SENATE—*Thursday, April 25, 1991*

(Legislative day of Tuesday, April 9, 1991)

The Senate met at 9 a.m. and was called to order by the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska.

PRAYER

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

Let us pray:

Hear, O Israel: The Lord our God is one Lord: And thou shalt love the Lord thy God with all thine heart, and with all thy soul, and with all thy might. And these words, which I command thee this day, shall be in thine heart: And thou shalt teach them diligently unto thy children, and shalt talk of them when thou sittest in thine house, and when thou walkest by the way, and when thou liest down, and when thou risest up.—Deuteronomy 6:4-7.

God of Abraham, Isaac, and Israel, it is not for nothing that this word from Moses in the last book of the Torah is the foundation for Jewish life and worship. When it was taken seriously, they were blessed as a people. When they disobeyed, they were disciplined by God.

But it is a universal law which, like the Ten Commandments, when followed, brings order and blessing; when disregarded, humanity suffers, individually and collectively as families, nations, cultures. Holy God, help us to hear and heed, for the glory of God, for the blessing of humanity.

In the name of our righteous Lord we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 25, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. The leader time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 9:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Chair, as a Senator from the State of Nebraska, suggests the absence of a quorum.

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

The Senator from Illinois is recognized.

Mr. DIXON. I thank the Chair.

(The remarks of Mr. DIXON pertaining to the submission of Senate Concurrent Resolution 32 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

COMPREHENSIVE BANKING REFORM IS CRITICALLY NEEDED

Mr. DIXON. Mr. President, last Friday, the Wall Street Journal printed an article by Ron Chernow entitled "Bank Reform? What Bank Reform?" I commend his analysis to my colleagues' attention.

Mr. Chernow makes a compelling case that fundamental reform of our Nation's bank laws is long overdue, and I ask unanimous consent that a copy of his article be included at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. DIXON. We have a system now that locks good banks out of low-risk activities the marketplace increasingly demands. At the same time, because of the current flaws of our deposit insurance system, we are, in effect, subsidizing bad banking.

The current out-of-date Federal regulatory scheme therefore has played a major role in creating the shrinking, increasingly troubled banking industry we now see. And, unless we address the long-term reform issues, we will likely be back here again and again facing additional banking industry problems. We have to deal with the flaws of deposit insurance and we have to recapitalize the bank insurance funds. Action in these areas alone, however, is not enough. It will not give us the strong, competitive banking system we need for the future. Only comprehensive action has any hope of accomplishing that objective.

EXHIBIT 1

[From the Wall Street Journal, Apr. 19, 1991]

BANK REFORM? WHAT BANK REFORM?

(By Ron Chernow)

The Bush administration's blueprint for bank reform has, unfortunately, emerged as the first domestic casualty of the Persian Gulf war. Unveiled by Treasury Secretary Brady in February, the ambitious plan calls for interstate branching; expanded securities and insurance powers for banks; modest retrenchment of deposit insurance; a recapitalized insurance fund; and a simpler regulatory structure. If early reactions are any guide, the plan may soon suffer the legislative equivalent of crib-death. What has gone wrong?

Mr. Bush seems to be hoping that a quick economic upturn will revive banks, sparing him the need for painful action. In consequence, the audacious Brady plan has been promoted with a surprising lack of salesmanship. Meanwhile, congressional Democrats have eagerly joined the conspiracy of inaction. Stymied by Mr. Bush's new popularity, they would like to keep the spotlight on the S&L mess forever.

Ordinarily, as front-line medics dealing with the carnage, bank regulators would vigorously advocate reform. But since the reform package contains a proposal to revamp the regulatory structure itself, shifting powers away from the Federal Deposit Insurance Corp. and Federal Reserve to the Treasury Department, the regulators have emerged as squabbling participants instead of united sponsors. At the same time, regulators must calm a public jittery about the nation's banks and so refrain from expressing any urgency about the situation. Proponents of the Brady plan also fear that to sketch too dire a picture of the commercial banks' plight would damage any chances for reform. So everyone in Washington—the executive, Congress, the regulators—is residing in the Land of Wishful Thinking, the most exuberant real estate market in America today.

REFLEXIVE DENIAL

No, the country is not repeating the S&L disaster. Yet Washington's reflexive denial of any major problem has itself become a startling parallel between the two episodes. Recently, the FDIC reported a sharp rise in delinquent real estate loans and repossessed property, with trouble increasingly bottled up at big banks. Where the number of problem banks has steadied at a shade over a thousand, their assets have soared from $235 billion in 1989 to $409 billion in one year. The

• 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

$8.4 billion in the deposit insurance kitty seems a mighty weak reed to sustain such a potentially heavy load.

