods of intelligence gathering, DOD evaded the proper oversight that would have assured the objectivity of their process, The result has been a disservice to the POW/MIAs, their families and the American people.

IMPORTANCE OF THE PROBLEM

The resolution of these questions is important not only to any MIA/POWs who may be still alive, but also to the families involved. It is also important to the fate of any possible POWs in a future military action. With 200,000 U.S. troops now deployed to the Persian Gulf, the question of possible prisoners of war once again becomes an urgent matter.

Moreover, the resolution of issues relating to Southeast Asia is a key priority of our nation's foreign policy. Secretary of State James A. Baker III stated recently that the POW/MIA issue is the last remaining obstacle to resumption of relations with the government of Vietnam. But if it turns out that Vietnam has been concealing the existence of POWs, then it would be a complicating factor in initiating relations with the present regime.

EXHIBIT 2

[POW-MIA Fact Book from the Department of Defense, July 1989]

U.S. GOVERNMENT EFFORTS TO OBTAIN THE FULLEST POSSIBLE ACCOUNTING

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 (NSC) 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.

Most Americans felt that with the signing of the agreements ending the war in Indochina, accounting for our missing countrymen would finally occur. In 1973 the then Democratic Republic of Vietnam (DRV) North Vietnam, was expected to honor Article 8 of the Paris Peace Agreement dealing with those missing and killed in action. This article specifically provided for repartriating POWs from both sides as well as exchanging

information about the missing and returning the remains of those who died. These points were conditional only on the withdrawal of U.S. and allied forces from Vietnam. The agreement ending the war in Laos had less specific articles pertaining to POWs and MIAs of all nations. However, because of the intransigence of the Indochinese governments, the POW/MIA issue remains unresolved.

Prior to the fall of the Republic of Vietnam in 1975, teams from the Joint Casualty Resolution Center (JCRC), augmented by members of the U.S. Army Central Identification Laboratory, Thailand (CIL-Thai) and other units, searched the jungles and mountains of South Vietnam for remains of U.S. personnel, under the auspices of the Four Party Joint Military Team (FPJMT) established by the Paris Peace Agreement. Despite a lack of cooperation from the Vietnamese communists and often at great personal risk, the JCRV recovery teams achieved noteworthy success in their efforts. U.S. efforts in North Vietnam during this period were limited to negotiations with the Vietnamese concerning the fate of our servicemen and the repatriation of remains. Between April 1973 and April 1975, North Vietnam returned the remains of 23 U.S. personnel.

In the first six years after the fall of the Republic of Vietnam, several U.S. Congressional delegations, as well as delegations from the State and Defense Departments, met with the Vietnamese regarding this specific issue. In addition, JCRC representatives met in Hawaii with Vietnamese officials in July 1978 and traveled to Hanoi in October 1980 and May 1981. These three meetings dealt with technical aspects of the accounting process.

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Most Americans felt that with the January 1973 signing of the agreements ending the war in Indochina, accounting for our missing countrymen would finally begin. The then Democratic Republic of Vietnam (DRV), North Vietnam, was expected to honor Article 8 of the Paris Agreement which specifically provided for repatriating POWs from all sides as well as exchanging information about the missing and returning the remains of those who died. These points were conditional only on the withdrawal of U.S. and allied forces from Vietnam. The agreement ending the war in Laos had less specific articles which pertained to repatriating and accounting for POWs and MIAs of all nationalities.

To implement Article 8, the Four Party Joint Military Team (FPJMT) was established. Prior to the fall of the Republic of Vietnam in 1975, under the auspices of the FPJMT, numerous meetings were held where the U.S. negotiators continually pressed for information on the missing. During this same period, despite the lack of cooperation from the Vietnamese communists, the Joint Casualty Resolution Center (JCRC), augmented by members of the U.S. Army Central Identification Laboratory (CIL), Thailand, and other units, were able to conduct limited searches. These efforts halted in December 1973, when a search party visiting a pre-announced site was ambushed by communist forces and an American was killed. Between April 1973 and April 1975, North Vietnam returned the remains of 23 U.S. servicemen who died in captivity.

In the first six years after the fall of the Republic of Vietnam, U.S. Government officials had intermittent and largely unproductive contacts with the Vietnamese on this issue. The House of Representatives established the Select Committee on Missing Persons in Southeast Asia which, during its 15 month tenure (1975–76), had several contacts with the Vietnamese in Hanoi, Paris and the United Nations. In 1977, President Carter appointed Leonard Woodcock to head a Presidential Commission on Americans Missing and Unaccounted for in Southeast Asia. This Commission visited both Vietnam and Laos to discuss the POW/MIA issue. It was during their March 1977 visit that the Vietnamese first announced that they had established an office to seek information on missing Americans and to recover remains. In addition, Vietnamese officials visited the JCRC and CIL in Hawaii. In July 1978; technical level meetings were held in Hanoi in October 1980 and May 1981.

EXHIBIT 3

MEMORANDUM TO PAUL WOLFOWITZ

From: Ann Mills Griffiths.

Subject: Access to classified POW/MIA material.

Date: August 2, 1990.

On August 1, letters from ASD/LA Dave Gribbin were sent to Senators Jesse Helms (R–NC) and Charles Grassley (R–IA) giving them full access to cases of interest on the POW/MIA issue. In addition, Mr. Gribbin suggested that the Senators may wish to invite staff of the Foreign Relations, Armed Services or Intelligence Committees, with the appropriate clearances and with responsibility for the POW/MIA issue, to accompany them to review of the classified material.

An additional August 1 letter was sent to Representative Beilenson stating that Congressman Bob Smith (R–NH) would be provided the same opportunity, along with staff of the Armed Services or Intelligence Committees, under the same clearance criteria. Mr. Gribbin's decision to pursue this course (which I understand was strongly opposed by ISA, DIA and the Deputy Chief of Staff for Intelligence, Department of the Army) has far reaching ramifications about which I feel you and the Secretary should be aware.

As you know, the President, Vice President, Secretary Cheney, you, Bob Kimmitt and others have firmly committed the U.S. Government to pursuing resolution of the POW/MIA issue as a matter of highest national priority. These pledges were taken at face value and gratefully received by POW/MIA families. If implemented, this course makes a mockery of the Bush Administration's commitments.

On any matter of highest national priority, sensitive information is not subject to indiscriminate release outside of the parameters established by the Congress itself, i.e., the respective Select Committees on Intelligence and responsible staff members with appropriate clearances. This path, if followed, sets a precedent for similar access of other issues, such a step would not be considered, much less approved, on Cambodian, Soviet, Chinese, Middle East or other matters of importance to the U.S. In short, the President's and Secretary's pledges will be viewed as nothing more than hollow tokenism.

Mr. Gribbin's communications authorize access to individual Members of Congress who have been loudest in proclaiming that USG officials are not pursuing this issue with integrity or priority. (Examples are enclosed.) Their records are replete with implications, or outright assertions, that the USG is involved in a conspiracy to cover up evidence that Americans are being held captive in Southeast Asia.

I have no concern that Members of Congress or staff will uncover anything which would lend credence to the charges of conspiracy against which we have collectively fought since the 1983–86 time frame. On the contrary, while problems are continuously identified and remedied, there is a great well of talent in DIA's Special POW/MIA Office.

My concern is that if this decision is implemented, the above message—that the POW/MIA issue is one solely of rhetorical priority—will be made throughout the U.S. Government. Equally or more important, Hanoi will perceive that stated U.S. policy on this issue is no longer valid and that resolution of the fates of America's POW/MIAs is not an issue which they need to seriously address.

Beyond these significant policy considerations, there will be a severe negative impact throughout the intelligence community. One can anticipate immediate CIA and NSA action to pull their documents and information from the files currently held by DIA. Department of State, the FBI and DEA, as well as friendly foreign intelligence services and others with ongoing investigations and cooperative programs will cease all cooperation on POW/MIA related matters. Sensitive sources and methods will be exposed which will have an adverse effect on source cooperation and reporting. Strategies will be exposed and negotiations will be compromised by revealing the extent of U.S. knowledge and intelligence gaps to those from whom we are seeking information.

As outlined in Mr. Gribbin's letters, DIA's Special Office for POW/MIA Affairs will necessarily be available to assist the Members of Congress and staff during their review of the material. This will usurp critical manpower from important and serious efforts to accomplish the objectives stated by the President and Secretary Cheney. The current level of personnel in DIA's POW/MIA office was established as a result of the Reagan/Bush priority, hard earned and absolutely mandatory. Squandering their time and efforts to participate in a "witch hunt" against themselves does nothing to help resolve the issue and, in fact, lends credence to those most involved in accusations that a "mindset to debunk" exists in that office.

Finally, indiscriminate release such as Mr. Gribbin has now invited will potentially subject POW/MIA family members to further, tragic exploitation by "activists." I am appalled by this motion from an individual who obviously knows little about the issue but is seeking to pander to Congress by sacrificing principle and the integrity of the President and Secretary Cheney. He clearly has no understanding of what this will mean in the broader sense, not to mention POW/MIA.

POW/MIA GROUP BECOMES PART OF BUREAUCRACY

(By Jack Anderson and Dale Van Atta)

WASHINGTON.—Bruce Adams of Laramie, Wyo., is far from the nation's nerve center, and he asks little of the Washington bureaucracy, other than that it help find his brother. Adams may be asking too much.

His brother, along with thousands of other American soldiers, is still listed as missing, nearly 15 years after the Vietnam War ended. Some 3,600 families are tormented by the unknown fate of their loved ones.

The families have relied for two decades on an influential non-profit group to tout their cause in Washington. The National League of Families of American Prisoners and Missing in Southeast Asia has been almost their only hope in prodding Congress and the administration to continue the search for lost GIs.

But Adams no longer belongs to the league. He and other bitter families say the league has sold its soul for the trappings of Washington power. The organization that once relentlessly pressed the government for answers and accepted no double-talk now mouths that same double-talk. It has been transformed from a feisty independent advocate to a member of the Washington club. Instead of solving the mystery of missing GIs, the league has become a self-perpetuating bureaucracy that shows few signs of completing its mission.

The way Adams sees the situation, "It means there's nobody out there except a handful of activists and congressmen who even give a damn."

His is not a voice in the wilderness. Some of those who are most involved on the POW/MIA issue, ranging from Capitol Hill insiders to prominent activists across the country, agree. To hear them talk, the league in recent years has become a mouthpiece for official pronouncements.

It wouldn't be the first time a grass-roots group of firebrands had lost its zeal in Washington. There is something seductive about meetings with the president and cocktail parties with movers and shakers that wears down even the most contrary outsiders. But the critics of the league say this particular seduction is even more disappointing because the league was the only hope for so many desperate families.

How has the league wound up in the pocket of the Washington bureaucracy? By landing a seat on a government panel, a security clearance to peruse classified data and a close working relationship with insiders.

The result is that the league, which once challenged the government, now urges family members to be patient with the government's approach. The league, which once shared information freely with families, is now obliged by a security clearance to withhold some facts.

Longtime league director Ann Mills Griffiths calls her critics the "nut fringe." She says if the government and the league seem to be in sync, it is because the government has come around to the league's way of thinking. The administration gives the search for missing GIs its highest priority, Griffiths told us. "Public criticism is no longer necessary," she said. She called herself an "advocate inside the system."

That doesn't impress those who believe the system isn't doing much.

Congressional sources told our associate Dan Njegomir that the league's setup is "too close for comfort." One Capitol Hill source close to the POW/MIA issue described Griffiths as "part of the government."

Those in and out of government who accuse the administration of foot dragging get a swift backhand from Griffiths. She writes to families and the news media urging them to ignore the more outspoken POW/MIA advocates. One rival group is suing the league for defamation.

Some families have quit the league over differences. The league's unforgiving policy is to ban those defectors from readmission.

The league has even attacked some congressional efforts at speeding up the search for missing soldiers because those initiatives didn't follow the official line.

Rep. Robert Smith, R-N.H., has sponsored a bill to open secret government records on soldiers missing since World War II. But the league doesn't like the bill, claiming it could jeopardize missing Americans, if any, who are still alive. Griffiths is "part of the interagency group," said a congressional source. "She doesn't want this stuff declassified."

As the league's Washington roots have grown, so have its finances. The job paid Griffiths precious little when she signed on in 1978. Now the league has a staff of seven and a payroll of $200,000 out of annual contributions of $1.1 million. Griffiths' last reported salary was $75,000.

The cozy working relationship is just fine with the administration. As one State Department official put it, the government extended quasi-official status to the league at least partly to ease the suspicion of some families that too little was being done.

But the suspicions linger. Sens. Charles Grassley, R-Iowa, and Jesse Helms, R-N.C., have begun their own confidential inquiry into how the government has handled the search.

In spite of the critics, the league will continue to draw the good will, and money, from many families. As one congressional source put it, "I guess they feel obligated to give because it's the only hope they have."

EXHIBIT 4

DISCUSSION DRAFT OF GOALS FOR PROPOSED SENATE SELECT COMMITTEE ON POW/MIA AFFAIRS

To provide a bipartisan group of Senators to exercise oversight on government efforts to obtain the fullest possible accounting of POW/MIAs from military conflicts.

To review and assess current U.S. policy concerning the POW/MIA issue.

To recommend and evaluate new initiatives and/or approaches to enhance resolution of the POW/MIA issue (i.e.: legislative proposals, diplomatic efforts, etc.)

To review and assess how agencies are organized for purposes of declassifying POW/MIA information from the Second World War to the present.

To consider legislation to declassify government documents on the POW/MIA issue dating back to World War II when release of the documents would not jeopardize national security, including sources and methods.

To provide a forum for a closer, more coordinated working relationship between the Administration's POW/MIA Interagency Group (IAG) and the United States Senate.

To promote responsible efforts to increase public awareness on the POW/MIA issue.

To review and assess benefits and services provided by the Government to families of military personnel who have not been accounted for.

To review and assess the Government's criteria for classifying American service personnel as prisoner of war, missing in action, or killed in action.

To coordinate with officials of the International Red Cross and the United Nations in order to review and recommend effective frameworks for enforcement of the Third Geneva Conventions of 1949.

To review and assess the manning, funding, methodology, and operations of the POW/MIA division of the Defense Intelligence Agency.

To review and assess the professionalism and quality of the Division's finished analyses of POW/MIA-related intelligence, including live-sighting reports.

To examine Department of Defense procedures and practices in responding to Congressional requests for information concerning POW/MIA matters.

To examine the manning, funding, methodology and operations of the Joint Casualty Resolution Center in Bangkok, Thailand.

To review and assess the manning, funding, methodology, and operations of the United States Army Central Identification Laboratory in Hawaii.

To review and assess the professionalism and quality of the Laboratory's finished analyses of alleged U.S. MIA remains.

To review and assess Government procedures and laws concerning POW/MIA information being provided to next of kin in a timely manner.

WHY A SELECT COMMITTEE AND NOT JUST A TASK FORCE OR CAUCUS OR SOME INFORMAL AD HOC GROUP?

Establishing a Senate Select Committee on POW/MIA Affairs would formally put the Senate on record as giving this issue the high national priority that the Executive Branch has assigned to it for nearly a decade.

A Select Committee would give institutional life in the Congress to efforts to resolve the POW/MIA issue. At the same time, it would ensure that these efforts are pursued until the fullest possible accounting is achieved.

A Select Committee would, by its nature, create the necessary momentum to address the situation in the Persian Gulf (i.e.: the treatment that was given to POWs and enforcement of the Geneva Conventions). The House POW/MIA Task Force was not created until 1977—five years after Operation Homecoming in Vietnam.

More Senators would be involved to a greater extend if a Select Committee were established.

A Select Committee would provide leverage for working with the Executive Branch to resolve the issue.

More resources would be provided to a Select Committee, as opposed to any informal caucus or task force.

Currently, jurisdiction over POW/MIA matters is shared by four committees: Foreign Relations, Armed Services, Veterans Affairs, and Intelligence. A Select Committee would consolidate jurisdiction under one committee, thereby focusing greater attention to the POW/MIA issue.

Establishment of a Select Committee in the Senate would help satisfy to a greater extent the concerns of many Americans who are not satisfied with Government efforts to achieve the fullest possible accounting of all POW/MIAs.

It would send a clearer signal to communist nations like North Korea, Laos, Vietnam, and Cambodia that the United States Congress is not satisfied with cooperation received thus far in addressing the POW/MIA issue.

Mr. GRASSLEY. Mr. President, I would like to express my strong sup-

port for the resolution offered by the distinguished Senator from New Hampshire [Mr. SMITH], to establish a Select Committee on POW/MIA Affairs. I would like, as well, to commend Senator SMITH for his leadership and initiative in this regard. In my opinion, this is the right bill at the right time, and it deserves measured consideration and support by this body.

My colleagues are aware, Mr. President, that I have had a close involvement with this issue in the past couple of years. During that time, I have become convinced of the importance and urgency of a committee devoted solely to oversight of the POW/MIA issue. It is for that reason that I am an original cosponsor of this legislation, and why I would urge my colleagues to join us in supporting it.

The Senator from New Hampshire has eloquently stated numerous valid reasons why this legislation is essential.

At this time, I want to remind this body that approximately 1½ years ago, I requested the assistance of the ranking member of the Committee on Foreign Relations, Mr. HELMS, in investigating allegations of the mishandling of the POW issue by the Government. Experienced criminal investigators were brought on board to conduct a thorough, empirically based inquiry.

Three fundamental questions served as the focus of the investigation. Those questions are the following:

First, whether the U.S. Government has received and still possesses valid information concerning living prisoners of war in Southeast Asia;

Second, whether the U.S. Government has failed to act on such information; and

Third, whether the U.S. Government has acted improperly to intimidate and discredit sources of such information.

The answers to these questions following 1½ years' investigation are sobering, indeed, Mr. President. In its interim report issued last October, the investigative team reached some troubling conclusions. The information collected and reviewed shows that the position held by the Government; namely, that no evidence exists that Americans are still being held against their will—cannot be supported. Instead, the information collected provides enough corroboration to cast doubt upon the veracity of the Government's statement.

In September, I and part of the investigative team were given access to hundreds of live sighting reports of POW's in Southeast Asia. According to DIA, this was the first time that either a Member of Congress or committee staff was given access to the raw intelligence data. Although more information remains to be reviewed, the investigative team concluded that a review of the live sighting reports reinforces the doubt about the veracity of the Government's position.

The evidence thus far uncovered shows that:

First, living U.S. citizens were held in Southeast Asia against their will after the Government's statement on April 13, 1973, that no prisoners remained alive; and

Second, the information available to the U.S. Government does not rule out the probability that U.S. citizens are still being held in Southeast Asia.

The second investigative report is about to be issued by the investigative team, Mr. President. That report will provide flesh to the skeletal interim report issued in October.

Following the publication of the second report, there will be sufficient cause for a full-blown investigation into the POW/MIA issue. The second report will disclose evidence that the mishandling of the issue by the Government was not relegated to the war in Southeast Asia. The problem appears to have continued in virtually every war engaged in by the United States since 1917.