The Pollyanna position apparently held by the administration holds that, buoyed by the Gulf victory, consumers will spend, the economy will cast off its torpor, and the banking crisis will fade. This magical scenario ignores one troublesome fact: Bank failures soared during the 1980s boom, obviously responding to some set of dynamics other than general economic health. Structural obstacles to recovery abound—for instance, the current surplus of office buildings and shopping malls and high levels of consumer debt presage continued banking problems. The sanguine view also ignores the paradox that the banks' weakness will stall any recovery.

False analogies to the S&Ls deregulation of the early 1980s have deterred bank reform and the Treasury Department has been spectacularly inept at showing that its plan flows from different premises. The S&L deregulation perpetuated the classic American error of having many small, weakly managed, poorly capitalized banks, sink their money into local real estate. Charters were handed out freely, and regulators competed in leniency. S&Ls didn't diversify—they shifted from narrowly safe to narrowly risky lending.

By contrast, the Bush proposal seeks to consolidate the banking system, not to atomize it further. It foreshadows a gradual evolution toward strong, well-capitalized national banks, with diversified powers and unified regulation—the sorts of banks that make failures great rarities in England, Canada and elsewhere. Yet the Bush administration has allowed reform opponents to portray the package as a bizarre, misguided, almost suicidal attempt to reenact the S&L disaster.

Despite the failure of more than 1,000 commercial banks in a decade—with another 1,000 tottering—congressmen still express ritual fears about banks obtaining "risky" securities and insurance powers. Oddly, the universal banks of Europe—which have such powers—are commonly faulted for being gray and stodgy, not for being high-flying swingers.

Another popular Washington refrain maintains that before changes can be contemplated, the depleted deposit insurance fund must be replenished and confidence restored in the system. Nobody quarrels with this priority, nor with the need for early intervention for troubled banks. But a corollary contends that the reform package would not correct the current crisis and could even markedly worsen it.

To be sure, no congressional action will wipe away the rubbishy loans to Latin debtors, commercial property developers and overly leveraged companies. Such damage can never be undone. So then the central question becomes: Will we restore the stability of banks by having them slash their assets (i.e. loans) or by expanding capital? After cutting costs, there's no escape from this mathematical choice.

To date, the solution has disproportionately favored shrinking banks, as they write off bad loans, pull lines of credit and set prohibitive lending terms—the famous credit crunch. Whether this situation should be blamed on zealous regulators or churlish bankers has spurred fruitless debate. The credit crunch won't be solved by editorial sermons or regulatory exhortation, but only by injecting new capital into the banking system. This is where the Bush reforms become relevant.

The best way to lure fresh capital into the banks is to sketch a future brighter than the dismal history of the past 20 years, banishing the perpetual poison clouds that hang over the industry. The American banking system has become the Chernobyl of international finance, a ghastly disaster area boycotted by most investors. Ending an old taboo, the Bush package contains a proposal to allow industrial companies to buy banks. Whatever its merits, no industrial company has evinced the slightest desire to take advantage of this historic opportunity. Why buy a bank when many of the same functions can be performed without getting tied up in regulatory red tape?

Perhaps the most potent argument for considering banking reform now is that a new banking system is already rising from the ashes of the old. The Bush plan attempts to ratify and rationalize shifts already taking place in the marketplace. As large banks fail, for example, regulators allow rival banks to cross state lines to buy them. And the Fed apparently looks on with tolerance as a Saudi prince buys a large stake in Citicorp and Banco Santander of Spain does the same with First Fidelity of New Jersey. So the marketplace is creating a global banking system, while Congress cannot bring itself even to certify a national one.

Such changes, now reshaping the banking world, occur without any guiding vision. Far from being a remote irrelevance, a consensus on a new banking system could alter specific bailout decisions. Everything else being equal, for instance, should regulators favor BankAmerica of California or Fleet/Norstar of Rhode Island to buy Bank of New England? If one favored national banks, with diversified deposit bases and loan portfolios, it might tip the balance to BankAmerica rather than to Fleet/Norstar, which operates in the same regional economy as the Bank of New England.

Similarly, congressional refusal to repeal Glass-Steagall won't bar banks from investment banking. It will simply cede to Alan Greenspan and the Federal Reserve Board the opportunity to grant banks such powers on a preferential basis, as has been happening for years. Such selective repeal by regulatory flat is obviously the least equitable way to make public policy.