Another issue I have addressed on this floor, Mr. President, is that of access to Government information pertaining to POW's. Last April, I requested access to the live sighting reports contained in Defense Intelligence Agency files at the Pentagon. Several weeks after my request, I was denied access to the files. The reason I was denied access to them is because, according to the Assistant Secretary who responded, the material is classified. It was not until July 31—when I spoke here before this body about the propriety of denying a U.S. Senator access to information simply because it is classified—that access was granted to me and the staff of investigators. The restrictions for that access are so ridiculous that the situation begs for review by this Congress. DIA is apparently not used to lowly Senators or Congressmen thumbing through their POW files, and do not take kindly to it. It appears some bureaucrats over there need a refresher course in the constitutional role of Congress in our republican form of government.

These two issues I raise, Mr. President—the investigation and the matter of access—are by no means, in and of themselves sufficient reason for establishing a Select Committee for POW Oversight. They are simply two specific examples—and good examples—of why oversight is needed, and why Congress needs to make this a higher priority, with additional attention and resources. They are simply two more good reasons to add to those already articulated by the Senator from New Hampshire.

In addition to these matters, Mr. President, there are others that must be addressed. We need to:

First, assess the staffing, funding, methodology and operations of the POW/MIA division of DIA;

Second, review the professionalism and quality of the division's analysis of POW intelligence, including live sighting reports;

Third, examine DOD's security procedures and practices when responding to congressional requests for information concerning POW matters;

Fourth, examine the staffing, funding, methodology and operations of the joint casualty resolution center in Bangkok, Thailand;

Fifth, review the staffing, funding, methodology and operations of the U.S. Army Central Identification Laboratory in Hawaii;

Sixth, review the professionalism and quality of the lab's analysis of alleged MIA remains; and

Seventh, review Government procedures and laws concerning the provision of POW/MIA information in a timely manner to POW/MIA families.

In closing, Mr. President, I would once again urge my colleagues to support this resolution so we can elevate this issue to its proper priority, devote the necessary resources, and help resolve the POW problem once and for all.

Mr. HELMS. Mr. President, I support the resolution of the distinguished Senator from New Hampshire [Mr. SMITH], to create a select committee on the POW/MIA issue. Indeed, I congratulate him on his insight in proposing this approach to resolve the doubts that a majority of Americans have about the POW/MIA issue. It is significant that the polls show that Vietnam veterans, by a margin of 85 percent, believe U.S. servicemen were left in captivity in Southeast Asia.

Mr. President, my own informal efforts to determine the veracity of many of the disturbing facets of the POW/MIA issue has amply illustrated to me the challenge presented by this issue. The coordinated effort of a select committee, and the commitment of a bipartisan group of interested and concerned Senators that a select committee entails, finally, will neutralize one of the few remaining poisonous effects of the Vietnam war in the American body politic.

Mr. President, throughout the 18 years I have been in the United States Senate, I have heard reports that United States servicemen who served in Indochina during the Vietnam war remain in captivity. The idea that even one U.S. serviceman—men who were sent over there to fight a war they were not allowed to win—might remain trapped alive in Southeast Asia is my own, personal nightmare.

Over the years, reports of Americans held in captivity in Southeast Asia increased in frequency and authority, leading me, over 18 months ago, to direct the minority staff of the Senate

Committee on Foreign Relations to undertake a comprehensive and fresh look at the POW/MIA issue.

The U.S. Court of Appeals for the Fourth Circuit, April 20, 1988, squarely put the responsibility of the resolution of the POW/MIA issue at Congress's doorstep, stating: "Accountability [of U.S. POW/MIA's] lies in oversight by Congress or in criticism from the electorate, but not in the judgment of the courts."

Some of my colleagues may be aware of the first report that has been issued as a result of this inquiry, the "Interim Report on the Southeast Asian POW/MIA Issue." For the benefit of my colleagues who may not have seen this report, and in light of the efforts of the distinguished Senator from New Hampshire to create a select committee to "strengthen efforts in the Senate to address the POW/MIA issue," I will review the 10 preliminary conclusions of the minority staff report:

First, after the conclusion of Operation Homecoming in April 1973, brought the return of 591 POW's, official U.S. Government policy internally adopted and acted upon the presumption that all other POW's were dead, despite public assertions that the Government was still open to investigating the possibility of discovering the existance of living prisoners.

Second, following the adoption of an internal policy in April 1973, that all POW/MIA's were presumed dead, the U.S. Government convened commissions in each military service to consider each case on the POW/MIA list in order to make a statutory declaration of presumption of death.

Third, while there is no reason to believe that the majority, if not most, of the declarations of presumptive death are incorrect, staff review of live-sighting report files at DIA found a disturbing pattern of arbitrary rejection of evidence that connected a sighting to a specific POW/MIA or U.S. POW/MIA's in general.

Fourth, the pattern of arbitrary rejection resulted in a declaration of presumptive finding of death for every such individual case, except one.

Fifth, the internal policy that all POW/MIA's were presumed dead resulted in an emphasis on finding and identifying remains of dead personnel, rather than searching for living POW/MIA's.

Sixth, the desire to identify specific sets of remains with specific names on the POW/MIA list led DOD to an exaggeration of the capabilities of forensic science, and identification based on dubious presumptions and illogical deductions rather than actual physical identification—a process which resulted in numerous misidentifications of remains.

Seventh, despite adherence to internal policies and public statements after April 1973, that "no evidence" existed of living POW's, there is evidence that DIA believed as late as April 1974, that several hundred living POW/MIA's were still held captive in Southeast Asia.

Eighth, although the Pathet Lao declared on April 3, 1973, that Laotian Communist forces were holding American POW's and were prepared to give an accounting, 9 days later a DOD spokesman declared that there were no more American prisoners anywhere in Southeast Asia. No POW's held by Laotian Communist forces ever returned. The evidence indicates that the United States Government made a decision to abandon United States citizens still in the custody of the Socialist Republic of Vietnam, Laos, Cambodia, at the conclusion of United States involvement in the second Indochina war.

Ninth, U.S. casualties, including POW/MIA's in Southeast Asia, resulting from covert or cross border operation may not be included on the list of those missing. In fact, Newsweek reported in its March 18, 1991, issue that: "Eleven Green Berets engaged in reconnaissance and sabotage around Baghdad are still missing in action, though their names have never been listed on any public MIA reports."

SENATE RESOLUTION 83—RELATIVE TO THE ASSIGNMENT OF UNITED STATES TRADE REPRESENTATION FOR THE BALTIC STATES

Mr. DIXON (for himself and Mr. KASTEN) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 83

Resolved, That it is the sense of the Senate that—

(1) the United States Government should take additional steps to recognize the relationship between the United States and the Baltic states of Lithuania, Latvia, and Estonia;

(2) the Secretary of Commerce, in consultation with the Secretary of State, should assign, on an interim basis, additional United States Government personnel to the United States Trade Center in Warsaw, Poland, to serve as the sole United States Government trade representation with the Baltic states of Lithuania, Latvia, and Estonia; and

(3) the Secretary of Commerce should establish, at the earliest feasible time, a trade center situated in the Baltic states of Lithuania, Latvia, and Estonia and should transfer to that center the personnel assigned under paragraph (2).

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the Secretary of Commerce and the Secretary of State.

• Mr. DIXON. Mr. President, today I am submitting a sense-of-the-Senate resolution urging the administration to take additional steps to recognize the enduring relationship between the United States and the Baltic States of Latvia, Lithuania, and Estonia. The resolution urges the Secretary of Commerce, in consultation with the Secretary of State, to assign personnel to the United States trade center in Warsaw. Their sole purpose would be to encourage and develop the trade relationship between the United States and the Baltic States. Finally, the resolution urges the administration to move such personnel to a site in one of the Baltic States at the earliest feasible moment.

Many resolutions, many statements, many expressions of support have been given to the Baltic States for over 50 years. Successive administrations and Congresses have consistently supported the rightful independence of the Baltics. Our words of support could fill volumes. Our actions of support are far fewer in number.

The time has come for the United States to put some teeth into its expressions of moral obligations when it comes to the struggle by the Baltic States. This resolution, while nonbinding, will be followed in the near future with binding legislation directing the Department of Commerce to assign additional personnel to our trade office in Warsaw. These additional personnel would constitute a United States trade office for the Baltic States. Since it is not practicable at this time for the United States to open such an office actually within one of the Baltic States, this office would operate for the time being out of the Warsaw office.

The Establishment of a United States trade office for the Baltics recognizes the continuing, special relationship between the United States and the Baltic Republics. Steps such as the one I propose today, and similar proposals in the future, will help lay the groundwork for the day when the United States can establish United States Government offices in a free Lithuania, a free Latvia, and a free Estonia.

Simply put, this measure would not impinge upon current diplomatic personnel agreements between the United States and the Soviet Union. It recognizes the realities of United States-Soviet relations. The measure provides the administration the opportunity to move the Baltic Trade Office into the Baltics whenever it sees fit. It is a prudent, reasonable, achievable request.

Actions speak louder than words, Mr. President. It is time to act.

I urge upon my colleagues swift consideration of this measure, and look forward to its early adoption.•

AMENDMENTS SUBMITTED

DEPARTMENT OF DEFENSE DESERT STORM SUPPLEMENTAL AUTHORIZATION AND MILITARY PERSONNEL BENEFITS ACT

MITCHELL (AND OTHERS) AMENDMENT NO. 32

Mr. MITCHELL (for himself, Mr. DOLE, Mr. NUNN, Mr. WARNER, Mr. GLENN, Mr. MCCAIN, Mr. ADAMS, Mr. GRAHAM, Mr. RIEGLE, Ms. MIKULSKI, Mr. DODD, Mr. LAUTENBERG, Mr. WIRTH and Mr. SHELBY) proposed an amendment to the bill (S. 578) to authorize supplemental appropriations for fiscal year 1991 for the Department of Defense for Operation Desert Storm, to provide military personnel benefits for persons serving during Operation Desert Storm, and for other purposes, as follows:

On page 20 after line 20, insert:

"(13) Temporary housing assistance for immediate family members visiting soldiers wounded during Operation Desert Storm and receiving medical treatment at military hospitals and facilities in the United States."

At the appropriate place in title III insert the following part:

SEC. . SHORT TITLE.

This part may be cited as the "Desert Shield/Desert Storm Reservist Leave Bank Act of 1991.".

SEC. . APPLICATION OF LEAVE PROVISIONS.

(a) The Office of Personnel Management shall establish a leave bank program under which—

(1) an employee in any executive agency may (during a period specified by the Office of Personnel Management) donate any unused annual leave from the employee's annual leave account to a leave bank established by the Office of Personnel Management;

(2) The total annual leave that has been donated under paragraph (1) shall be divided equally among the annual leave accounts of all employees who have been members of the Armed Forces of the United States serving on active duty during the Persian Gulf War pursuant to an order issued under section 672(a), 672(g), 673, 673b, 674, 675, or 688 of title 10, United States Code, and who return to civilian employment with their agencies; and

(3) such Persian Gulf War participants who have returned to civilian employment may use such annual leave, after it is credited to their leave accounts, in the same manner as any other annual leave to their credit.

(b)(1) For purposes of this section, "employee" means an employee as defined by section 6361(1) of title 5, United States Code.

(2) For purposes of this section, the term "Persian Gulf War" means the period beginning on August 2, 1990, and ending on the date thereafter prescribed by Presidential proclamation or by law.

(c) Within 30 days after the date of the enactment of this part, the Office of Personnel Management shall prescribe regulations necessary for the administration of this part.

SEC. . The Secretary of Veterans' Affairs shall establish a program similar to that established under section of this part for the benefit of health-care professionals covered under section 4108(e) of title 38, United States Code. Such program shall be as similar as practicable to the program established under section of this Part.

SEC. . The provisions of this part shall be effective on the date of the enactment of this Act.

On page 13, line 16, strike out "August 2, 1990" and insert in lieu thereof "January 16, 1991".

On page 21, between lines 2 and 3, insert the following:

PART C—SERVICEMEN'S GROUP LIFE INSURANCE ENHANCEMENT

SEC. 331. INCREASE OF SGLI AND VGLI MAXIMUM AMOUNT.

(a) INCREASED AMOUNT.—Section 767 of title 38, United States Code, is amended by striking out "$50,000" each place it appears and inserting in lieu thereof "$100,000".

(b) CONFORMING AMENDMENT.—Section 777(a) of title 38, United States Code, is amended by striking out "$50,000" each place it appears and inserting in lieu thereof "$100,000".

(c) TRANSITION PROVISIONS.—(1) Effective on the date of the enactment of this Act, the amount of the insurance provider under section 767 of title 38, United States Code, for a person who is insured under such section on the day before that date shall be increased to the amount equal to twice the amount of the insurance provided for such person under that section on such day.

(2) The Secretary of Veterans Affairs, in consultation with the Secretary concerned, shall take such action as is necessary to ensure that each person referred to in paragraph (1) is notified of the increased insurance coverage provided under such paragraph and is afforded the opportunity to make an election under section 767 of title 38, United States Code, within 120 days after the date of the enactment of this Act.

SEC. 332. DEATH GRATUITY FOR PARTICIPANTS WHO DIED BEFORE THE DATE OF ENACTMENT.

(a) PAYMENT OF DEATH GRATUITY.—Subject to subsections (c) and (d), the Secretary of Defense shall pay, out of any sums in the Treasury not otherwise appropriated, a death gratuity to each SGLI beneficiary of each deceased member of the uniformed services who died after August 1, 1990, and before the date of the enactment of this Act, and whose death was in conjunction with or in support of Operation Desert Storm, or attributable to hostile action in regions other than the Persian Gulf, as prescribed in regulations set forth by the Secretary of Defense.

(b) SGLI BENEFICIARY DEFINED.—In this section, the term "SGLI beneficiary", with respect to a deceased member of the uniformed services, means a person to whom Servicemen's Group Life Insurance is paid or payable under subchapter III of chapter 19 of title 38, United States Code, by reason of the death of such member.

(c) AMOUNT AND DISTRIBUTION OF GRATUITY.—The amount of the death gratuity payable to an SGLI beneficiary in the case of a deceased member of the uniformed services under this section shall be equal to the Servicemen's Group Life Insurance paid or payable to such beneficiary under subchapter III of chapter 19 of title 38, United States Code, by reason of the death of such member.

(d) APPLICATION FOR GRATUITY REQUIRED.—A death gratuity shall be payable to an SGLI beneficiary under this section upon receipt of a written application therefor by the Secretary of Defense within one year after the date of the enactment of this Act.

(e) REGULATIONS.—The Secretary shall prescribe in regulations the form of the application for benefits under this section and any procedures and requirements that the Secretary considers necessary to carry out this section.

(f) SOURCE OF FUNDS.—Amounts necessary for the payment of death gratuities under this section shall be derived from funds appropriated out of the Defense Cooperation Account for payment of the incremental costs associated with Operation Desert Storm that are incurred in fiscal year 1991.

SEC. 333. DEFINITIONS.

In this part:

(1) The term "uniformed services" has the same meaning as is provided in section 765(6) of title 38, United States Code.

(2) The term "Secretary concerned" has the same meaning as is provided in section 101(25) of title 38, United States Code.

On page 21, between lines 2 and 3, insert the following new part:

PART C—HIGHER EDUCATION ASSISTANCE

SEC. 331. SHORT TITLE.

This part may be cited as the "Gulf War Higher Education Assistance Act".

SEC. 332. PURPOSES, WAIVER AUTHORITY, AND DEFINITIONS.

(a) IN GENERAL.—It is the purpose of this section to ensure that—

(1) the men and women who are or were serving on active duty in connection with Operation Desert Shield or Operation Desert Storm and who are borrowers of Stafford Loans or Perkins Loans are not placed in a worse position financially in relation to those loans because of such service;

(2) the administrative requirements placed on all borrowers of student loans made in accordance with title IV of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) (hereafter in this section referred to as the "Act") who are or were serving on active duty in connection with Operation Desert Shield or Operation Desert Storm are minimized to the extent possible without impairing the integrity of the student loan program, in order to ease the burden on such borrowers, and to avoid inadvertent, technical defaults; and

(3) the eligibility of an individual who is or was serving on active duty in connection with Operation Desert Shield or Operation Desert Storm for a Pell Grant is not reduced by the amount of Pell Grant assistance awarded for a period of instruction for which such individual did not receive academic credit because such individual was called up for such service.

(b) WAIVER OR MODIFICATION.—Notwithstanding any other provision of law, unless enacted with specific reference to this section, the Secretary of Education shall waive or modify any statutory or regulatory provision applicable to the student financial aid programs under title IV of the Act that the Secretary deems necessary to achieve the purposes described in subsection (a), including—

(1) the length of, and eligibility requirements for, the military deferments authorized under sections 427(a)(2)(C)(ii), 428(b)(1)(M)(ii), and 464(c)(2)(A)(ii) of the Act, in order to enable the borrower of a Stafford Loan or a Perkins Loan who is or was serving on active duty in connection with Operation Desert Shield or Operation Desert Storm to obtain a military deferment, under which interest shall accrue and, if otherwise payable by the Secretary of Education, shall be paid by the Secretary of Education, for the duration of such service;

(2) administrative requirements placed on all borrowers of student loans made in ac-

cordance with title IV of the Act who are or were engaged in such military service;

(3) the number of years for which individuals who are or were engaged in such military service may be eligible for Pell Grants under subpart 1 of part A of title IV of the Act;

(4) the point at which the borrower of a Stafford Loan who is or was engaged in such military service is required to resume repayment of principal and interest on such loan after the borrower completes a period of deferment under section 427(a)(2)(C)(ii) or 428(b)(1)(M)(ii) of the Act;

(5) the point at which the borrower of a Stafford Loan who is or was engaged in such military service is required to resume repayment of principal and interest on such loan after the borrower completes a single period of deferment under section 427(a)(2)(C)(i) or 428(b)(1)(M)(i) of the Act subsequent to such service; and

(6) the modification of the terms "annual adjusted family income" and "available income", as used in the determination of need for student financial assistance under part F of title IV of the Act for such individual (and the determination of such need for such individual's spouse and dependents, if applicable), to mean the sums received in the first calendar year of the award year for which such determination is made, in order to reflect more accurately the financial condition of such individual and such individual's family.

(c) SPECIAL RULES.—Notwithstanding section 431 of the General Education Provisions Act (20 U.S.C. 1232) and section 553 of title 5, United States Code, the Secretary shall, by notice in the Federal Register, publish the waivers or modifications of statutory and regulatory provisions he deems necessary to achieve the purposes of this section. Such notice shall include the terms and conditions to be applied in lieu of such statutory and regulatory provisions. The Secretary is not required to exercise the waiver authority under this section on a case-by-case basis.

(d) DEFINITIONS.—For purposes of this part—

(1) the term "serving on active duty in connection with Operation Desert Shield or Operation Desert Storm", with respect to any individual, means—

(A) any Reserve of an Armed Force called to active duty under section 672(a), 672(g), 673, 673b, 674, or 688 of title 10, United States Code, for service in connection with Operation Desert Shield or Operation Desert Storm, regardless of the location at which such active duty service is performed; and

(B) for purposes of waivers of administrative requirements under subsection (b)(2) only, any other member of an Armed Force on active duty in connection with Operation Desert Shield or Operation Desert Storm, who has been assigned to a duty station at a location other than the location at which such member is normally assigned; and

(2) the term "active duty" has the meaning given such term in section 101(2) of title 10, United States Code, except that such term does not include active duty for training or attendance at a service school.

SEC. 333. TUITION REFUNDS OR CREDITS.

(a) IN GENERAL.—It is the sense of the Congress that all institutions offering postsecondary education should provide a full refund or a credit in a comparable amount against future tuition and fees, to any member or Reserve of an Armed Force who is or was serving on active duty in connection with Operation Desert Shield or Operation Desert Storm for that portion of a period of instruction such individual was unable to complete because such individual was called up for such service.

(b) ENCOURAGEMENT AND REPORT.—The Secretary of Education shall encourage institutions to provide such refunds or credits, and shall report to the appropriate committees of Congress on—

(1) the actions taken in accordance with this subsection; and

(2) information the Secretary receives regarding any institutions that are not providing such refunds or credits.

SEC. 334. ELIGIBILITY OF STUDENT BORROWERS.

Section 731 of the Public Health Service Act (42 U.S.C. 294d) is amended—

(1) in subsection (a)(2)(C)—

(A) by striking "or" at the end of clause (vi); and

(B) by striking "and any such period" and all that follows through "clause (B) above;" and inserting the following: ", and (viii) in addition to all other deferments for which the borrower is eligible under clauses (i) through (vii) of this subparagraph, during which the borrower is a member of the Armed Forces on active duty during the Persian Gulf Conflict, and any period described in clauses (i) through (viii) shall not be included in determining the 25-year period described in subparagraph (B);"; and

(2) by adding at the end the following new subsection:

"(f) As used in this section:

"(1) The term 'active duty' has the meaning given such term in section 101(18) of title 37, United States Code, except that such term does not include active duty for training.

"(2) The term 'Persian Gulf Conflict' means the period beginning on August 2, 1990, and ending on the date thereafter prescribed by Presidential proclamation or by law.".

SEC. 335. EMERGENCY EXPENDITURES.

For the purposes of sections 251(b)(2)(D) and 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.), as amended by section 13101 of Public Law 101-508, all direct or discretionary spending contained in this part, and the amendment made by this part, are emergency expenditures related to the Persian Gulf Conflict.

SEC. 336. EFFECTIVE DATE.

The provisions of sections 332 and 333 shall cease to be effective on September 30, 1996.

On page 21, between lines 2 and 3, insert the following:

PART C—MISCELLANEOUS BENEFITS

SEC. 331. AUTHORITY FOR HEALTH CARE PROVIDERS TO WAIVE CHAMPUS COPAYMENT REQUIREMENTS DURING THE PERSIAN GULF WAR.

(a) IN GENERAL.—Any civilian health care provider furnishing health care pursuant to a plan contracted for under the authority of section 1079 or 1086 of title 10, United States Code, may waive, in whole or in part, any requirement for payment by the patient under section 1079(b) or 1086(b) of such title for health care furnished the patient by such health care provider during the Persian Gulf War.

(b) WAIVER NOT TO INCREASE COST TO FEDERAL GOVERNMENT.—If a health care provider waives a payment for health care under subsection (a), the health care provider may not increase the amount charged the Federal Government for such health care above the amount that the health care provider would have charged the Federal Government for such health care had the payment not been waived.

SEC. 332. SENSE OF CONGRESS REGARDING THE NEED FOR INCREASED PARTICIPATION OF CIVILIAN HEALTH CARE PROVIDERS IN CHAMPUS.

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

(1) The availability of health care in facilities of the uniformed services has been reduced for dependents of members of the uniformed services by reason of the deployment of many health care personnel of the uniformed services to the Middle East during the Persian Gulf War.

(2) It has been necessary for the dependents of uniformed services personnel increasingly to rely for health care on the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS).

(3) The CHAMPUS resources are severely strained by the increased demand for CHAMPUS health care.

(b) SENSE OF CONGRESS.—Civilian health care providers in the United States are strongly urged to participate or to increase participation, as the case may be, in CHAMPUS plans contracted for under the authority of section 1079 or 1086 of title 10, United States Code.

On page 20, line 8, strike out "and" and all that follows through "programs" on line 9.

On page 15, line 4, strike out "60 days" and insert in lieu thereof "30 days".

On page 15, line 13, strike out "60 days" and insert in lieu thereof "30 days".

On page 15, line 17, strike out "60-day" and insert in lieu thereof "30-day".

At the appropriate place in title III of the bill add the following new part.

PART —VETERANS PROGRAMS

SEC. . SHORT TITLE

This part may be cited as the "Persian Gulf War Veterans' Assistance Act of 1991".

SEC. . PERSIAN GULF WAR ADDED TO DEFINITION OF "PERIOD OF WAR"

(a) PERIOD OF WAR.—Section 101(11) of title 38, United States Code, is amended by inserting "the Persian Gulf War," after "the Vietnam era,".

(b) PERIOD OF WAR DEFINED.—Section 101 of such title is amended by adding at the end the following new paragraph:

"(33) The term 'Persian Gulf War' means the period beginning on August 2, 1990, and ending on the date thereafter prescribed by Presidential proclamation or by law.".

SEC. . ELIGIBILITY FOR PENSION OF VETERANS AND SPOUSES OF VETERANS WITH SERVICE DURING THE PERSIAN GULF WAR

(a) PENSION FOR VETERANS.—Section 501(4) of title 38, United States Code, is amended by inserting "the Persian Gulf War," after "the Vietnam era,".

(b) PENSION FOR SURVIVING SPOUSES.—Section 541(f)(1) of such title is amended—

(1) by striking out "or" at the end of clause (C); and

(2) by inserting before the semicolon at the end ", or (E) before the expiration of ten years following the termination of the Persian Gulf War, in the case of a surviving spouse of a veteran of the Persian Gulf War".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—(1) The heading above section 541 of such title is amended to read as follows:

"OTHER PERIODS OF WAR".

(2) The table of sections at the beginning of chapter 15 of such title is amended by striking out the heading between the items relating to section 537 and 541 and inserting in lieu thereof the following:

"OTHER PERIODS OF WAR".

SEC. . ELIGIBILITY FOR CERTAIN MEDICAL CARE FOR SERVICE DURING THE PERSIAN GULF WAR

(a) PRESUMPTION RELATING TO PSYCHOSIS.—Section 602 of title 38, United States Code, is amended—

(1) by striking out "or the Vietnam era" and inserting in lieu thereof "the Vietnam era, or the Persian Gulf War";

(2) by striking out "or before May 8" and inserting in lieu thereof "before May 8"; and

(3) by inserting "or before the expiration of two years following the date of the termination of the Persian Gulf War, in the case of a veteran of the Persian Gulf War," after "a Vietnam era veteran,".

(b) ELIGIBILITY FOR MEDICINES.—Section 612(h) of such title is amended in the first sentence by striking out "or the Vietnam era," and inserting in lieu thereof "the Vietnam era, or the Persian Gulf War,".

(c) ELIGIBILITY FOR READJUSTMENT COUNSELING.—Section 612A(a) of such title is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following new paragraph:

"(2)(A) The Secretary shall furnish counseling as described in paragraph (1), upon request, to any veteran who served on active duty after May 7, 1975, in an area at a time during which hostilities occurred in such area.

"(B) For the purposes of subparagraph (A) of this paragraph, the term 'hostilities' means an armed conflict in which members of the Armed Forces are subjected to danger comparable to the danger to which members of the Armed Forces have been subjected in combat with enemy armed forces during a period of war, as determined by the Secretary in consultation with the Secretary of Defense.".

SEC. . BURIAL AND FUNERAL EXPENSES

Section 904 of title 38, United States Code, is amended—

(1) by inserting "(a)" before "Applications for"; and

(2) by adding at the end the following new subsection:

"(b) Notwithstanding subsection (a) of this section, an application for payment under section 902 of this title in the case of a veteran of the Persian Gulf War who died before the date of the enactment of the Persian Gulf War Veterans' Assistance Act of 1991 may be filed not more than two years after the date of such enactment.".

SEC. . INCREASE IN THE AMOUNT OF MONTGOMERY GI BILL EDUCATIONAL ASSISTANCE PAYMENTS

(a) ALL-VOLUNTEER FORCE EDUCATIONAL ASSISTANCE PROGRAM.—(1) Section 1415 of title 38, United States Code, is amended—

(A) in subsection (a)(1), by striking out "$300" and inserting in lieu thereof "$310"; and

(B) in subsection (b)(1), by striking out "$250" and inserting in lieu thereof "$259".

(2) The amendments made by paragraph (1) shall take effect with respect to payments of educational assistance made for an approved program of education on or after October 1, 1991.

(b) AMOUNT OF BENEFIT PAYMENT UNDER SELECTED RESERVE PROGRAM FOR SERVICE IN THE PERSIAN GULF.—(1) Section 2131(b) of title 10, United States Code, is amended—

(A) By striking out"(b) Except as provioded in subsections (d) through (f)," and inserting in lieu thereof "(b)(1) Except as provided in paragraph (2) and subsections (d) through (f),"; and

(B) by inserting at the end the following new paragraph:

"(2)(A) Each educational assistance program established under subsection (a) shall provide for payment by the Secretary concerned to each person referred to in subparagraph (B) who is entitled to educational assistance under this chapter and who is pursuing a program of education an educational assistance allowance at the following rates:

"(i) $145 per month for each month of fulltime pursuit of a program of education:;

"(ii) $108.75 per month for month of three-quarter-time pursuit of a program of education;

"(iii) $72.50 per month for each month of half-time pursuit of a program of education; and

"(iv) an appropriately reduced rate, as determined under regulations which the Seretary of Veterans Affairs shall prescribe, for each month of less than half-time pursuit of a program of education, except that no payment may be made to a person for less than half-time pursuit if tuition assistance is otherwise available to the person for such pursuit from the military department concerned.

"(B) A person entitled to receive an educational assistance allowance at the rates described in subparagraph (A) is a member of the Selected Reserve who serves on active duty during the Persian Gulf War pursuant to an order to active dury issued under section 672(a), (d), or (g), 673, or 673b of this title.

"(C) For the purposes of this paragraph, the term 'Persian Gulf War' means the period beginning on August 2, 1990, and ending thereafter on the date prescribed by Presidential proclamation or by law.".

(2) The amendments made by paragraph (1) shall take effect with respect to payments of educational assistance made for an approved program of education on or after August 1, 1991.

SEC. . IMPROVED EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE WHO SERVE ON ACTING DUTY DURING THE PERSIAN GULF WAR

Section 2131 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(h)(1) Notwithstanding the rates provided for educational assistance allowances under subsection (b), each educational assistance program established under subsection (a) shall provide for payment to each member of the Selected Reserve who serves on active duty during the Persian Gulf War pursuant to an order issued under section 672(a), (d), or (g), 673, or 673b of this title and who is entitled to educational assistance under this chapter a monthly educational assistance allowance for pursuit of a program of education at the following rates:

"(ii) the aggregate period of the individual's eligibility for assistance under section 1795 of title 38.

"(B) A course referred to in subparagraph (A) of this subsection—

"(i) in the case of a member of the Selected Reserve who, during the Persian Gulf War, performs active duty pursuant to an order to active duty issued under section 672 (a), (d), or (g), 673, or 673b of this title, is any course pursued by such member which the member fails to complete by reason of such order, as determined by the Secretary of Veterans Affairs; or

"(ii) in the case of any other member of the Armed Forces who serves on active duty during the Persian Gulf War, is any course pursued by such member which the member fails to complete by reason of being ordered to a new location or assignment during the Persian Gulf War or by reason of a substantial increase in the work associated with the military duties of such member during the Persian Gulf War, as determined by the Secretary of Veterans Affairs.

"(C) No course for which a member of the Armed Forces referred to in subparagraph (B) receives full credit from the institution or program offering the course may be considered a course referred to in subparagraph (A)."

SEC. . MEMBERSHIP ON EDUCATIONAL BENEFITS ADVISORY COMMITTEE FOR PERSIAN GULF WAR VETERAN

Section 1792(a) of title 38, United States Code, is amended by striking out "and the post-Vietnam era" and inserting in lieu thereof "the post-Vietnam era, and the Persian Gulf War".

SEC. . ELIGIBILITY FOR HOUSING BENEFITS

Section 1802(a)(2) of title 38, United States Code, is amended by adding at the end the following new subparagraph:

"(D) Each veteran who served on active duty for 90 days or more at any time during the Persian Gulf War other than a veteran ineligible for benefits under this title by reason of section 3103A(b) of this title.".

SEC. . REQUALIFICATION OF FORMER EMPLOYEES

(a) IN GENERAL.—Section 2021(a) of title 38, United States Code, is amended—

(1) in clause (A), by inserting "or able to become requalified with reasonable efforts by the employer" after "perform the duties of such position"; and

(2) in clause (B), by inserting "or able to become requalified with reasonable efforts by the employer" after "perform the duties of such position".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect after July 31, 1990.

SEC. . IMPROVED REEMPLOYMENT RIGHTS FOR DISABLED VETERANS

(a) IN GENERAL.—Chapter 43 of title 38, United States Code, is amended by adding at the end the following new section:

§ 2027. Qualification for employment position

"(a) For the purposes of this chapter, a person shall be considered qualified for an employment position if such person, with or without reasonable accommodation, can perform the essential functions of the position.

"(b) For the purposes of subsection (a) of this section, the term 'reasonable accommodation shall have the meaning given such term in section 101(9) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111(9)).

"(c) Nothing in this chapter shall be interpreted to limit in any way any of the rights conferred by the Americans with Disabilities Act of 1990.".

"(A) $270 for each month (or part thereof) of such service in the case of full-time pursuit of such a program.

"(B) $202.50 for each month (or part thereof) of such service in the case of three-quarter-time pursuit of such a program.

"(C) $135 for each month (or part thereof) of such service in the case of half-time pursuit of such a program.

"(2) For the purposes of this subsection, the term 'Persian Gulf War' shall have the meaning given such term in section 101(33) of title 38.".

SEC. . DELIMITING DATE

Section 2133(b) of title 10, United States Code, is amended by adding at the end the following:

"(4) In the case of a member of the Selected Reserve of the Ready Reserve who,

during the Persian Gulf War, serves on active duty pursuant to an order to active duty issued under section 672 (a), (d), or (g), 673, or 673b of this title—

"(A) the period of such active duty service shall not be considered in determining the expiration date appliable to such member under subsection (a); and

"(B) the member may not be considered to have been separated from the Selected Reserve for the purposes of clause (2) of such subsection by reason of the commencement of such active duty service.".

SEC. . RESTORATION OF EDUCATIONAL ASSISTANCE

(a) CHAPTER 30 PROGRAM.—Section 1413 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) Notwithstanding any other provision of this chapter or chapter 36 of this title, the payment of an educational assistance allowance to an individual for the pursuit of a course or courses described in paragraph (2) of this subsection shall not constitute receipt by such individual of such educational assistance allowance for the purposes of determining—

"(A) the individual's remaining entitlement to such assistance under this chapter; and

"(B) the aggregate period of the individual's eligibility for assistance under section 1795 of this title.

"(2)(A) A course referred to in paragraph (1) of this subsection—

"(i) in the case of a member of the Selected Reserve who, during the Persian Gulf War, performs active duty pursuant to an order to active duty issued under section 672 (a), (d), or (g), 673, or 673b of title 10, is any course pursued by such member which the member fails to complete by reason of such order, as determined by the Secretary; or

"(ii) in the case of any other member of the Armed Forces who serves on active duty during the Persian Gulf War, is any course pursued by such member which the member fails to complete by reason of being ordered to a new location or assignment during the Persian Gulf War or by reason of a substantial increase in the work associated with the military duties of such member during the Persian Gulf War, as determined by the Secretary.

"(B) No course for which a member of the Armed Forces referred to in subparagraph (A) of this paragraph receives full credit from the institution or program offering the course may be considerd a course referred to in pargraph (1) of this subsection.".

(b) CHAPTER 32 PROGRAM.—(1) Section 1631(a) of such title is amended by adding at the end the following new paragraph:

"(5)(A) Notwithstanding any other provision of this chapter or chapter 36 of this title, the payment of an educational assistance allowance to an individual for the pursuit of a course or courses described in subparagraph (B) of this paragraph shall not constitute receipt by such individual of such educational assistance allowance for the purposes of determining—

"(i) the individual's remaining entitlement to such assistance under this chapter; and

"(ii) the aggregate period of the individual's eligibility for assistance under section 1795 of this title.

"(B) A course referred to in subparagraph (A) of this paragraph—

"(i) in the case of a member of the Selected Reserve who, during the Persian Gulf War, performs active duty pursuant to an order to active duty issued under section 672 (a), (d), or (g), 673, or 673b of title 10, is any course pursued by such member which the member fails to complete by reason of such order, as determined by the Secretary; or

"(ii) in the case of any other member of the Armed Forces who serves on active duty during the Persian Gulf War, is any course pursued by such member which the member fails to complete by reason of being ordered to a new location or assignment during the Persian Gulf War or by reason of a substantial increase in the work associated with the military duties of such member during the Persian Gulf War, as determined by the Secretary.

"(C) No course for which a member of the Armed Forces referred to in subparagraph (B) of this paragraph receives full credit from the institution or program offering the course may be considered, a course referred to in subparagraph (A) of this paragraph.

"(D) The amount in the fund for each eligible veteran who received a payment of an educational assistance allowance for a course or courses described in subparagraph (B) of this paragraph shall be restored to the amount that would have been in the fund for the veteran if the payment had not been made. For purposes of carrying out the previous sentence, the Secretary of Defense shall deposit into the fund, on behalf of each such veteran, an amount equal to the entire amount of the payment made to the veteran.

"(E) In the case of a veteran who discontinues pursuit of a course or courses as described in subparagraph (B) of this paragraph, the formula for ascertaining the amount of the monthly payment to which the veteran is entitled in paragraph (2) of this subsection shall be implemented as if—

"(i) the payment made to the fund by the Secretary of Defense under subparagraph (D) of this paragraph, and

"(ii) any payment for a course or courses described in subparagraph (B) of this paragraph that was paid out of the fund.

had not been made or paid.".

(2) Section 1631(a)(2) of such title is amended by inserting "in paragraph (5)(E) of this subsection and" after "Except as provided".

(c) CHAPTER 35 PROGRAM.—Section 1711(a) of such title is amended—

(1) by striking out "Each" and inserting in lieu thereof "(1) Each"; and

(2) by adding at the end the following new paragraphs:

"(2) Notwithstanding any other provision of this chapter or chapter 36 of this title, the payment of an educational assistance allowance to an individual for the pursuit of a course or courses described in paragraph (3) of this subsection shall not constitute receipt by such individual of such educational assistance allowance for the purposes of determining—

"(A) the individual's remaining entitlement to such assistance under this chapter; and

"(B) the aggregate period of the individual's eligibility for assistance under section 1795 of this title.

"(3)(A) A course referred to in paragraph (2) of this subsection in the case of a member of the Selected Reserve who, during the Persian Gulf War, performs active duty pursuant to an order to active duty issued under section 672 (a), (d), or (g), 673, or 673b of title 10, is any course pursued by such member which the member fails to complete by reason of such order, as determined by the Secretary.