S&L DISASTER

President Bush can neglect the banking crisis only at his peril. Pervasive financial weakness could transform a short, shallow recession into one of unusual length and severity. Unlike the S&L debacle, the commercial bank crisis is taking place on President Bush's watch. Amid the worst banking crisis in 60 years, the president must take decisive action. At the same time, it will ill behoove congressional Democrats to cast stones later if they refuse to take constructive action to remedy commercial bank problems and seek refuge in endless replays of the S&L disaster. Without deregulation, the U.S. banking system generates from 150 to 200 bank failures per year. Something is obviously terribly wrong.

Back in 1920, the U.S. possessed about 30,000 banks. Today, after massive failures in the 1920s, 1930s and 1980s, plus many mergers, the number has dwindled to 12,400. Eventually, the U.S. will have the sort of large, consolidated national banking systems enjoyed by our trading partners, who don't suffer chronic bank failures. The historic trajectory is crystal-clear. The real choice is whether we wish to move toward such a system via decades of bloody bank collapses and community devastation, or whether we can spare ourselves this agony through wise, timely polticial leadership.

SOVIET EMIGRATION LAW

Mr. DIXON. Mr. President, Tuesday's Washington Post contained an article entitled, "Soviet Cites Fears of Mass Emigration." The article outlines the premise that the reason the enactment of free emigration legislation is languishing in the Supreme Soviet is a fear among conservatives and others that a free emigration bill would result in a mass exodus from the Soviet Union.

While the conservatives may be right—after all, the Soviet economy is a shambles, and political infighting continues to destabilize the country—they must realize that the failure to enact a free emigration law which is consistent with international human rights agreements to which the Soviet Union has signed, remains the primary basis on which further credits and possible most-favored-nation status will be considered.

Let us be clear about our goal. The Jackson-Vanik amendments to the 1974 Trade Act linked trade status to emigration. Other serious issues worthy of consideration do not supersede that basic linkage of free emigration to an improved trade status.

Let us also be clear that a free emigration law that has a number of strings attached to it, as is the case with the latest draft of the legislation, is not acceptable.

The latest draft of the free emigration legislation makes a mockery of the principle of free emigration as defined in international human rights agreements.

For example, consideration is being given in the Russian Republic to charging emigrants for their education. Under one scenario, an emigrant with an advanced degree would have to pay 3,000 rubles as reimbursement for the education he or she received.

An emigrant already must pay up to 700 rubles in order to emigrate.

The recent monetary reform policy implemented in the Soviet Union further complicates the process. As my colleagues will recall, Moscow outlawed 50- and 100-ruble notes overnight. Money was to be changed at Soviet banks, but no more than 3,000 rubles in 50- and 100-ruble denominations could be converted to smaller denominations. In addition, a Soviet citizen could take out no more than 500 rubles from their bank account in any given month.

Therefore, Mr. President, to illustrate the potential problem: Should a family of four—both parents with advanced degrees and their two children—wish to emigrate, it could cost them up to 7,400 rubles. Since they could not remove more than 500 rubles a month from the bank, it would take

a minimum of 15 months to set aside enough money to afford to emigrate.

And that, Mr. President, does not constitute free emigration to this Senator. It would not constitute free emigration as defined in the Vienna concluding document on human rights, by which the Soviets agreed to abide.

As a former cochairman of the Congressional Call to Conscience for Soviet Jews, I know all too well the enormous roadblocks facing Soviet Jews and others who wish to emigrate. Their plight continues. The number of refuseniks is increasing, Mr. President. We must not lose sight of their ongoing struggle.

I urge the administration to reiterate our longstanding policy of considering an improvement in the United States-Soviet trade relationship when, and only when, a meaningful and effective free emigration law is enacted and implemented.

I ask unanimous consent that a copy of the article be printed in the RECORD.

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

SOVIET CITES FEARS OF MASS EMIGRATION

MOSCOW.—The Soviet legislature, fearing a population exodus, is unlikely to pass a bill easing emigration restrictions in the near future, a senior member said yesterday.

U.S. officials in Washington said that without a Soviet emigration law, President Bush would find it difficult to renew Moscow's authority to take out farm loans and to grant the Kremlin most-favored-nation tariff treatment.

Nikolai Neiland, a member of the Supreme Soviet's foreign affairs committee, said conservative deputies and others with longstanding reservations about an emigration bill have effectively put the bill on hold.

"The official reason given . . . is that the law would cost the country too much money," said Neiland. "But the fundamental reason is political and ideological, not economic." Neiland said the legislation, giving citizens the automatic right to a five-year passport, was stalled by concern that thousands would flee to escape economic hardship.