"(B) No course for which a member of the Armed Forces referred to in subparagraph (A) of this paragraph receives full credit from the institution or program offering the course may be considered a course referred to in paragraph (2) of this subsection.".

(d) SELECTED RESERVE PROGRAM UNDER TITLE 10.—Section 2131(c) of title 10, United States Code, is amended by adding at the end the following new paragraphs:

"(3)(A) Notwithstanding any other provision of this chapter or chapter 36 of title 38, the payment of an educational assistance allowance to an individual for the pursuit of a course or courses described in subparagraph (B) shall not constitute receipt by such individual of such educational assistance allowance for the purposes of determining—

"(i) the individual's remaining entitlement to such assistance under this chapter; and

(b) TECHNICAL AMENDMENT.—The table of sections at the end of such chapter is amended by adding at the end the following:

"2027. Qualification for employment position."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect after July 31, 1990.

SEC. . WAIVER OF ANNUITY REDUCTION UNDER TITLE 5, UNITED STATES CODE, IN THE CASE OF THE REEMPLOYMENT OF CERTAIN ANNUITANTS IN CONNECTION WITH THE PERSIAN GULF WAR.

(a) AUTHORITY TO WAIVE ANNUITY REDUCTIONS.—In any case in which a person entitled to an annuity under chapter 83 or 84 of title 5, United States Code, is reemployed on or after the date of the enactment of this title in the Veterans Health Services and Research Administration by the Department of Veterans Affairs as a health care specialist, the Secretary of Veterans Affairs may waive (in accordance with this section) any requirement of section 8344 or 8468 of such title for—

(1) deductions from the pay of such person during the period of such reemployment; or

(2) any reduction that would otherwise be made in the annuity of such person.

(b) LIMITATIONS ON WAIVERS.—(1) Waivers granted under subsection (a) may be granted by the Secretary of Veterans Affairs only to the extent that the Secretary determines that the granting of the waivers is necessary in order to recruit health-care specialists to replace health-care specialists of the Department of Veterans Affairs who have been ordered to active duty during the Persian Gulf War.

(2) A waiver granted under this section may extend for any period during the Persian Gulf War and for a period of not more than one year after the date of the termination of that war.

(3) A waiver granted under this section shall become effective upon receipt by the Director of the Office of Personnel Management of a written notice of the waiver from the Secretary of Veterans Affairs.

(c) DEFINITIONS.—As used in this section:

(1) The term "health-care specialist" means a physician, dentist, podiatrists, optometrist, nurse, physician assistant, expanded-function dental auxiliary, medical technican, or other medical support personnel.

(2) The terms "veterans", "Armed Forces", "active duty", and "reserve component" have the meaning given such terms under paragraph (2), (10), (21), and (27), respectively, of section 101 of title 38, United States Code.

SEC. . TECHNICAL AMENDMENT.

Section 5011A(b)(2)(A) of title 38, United States Code, is amended by striking out "subsection (f) of (g) of section 612" and inserting in lieu thereof "section 612(a)".

At the appropriate place, insert

SEC. . AVAILABILITY OF APPROPRIATIONS.

(a) APPROPRIATIONS REQUIRED.—Notwithstanding any other provision of this title, members or former members of the uniformed services (or the dependents or survivors of such members or former members, as the case may be) shall be entitled or eligible to receive payments or other benefits (or an increase in payments or an enhancement of other benefits, as the case may be) under a provision of this title only upon the enactment of an Act or Acts that appropriates funds for such payments or other benefits from the Defense Cooperation Account for transfer to applicable appropriations.

(b) LIMITATION.—All funds for the benefits provided by this title shall be derived by transfer from the Defense Cooperation Account.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to the amounts authorized to be appropriated by section 101(a) of this Act, there is hereby authorized to be appropriated for the payments, benefits, and increases in benefits provided by this title for fiscal years 1991-95, only by transfer from the Defense Cooperation Account, $500,000,000. Funds remaining in the Defense Cooperation Account on October 1, 1992 (except for funds appropriated pursuant to authorizations in this Act) are authorized to be appropriated to fund the long term costs accruing after fiscal year 1995 of the payments, benefits and increases in benefits provided by this title. The costs for which appropriations are authorized by this section are incremental costs associated with Operation Desert Storm.

At the appropriate place, insert the following new part:

PART —FAIR TREATMENT FOR FARMERS AND RANCHERS WHO PARTICIPATED IN THE PERSIAN GULF WAR AS ACTIVE RESERVISTS OR IN ANY OTHER MILITARY CAPACITY

SEC. . DEFINITIONS.

As used in this title:

(1) ACTIVATED RESERVIST.—The term "activated reservist" means a member of a reserve component of the Armed Forces of the United States or the National Guard who is serving on active duty during the Persian Gulf War pursuant to an order issued under section 672(a), 672(d), 672(g), 673, 673b, 674, 675, or 678 of title 10, United States Code.

(2) FARMER PROGRAM LOAN.—The term "farmer program loan" has the same meaning given such term in section 343(a)(10) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(10)).

(3) RESERVE COMPONENT OF THE ARMED FORCES OF THE UNITED STATES.—The term "reserve component of the armed forces of the United States" means a reserve component named in section 261(a) of title 10, United States Code.

(4) PERSIAN GULF WAR.—The term "Persian Gulf War" means the period beginning on August 2, 1990, and ending thereafter on the date prescribed by Presidential proclamation or by law.

(5) SECRETARY. The term "Secretary" means the Secretary of Agriculture.

(6) OTHER TERMS.—

(A) AGRICULTURAL ACT OF 1949.—The terms "crop acreage base", "producer", "program crop", and any other terms used in this title have the same meanings given such terms in the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.).

(B) TITLE 10.—The terms "National Guard" and "active duty" have the same meanings given such terms, respectively, in section 101 of title 10, United States Code.

SEC. . BASE PROTECTION.

The Secretary shall, with respect to a producer on a farm who is an activated reservist during a crop year, provide for the protection of the producer's crop acreage base for any program crop on the farm to the extent necessary to provide fair and equitable treatment for the producer.

SEC. . WAIVER OF MINIMUM PLANTING REQUIREMENT.

The producers on a farm shall be eligible for payments for a crop of rice or upland cotton under sections 101B(c)(1)(D)(i) and 103B(c)(1)(D)(i) of the Agricultural Act of 1949 (7 U.S.C. 1441-2(c)(1)(D)(i) and 1444-2(c)(1)(D)(i), without regard to the minimum planting requirement established in sections 101B(c)(1)(D)(ii) and 103B(c)(1)(D)(ii) of such Act, if—

(1) one or more of the producers is an activated reservist during the crop year; and

(2) the producers on the farm satisfy all other requirements determined appropriate by the Secretary for the payments.

SEC. . CONSERVATION REQUIREMENTS.

The Secretary may provide for a temporary waiver or modification of the application of subtitles A through E of title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.) with respect to producers on a farm who are activated reservists if—

(1) the temporary waiver or modification is only for the period during which the producer is an activated reservist;

(2) the Secretary determines that the temporary waiver or modification is necessary to prevent undue hardship caused as a result of the producer's service on active duty during the Persian Gulf War or to provide equitable treatment for the activated reservist; and

(3) the temporary waiver or modification will not significantly detract from the purposes and objectives of subtitles A through E of title XII of the Food Security Act of 1985.

SEC. . FARM CREDIT PROVISIONS.

(a) IN GENERAL.—The Secretary shall establish a program to provide relief to any borrower under any farmer program loan under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) if the borrower is an activated reservist.

(b) BORROWER RELIEF.—The Secretary shall modify the terms and conditions of farmer program loans (including loans in which any participant in the loan is an activated reservist) made or insured under the Consolidated Farm and Rural Development Act, or purchased under section 309B of such Act (7 U.S.C. 1926b), to the extent necessary, as determined by the Secretary, to alleviate conditions of distress and to assist keeping the farm or ranch of an activated reservist borrower in operation until the return to farming or ranching by the borrower.

(c) LOAN MODIFICATIONS.—The Secretary may modify loans, including delinquent loans, by deferring scheduled payments, reducing interest rates or accumulated interest charges, reamortizing or consolidating loans, reducing the amount of scheduled payments, releasing additional income, reducing collateral requirements, or taking any other restructuring actions determined appropriate by the Secretary to assist in maintaining the farm or ranch until the return to farming or ranching of the activated reservist borrower.

(d) NOTICE.—The Secretary shall develop a program to notify any adult person that has an interest in, or is operating, a farm or ranch of an activated reservist who is a farmer program borrower under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) of the borrower relief provisions of this section.

SEC. . PROGRAM ADMINISTRATION PROVISIONS.

(a) SIGN-UP PROCEDURES.—The Secretary may provide for procedures by which the spouse or other close relative (as determined by the Secretary) of an activated reservist may participate in, or make decisions related to, a program administered by the Secretary under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), the Conservation and Domestic Allotment Act (16 U.S.C. 590a et seq.), the Food Security Act of 1985 (Public Law 99-198), the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624), the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), or any other Act concerning the operation of the activated reservist's farming or ranching operation.

(b) REQUIREMENTS.—The Secretary may rely on the representation of the spouse or close relative (even in the absence of a power of attorney) made under such procedures if—

(1) The Secretary determines that the reliance is appropriate in order to prevent undue hardship and to provide equitable treatment for the activated reservist; and

(2) the Secretary has reason to believe that the representation of the spouse or close relative is in accordance with the wishes of the activated reservist.

SEC. . ADMINISTRATION.

(a) IMPLEMENTATION.—The Secretary shall issue such regulations, and take such other actions, as are necessary to carry out this title. Section 553 of title 5, United States Code, shall not apply with respect to the implementation of this title by the Secretary.

(b) TREATMENT OF EXPENDITURES.—For the purposes of sections 251(b)(2)(D) and 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as amended by section 13101 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508)), all direct or discretionary spending contained in this Act are emergency expenditures related to Operation Desert Shield and Operation Desert Storm.

BUMPERS AMENDMENT NO. 33

Mr. BUMPERS (for himself, Mr. KASTEN, Mr. NUNN, Mr. DIXON, Mr. LIEBERMAN, Mr. GRASSLEY, Mr. HARKIN, Mr. KERRY, Ms. MIKULSKI, Mr. BAUCUS, Mr. SASSER, Mr. MOYNIHAN, Mr. PELL, Mr. D'AMATO, Mr. DASCHLE, Mr. HELMS, Mr. LEVIN, Mr. PRESSLER, Mr. KOHL, Mr. INOUYE, Mr. SHELBY, Mr. STEVENS, Mr. BOREN, Mr. GORTON, Mr. AKAKA, and Mr. SANFORD) proposed an amendment to the bill S. 578, supra, as follows:

Insert in the appropriate place the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Military Reservists Small Business Relief Act".

SEC. 2. REPAYMENT DEFERRAL FOR ACTIVE DUTY RESERVISTS.

Section 7 of the Small Business Act (15 U.S.C. 636) is amended by adding at the end thereof the following new subsection:

"(m) REPAYMENT DEFERRED FOR ACTIVE DUTY RESERVISTS.—

"(1) IN GENERAL.—The Administration shall, upon written request, defer repayment of a direct loan made pursuant to subsection (a) or (b) of this section, if such loan was incurred by a qualified borrower, provided that such qualified borrower demonstrates that

the absence of the eligible reservist to active duty has had, or is likely to have, an adverse economic impact on the qualified borrower.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED BORROWER.—The term 'qualified borrower' means—

"(i) an individual who is an eligible reservist and who, received a direct loan under subsection (a) or (b) before being ordered to active duty; or

"(ii) a small business concern that received a direct loan under subsection (a) or (b) before an eligible reservist, who is an owner, manager, or key employee described in subparagraph (C), was ordered to active duty.

"(B) ELIGIBLE RESERVIST.—The term 'eligible reservist' means a member of a reserve component of the Armed Forces ordered to active duty during a period of military conflict.

"(C) OWNER, MANAGER, OR KEY EMPLOYEE.—An eligible reservist is an owner, manager, or key employee described in this subparagraph if the eligible reservist is an individual who—

"(i) has at least a 20 percent ownership interest in the small business concern described in subparagraph (A)(ii),

"(ii) is a manager responsible for the day-to-day operations of such small business concern, or

"(iii) is a key employee (as defined by the Administration) of such small business concern.

"(D) PERIOD OF MILITARY CONFLICT.—The term 'period of military conflict' means—

"(i) a period of war declared by the Congress,

"(ii) a period of national emergency declared by the Congress or by the President, or

"(iii) a period in which a member of a reserve component of the Armed Forces is ordered to active duty pursuant to section 673b of title 10, United States Code.

"(3) PERIOD OF DEFERRAL.—The period of deferral for repayment under this subsection shall begin on the date on which the eligible reservist is ordered to active duty and shall terminate on the date that is 180 days after the date such eligible reservist is discharged or released from active duty.

"(4) NO ACCRUAL OF INTEREST DURING DEFERRAL.—During the period of deferral described in paragraph (3), repayment of principal and interest on the deferred loan shall not be required and no interest shall accrue on such loan.".

SEC. 3. DISASTER LOAN ASSISTANCE FOR MILITARY RESERVISTS' SMALL BUSINESSES.

(a) IN GENERAL.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting after the undesignated paragraph which begins "Provided, That no loan", the following new paragraph:

"(3)(A) The Administration is empowered to make such disaster loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) to assist a small business concern (including a small business concern engaged in the lease or rental of real or personal property) which has suffered or is likely to suffer economic injury as the result of the owner, manager, or key employee of such small business concern being ordered to active military duty during a period of military conflict.

"(B) Any loan or guarantee extended pursuant to this paragraph shall be made at an interest rate of 4 percent per annum, without regard to the small business concern's ability to secure credit elsewhere.

"(C) No loan shall be made under this paragraph, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, if the total amount outstanding and committed to the borrower under this subsection would exceed $500,000, unless such applicant constitutes a major source of employment in an area not larger than a county suffering a disaster, in which case the Administration, in its discretion, may waive the $500,000 limitation.

"(D) Section 120.101-2(b)(1) of title 13, Code of Federal Regulations, or any similar regulation, shall not apply to a small business concern seeking a loan under this paragraph.

"(E) For purposes of this paragraph, the term 'period of military conflict' means—

"(i) a period of war declared by the Congress,

"(ii) a period of national emergency declared by the Congress or by the President, or

"(iii) a period in which a member of a reserve component of the Armed Forces is ordered to active duty pursuant to section 673b of title 10, United States Code.

"(F) For purposes of this paragraph, the term 'economic injury' includes, but is not limited to, the inability of a small business concern to market or produce a product or to provide a service ordinarily provided by the small business concern.

"(G) For purposes of this paragraph, the term 'owner, manager, or key employee' means an individual who—

"(i) has at least a 20 percent ownership in the small business concern,

"(ii) is a manager responsible for the day-to-day operations of such small business concern, or

"(iii) is a key employee (as defined by the Administration) of such small business concern.

"(H) For purposes of assistance under this paragraph, no declaration of a disaster area shall be required.".

(b) CONFORMING AMENDMENT.—Section 4(c) of the Small Business Act (15 U.S.C. 633(c)) is amended—

(1) by striking "7(b)(4)," in paragraph (1), and

(2) by striking "7(b)(4), 7(b)(5), 7(b)(6), 7(b)(7), 7(b)(8)," in paragraph (2).

SEC. 4. BUSINESS DEVELOPMENT AND MANAGEMENT ASSISTANCE FOR MILITARY RESERVISTS' SMALL BUSINESSES.

(a) IN GENERAL.—Section 8 of the Small Business Act (15 U.S.C. 637) is amended by adding at the end thereof the following new subsection:

"(k) MANAGEMENT ASSISTANCE FOR SMALL BUSINESSES AFFECTED BY MILITARY OPERATIONS.—

"(1) IN GENERAL.—The Administration is directed to utilize, as appropriate, its business development and management assistance programs, including programs involving State or private sector partners, to provide business counseling and training to any small business concern adversely affected by the deployment of units of the Armed Forces of the United States in support of a period of military conflict.

"(2) PERIOD OF MILITARY CONFLICT.—For purposes of this subsection, the term 'period of military conflict' means—

"(A) a period of war declared by the Congress,

"(B) a period of national emergency declared by the Congress or by the President, or

"(C) a period during which a member of a reserve component of the Armed Forces is ordered to active duty pursuant to section 673b of title 10, United States Code.".

(b) ENHANCED PUBLICITY DURING OPERATION DESERT STORM.—For the duration of Operation Desert Storm and for 120 days thereafter, the Administration is directed to enhance its publicity of the availability of assistance provided under this Act, including information regarding the appropriate local office at which affected small businesses can seek such assistance.

SEC. 5. REGULATIONS.

Not later than 30 days after the date of enactment of this Act, the Small Business Administration may promulgate such regulations as it deems necessary to carry out the provisions of sections 2 and 3 of this Act. If such regulations are promulgated, the Administration shall issue the regulations as emergency interim final regulations.

SEC. 6. TREATMENT OF EXPENDITURES.

For the purpose of section 251(b)(2)(D) and 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.), as amended by section 13101 of Public Law 101-508, all direct and discretionary spending contained in this Act are emergency expenditures related to Operation Desert Shield, Operation Desert Storm, or any successor thereto.

SEC. 7. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) DISASTER LOANS.—The amendments made by section 3 shall apply to economic injury suffered or likely to be suffered as the result of a period of military conflict occurring on or after August 1, 1990.

SANFORD AMENDMENT NO. 34

Mr. SANFORD proposed an amendment to the bill S. 578, supra, as follows:

On page 56, between lines 19 and 20, insert the following:

TITLE VII—COMMUNITY ASSISTANCE

SEC. 701. FINDINGS

The Congress makes the following findings:

(1) Communities where military installations, reserve units, or National Guard units are located across the United States are experiencing continuing hardships as a result of the deployment of the Armed Forces of the United States in connection with Operation Desert Storm.

(2) The hardships are especially significant for communities where military personnel comprise a large percentage of the population and military installations make crucial contributions to the strength of the local economies.

(3) The removal of so many people from such communities has caused soaring unemployment, small business failures, significantly increased demands for social services, and other adverse consequences for the economic and social life of such communities.

(4) Such adverse consequences will continue until the deployed military personnel return to their respective communities.

(5) The Federal Emergency Management Food and Shelter Program supported by the Federal Emergency Management Agency provides the type of rapid response and assistance most needed by such communities, as determined by local boards that are well qualified to make such determinations.

SEC. 702. PURPOSE

The purpose of this title is to provide for the furnishing of assistance under the Federal Emergency Management Food and Shelter Program to persons who reside in communities from which a substantial percentage or resident members of the Armed Forces of the United States have been deployed or otherwise assigned in connection with Operation Desert Storm.

SEC. 703. SUPPLEMENTAL AID TO MILITARY COMMUNITIES

(a) ESTABLISHMENT.—The Emergency Food and Shelter Program National Board constituted by the Director of the Federal Emergency Management Agency shall establish a program of grants to local boards to carry out the purpose of this title.