APPOINTMENT BY THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair announces, on behalf of the majority leader, pursuant to Public Law 101-509, his appointment of Dr. Christopher Beam, of Maine, to the Advisory Committee on the Records of Congress.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The ACTING PRESIDENT pro tempore. The Chair, on behalf of the President pro tempore, pursuant to Public Law 100-297, appoints the following individuals to the Advisory Committee of the Conference, White House Conference on Indian Education:

The Senator from Hawaii [Mr. INOUYE];

Dr. Lionel Bordeaux, of South Dakota; and

Dr. Robert J. Swan, of Montana.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. COATS. Mr. President, I assume we are still in morning business.

The ACTING PRESIDENT pro tempore. We are in morning business until 9:30. The Senator is permitted to speak for 5 minutes.

RCRA REFORM

Mr. COATS. Mr. President, today we will see the introduction of the Resource Conservation and Recovery Act Amendments of 1991. And I want first to express some appreciation. Senator BAUCUS, Senator CHAFEE, and the Environmental Protection Subcommittee deserve the thanks owed to effort. The issues involved are both complex and divisive. Yet they have provided a useful framework for an important debate.

But while I am not disrespectful of this proposal, I am disappointed in it—particularly the portion that deals with the interstate transportation of solid waste. It betrays a misunderstanding of my State and other trash importers. Our landfill capacity is consumed in delay. In Indiana, we are in a race between reform and crisis. But in this bill, that urgency is ignored.

In 1980, Indiana had 150 landfills. Today it has 80. Another 31 are scheduled to close in the next 5 years. At that point, 54 Indiana counties will have no landfill capacity of their own. Nearly 40 percent of our dumpsites have less than 5 years of capacity. At the current rate of use, our State has only about 7 years of landfill space remaining.

But in Indiana there was no capacity crisis before convoys of trucks and cargo trains imported it. Up to 30 percent of trash disposed in Indiana landfills is from out of State. Three of the four largest landfills that receive east coast trash are now fighting for expansion permits. One thing is increasingly clear: We in Indiana cannot control our environmental future unless we can control our borders.

My State faces the urgency of a ticking clock. We cannot rely on timetables set by others. And the timetable of proposed RCRA reform is leisurely and complacent. Its immediate help is inadequate, and its eventual solution will come too late.

First, the proposed RCRA bill does little to remove the economic incentive for exporting trash on long hauls. It allows for some increased fees imposed by importing States. Indiana could immediately charge New York or New Jersey $40 a ton to use its landfills, $20 of that in Indiana's tipping fees. Along with trucking costs, the net price becomes about $83 a ton to those States. But tipping fees within New York and New Jersey run from $90 to $130 a ton. That means Indiana is still a bargain. And that also means that immediate relief is an illusion.

Three years after RCRA passes, in 1995 if passage comes in 1992, those fees would increase again. But by that time who knows what level east coast rates will have risen to. And even if those figures are close to Indiana's price, sending trash out of State will still be the smart political move.

Second, the proposed RCRA plan moves with such deliberate patience, such frustrating delay, it places real solutions beyond a time when we can make any use of them. States will have 30 months after RCRA is enacted to submit waste management plans. The EPA will have 6 months to analyze them. If RCRA passes in 1992, Indiana will have conditional authority to ban out of State trash in 1995, and full authority in 1998.

But with 7 years capacity remaining, this is no help at all. It is offering medical treatment at the funeral. We will be flooded with trash in these long years of reprieve. While we wait, the convoys still come. And our own environmental planning will be rendered useless.

Third, this RCRA legislation seems to contain a grandfather provision that would extend delay even further. Existing private dumping contracts, along with those made within 5 years after enactment of RCRA, are apparently protected from an imported garbage ban until the year 2000. This is most of the trash in Indiana. And it would mean we will find protection only when there is nothing left to protect.

Finally, a criticism more general, and most disturbing, is this proposal's perverse assignment of burdens. Throughout the legislation, it is importing States that must meet new standards, that must prove their worthiness, that must exemplify patience. Exporters, in contrast, seem to be given the benefit of every doubt.

This represents an inversion of real responsibilities. Indiana and States like it are not the ones who have refused to care for problems of their own. These tensions do not begin when importers stand up and say enough. They begin when other States load up boxcars with rotting trash, then send them to our small towns that fester in resentment.

For Indiana, all this is worthless, but not harmless. It would act as a cover for half a decade or more of continued dumping from out of State. It gives the appearance of action while our landfills close. For us, that is not an option. This is our environmental crisis. And this RCRA reform proposal is in need of significant change.

In my own legislation, passed by the Senate last year, I have tried to develop a blueprint for real reform. It would allow States to immediately impose fees of their choosing on imported waste—fees that could distinguish between States of origin. I would allow States to ban imported trash if they adopt a 20-year plan for managing their own waste. And it would allow States to enter into cooperative agreements among themselves to meet their needs.