(b) AWARD OF GRANTS.—The National Board shall establish guidelines for the award of grants under the program established pursuant to subsection (a). The guidelines shall specify the crieria for the award of grants to local boards.

(c) DURATION OF GRANTS.—Notwithstanding any other provision of law, a local board may provide assistance for the purpose of this title in the case of a community referred to in section 702 until the majority of the resident Armed Forces personnel deployed or otherwise assigned away from the community in connection with Operation Desert Storm return to that community.

SEC. 704. SOURCE OF FUNDS

For each of fiscal years 1991 and 1992, the Secretary of Defense may transfer $10,000,000 from funds in the Defense Cooperation Account to the Federal Emergency Management Agency to carry out the provisions of this title through the Federal Emergency Management Food and Shelter Program.

On page page 56, strike out lines 20 and 21 and insert in lieu thereof the following:

VIII—DEFINITIONS

SEC. 801. DEFINITIONS

HELMS AMENDMENT NO. 35

Mr. HELMS proposed an amendment to the bill S. 578, supra, as follows:

At the end of the bill, add the following new section:

"SEC. . Notwithstanding any other provision of law, none of the funds appropriated or otherwise made available by any provision of law may be obligated or expended, directly or indirectly, for the purpose of rebuilding Iraq.".

MITCHELL (AND OTHERS) AMENDMENT NO. 36

Mr. MITCHELL (for himself, Mr. DOLE, Mr. NUNN, Mr. MCCAIN, Mr. HELMS, Mr. KERREY, and Mr. DIXON) proposed an amendment to amendment No. 35 proposed by Mr. HELMS to the bill S. 578, supra, as follows:

Strike all after the word "SEC." and insert in lieu thereof the following: "It is the sense of the Senate that none of the Funds appropriated or otherwise made available by any provision of law may be obligated or expended, directly or indirectly, for the purpose of rebuilding Iraq while Saddam Hussein remains in power in Iraq".

MITCHELL (AND DOLE) AMENDMENT NO. 37

Mr. NUNN (for Mr. MITCHELL and Mr. DOLE) proposed an amendment to the bill S. 578, supra, as follows:

On page 5 of the amendment, on line 24, strike all after "pay" through the comma on line 25.

On page 30 of the amendment, on line 20, strike "August" and insert in lieu thereof "October".

On page 30, after line 20, of the amendment, add the following:

(3) The increases in benefits and payments authorized by this title for "Montgomery GI bill" benefits shall be ratably adjusted so that the appropriations necessary for such increases in benefits or payments for fiscal years 1991 through 1995 do not exceed $500,000,000 less the total of the amounts appropriated for fiscal years 1991 through 1995 for the benefits or payments authorized by this title other than those for increases in "Montgomery GI bill" benefits and payments.

DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS

NICKLES AMENDMENT NO. 39

(Ordered to lie on the table.)

Mr. NICKLES (for himself, Mr. DECONCINI, Mr. D'AMATO, and Mr. LAUTENBERG) submitted an amendment intended to be proposed by him to the bill (H.R. 1281) making dire emergency supplemental appropriations for the consequences of Operation Desert Shield/Desert Storm, food stamps, unemployment compensation administration, veterans compensation and pensions, and other urgent needs for the fiscal year ending September 30, 1991, and for other purposes, as follows:

At the end of the legislation, add the following new section:

SEC. . TERMINATION OF ASSISTANCE FOR JORDAN.

(a) PROHIBITION.—None of the funds appropriated or otherwise made available by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, or by any previously enacted Act making appropriations for foreign operations, export financing, and related programs, may be obligated or expended for assistance for Jordan, and funds previously obligated for assistance for Jordan shall be deobligated within 30 days from the date of enactment of this Act. Such deobligated funds shall be available for reobligation pursuant to section 515 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991.

(b) EXCEPTIONS.—The provisions of subsection (a) shall not apply to—

(1) assistance for refugees;

(2) assistance to finance the training or studies outside Jordan of students whose course of study or training program began before the date of enactment of this Act; or

(3) costs incurred in connection with the termination or suspension of contractual arrangements as a result of the termination of assistance under subsection (a).

(c) TERMINATION EXPENSES.—

(1) CONTRACT ADOPTION.—In implementing the requirements of this section, for the purpose of making an equitable settlement of termination claims under extraordinary contractual relief standards, appropriate Federal agencies may adopt as a contract or other obligation of the United States Government, and assume (in whole or in part) any liabilities arising thereunder, any contract with a United States or third-country contractor that had been funded with assistance for Jordan under the Foreign Assistance Act of 1961 or the Arms Export Control Act prior to the termination of assistance for Jordan.

(2) AVAILABILITY OF FUNDS.—Amounts certified as having been obligated against appropriations made before the date of enactment of this Act for assistance for Jordan are hereby continued available until expended to meet necessary expenses arising from the termination of assistance under this section.

NOTICES OF HEARINGS

SUBCOMMITTEE ON ENERGY AND REGULATION AND CONSERVATION

Mr. WIRTH. Mr. President, I would like to announce for the public that the hearing scheduled before the Subcommittee on Energy and Regulation and Conservation for Tuesday, March 19, at 2 p.m., will focus on provisions of title III of S. 341 regarding building energy efficiency standards. The hearing will not include building energy and efficiency ratings as originally planned.

The hearing will take place in room SD-430 of the Dirksen Senate Office Building in Washington, DC.

For further information, please contact Leslie Black or Allen Stayman, at (202) 224-4756.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a joint hearing with the House Committee on Interior and Insular Affairs on Thursday, March 21, 1991, beginning at 9:30 a.m., in 485 Russell Senate Office Building on the San Carlos Water Rights Settlement Act of 1990.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON EUROPEAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask, unanimous consent that the Subcommittee On European Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 14, at 10 a.m. to hold a hearing on the lesson of the Helsinki process for the new world order.

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

SUBCOMMITTEE ON WESTERN HEMISPHERE AND PEACE CORPS AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Western Hemisphere and Peace Corps Affairs of the Committee

on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 14, at 2 p.m. to hold a hearing on issues relating to a bilateral free trade agreement with Mexico.

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

SUBCOMMITTEE ON COMMUNICATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Communications, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on March 14, 1991, at 2 p.m. on S. 12, Cable Television Consumer Protection Act.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, March 14, beginning at 9:30 a.m., to conduct a hearing on the nomination of William H. Kennoy to be a member of the Board of Directors, Tennessee Valley Authority.

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

SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION, AND INFRASTRUCTURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Water Resources, Transportation, and Infrastructure, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, March 14, beginning at 10 a.m., to conduct a hearing on how to provide excellence in public building design, and public building service oversight.

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

COMMITTEE ON FINANCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on March 14, 1991, at 10 a.m. to hold a hearing on the President's request for extension of fast track legislative procedures for consideration of international trade agreements.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, March 14, 1991, at 10 a.m., for a hearing on the nomination of Bernadine Healy to be Director of the National Institutes of Health.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, March 14, 1991, at 9:30 a.m., to receive testimony on the following congressional election campaign finance reform proposals: S. 3, S. 6, S. 7, S. 53, S. 91, S. 128, S. 143, S. 294, and Senate Resolution 70. Witnesses include Mr. Fred Hardin, president, United Transportation Union; Mr. Fred Garber, president, National Association of Business PACs; Mr. James M. Ratcliffe, chairman, National Public Affairs Steering Committee, National Association of Manufacturers; Mr. Michael J. Malbin, director, Center for Legislative Studies, Rockefeller Institute of Government; Mr. Curtis B. Gans, director, Committee for the Study of the American Electorate; and Mr. Michael J. Conly, member, Television Board of Directors, National Association of Broadcasters.

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

COMMITTEE ON ENERGY AND NATIONAL RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the full committee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 10 a.m. March 14, 1991, to receive testimony on S. 341, the National Energy Security Act of 1991, title XV concerning reform of the Public Utility Holding Company Act of 1935 [PUHCA].

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

By Mr. MITCHELL. Mr. President, I ask unanimous consent that the full committee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m. March 14, 1991, to continue the morning hearing on PUHCA.

The PRESIDING OFFICER. Without objection it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President I ask unanimous consent that the Committee on Banking, Housing and Urban Affairs be allowed to meet during the session of the Senate, Thursday, March 14, 1991, at 10 a.m. to conduct a markup of S. 534, and S. 565, awarding gold medals to Gen. H. Norman Schwarzkopf and Gen. Colin Powell; pending nominations; and S. 305, Money Laundering Enforcement Amendments of 1991.

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

ADDITIONAL STATEMENTS

A TRIBUTE TO PAULA KRANZ

• Mr. CONRAD. Mr. President, I rise today to honor an outstanding young woman from my State of North Dakota.

Paula Dean Kranz of Bismarck has just been named one of the eight regional winners of the High School All-American Award sponsored by the Amateur Athletic Union and Mars Milky Way. She was selected from over 8,500 high school seniors nominated nationwide.

One glance at Paula's long list of accomplishments makes it easy to understand why Paula has been honored with this scholarship. She is Century High Schools' valedictorian. She is president not only of Century High School's student body, but of the North Dakota Association of Student Councils. She plays principal second violin in the all-State orchestra. She is an all-State basketball player and her team's captain for 4 years. She holds three school records in track and was voted the track team's most valuable player. And still, I would add, Paula finds time to tutor and sponsor a Guatemalan child.

I could go on for hours about Paula's many accomplishments. She is truly an amazing individual with a bright future ahead of her. I speak for my entire State when I wish Paula all the best, and say that I am very proud of her.•

GENERAL AVIATION ACCIDENT LIABILITY STANDARDS ACT OF 1991

• Mr. MURKOWSKI. Mr. President, I rise today in support of legislation introduced by the Senator from Kansas, Mrs. KASSEBAUM, the General Aviation Accident Liability Standards Act of 1991.

The escalating cost of liability insurance has had a significant impact on the ground aviation industry. Not only have manufacturers been subject to astronomical damage awards, which translate into high liability insurance premiums, but subsequent increases in the cost of small aircraft have priced many consumers out of the market. The bill introduced by the Senator from Kansas injects a sense of realism into the debate over general aviation accident liability standards.

The bill would establish a uniform standard for liability cases in this industry, to address inconsistent State court judgments which have lead to instability and unpredictability in the industry. The bill would impose what I believe is a realistic 20-year statute of repose for aircraft and replacement parts. When a manufacturer sells an aircraft, the new owner is responsible for the inspection, maintenance and upkeep of the aircraft. This legislation would ensure that a manufacturer is not held liable for an accident that results from an owner's failure to perform these responsibilities. This is particularly significant in Alaska, where it is not unusual to come across planes still active in general aviation which

are 40 or even 50-years-old, which have been repaired with parts that have been cannibalized from other aircraft.

The Senator's bill will provide stability to the general aviation industry, which would be very helpful to my State. Alaskans are uniquely dependent upon general aviation aircraft for our way of life. From communities on the Aleutian Chain to the North Slope, Alaskans depend on small aircraft for the basic necessities of life. Mail, foodstuffs, and equipment are all transported by small aircraft throughout rural communities that have no access to a road system. Many communities have minimal or no healthcare facilities and residents must depend on general aviation aircraft to transport them to facilities in Anchorage or Fairbanks for treatment.

The importance and prevalence of general aviation in Alaska cannot be underestimated. Alaska has one of the highest percentage per capita of pilots in the entire United States, with approximately 13,000 pilots. Merrill Field in Anchorage is one of the busiest airfields in the world servicing small aircraft. Hard flying conditions in Alaska place difficult demands on equipment and pilots in Alaska.

Mr. President, I would not support the Senator's bill if I believed it solely protected manufacturers. This bill will also protect general aviation consumers. Many consumers are unable to purchase new aircraft or obtain liability insurance because of escalating costs caused at least in part by product liability concerns. In addition, exorbitant liability insurance rates have forced many manufacturers, and suppliers to curtail production or get out of the aviation business altogether. For example, virtually no single engine aircraft are manufactured in the U.S. If we do not take steps to assist our general aviation industry, our foreign trading partners are poised to export their planes to fill the void. This bill should help to rein in the costs of aircraft and liability insurance and increase the ability of consumers to purchase new aircraft and aviation products.

The bill ensures that there will be fair compensation for those who are injured as a result of defective aviation products. The bill does not place a cap on damage awards, limit the right of a party to file suit, or relieve a manufacturer of responsibility for its product. It will, however, help to ensure the availability, at a reasonable cost, of general aviation products.

Mr. President, the bill introduced by the Senator from Kansas realistically balances the interests of manufacturers and consumers. I urge my colleagues to give it their full support.●

JOBS AS WELL AS AFFORDABLE HOUSING

● Mr. SIMON. Mr. President, in grade school and high school and for one year of college, I went to school with a friend named Don Schmieding.

He then went into business in Eugene, OR, and has been a business leader and is now retired from business. Now he is active in providing help for the homeless.

He is an illustration of the kind of asset that can make such a huge difference in this country.

He recently wrote to me, and I would like to quote one paragraph from that letter:

> The most important statistic that we have developed is how many of our residents are working—either one or both members of a two parent family—and they cannot make it. They live so close to the crisis line that any reversal can put them on the street. So it is about jobs, as well as affordable housing.

I mention this because you will be hearing more from me on the question of jobs as this session rolls on. The reality is that we have far too many people who are still unemployed in this Nation or, if they are employed, are having a really difficult time getting by.

Someday, this Nation is going to have a program where we will guarantee a job opportunity to every American.

I want to see us try some demonstration projects along that line.

My letter from Don Schmieding simply underscores how the jobs program ties into homelessness, as it does to health, as it does to education opportunities and to many other things.●

TRIBUTE TO DR. DOUGLAS C. ENGELBART

● Mr. SEYMOUR. Mr. President, I rise today to recognize and bring to the Senate's attention the achievements of a distinguished Californian, Dr. Douglas C. Engelbart.

Today, Dr. Engelbart is being inducted into the Coors American ingenuity Hall of Fame in honor and recognition of his pioneering efforts in the field of computer technology.

Only 40 years ago, Mr. President, the computer was a large, cumbersome, misunderstood device that existed only in a few research laboratories. It was Dr. Engelbart's vision, for which he is being honored today, that led to the widespread application of this new technology.

He said, "I had this kooky thing happen to me in 1951." Well this "kooky idea" as he calls it, was based in his belief that the computer could become a part of daily life, that it could be integrated into the personal and business lives of Americans.

Much of the computer technology that we now take for granted is a result of Dr. Engelbart's creativity and innovation. How many of us can imagine an office—our own offices—without at least one, and usually many, desktop computers? Dr. Engelbart invented this now widespread device, as well as many of the important applications associated with it. For instance, he showed how individual work-stations could be linked to allow several people to work together on one project, how a "split-screen" could allow one person to work on more than one project at the same time, and he developed the concept of compiling information in enormous data bases accessible to many people.

Clearly, Dr. Engelbart's ideas and their applications have radically affected modern society and our lifestyles.

Mr. President, I am pleased to be able to recognize Dr. Engelbart for his truly visionary and innovative achievements, and I would also like to thank the Coors Brewing Co. for their efforts in identifying and honoring Americans like Dr. Engelbart who have contributed to the vitality of American business through their ingenuity and creativity.●

HIGHER EDUCATION ACT

● Mr. SIMON. Mr. President, later this year, we will be working on the reauthorization of the Higher Education Act.

We have just gone through a remarkable military victory in the Middle East, and part of the credit for that victory goes to Gen. Colin Powell.

These two subjects come together when you realize that it was access to higher education that made possible General Powell's rise in the military.

When we fail to provide an opportunity for quality education for all young people, we deprive this Nation of future military leaders, scientists, engineers, teachers, members of the clergy, and political leaders. In the column written by Albert Shanker, president of the American Federation of Teachers, which appears in the New York Times each week, he has General Powell's recollections as they first appeared in the American School Board Journal.

I ask to insert General Powell's remembrances into the RECORD at this point, and I urge my colleagues to read his story, not only for the personal insight it gives into General Powell but the insight it gives into the need for providing quality education for everyone.

The article follows:

THE UNWRITTEN AMERICAN BARGAIN

(Today's guest column is by Gen. Colin L. Powell, chairman of the Joint Chiefs of Staff, U.S. Department of Defense. It first appeared in The American School Board Journal, February 1991.)

I graduated from Morris High School on Boston Road in the Bronx when I was 16. My

parents expected me to go to college—they expected me to do better than they had done. And I valued my parents' opinion so highly that there was no question in my mind. I was going to college. And where to go to college was not an issue either. I was accepted at New York University and at the City College of New York. But NYU cost $750 a year, and CCNY cost $10—no contest for a poor boy from the South Bronx.

I didn't do exceptionally well at CCNY—or at least, I didn't think so at the time. I passed with straight C's and graduated only because of my superior grades in ROTC, the Reserve Officer Training Corps. It took me four and one-half years, one summer session and a change of academic major—plus straight A's in ROTC—but I did graduate.

My CCNY graduating class went off in a thousand and one directions, as do all classes. Many people went the same way I did, into the Army. The Army was exciting: It promised adventure, it was a way to serve and most of all it was a job. For me, it turned out to be maturing process also.

Between the ages of 16 and 33, something happened to me because later, when I went to George Washington University and got my Master's degree, I made an A in every course except one, in which I made a B. I believe the difference was a matter of growing up, the sense of responsibility the Army had given me, a few years of war and perhaps a wife and two children.

But I believe it was also the foundation I had gotten at CCNY. In fact, soon after entering the Army, I discovered how important CCNY had been. I was serving with West Pointers and with other ROTC graduates who had the benefit of having attended some fairly prestigious universities. But I found out that the education my fellow ROTC cadets and I had received at CCNY was a great one, notwithstanding my own failure to drink as deeply from it as I might have. In terms of our ability to write, to express ourselves, to reflect the skills and mental disciplines of a liberal arts education, to be knowledgeable of our culture and our values, to know our history, we were equal to our contemporaries from any school in the nation. And for that I must thank the institution—the teachers and faculty of the City College. And also the entire public school system of the City of New York—including Public Schools 20 and 39, Junior High School 52, and Morris High School.

My story is not very different from the stories of tens of thousands of other CCNY graduates who received the benefits of a great, free public education. Most of those people fit the same mold I did—kids from working-class immigrant families. Their parents had dreams and ambitions for their children—if not always the means to fulfill those dreams. And we lived in a city that believed in its obligation to educate its youth and to be the dream-maker for those parents.

It was sort of an unwritten but intuitively understood three-way bargain: a bargain among parents, kids and schools. The parents were aware of it. The kids weren't so much aware but just sensed it through their parents. The schools strove to hold to it. Entire neighborhoods were buoyed by it—how could they not be? Education was the way up.

Parents worked long hours, many of them at menial tasks. The kids were often latchkey boys and girls. There were so many "minorities" that none of us really thought of ourselves as being in a minority. An implicit trust in "the bargain" and in one another, person to person and person to institution, was undefined but nonetheless powerful, strong and abiding. After all, it was America. And America meant progress. There simply was no disputing that—you could get a black eye if you tried.

Looking back, I guess if I had to say what was the most important lesson I ever learned—and that's hard because there are several—my first inclination would be to say it is the imperative to drink very deeply at the fountain of knowledge wherever, whenever and in whatever guise that fountain might appear.