This is the direction of my concerns—giving States real and immediate power to take control of their environmental future. These are the ideas I will be asking the environment and public works committee to carefully consider.

I am hopeful there is agreement down this road. I am committed to working at every stage with Senator BAUCUS and Senator CHAFEE. I am willing to talk seriously and sincerely, with patience and good faith. But we have miles to go before we sleep.

TRIBUTE TO CHIEF JOHN F. WELCH

Mr. MITCHELL. Mr. President, the volunteer fire department is an essential cornerstone of small town America. This institution brings traits that many believe exist only in myth or history: neighbors helping each other, heroism, and giving of oneself for the benefit of the community. York Beach, ME, is fortunate to have had a fire chief who has made these values a reality for nearly 40 years. Fire Chief John Welch has dedicated his life to his community and I would like to take this opportunity to commend and thank him for his service to York Beach.

Chief Welch joined the York Beach Volunteer Fire Department in October 1952; serving 17 years as fire chief and the 20 years prior as assistant fire chief. During the time he has been honored with the Congressional Fire Service Institute Award and the York Athletic Boosters Outstanding Citizen Award, among others, He has also been active in State and regional fire chief associations. Chief Welch has taken his responsibilities as a community leader very seriously. Under his leadership, the York Beach Fire Department has greatly expanded and modernized. This dedication is not only commendable, but necessary in a field where peoples' lives hang in the balance.

Chief Welch's involvement with the community has not been confined to his work with the fire department. He has also been active in his church, his town government, his local VFW and he served as a Little League coach for over a decade. Chief Welch retired from his regular job at Portsmouth Naval Shipyard in 1977 and has used much of his additional time to increase his involvement in community affairs.

Chief Welch's concern for his community is an example from which all can learn. I know that my colleagues join me in commending him on his many years of service to York Beach Fire Department, and it is with deep gratitude and respect I wish him well in his retirement.

CIVIL RIGHTS BILL

Mr. BENTSEN. Mr. President, I rise today to express my deep regret over the Business Roundtable's decision to discontinue negotiations over a civil rights bill. Since last December, the Roundtable had been negotiating directly with the civil rights leadership. This past Friday, the Roundtable announced its withdrawal from negotiations. The Roundtable felt obligated to withdraw although negotiators were near to an agreement.

Mr. President, I urge the Roundtable to reconsider its decision to withdraw. I urge it to ignore those who have been pressuring the Roundtable to leave the bargaining table. The negotiations have progressed too far, have succeeded all too well, to be abandoned now.

I commend the courage the Roundtable and the civil rights leadership showed in beginning these negotiations in the first place. I must particularly commend the commitment of Robert Allen, chairman of AT&T. He was ahead of the curve when he persuaded the Roundtable to negotiate with the civil rights community.

Bob Allen did not have to take this initiative. His company prevailed in one of the six cases which the Civil Rights Act would reverse. He and his company could have stayed on the sidelines, benefiting from having six anticivil rights cases stay on the books.

But Bob Allen and the Business Roundtable did not choose this course. Instead, they demonstrated more foresight.

They told the civil rights community that "we'll work with you toward enacting a civil rights bill but we'll be tough negotiators. We'll defend an employer's right to hire qualified employees. We won't let this civil rights bill undermine business' ability to compete. We don't want a cure worse than the disease."

The Roundtable's strategy apparently was working. The Roundtable and the civil rights leadership began negotiating last December. The negotiators wisely kept partisan politics out of the process. In the 4 months since December, they achieved more than what the politicans did in a year. According to press reports, the Roundtable and civil rights negotiators reached agreement on every issue except damages.

They apparently reached a quick agreement on the definition of business necessity. So you know, business necessity is a defense to disparate impact cases. The business necessity definition has been the main sticking point in the civil rights bill. The President vetoed last year's civil rights bill primarily because he believed the business necessity definition would force hiring quotas.

Before the veto, congressional and administration negotiators had spent 6 months negotiating subtle differences over business necessity. They ultimately failed to reach a compromise over this one definition. In contrast, the Roundtable and civil rights leaders resolved this and other issues in less than 4 months.

With that success, the Roundtable should not be retreating. It should be forging ahead and walking that last mile toward a complete compromise.

Although I believe the Roundtable's withdrawal is a shame, I do not fault its leadership for this decision. Press reports state that White House officials and other business interests pressured the Roundtable to abandon the negotiations. They lobbied it hard to abandon the path of compromise and to support the President's civil rights bill. That kind of pressure is not easy to take alone, even for the Roundtable.