But looking more deeply, I believe there's a more vital thing to be learned. It's the obligation we all have to keep the fountain flowing, now and for future generations. The lesson is not simply to get the most we possibly can out of every ounce of education we can get our hands on and never stop learning. That's very important, but there is more. We must ensure there is always a fountain to drink from and no obstacles to drinking.

We must ensure there is always some sort of bargain—a mutual promise concerning education—among the parents, schools and children in our cities. This bargain is the single most important building block of our future. It will determine what America will be like in the 21st century. It will shape our future more dramatically than anything else we do.

I believe it was Henry Adams who said that the purpose of education is to increase the extent of our ignorance. That sounds a bit crazy until you give it some long, hard thought. If Adams was right, maybe that's why my teachers at CCNY and elsewhere knew someday I would be sufficiently ignorant to look back and thank them. And sufficiently ignorant to want to protect the imperfect but beautiful process that made me that way.●

McGRUFF TRUCK CRIME PREVENTION PROGRAM

● Mr. INOUYE. Mr. President, it is always difficult to evaluate the effectiveness of crime prevention programs. Nevertheless, Congress has continually funded crime prevention programs with the hope that our investment will yield future dividends.

For example, each year Congress makes a relatively modest investment in the National Crime Prevention Council. The Council helps State and local governments, law enforcement, schools, and community organizations work together to reduce crime and drug abuse. Their symbol is "McGruff the Crime Dog," who advises our Nation's youth to "Take a bite out of crime," and "Just say no."

In Hawaii, we have a McGruff Truck Program, a network of utility truck drivers who are trained to respond to emergency situations by using their two-way communication radios. On August 22, 1990, three McGruff truck drivers helped avert an attempted sexual attack on a 13-year-old girl in Kahuku, HI.

The McGruff campaign has also been successful in Hawaii's elementary schools. According to a recent survey conducted by the Hawaii Criminal Justice Commission, 98 percent of kindergarten through sixth grade students in Hawaii indicated that they do what McGruff tells them to do. Virtually all elementary school teachers in Hawaii teach McGruff crime prevention lessons one or two times a month.

According to the Hawaii Criminal Justice Commission, "McGruff has been effective in preventing substance abuse and providing protection skills for the 5- to 12-year-old school population."

The message is clear. Our investment in crime prevention is paying off. As Congress faces the prospect of increasing Federal deficits, we must not lose sight of the fact that crime prevention programs are cost effective. Funding for crime prevention can help reduce the long-term demand for costly prison space and can help contain the rising cost of drug treatment. But our investment in crime prevention is minuscule compared to the staggering costs of incarceration, rehabilitation, and treatment.

Crime prevention programs do not always provide quick-fix solutions to social problems, and policymakers are always seeking short-term results. But as we have learned in Hawaii, crime prevention is a critical, and often overlooked, component of our arsenal to stem drug abuse and crime. If this Nation is seriously interested in fighting crime and drug abuse in the long term, we must be prepared to make investment in crime prevention today.●

OUT OF MY MIND

● Mr. SIMON. Mr. President, a longtime friend of mine is a retired faculty member at Valparaiso University in Indiana. He is John Strietelmeier, and every week he sends out a column that he writes to a few of his friends titled simply, "Out of My Mind."

Recently, he had some comments about the war and what we ought to be doing that I thought my colleagues in the House and Senate would be interested in seeing, and I will ask to insert them into the RECORD at the end of my remarks.

Two observations of interest.

First, generals are much more sensitive about keeping us out of war than nongenerals as Presidents. It was interesting to me during the Reagan administration that the State Department frequently was more willing to become bellicose and willing to take military action than was the Defense Department.

I have also noticed that, occasionally, people with either no military background or very limited military background are in some way compensating, perhaps subconsciously, and being more military than is prudent.

The second observation that John Strietelmeier makes, I agree with completely. He says:

If restoring the Emir of Kuwait to his throne is worth the lives of young men and women, it ought to be worth a few bucks from all of the rest of us.

We are playing a game that we can have war "on the cheap." We are asking our troops to sacrifice in Saudi Arabia and their families to sacrifice at home, but we are not being asked to sacrifice, and that does not make much sense.

I ask to insert the John Strietelmeier statement in the RECORD at this point.

The article follows:

I read somewhere yesterday that, of all the generals we have elected to the presidency, not a single one got us into a war during his term of office. I had not known this before, but I do not find it surprising. Men—and now women—who have known the hell of combat have no desire to repeat the experience. It may look like a game on television news. It may look even more like a game on the hooked-up John Wayne-Ronnie Reagan fictionalized versions of it. And it may sound like a game when the personable spokesmen for the military gives the press their daily ration of low-calorie, low-cholesterol "news from the front." But games are for the young. And war is a process of premature aging.•

ARIZONA EYE DONOR MONTH

• Mr. McCAIN. Mr. President, I am proud to voice my support for all the noble work done by the Arizona Eye Bank. In my home State of Arizona, March is Eye Donor Month. Through the efforts of those who do so much at the Arizona Eye Bank, the precious gift of sight can be bestowed to countless Arizonans.

The transplant process depends upon donation from humanitarian minded citizens; there is no substitute for human corneal tissue. Many people, many Arizonans, wait in pain and in darkness because there is not emough corneal tissues available. I commend the Arizona Legislature and former Governor Mofford for supporting recognition of March as Eye Donor Month and bringing this issue to the attention of my fellow Arizonans.

Mr. President, sight is such a precious commodity, and the Arizona Lions Eye Bank deserves credit for helping restore sight to so many. They deserve our support and commendation during Arizona Eye Donor Month for all their hard work.•

UGANDA'S WOMEN: CHILDREN, DRUDGERY AND PAIN

• Mr. SIMON. Mr. President, one of the most moving stories I have read for sometime comes from Uganda, a country that has experienced more pain than most countries, in terms of its Government, though recently it has had the good fortune to have an enlightened leader. But enlightened leaders cannot change a culture overnight in Uganda any more than they can in the United States.

The plight of women in much of Africa, in much of the world, is one of those nondramatic tragedies that I hope civilization can move away from.

There is no better illustration of this than a story by Jane Perlez in the New York Times titled, "Uganda's Women: Children, Drudgery and Pain."

I have been reading Ms. Perlez' stories in the New York Times for some time, but rarely have I been so moved by a story as I have by this story from Uganda.

I ask to insert this story in the RECORD, and I urge my colleagues and their staffs to read the story. Somehow, we have to do better for the women of the world than we are now doing.

The article follows:

[From the New York Times, Feb. 24, 1991]

UGANDA'S WOMEN: CHILDREN, DRUDGERY AND PAIN

(By Jane Perlez)

NAMUTUMBA, UGANDA.—When 28-year-old Safuyati Kawuda married the man she remembers as "handsome and elegant," her husband scraped together the bride price: five goats and three chickens. The animals represented a centuries-old custom intended to compensate Mrs. Kawuda's father for losing the labor of his daughter.

In the decade since, Mrs. Kawuda has rarely seen her husband, who long ago left this hot and dusty village for a town 70 miles away. She has accepted her husband's acquisition of two other wives and has given birth to five of his 13 children.

Instead of laboring for her father she has toiled for her husband instead— hauling firewood, fetching water, digging in the fields, producing the food the family eats, and bearing and caring for the children.

Like Mrs. Kawuda, women in rural Africa are the subsistence farmers. They produce, without tractors, oxen, or even plows, more than 70 percent of the continent's food, according to the World Bank. Back-breaking hand cultivation is a job that African men consider to be demeaning "women's work." The male responsibility is generally to sell the food the women produce. But as urbanization has stepped up, men have gone to the cities in search of other jobs, leaving women like Mrs. Kawuda alone.

MANY INEQUALITIES

The discrepancy between the physical labor of women and men is accompanied by other pervasive inequalities. In the vast majority of African countries, women do not own or inherit land. Within families, boys are encouraged to go to school, girls are not. In many places, women treat wife-beating as an accepted practice. The Uganda Women's Lawyers Association recently embarked on a compaign to convince women that wife-battering is not a sign of a man's love.

Recent surveys in Africa show other significant disparities between men and women. In 10 African countries, according to the United Nations Children's Fund, women and children together make up 77 percent of the population. Yet in only 16 percent of the households in those countries do the women have the legal right to own property.

Despite calls by the United Nations for the improvement of the lives of African women and efforts by the World Bank to finance projects focused on women, little has been done to improve the dismal status of rural women, African and Western experts say. With the continent's worsening economies in the 1980's, women suffered even more.

"The poor, the majority of whom are women, have had to take on additional work burdens in order to cope with cutbacks in social services and the increased cost of living," the Weekly Review, a magazine in Kenya, reported last year.

NO EXPECTATIONS

Mrs. Kawuda has never attended school. She cannot read or write, although her husband can. She has no radio. The farthest she has been from home is Jinja, 70 miles away. She has no expectations of a better life because she has known nothing else. But her ignorance of the outside world does not stop her from knowing her life is unrelentingly tough. She knows that in her bones.

"Everything is difficult," Mrs. Kawuda said, as she bent over to hoe cassava, her bare, rough feet splattered with dark dirt. "It's more of a problem than it used to be to find firewood. If you can't find wood on the ground, you have to cut it and there is no one to help you. Digging in the fields is the most difficult. I don't like it."

Mrs. Kawuda shares her world of perpetual fatigue with her five children; her husband's second wife, Zainabu Kasoga, 27, and her four children. Her husband's third wife—"the town wife"—lives in Jinja, where the husband, 31-year-old Kadiri Mpyanku, a tea packer, spends most of his time.

When the husband visited Mrs. Kawuda on a recent weekend, he brought enough sugar for three days and a packet of beans. Mrs. Kawuda said she was dependent on him for clothes and other essentials, and money that she said he did not always have. In most households in the area, the men also live most of the time in either Jinja or Kampala, the capital.

Here in the village, 120 miles northeast of Kampala, Mrs. Kawuda and Mrs. Kasoga run a household with another woman, the wife of their husband's brother, Sayeda Naigaga, 20, and her three children.

VILLAGE LIFE

The women live without running water or electricity in three small, mud-wall structures. In the outdoor courtyard, life grinds on: the peeling and chopping of food, eating by adults and feeding of infants, washing, bathing, weaving and the receiving of guests all take place on the orange clay ground, packed smooth by the passage of bare feet.

In the old days, Ugandan men built separate houses for each wife, but such luxuries disappeared with the collapse of the economy. Mrs. Kawuda and her five children sleep in one room of the main shelter and Mrs. Kasoga and her four children in another. When their husband is around, he shuttles between the two bedrooms.

Mrs. Kawuda is of the Bisoga tribe, the second largest in Uganda and one where polygamy is common. Sexual and marriage mores differ in various parts of Africa. The Uganda Women's Lawyers Association estimates that 50 percent of marriages in Uganda are polygamous and, according to United Nations figures, a similar percentage exists in West Africa.

In Kenya, the Government's Women's Bureau estimates that about 30 percent of the marriages are polygamous. However, because of the economic burden of keeping several wives and families, the practice is declining, the bureau says.

WIVES OFTEN HOSTILE

Often the wives in a polygamous marriage are hostile toward each other. But perhaps as a survival instinct, Mrs. Kawuda and Mrs. Kasoga are friendly, taking turns with Mrs. Naigaga to cook for the 15-member household.

Days start with the morning ritual of collecting water. For these Ugandan women, the journey to the nearest pond takes half an hour. The six-gallon cans, when full of water, are heavy on the trip home.

Digging in the fields is the most loathed of the chores, but also the one the women feel most obliged to do since the family's food supply comes from what they grow. As they work under the sun, the women drape old pieces of clothing on their heads for protection. The youngest child, 2-year-old Suniya clings to her mother's back while Mrs. Kawuda hunches over, swinging a hoe, a sight as pervasive in rural Africa as an American mother gliding a cart along the aisles of a supermarket. "Having a baby on your back is easy," Mrs. Kawuda said. "When you are eight months pregnant and digging, it is more difficult."

There was no possibility the husband would help in the fields. It was his job to "supervise," said Mrs. Kawuda, ridiculing a suggestion that he might pitch in.

When he arrived late on a recent Saturday night Mr. Mpyanku was treated as the imperious ruler by the children, some of whom tentatively came to greet him. He was barely acknowledged by the women, who seemed a little fearful and immediately served tea.

By early Sunday morning, he had disappeared to the nearby trading post to be with his male friends. "He has gone to discuss business with his friends," Mrs. Kawuda said. "What business can I discuss with him? Will we talk to him about digging cassava?"

Mrs. Kawuda said her husband had promised not to take any more wives. "But you never know what he thinks," she said. "I can't interfere in his affairs. If I did, he would say: 'Why is she poking her nose into my affairs?'"

Fertility and children remain at the center of rural marriage in Africa. Large numbers of children improve a household's labor pool and provide built-in security for parents in old age.

Mrs. Kawuda said she wanted one more child in the hopes of its being another boy. After that, she said, she would use an injectible form of contraceptive. It is a method popular among African rural women because it can be used without their husband's knowledge. But in reality, contraception was an abstraction to Mrs. Kawuda since she had no idea where to get it. She had never heard of condoms.

A recent concern for African women is AIDS, which like much else in their lives they seem powerless to control. Unconvinced by her husband's assurances that he is faithful to his town wife, Mrs. Kawuda said: "He can say it's all right, we need not worry. But you never know what he does in town. He fears AIDS, too. But he messes around too much."

A worldly person compared to his wives, Mr. Mpyanku speaks reasonable English and has traveled to Kenya.

He described himself as the provider of cash for the rural family. But Mr. Mpyanku's emphasis is on his own livelihood and his urban life.

He rode the most confortable form of transportation home, a nonstop minibus from Jinja that cost about $1.50, instead of the cheaper taxi at $1. He would do the same on his return.

Yet his oldest child, a daughter, Maliyamu, 10, missed much of her schooling last year. Her report card said her $7 in school fees had not been paid. It was a cheerless sigh that Mrs. Kawuda's daughter would, like her mother, remain uneducated and repeat for another generation the cycle of female poverty and punishing physical labor.●

VERMONTERS RESPOND TO "OPERATION LITTLE THINGS"

● Mr. JEFFORDS. Mr. President, I would like to take this opportunity today to recognize the many Vermonters who responded so generously to my appeal for Operation Little Things, a grassroots effort for holiday donations for our service personnel stationed in Saudi Arabia.

The project, which was initiated by Colin and Alice MacDonald of Essex Junction, VT, was supported by the Westminster Cub Scouts, led by Steve Kerr, and organized by volunteers from my Vermont offices. Donations of little things were collected from a statewide network of dropoff sites and then trucked to the Westover Air Force Base. From the Air Force base, they were flown to Saudi Arabia aboard military transport planes as space became available.

Volunteers supervising statewide dropoff sites included: Roy Beardsley of the Bennington Veterans of Foreign Wars, Gary O'Dell of the St. Albans American Legion, Roberta Baker of the St. Johnsbury American Legion, George Bennett of the Bellows Falls Elks Lodge No. 1619, Sam Haskins of the Brattleboro Veterans of Foreign Wars, Tim Beede of the White River Junction Vietnam Vets Center, Pete Shattuck of the Springfield Elks Lodge No. 1560, and Rodney Dimick of the Windsor Elks Lodge No. 1665.

Donations were collected from the sites and driven to Westover Air Force Base in numerous trips, with many vehicles, by Colin and Alice MacDonald of Essex Junction and Steve Kerr of Westminster with the assistance of National Guard members: Leon Parker of Chester, David Stewart of Brattleboro and John Kelleher of Greenwich, NY.

The outpouring of support shown by Vermonters for our troops was overwhelming. This kindness and support sent a very clear message to our service personnel that the folks back home are proud of their efforts and have not forgotten them. I am especially appreciative of the many individuals, families, businesses, and organizations who donated hundreds of boxes of personal items, sports equipment, and reading and writing materials.

Our service personnel had to spend the holidays far from home and without their families. Their job was made a bit more bearable with the "little things" and heartfelt support sent by caring Vermonters.●

STATE INDIANS LOSE GOOD FRIEND

● Mr. SIMON. Mr. President, recently, Robert N. Huey, had an article in the Argus Leader of Sioux Falls, SD.

He was in charge of the Bureau of Indian Affairs Chicago field office for Industrial Development for 16 years. But more important than that, his daughter, Pam Huey, works on my staff. Not only is she an asset to the staff, but she is simply a marvelous human being.

Robert Huey writes about a gesture of friendship to the American Indian community by the late George Allen, former coach of the Washington Redskins.

It is a story that I hope will invite others to be more sensitive to the problems faced by the American Indian community.

I ask to place the Robert Huey article into the RECORD at this point.

The article follows:

STATE INDIANS LOSE GOOD FRIEND—ALLEN CO-FOUNDED FUND THAT RAISED THOUSANDS FOR SCHOOL

(By Robert N. Huey)

The Indians in South Dakota and elsewhere lost a true friend in the death recently of George Allen, nationally-known football coach.

One day in the mid-1960s George Allen, then defensive coach for the Chicago Bears, and Bill George, all-pro line backer for the Bears, happened to stop at the Red Cloud Indian School near the Pine Ridge Indian Reservation after filling a speaking engagement in northwestern Nebraska.

They were immediately made aware of the poor sports facilities and equipment the Red Cloud Indian athletes had. There seemed to be little in the way of adequate uniforms, a real gymnasium or a full-time athletic coach.

When they returned to Chicago they didn't forget the new friends they had met at the Red Cloud Indian School. Allen and George immediately called a meeting of an all-star cast of Chicago professional athletes, radio and TV sports personalities plus a number of sports enthusiasts.

Allen was elected first president of the organization. Vince Lloyd Skaff, then a popular WGN sports announcer, now retired and living in Sioux Falls, was elected president the fourth year. The Red Cloud Athlete Fund was begun on behalf of the Red Cloud School. Dizzy Trout, former pitcher for the Detroit Tigers and the Chicago White Sox; Lou Boudreau, formerly with the Cleveland Indians and at that time with WGN; Bill Gleason, sports editor for the Chicago Sun Times; Roy Leonard, a Chicago TV personality and many others were among the members recruited.

Over the years the group, working closely with Father Earl Kurth, mission administrator at the school, raised thousands of dollars at annual banquets held in Chicago in February. This effort brought much new hope to the students and faculty of the school. A new athletic building named the "Dizzy Trout Field House" costing over $250,000 was constructed, a salary for an athletic coach was provided, a football field with complete watering system was prepared and traveling expenses for certain Indian athletes were paid and substantial funds were donated to the American Indian Athletic Hall of Fame in Lawrence, Kan.

Other items provided included pool tables, an outside basketball court, wrestling room, weight room and an outdoor track "with more equipment that I could name," Father Kurth said.

One year the Red Cloud School held a buffalo dinner and named Allen "honorary chief" and gave him the name High Eagle.

Billy Mills, Olympic gold medal winner in the 100,000 meter race in the Tokyo Olympics in 1964, was invited to one of the annual banquets and given the "First American Award."

From those early efforts a strong bond of friendship and mutual trust has grown up between the Chicago athletic community and the Indian youth at the Red Cloud School. Red Cloud athletes are invited to Chicago each year to attend the annual banquets.

The motivation and desire to be of help that for 25 years prompted Allen and the members of the Red Cloud Fund is typical of an attitude found among many U.S. business and professional individuals and others throughout the country. This spirit of good will is an important source of assistance and help available to American Indians in South Dakota and the nation.•

S. 651—FEDERAL DEPOSIT INSURANCE IMPROVEMENT ACT OF 1991

• Mr. GARN. Mr. President, yesterday I introduced S. 651, the Federal Deposit Insurance Improvement Act of 1991. I ask consent for a section-by-section analysis of that bill to be printed in today's RECORD.

The analysis follows:

SUMMARY OF S. 651, THE FEDERAL DEPOSIT INSURANCE IMPROVEMENT ACT OF 1991

TITLE I—AMENDMENTS TO THE FEDERAL BANKING ACTS

Subtitle A—Federal Banking Agency Improvements Act

Section 101. Short Title.

Section 102. Terms of the FDIC Board. Under current law, the President may appoint an individual to fill an unexpired term on the FDIC board only for the remainder of that term. This section provides that if there is less than two years remaining in the unexpired term, the appointment would be for six years.

Section 103. Conversions. Presently, a SAIF-member may sell a branch to a BIF-member if the transaction involves an "insubstantial" portion of the total deposits of both institutions, defined as 35% or less of each institution's total deposits. According to the FDIC, it does not make sense to require that the transaction affect only an insubstantial amount of the acquiror's deposits, since the public policy concern is only with the size of the branch that is leaving SAIF. This section of the bill corrects this probable drafting error, and only applies the 35% limit to the branch being acquired.

Section 104. Suspension of Deposit Insurance. Under FIRREA, the FDIC was given new power to suspend deposit insurance in certain emergency situations. However, the FDIC is required to give the other regulators 30 days advance notice before taking action. This section deletes this requirement and otherwise streamlines the process for suspending federal insurance.

Section 105. Priority of Claims. This provision gives the FDIC priority, over depositors, creditors and shareholders, in suits against officers and directors and other employees of insured institutions.

Section 106. Exemption for Certain Savings Banks. Under FIRREA, before an insured savings association conducts a new activity through a subsidiary, it must first notify the FDIC and OTS and must conduct the activities of the subsidiary pursuant to OTS regulations. However, an exemption exists for certain Federal savings associations primarily located in the Northeast. This section deletes this exemption so that these savings associations are treated in the same manner as other institutions.

Section 107. Disclosure of Uninsured Status. Current law requires uninsured savings associations to disclose the fact that they are uninsured, pursuant to FDIC regulations. This section brings uninsured banks within the scope of this requirement.

Section 108. Asset Disposition Amendments. Under FIRREA, the RTC is generally prohibited from selling property in certain distressed areas for less than 95% of its "market value." In addition, the RTC is required to sell certain residential property to low income purchasers, at below market value prices. This amendment deletes these limitations on sales.

Section 109. Penalties. Under the FDI Act, persons convicted of certain crimes may not participate in the affairs of certain insured institutions without prior regulatory approval. This amendment extends the list of institutions or organizations that are covered by this restriction to include any Federal Home Loan Bank, the Federal Housing Finance Board, and any Federal banking agency.

Section 110. Appointment of a Receiver. Under current law, the Comptroller of the Currency may appoint a receiver for a national bank only if the bank is insolvent or has violated a provision of the National Bank Act. This amendment permits the Comptroller to place a national bank in receivership if it is in an unsafe or unsound condition, including having substantially insufficient capital, or for similar safety and soundness concerns.

Subtitle B—Asset Conservation and Deposit Insurance Protection

Section 151. Short Title.

Section 152. Amendment to the Federal Deposit Insurance Act.

Depository Institutions and Mortgage Lenders. This section caps the liability of insured depository institutions and other mortgage lenders under Federal statutes that impose "strict" liability (liability without the need to prove fault or negligence) for the release of hazardous materials, where the institution involved did not cause or contribute to the release. For insured depository institutions, the limitation applies with respect to property acquired through foreclosure, or held in a fiduciary capacity, or held as a lessor pursuant to a lease that is the functional equivalent of a loan. It also applies with respect to property subject to the financial control or oversight of the institution, so long as the institution does not actively direct or conduct operations that result in the release of a hazardous substance. Under this section, if a clean-up is conducted, the institution will have liability for the benefit it receives, up to the fair market value of the property.

Cause or Contributed. The bill provides that the limitation on liability does not apply to any institution or company that caused or contributed to a release.

Failure to Stop Continuing Releases. The bill provides that the limitation does not apply to any institution or company that fails to take reasonable steps to prevent the continued release of a hazardous substance after such release is discovered.

Unexercised Capacity to Influence. The bill also provides that an insured depository institution or mortgage lender will not be liable under Federal law because they have the unexercised capacity to influence operations at or on property in which the institution has a security interest.

Federal Banking and Lending Agencies. Federal banking and lending agencies (hereinafter "Federal agencies") are protected against liability under State of Federal laws with respect to releases on property acquired in connection with receivership or conservatorship activities, or with respect to property acquired in connection with the provision of a loan, or with respect to property acquired as a result of a civil or criminal proceeding.

Cause or Contributed. Federal agencies are not protected if they caused or contributed to the release.

Subsequent purchaser. Federal agencies may sell such property to one subsequent purchaser, who will also be covered by the bill, if the purchaser was not a prior owner or otherwise potentially liable for the release, and is not affiliated with or related to such a party. The purchaser must take reasonable steps to prevent the continued release of hazardous materials discovered prior to or after the purchase.

Emergency Response. Federal agencies are given protection against liability when they take actions in response to an emergency situation, so long as the agency does not engage in gross negligence or intentional misconduct.

Lien Exemption. Property transferred by a Federal agency shall not be subject to any lien for costs or damages associated with a release.

Covenants to Remediate. Federal agencies are exempt from requirements to covenant that remedial action has been or will in the future be taken.

Due Diligence. The Federal banking agencies are required to promulgate regulations to require insured depository institutions to implement procedures to evaluate potential environmental risks prior to making a loan. The Secretary of HUD is to promulgate similar regulations for mortgage lenders.

Subtitle C—Amendments to CERCLA

Section 171. This section amends the Superfund Act to provide parity of treatment for the States and Federal Government with respect to property acquired involuntarily and for emergency response actions undertaken by a governmental entity.

TITLE II—CLARIFYING AMENDMENTS

Section 201. FSLIC Resolution Fund. The bill clarifies the FDIC's role as manager of the FSLIC resolution fund and that the FDIC is authorized to act as receiver of institutions that failed pre-FIRREA.

Section 202. Branching. This section clarifies that the RTC may override state branching limitations in connection with the acquisition of a failing savings association and its conversion to a bank.

Section 303. Removal to District Court. This provision makes technical changes with respect to the RTC's authority to remove actions to the appropriate U.S. district court.

TITLE III—CLERICAL AMENDMENTS

This title corrects errors of a clerical nature concerning the Federal Deposit Insurance Corporation or the Federal Deposit Insurance Act.•

HOMICIDE: LEADING CAUSE OF YOUTH DEATH

•Mr. KOHL. Mr. President, I wish to commend Secretary Sullivan for his remarks yesterday, focusing attention on the national emergency caused by youth homicide. According to the Center for Disease Control, homicide is now the leading cause of death for black males between the ages of 15 and 19. Both victims and perpetrators are adolescents: A chilling fact, indeed.

Guns figure prominently in such tragic deaths. As Sullivan pointed out, a black male teenager is 11 times more likely to die from a gunshot than his white counterpart. And death by firearm for all teens increased over 40 percent from 1984 through 1988, according to the National Center for Health Statistics. Last year, I addressed a part of this problem by sponsoring the Gun Free Schools Act. But we need to do much more to combat the proliferation of guns in our Nation's schools and streets.

As chairman of the newly created Juvenile Justice Subcommittee, I intend to take a good, hard look at this entire crisis. I look forward to working with Secretary Sullivan in efforts to untangle causes, repercussions, and possible remedies for youth violence and premature death. While we may not necessarily agree with all of Secretary Sullivan's conclusions here, I know my colleagues on the Judiciary Committee and in the Senate as a whole share an admiration for his obvious concern, compassion, and commitment.

Mr. President, I ask that the Washington Post story describing Secretary Sullivan's remarks be printed in the RECORD.

The article follows:

[From the Washington Post, Mar. 14, 1991]

GUNS AND YOUTH: HHS'S GRIM STATISTICS

(By Paul Taylor)

More teenage boys die from gunshots than from all natural causes combined, and a black male teenager is 11 times more likely to be murdered with a gun than a white counterpart, Health and Human Services Secretary Louis W. Sullivan disclosed last night in a speech that linked firearms, race and family breakdown.

"Do you realize that the leading killer of young black males is young black males?" Sullivan said at Hampton University, a historically black school in Hampton, Va. "As a black man and a father of three, this reality shakes me to the core of my being."

Sullivan cited a study, to be released today by HHS's National Center for Health Statistics, showing that:

Between 1984 and 1988, the firearm death rate among teenagers increased by more than 40 percent—to the point where, for the first time, the firearm death rate for both black and white male teenagers exceeded the mortality rate from all natural causes. In 1988, a black male age 15 to 19 was nearly three times more likely to die from a bullet than a disease, and a fatal gunshot was 11 percent more likely than a fatal illness for a white male teenager.

A total of 1,641 Americans age 15 to 19 were victims of homicide by firearm in 1988, a figure that included 955 black males, 453 white males, 98 black females and 97 white females. The number of firearm deaths—a more comprehensive figure that includes accidents and suicides as well as homicides—was 3,226 for that age group, including 1,634 white males, 1,118 black males, 273 white females and 116 black females.

Unintentional injuries are the leading cause of death for all persons age 15 to 34, with motor vehicle injuries accounting for two-thirds of the total. Homicide and suicide are the second and third leading causes, followed by diseases such as cancer, leukemia and heart ailments. However, among black males age 15 to 34, homicide is the leading cause of death, and firearms are implicated in 88 percent of these homicides.

"During every 100 hours on our streets we lose three times more young men than were killed in 100 hours of ground war in the Persian Gulf," Sullivan said. "Where are the yellow ribbons of hope and remembrance? . . . Where is the concerted, heartfelt commitment to supporting the children of this war?"

Sullivan shied from any discussions of gun control. However, Rep. Edward F. Feighan (D-Ohio) said, "I can only hope that the information the secretary has presented will persuade some in his administration to support handgun control." Feighan is lead sponsor of a bill—opposed by the Bush administration—that would mandate waiting periods for handgun purchases.

Sullivan spoke to a conference on the black family and he used the firearm report for some sharp commentary about family life.

"The collapse of the American family in the past few decades is historically unprecedented in the U.S., and possibly in the world," he said. "Nowhere is this trend more apparent than in the black community, where 86 percent of children spend part of their childhood living in a mother-only family.

"Some argue that the high rate of single parenthood has not adversely affected our children. But, sadly, the research does not bear them out. . . . Study after study has shown that children from single-parent families are five times more likely to be poor and twice as likely to drop out of school. . . . They are also more likely to be involved in criminal activity, to abuse drugs and alcohol, to suffer ill health, and to become trapped in welfare dependency."

The secretary proposed no new government programs to address these matters. "I believe the federal government's role should be to encourage and assist the spread of local indigenous" community organizations that combat crime and try to restore families, he said.

Sullivan sought to use his office as a bully pulpit, as he has in his crusade against smoking. He called for a return to a "culture of character," which he described as "a culture in which parents invest time and attention in their children, and the children of a neighborhood; a culture in which children growing up without a father are a small minority."•

MANIFESTO FOR THE NEW SOUTH AFRICA

• Mr. SIMON. Mr. President, the retiring South African Ambassador, Ambassador Piet Koornhof, sent me a copy of a manifesto that President F.W. de Klerk referred to in his recent speech to the Parliament.

Let me first express my appreciation to Ambassador Koornhof, with whom I have had the privilege of working, for sending me this manifesto. And let me add that those of us who have had the opportunity to work with him wish him the best as he returns to South Africa with a good understanding of the concerns and desires of the people of the United States for freedom and justice and opportunity for all citizens in South Africa, and for a good working relationship with the United States.

The manifesto is another indication of the positive steps forward that are being taken in South Africa. This manifesto, the concrete steps called for by President de Klerk, the greater cooperation between Nelson Mandela of the African National Congress and Chief Buthelezi—all of these things—are indications that, despite some real problems that South Africa still has to overcome, they are moving in the right direction, and we applaud that movement.

I ask to insert into the RECORD the "Manifesto for the New South Africa" that President de Klerk referred to.

The manifesto follows:

MANIFESTO FOR THE NEW SOUTH AFRICA

We, as South Africans from all walks of life, associating ourselves with the goodwill and the shared desire for justice, peace and freedom among the majority of our fellow South Africans, declare—

That a just and fair New South Africa, free from apartheid, requires a strong South African nation,

That there exists, therefore, an urgent need for the leaders of all our people and communities to come together to shape a mutually acceptable new constitution for our country,

That such a constitution should be based on the rule of law and lay the foundation for a nation dedicated to justice, democracy and freedom for all, through the pursuit of participation, peace, progress, and prosperity.

That Christian values and universally accepted civilised norms and standards should be maintained in South Africa together with recognition and protection of freedom of faith and worship,

That all the people of our country should take part in this endeavour,

That we, to this end, subscribe to the following:

PARTICIPATION: A FREE AND DEMOCRATIC POLITICAL SYSTEM

We commit ourselves to the creation of a free and democratic political system in South Africa, in which:

All people shall be free in this, their country of birth;

All the people of our land shall participate fully at all levels of government on the basis of universal adult franchise;

The government of the country shall at all times be based upon the consent of the governed;

All people shall be equal before the law, and shall enjoy equal rights regardless of race, colour, sex or creed;

The rights of all individuals and minorities defined on a non-racial basis shall be adequately protected in the constitution and in

a constitutionally guaranteed and justiciable Bill of Rights;

Freedom of expression, within the generally recognised bounds of responsibility, shall be the right of all people;

Freedom of movement and of association shall be guaranteed to all.

PROGRESS: AN EQUITABLE SOCIAL SYSTEM

We commit ourselves to the creation of an equitable social system in South Africa in which:

The human dignity of each individual, being a unique creature of God, shall be respected at all times;

Freedom of religion and of worship shall be guaranteed for all;

All discrimination between groups of people or between individuals shall be eliminated and discriminatory legislation shall be repealed;

The goal of just and equitable educational systems, accessible to all, shall be striven for unswervingly;

Access for all to affordable shelter shall be a high priority.

PROSPERITY: A FREE AND EQUITABLE ECONOMIC SYSTEM

We commit ourselves to the creation of a free and equitable economic system in South Africa in which:

All people shall be free to sell their labour and market their products;

The ownership of property shall be open to all;

Economic growth with the emphasis on the creation of employment shall be vigorously promoted;

The resources of the state shall be fairly used for the common good, with special regard to the socio-economic backlogs existing in our country;

The State and all the members of our society shall accept our responsibility as custodians of our environment and resources.

PEACE: FREEDOM AND SECURITY FOR ALL

We commit ourselves to the maintenance of South Africa as a sovereign independent state, secure against foreign interference, in which:

The protection of, and respect for life, liberty and property shall be a first principle;

The peaceful settlement of political and other disputes between groups and individuals shall form the foundation of a democractic society;

Violence and intimidation shall not be tolerated as tools to attain political ends;

The State shall be charged with the duty to ensure the maintenance of stability in a peaceful and orderly society;

The application of the powers of State shall be limited to the minimum necessary for the maintenance of a peaceful and orderly society, and shall be governed by the law.

We, who associate ourselves with this Manifesto, recognize that we are still divided by many differences concerning the manner in which these ideals may best be realised, but

We also recognize that we are united in our love for our country and all its people, and therefore

We declare that we are determined to apply all our talents and our labours to overcome these differences and to find a peaceful way to build a great South African nation and a better future for the generations to come.●

WORLD CONSUMER RIGHTS DAY

● Mr. SARBANES. Mr. President, today marks the ninth formal observance of World Consumer Rights Day, which was first observed in 1983. To the credit of the United States and to our basic belief in consumer rights, the designation of March 15 as the day for this observance has great historical significance.

It was on March 15, 1962, then President John F. Kennedy sent to the Congress "A Special Message on Protecting the Consumer Interest." In it, he declared four basic consumer rights: the right to safety, the right to be informed, the right to choose, and the right to be heard.

Consumer organizations have worked to implement these rights, both in the United States and around the world. In recent years, the International Organization of Consumer Unions [IOCU] has added four more important rights: the right to satisfaction of basic needs, the right to redress, the right to consumer education, and the right to a healthy environment.

The Congress of the United States has taken important steps to further these eight rights. Even long before President Kennedy's declaration, we established a Food and Drug Administration and charged it with assuring a safe and effective drug supply and a safe food supply. The Department of Agriculture was given additional responsibilities respecting the safety of the food supply. We established a Federal Trade Commission with responsibility for securing the rights to be informed and to choose. In the past three decades we established the National Highway Traffic Safety Commission and the Consumer Product Safety Commission, both for the purpose of furthering the consumer's right to safety. We also created the Environmental Protection Agency to work for a healthier environment. Other offices within the government share responsibilities for consumers as well.

Of course, not all of these programs have been given the powers or resources needed to fully achieve their goals. Much more can and must be done. But these programs established by the Congress demonstrate a recognition of consumers' rights which many other nations are just beginning to recognize. Consumers in developing nations and the emerging democracies are just beginning to be aware of these rights, and they are developing their own consumer movements, often with the assistance and coordination function of IOCU.

International organization efforts toward these ends are important. On April 9, 1985, after 10 years of committee consideration and debate, the U.N. General Assembly adopted the U.N. Guidelines for Consumer Protection. The guidelines embrace the principles of these eight consumer rights and provide a framework for strengthening consumer protection policies of U.N. member nations. The challenge is now being taken up in many nations to achieve a transition from the statement of principles to a working reality. The work is not done, it is merely beginning. The United Nations has launched a sustained program to promote the guidelines and to assist governments, particularly those developing nations, in their implementation.

The United Nations is now working toward adoption of a U.N. Code of Conduct on Transnational Corporations. This code would further international protection of consumers and the environment. It would set up common standards of decency, fair competition, fair pricing practices, and honesty in operation of business across international boundaries. It would reaffirm the essential rights enumerated by President Kennedy. In December 1990 the U.N. General Assembly agreed to consider the adoption of the code in 1991. This comes after 12 years of negotiations. Thus, we are in the final phase of the important international effort. The code is strong and contains essential consumer and environmental protections. The United States should support its adoption.

Mr. President, I commend World Consumer Rights Day to the attention of all Members. The United States can be proud of the role we have played in assisting in the establishment of international consumer rights.●

AMERICA'S CAPTIVE NATION

● Mr. SIMON. Mr. President, the New York Times recently had an article on the question of the Puerto Rican referendum that hits the nail squarely on the head, if I may overuse an old, trite phrase.