It is clear to me who is responsible for derailing these negotiations. I keep on hearing how the President wants a civil rights bill. I keep on hearing how other business groups are not against civil rights. Well, if that is true, it is time for their actions to match their words.

If we all are for civil rights, like we say we are, we should work with the Roundtable and the civil rights leadership, not against them. At the very least, let us get out of their way and let the negotiations finish uninterrupted. That goes for both Republicans and Democrats, Congress, and the administration.

If other business interests are concerned the Roundtable will not represent their interests, they ought to at least communicate their interests to the Roundtable, before they actively oppose the negotiations.

And if those negotiations produce a bill that looks more like the President's bill, than the Democrats', so be it. If the business and civil rights communities can accept the bill, then I think I can, too. After all the division this Congress and Nation have suffered over civil rights, I do not believe it is important which political party gets credit fort the bill. What is important

is that we quickly enact a civil rights bill that has broad support.

The Business Roundtable negotiations came close to doing just that. We may have just lost a golden opportunity to enact something everyone says they're for. I hope it is not too late to persuade the Roundtable to return to the bargaining table. It will not be easy for the Roundtable if it does. It will probably face more of the same political pressure. But I want the Roundtable to know, that if it changes its mind and decides to walk that last mile toward compromise, this Senator is prepared to stand behind any compromise negotiators reach.

TRIBUTE TO MAJ. STEPHEN GOLDFEIN, AIR FORCE SENATE LIAISON OFFICE

Mr. LOTT. Mr. President, I take time today to publicly acknowledge the distinguished service to this body by Maj. Stephen Goldfein. Major Goldfein has served for the past 2 years as deputy chief of the Air Force's Senate Liaison Office and is soon to leave for Florida and a resumption of his flying duties.

He has been instrumental in providing complete and accurate information on the crucial defense issues we must consider in the Congress. Balanced, timely information has played an important part in our present success in Eastern Europe and in the gulf. As we reduce the size of our military it will be essential for a defense that ensures both quality people and quality forces to provide a credible deterrent. The accelerated responsiveness that Major Goldfein instilled in legislative liaison has benefited both we in the Congress and the people of the Nation.

We have indeed been fortunate to have Steve Goldfein as our liaison to the Air Force. He has served with distinction in a demanding and highly visible position. He has earned our gratitude for the contributions he has made to the defense of our country. I know my colleagues join me in wishing Steve continued success and in thanking him for a job well done.

COMMEMORATING BRIG. GEN. BRETT M. DULA, USAF

Mr. WARNER. Mr. President, over the last 2 years, Congress and the Air Force have worked better together due to the efforts of one man. Therefore, I want to take this opportunity at the end of his tour to thank Brig. Gen. Brett M. Dula for his effective, dedicated, and distinguished service as director of Air Force legislation.

Brett Dula succeeded in Washington because he excelled at getting timely information to Congress on a wide range of Air Force issues. During a time when congressional requests for information to all the services have grown geometrically, Brett has met the demand with personal and institutional integrity, professional grace, and great individual skill. Brett's efforts have paid great dividends; we won in Eastern Europe, we won in the gulf, and we are significantly reducing the military's proportion of tax dollars as we modernize and streamline our services across the board.

We in Congress have never been better able to assess the critical defense needs of the Nation, whether those needs are major weapons systems, quality of life programs for service men and women, or even military construction projects. Much of the credit for our ability must go to Brett Dula.

Always professional, always diligent, Brett is a trusted bridge between the Congress and the Air Force. Recently nominated to receive his second star, he has indeed been a pleasure to work with. As he leaves for his next assignment as vice commander of 8th Air Force, Barksdale AFB, on behalf of the U.S. Senate, I wish him farewell and continued success.

DESTINATION 2015: EMBRACING THE VISION OF A NATIONAL ADVANCED BROADBAND FIBER OPTIC NETWORK

Mr. BURNS. Mr. President, just like Ike had a vision for an interstate highway system. Just like JFK had a vision to put a man on the Moon. I have a vision to have a broadband fiber optic network linking every home, school, hospital, and business within a generation.

Yes, Mr. President, I have a vision about where we must go with the Nation's economy and how we can get there, and the deployment of a broadband fiber optic network is the key. Just as waterways, railroads, highways and airways were the engines of economic development in the Agrarian and Industrial Ages of the 10th and 20th centuries, the deployment of national broadband fiber optic networks is the engine that will drive economic development in the Information Age of the 21st century.

Think of it like this: Less than 100 years ago we used a sickle to harvest the wheat in this country. Today, farmers harvest wheat using self-propelled combines. Our agriculture is the envy of the world.

In our telecommunications industry, information travels over large cables. It should travel over small strands of fiber optic cable. Just imagine where we would be if we were still harvesting wheat by hand. That is what we are doing in our telecommunications industry because of existing Government policy.

By the year 2015 the United States must complete this information highway. The rest of the world is doing it. As the world moves into the Information Age our telecommunications industry must keep pace or risk not taking part.

Do we want to have the Japanese or the French control the telecommunications technology? Not if we value our economic future and the creation of jobs in this country.

If the United States, and States like my home State of Montana, can develop a superior telecommunications infrastructure, they will be in an excellent position to compete globally for new industry. Our ability to build and grow this network will be the deciding factor as to how we survive and, hopefully, prosper in the 21st century.

A national broadband fiber optic network and telecommunications infrastructure goes to the heart of our Nation's ability to compete, in the future, in global markets.

Other countries are making substantial investments in their telephone networks with the expectation that those investments will be recovered by selling the related technology abroad. Our Nation must be competitive or risk importing the technology and exporting the jobs.

Japan, through a national public policy discussion and decision that took place 10 years ago, designated telecommunications as the key, strategic industry for the 21st century. This emphasis on telecommunications as a strategic industry calls for Japan to spend $240 billion over the next 10 years.

Much of Japan's multibillion-dollar investment is targeted to export markets—the United States, in particular. By the year 2015, the Japanese will have fully deployed a fiber network that will generate no less than one-third of Japan's GNP.

The French, whose telecommunication system was once the laughing stock of the Western World, have developed the largest and most successful video text system in the world—the Minitel system. The French introduced Minitel in 1985. By October of last year, more than 4½ million terminals were in operation, offering more than 11,000 information services including personal financial management, computerized catalog shopping, and hotel and airline reservations. In France, more than 30 percent of the working population has access to a Minitel terminal at the home or office.

In Great Britain, the British Government recently announced that it would pursue wide-ranging deregulation of its nation's telecommunications industry, including erasing most of the legal restrictions separating the telephone and cable television industries. The British Government intends to allow largely unrestricted access to the local, long distance, and international service markets. This proposal makes the United Kingdom the most open telecommunications market in the world, including the United States.

The approval of these recommendations lets the United Kingdom, in effect, leapfrog the United States in progressive regulatory actions. The impact of this procompetitive telecommunications policy is already paying handsome dividends. Many American telephone companies are investing in start-up cable television franchises.

Our great Nation must not be a latecomer to the world information revolution. While our competitors marshal their resources, the United States telecommunications industry is mired in a regulatory and legal quagmire that often discourages investment in new technology and stunts innovation. Why is this happening? Why are we allowing it to happen?

The answers can be found in our public telecommunications policy. Or more precisely, our lack of a clear and forward-looking public policy.

Nations like Japan, France, and England, our economic competitors, believe that telecommunications infrastructure is critical to their country's economic future. The United States, on the other hand, has not reached anything close to a consensus. We are still arguing at the starting line.

But there is more to all this than just meeting the competitiveness challenge on the international playing field. My vision also promises to enhance the quality of life for American citizens here at home. All Americans deserve to have access to information, and a broadband fiber optics network will make that information available. Information can improve our way of life. It can empower individuals to succeed. And in many cases, the power to succeed means the opportunity to get off of public welfare programs.

What are some of the possibilities of a fiber optic network?

The shortage of doctors and health care professionals in rural areas could be overcome. Health care facilities in smaller towns could hook up with hospitals in larger towns and take advantage of their equipment and expertise. Preliminary examinations could be carried out without patients having to travel hundreds of miles each way.

Our schools could access any library in the United States or the world and have guest teachers via a two-way interactive audio and visual network. This would give America's children unlimited opportunities to learn. For large, rural States like Montana, and for inner-city school systems struggling with limited resources, the impact on education could be dramatic.

A fiber optic network would also be important to elderly Americans, like my parents, who are both in their eighties. They could stay in their homes longer if they had the ability to monitor their well-being on a daily basis—which is something a fiber optic network can make possible—rather than being prematurely forced into a medical care facility or nursing home. An additional year or two in their own home would mean a lot to them.

And think of the impact of a fiber optic network on jobs. An engineer or stockbroker could live in any city, town, or rural community in this country and still work anywhere in the world via a fiber optic network. In Montana, many of our graduating seniors want to stay in our beautiful State where the skies were blue, the water is crisp, the air is healthy, and the quality of life is good. But they are forced to leave the State to find jobs. We need to keep our best and brightest at home.