For the United States to continue to ignore the wishes of the people of Puerto Rico and tolerate second-class citizenship for them is simply not acceptable. It is far below what we profess in our ideals.

I commend my colleague Senator PAT MOYNIHAN for standing up on this issue. Also, I want to commend my colleague Senator BENNETT JOHNSTON for his leadership. He has become almost a matinee idol in Puerto Rico because of his interest and leadership, and he deserves that stature.

Recently, Tom Wicker, with whom I ordinarily agree, had a column on Puerto Rican statehood that I think was off the mark.

I ask to insert into the RECORD the New York Times editorial, the Tom Wicker column, and a column I wrote responding to the Tom Wicker column.

The material follows:

[From the New York Times, Feb. 22, 1991]

AMERICA'S CAPTIVE NATION

How perverse it would be if American politicians who upbraid Mikhail Gorbachev for

ignoring Lithuania's independence plebiscite were to refuse Puerto Rico the same right of expression. But that's exactly what seems to be happening in the U.S. Senate.

Discovered by Columbus, colonized by Spain, seized as war booty by the United States, Puerto Rico qualifies as the oldest colony in this Hemisphere. Like the Baltic states, it was involuntarily annexed by a big neighbor. But unlike the Baltics, most Puerto Ricans favor continued association with their distant overlords, as 51st state or as a partly autonomous commonwealth.

In a world boiling with ethnic discord, Puerto Rico is enviably free of rage and persistent violence. Yet Puerto Ricans are justly furious at Washington's unwillingness to provide a free and fair referendum this year in which Puerto Ricans could finally determine whether to seek statehood, choose continued commonwealth autonomy or, as a minority wishes, become independent.

If there is to be plebiscite in 1991, Congress must act by early July. Chairman J. Bennett Johnston of the Senate Energy Committee, vowing to meet that deadline, has already held hearings on legislation that would carefully define the choices. This is very different from a House bill that simply lists the options, without elaboration, inviting angry misunderstandings.

But Mr. Johnston's draft bill may well be killed by lawmakers who like self-determination—in the Baltics. After all, says, Don Nickles, an Oklahoma Republican, Puerto Ricans might not "blend" with the U.S. if they chose statehood. Exactly, says Wendell Ford, a Kentucky Democrat, who describes Puerto Rico as that sinister thing, a "separate culture." Malcolm Wallop, Republican of Wyoming, is all for letting Puerto Ricans hold a referendum as long as Congress can ignore the results.

These are wounding arguments. Cultural, ethic and religious differences were once cited by bigots who opposed statehood for Hawaii, New Mexico, Utah and Oklahoma. Nobody spoke of a "separate culture" when Puerto Ricans were drafted to fight in past wars. Nobody says the 15,000 Puerto Ricans serving in the Persian Gulf now do not "blend in."

Finally, it verges on the dishonorable to invite Puerto Ricans to hold a referendum without assurance that Congress will heed the results—especially so when the invitation comes from Mr. Wallop, whose President and party favor statehood. Every President starting with Eisenhower has affirmed Puerto Rico's right to choose. That commitment was repeated time and again in the U.N. New York's Senator Daniel P. Moynihan recalls that it was once his job as U.S. envoy to ridicule Fidel Castro's claim that Americans would never allow Puerto Ricans freedom of choice.

Charting Puerto Rico's future will require hard legislative work and much good will. But Puerto Ricans did not ask to be annexed. They were compelled to become part of the U.S. by a process far less brutal but very like the Soviet absorption of the Baltics. It is both honorable and politically wise to permit this captive nation to decide its status freely, fairly—and promptly.

[P.S./Washington, a weekly column by Senator Paul Simon of Illinois]

COMMONWEALTH STATUS FOR PUERTO RICO: REPACKAGED COLONIALISM

One of my favorite columnists is Tom Wicker of the New York Times, but unfortunately the other day he bought a line passed out by some big corporations and their cooperative friend, the current governor of Puerto Rico, that commonwealth status is a great thing for Puerto Rico and that statehood would be bad.

Commonwealth status is fine for some major American corporations avoiding income taxes, but that is a high price to pay for second-class citizenship for Puerto Rico's citizens.

No matter how you cut it, the present commonwealth status is simply old-fashioned colonialism, attractively packaged. And the package stinks, no matter how you wrap it.

Puerto Ricans are American citizens who have served heroically in United States' wars since 1899. During World War I, 18,000 Puerto Ricans served in the armed forces, many defending vital installations in the Panama Canal Zone. A few years later, Puerto Rico contributed 65,034 of its men to the U.S. effort in World War II. Puerto Rico had more soldiers in the Korean conflict than 20 states and suffered more injuries per capita than any state. The 270 Puerto Rican combat deaths in Vietnam placed Puerto Rico ahead of at least 14 states and territories.

Puerto Ricans are entitled to be treated as first-class American citizens.

Puerto Ricans are the poorest of Americans. And statistical studies show that they are among the hardest working of Americans, measured in terms of productivity and absenteeism.

The people who defend commonwealth status are the same people who last year tried to take Puerto Rico out from the minimum wage that protects other American citizens. I led the fight to protect Puerto Rican workers because unfortunately they have no voting representation in Congress.

I have helped Puerto Ricans some, but obviously my major responsibility is to the people of Illinois.

Eventually, commonwealth status will go, just as other forms of colonialism around the world have gone. Puerto Rico will either become a state or become independent.

That decision should be up to the people of Puerto Rico.

Congress is considering legislation to give Puerto Ricans an opportunity to choose their political status in a referendum.

My own belief is that both Puerto Ricans and other Americans would be better off if the island became a state.

The corporations that now have the bonanza of not paying any income tax in Puerto Rico argue that if that island becomes a state and the corporations lose that windfall, there will be a loss of jobs.

Others argue persuasively that removing the uncertainty of Puerto Rico's status would increase its attractiveness for investment and retirement, and would cause a significant increase in employment.

No one knows the answer with certainty.

What we do know is that the current exemption (Section 936 of the Internal Revenue Code) annually costs $2.5 billion to the U.S. Treasury. In 1983, tax benefits to pharmaceutical companies in Puerto Rico amounted to $905 million or roughly $70,000 for every employee they hired in Puerto Rico (at an average salary of $20,000).

That's a good break for those corporations, but not good for America's taxpayers or the people of Puerto Rico.

But it is unhealthy to have second-class American citizens.

That has been wrong throughout our history. Interestingly, whenever we finally have had the courage to move away from second-class citizenship, with whatever name we called it, the nation has always benefitted.

Those who argue for the people of Puerto Rico against the big corporate giants may not have as slick a campaign.

But we have justice and history on our side.●

MEASURES INDEFINITELY POSTPONED

Mr. MITCHELL. Mr. President, I ask unanimous consent that Calendar items Nos. 13, 14, 16, 26, 27, 34, and 36 be indefinitely postponed.

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

EXECUTIVE SESSION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar items Nos. 25 and 26; I further ask unanimous consent that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table, en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND IMPROVEMENT

The following-named persons to be Members of the National Advisory Council on Educational Research and Improvement for the terms indicated:

Eugene L. Madeira, of Pennsylvania, for the remainder of the term expiring September 30, 1991.

A. Pierre Guillermin, of Virginia, for a term expiring September 30, 1993.

June Scobee Rodgers, of Arizona, for a term expiring September 30, 1993.

NATIONAL SCIENCE FOUNDATION

Marye Anne Fox, of Texas, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 1996.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

TACONIC MOUNTAINS PROTECTION ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 37, S. 483, the Taconic Mountains Protection Act of 1991.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 483) entitled the "Taconic Mountains Protection Act of 1991."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 38

(Purpose: To make a technical correction)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. LEAHY, proposes an amendment numbered 38.

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

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

The amendment is as follows:

In section 1(a)(2) of the bill, strike "Vermonters" and insert "Americans".

The PRESIDING OFFICER. If there is no debate, the question is on agreeing to the amendment.

The amendment (No. 38) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 483

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

SECTION 1. FINDINGS AND PURPOSES.

(a) Congress finds that—

(1) large tracts of undeveloped forest land in Vermont's Taconic Mountain Range are threatened by conversion to nonforest uses;

(2) lands included in the Green Mountain National Forest are forever open to all Americans;

(3) the Green Mountain National Forest permanently protects forests for their environmental and economic benefits through the management of range, recreation, timber, water, wilderness, and fish and wildlife resources;

(4) the Bennington County Regional Commission supports expanding the Green Mountain National Forest boundary to include the Taconic Mountain Range; and

(5) the Vermont General Assembly has enacted legislation consenting to the acquisition by the Federal Government of lands throughout the Taconic Mountain Range within Bennington County for inclusion in the Green Mountain National Forest.

(b) It is the purpose of this Act to expand the boundaries of the Green Mountain National Forest to include the Taconic Mountain Range within Bennington County.

SEC. 2. GREEN MOUNTAIN NATIONAL FOREST EXPANSION.

The boundaries of the Green Mountain National Forest are hereby modified to include all lands depicted on a map entitled "Taconic Mountain Range Expansion" dated March 1, 1991, which shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Washington, District of Columbia. Within the area delineated on such map, the Secretary shall utilize his authorities under the Act of March 1, 1911 (chapter 186, 36 Stat. 961 as amended), to acquire lands, waters, and interests therein. Lands so acquired shall be managed under such Act for National Forest purposes.

"J.E. 'EDDIE' RUSSELL POST OFFICE"

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 674, a bill to designate a U.S. post office in Tennessee, as the "J.E. 'Eddie' Russell Post Office" introduced earlier today by Senators GORE and SASSER.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 674) to designate the United States Post Office located at 304 West Commercial Avenue in Monterey, Tennessee, as the "J.E. 'Eddie' Russell Post Office."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. GORE. Mr. President, I rise today to introduce legislation to designate the U.S. Post Office presently located at 304 West Commercial Avenue in Monterey, TN, as the "J.E. 'Eddie' Russell Post Office." I am joined in offering this bill by my distinguished colleague, Senator JIM SASSER.

Designating this post office the "J.E. 'Eddie' Russell Post Office" would be a fitting tribute to a man whose life was distinguished by a commitment to community service. Eddie Russell served as postmaster of the Monterey Post Office from 1985 until leukemia took his life in 1989. Eddie was very instrumental in helping to bring this new post office to Monterey, and it would be an appropriate tribute to his hard work and dedication to have this post office bear his name.

Tipper and I remember Eddie Russell as a good friend. He began his admirable career with the U.S. Postal Service in my home town of Carthage, TN, as a postal carrier. After serving the community of Carthage for 9 years, he was promoted to the position of postmaster in the nearby town of Baxter, TN. He served there until 1984, hen he began serving Monterey. His service in the U.S. post office was exemplary and admirable.

Eddie placed significant importance on community involvement. He was a member of the Tennessee Chapter of the National Association of Postmasters of the United States, and served as vice president of this organization for 3 years. Eddie Russell was a respected member of the community as well. He was very involved in local activities with the Shriners and attended Mount Tabor Baptist Church. He is remembered fondly by his many friends in the communities which he served and is missed by his family, who live in various cities in Tennessee.

This bill is a fitting memorial to a man who devoted 19 years of his life to the U.S. Postal Service and to the communities of Monterey, Carthage, and Baxter, TN.

I ask unanimous consent that the full text of this bill be printed at the conclusion of my prepared remarks.

Mr. SASSER. Mr. President, I am most proud and pleased to join my distinguished colleague and fellow Tennessean, Senator GORE, in this legislation to designate the J.E. "Eddie" Russell Post Office in Monterey, TN.

Eddie Russell was only 43 when he lost his battle with leukemia in February 1989. Yet he had already served as Monterey's postmaster for 5 years at the time of his death. Despite his youth, Eddie had also served as postmaster of Baxter, TN, for the 5 years prior to his assignment in Monterey. Throughout his postal career, which began in 1970, Eddie's dedication to his customers, neighbors, and the Postal Service was as exemplary as his death was untimely.

Eddie's life was a story, in fact, of involvement and leadership. He was a 4-year letterman in football and class officer at Carthage High School, before attending Cumberland College in Lebanon, TN. He started out with the Postal Service as a letter carrier and worked his way up to two postmasterships. In addition to his postal responsibilities, Eddie found time to serve as area vice president of the Tennessee Chapter of the National Association of Postmasters of the United States. A member of the Mount Tabor Missionary Baptist Church, Eddie was also active with the Shriners both as a member and past master.

Eddie Russell was particularly instrumental in getting the current Monterey Post Office facility built, so it is especially fitting that the Monterey Post Office should hereafter bear his name. I join Senator GORE in extending my best wishes to Eddie's family and friends. I hope that upon the passage of this bill, Eddie's dedication and courage will have a suitable memorial.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows.

S. 674

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Post Office currently located at 304 West Commercial Avenue in Monterey, Tennessee, is designated as the "J.E. 'Eddie' Russell Post Office". Any reference in a law, map, regulation, document, paper, or other record of the United States to such United States Post Office shall be deemed to be a reference to the "J.E. 'Eddie' Russell Post Office".

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

TO PROVIDE LAND TRANSFER IN MISSOURI

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 669, a bill to provide land transfer in Missouri introduced earlier today by Senator Bond.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 669) to provide a land transfer to the Missouri Housing Development Commission.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BOND. Mr. President, I rise this evening to offer legislation that will make great use of a surplus U.S. Army housing property in the St. Louis area to help address the desperate need for transitional housing for homeless families with dependent children and low-income housing for the poor. This legislation will convey, at no cost, to the Missouri Housing Development Commission all right, title and interest of the Army in a property known as the Charles Melvin Price Support Center Wherry Housing Annex in Pine Lawn, MO, for the purpose of operating and maintaining the property for low-income and transitional housing for the homeless.

Mr. President, this property is ideal for this purpose and the Missouri Housing Development Commission intends to operate the property to meet this urgent need in the St. Louis area. We have almost no place for homeless families and mothers with dependent children to go in the St. Louis area and this legislation will go a long way toward meeting that need. There is no cost to the Federal Government for this transfer and actually, we will save money since the Army Corps of Engineers currently is responsible for maintaining and providing security at the site.

Since I first toured this abandoned Federal property last summer, I have believed that its best use would be to provide families in the St. Louis area who are most in need of help, a new start in life. The MHDC proposal will ensure that the taxpayer's investment there continues to serve our community by meeting an urgent civilian need, now that its military use has ended.

Mr. President, I hope my colleagues will support the passage of this important legislation for the St. Louis area and I urge its passage by the Senate.

The PRESIDING OFFICER. The bill is before the Senate open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 669

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

SECTION 1.—(a) CONVEYANCE.—Subject to the conditions set forth in paragraph (b), the Secretary of the Army shall convey, at no cost, to the Missouri Housing Development Commission all right, title and interest of the United States in and to the land known as the U.S. Army Charles Melvin Price Support Center Wherry Housing Annex in Pine Lawn, Missouri, comprising approximately 13.2 acres and all improvements thereon.

(b) CONDITION.—The conveyance provided for in paragraph (a) may be made only on condition that the Missouri Housing Development Commission agrees to operate and maintain the property and to use it for low-income and transitional housing for the homeless. The property shall revert to the Army if the Commission ceases to use the property for the described purpose.

(c) DEADLINE FOR CONVEYANCE.—The conveyance under paragraph (a) shall be made no later than 90 days after the date of enactment of this section.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

The PRESIDING OFFICER. Without objection, the motion to lay on the table was agreed to.

MEASURE PLACED ON THE CALENDAR—S. 675

Mr. MITCHELL. I ask unanimous consent that S. 675 introduced earlier today dealing with veterans health care be placed on the calendar.

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

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the majority leader, following consultation with the Republican leader, may proceed at any time to the consideration of H.R. 1282, the Desert Shield/Desert Storm supplemental appropriations, notwithstanding the provisions of rule XXII.

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

STAR PRINT OF S. 619

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 619 be star printed to reflect the changes I now send to the desk.

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

NATIONAL EMPLOY THE OLDER WORKER WEEK

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of House Joint Resolution 133, designating "National Employ the Older Worker Week," 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 PRESIDING OFFICER. Without objection, it is so ordered.

So the joint resolution (H.J. Res. 133) was deemed read the third time and passed.

RESOLUTION TRUST CORPORATION FUNDING ACT

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 419.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its amendment to the bill (S. 419) entitled "An Act 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", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That the following Members be the managers of the conference on the part of the House:

From the Committee on Banking, Finance and Urban Affairs, for consideration of the Senate bill, and the House amendment, and modifications committed to conference: Mr. Gonzalez, Ms. Oakar, Mr. Vento, Mr. Barnard, Mr. Schumer, Mr. Frank of Massachusetts, Mr. Carper, Mr. Torres, Mr. Wylie, Mr. Leach, Mr. McCollum, Mrs. Roukema, and Mr. Bereuter.

From the Committee on Energy and Commerce, for consideration of section 4 of the Senate bill, and modifications committed to conference: Mr. Dingell, Mr. Markey, and Mr. Lent.

Mr. MITCHELL. Mr. President, I move that the Senate disagree to the amendment of the House, agree to the conference requested by the House, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer [Mr. HARKIN] appointed Mr. RIEGLE, Mr. SARBANES, and Mr. GARN conferees on the part of the Senate.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m., Friday, March 15; that on Friday, March 15, the Senate meet in pro forma session only, that at the close of the pro forma session the Senate stand in recess until 9:30 a.m., Tuesday, March 19; that on Tuesday, following the prayer, the Journal of the proceedings be deemed approved to date; that following the time reserved for the two leaders, there be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each.

I further ask unanimous consent that on Tuesday, March 19, the Senate stand in recess from 12:30 p.m. to 2:15 p.m. to accommodate the respective party conferences.

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

RECESS UNTIL TOMORROW AT 10 A.M.

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate, and if no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess, as under the previous order, until 10 a.m., Friday, March 15.

There being no objection, the Senate, at 6:51 p.m., recessed until Friday, March 15, 1991, at 10 a.m.

CONFIRMATIONS

Executive Nominations Confirmed by the Senate March 14, 1991:

DEPARTMENT OF EDUCATION

ANDREW LAMAR ALEXANDER, JR., OF TENNESSEE, TO BE SECRETARY OF EDUCATION.

NATIONAL ADVISORY COUNCIL ON EDUCATION RESEARCH AND IMPROVEMENT

THE FOLLOWING NAMED PERSONS TO BE MEMBERS OF THE NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND IMPROVEMENT FOR THE TERMS INDICATED:

EUGENE L. MADEIRA, OF PENNSYLVANIA, FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 30, 1991, VICE DONALD M. CLARK.

A. PIERRE GUILLERMIN, OF VIRGINIA, FOR A TERM EXPIRING SEPTEMBER 30, 1993, VICE ROBERT LEE MCELRATH, TERM EXPIRED.

JUNE SCOBEE RODGERS, OF ARIZONA, FOR A TERM EXPIRING SEPTEMBER 30, 1993, VICE CAROL PENDAS WHITTEN, TERM EXPIRED.

NATIONAL SCIENCE FOUNDATION

MARYE ANNE FOX, OF TEXAS, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 1996.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.