Data processing or telemarketing jobs could be relocated to areas were the cost of living is lower and the people are hard working and well educated. There's a vast, untapped work force out there, all we have to do is reach out and touch them through fiber optics.

Underprivileged Americans living in the inner cities would be able to tap into vast resources of information via fiber optics. This would help to further open the door of opportunity.

Handicapped Americans and individuals who are for one reason or another bound to the home could actively participate in our work force via fiber optics.

These are but just a few examples of how fiber optics could enhance the lives of all Americans. The possibilities are limited only by the human mind.

Mr. President, last Monday the Washington Post ran an article by Liz Spayd on the front page entitled "Increasingly in Area, Home is Where the Workplace Is." This article tells us how workers in the Washington area are fast becoming the Nation's leading "telecommuters." Many Washington employers are seeing advantages to letting employees work outside the confines of the corporate office.

To meet the challenges of congestion in urban areas, not to mention U.S. reliance on foreign sources of oil, we must look at telecommuting. Our highways of the future will not be made of concrete and steel but of glass. We will not travel in cars, but on bits of pulsating light. It will not take us hours or days to travel around the world, only a sound.

Along with millions of others who commute to and from our Nation's capital, I know the meaning of the word congestion. I like to call I-395, which I drive each day, the world's largest parking lot.

The advent of fiber optics will make it possible for people from every corner of this Nation to plug into super computers and an unlimited information network around the world. Our highways of the future should include our telecommunications infrastructure.

Workers will travel to work on information highways instead of our traditional highways. The cars on these information highways will be bits of information which can travel anywhere in the world instantly. These highways will be clean, instantaneous and permit Americans to live where they please. With the advent of fiber optics, our traditional highways will be less congested, we'll save on fuel consumption, and we'll reduce the release of automobile pollutants into the environment.

Think of it, a stockbroker could live in Circle, MT, with a population of 931, and be in instant contact with anyone, anywhere, anyway. That person will not have to burn thousands of gallons of fossil fuel each year to drive to and from work. We will not have to invest billions of dollars for a mass transit system to move that person around. And, best of all that person will be able to live and work in rural America.

The same is true for underprivileged Americans living in the inner city. They may not have the income or ability to travel the world, but the world can be brought to them via these information highways.

Yes, Mr. President, the vision I have is indeed a grand one. And it can happen without investing huge amounts of Government money. Money that we do not have. Our telecommunications industry is willing to invest in the necessary infrastructure to make it possible. We as members of Congress only need to update our telecommunications policy to make what's possible a reality. We need broadbased agreement on cohesive communications public policy goals.

As a member of both the Senate Commerce, Science, and Transportation Committee and the Senate Energy and Natural Resources Committee, it is my goal during this session of Congress to enact legislation to allow that will make the United States the world leader in the Information Age.

Far too often, our Nation's leaders in communications policy find themselves at odds or pitted against interests seeking competitive protection, or as the late Senator Magnuson used to say—"a fair advantage." Powerful forces want to preseve the status quo. Many communications companies with much invested in current technologies warn of commercial chaos if regulatory schemes are altered which keep certain other companies from owning or competing with incumbent firms.

The impact of this regulatory and legal logjam will be most acute on small businesses and residential users, as big businesses have the necessary resources to deploy their own private networks and, indeed, are doing so.

While it is still possible to speak of telephone companies, cable television companies, broadcasters and TV networks, publishers, movie studios, and computer makers as separate businesses, all of these previously distinct industries are "converging." The rea-

son is simple: "digitization." Once the signals from telephone, television, satellite and information services are converted into digital form, they are, as a technical matter, identical. All of the sounds, pictures, words or combination of these signals are digital code bursts of 0's and 1's.

That makes it possible for all to be sent over a single transmission system and decoded by a single machine. This digital world of the future will blur the traditional distinctions between various communications industries forcing all firms to refocus their lines of business and gear up for future head to head competition.

It is, therefore, past time that clear, essential forward-looking and cohesive public policy goals be set.

If we wait until the middle of the next century to complete the Nation's broadband fiber network; the world will have passed us by and taken much of our economy with it.

The challenge facing regulators and legislators is how to provide the necessary incentives for upgrading the infrastructure while at the same time protecting ratepayers and preserving universal service.

We do not need to mortgage our future; but we do need to invest in it. We must encourage competition among our telecommunications companies to invest and reinvest in this country, ways that will still insure affordable basic service, so that the average family can afford these marvelous 21st-century opportunities for human growth and consequent human fulfillment and prosperity.

I plan to introduce the Communications Competitiveness and Infrastructure Modernization Act of 1991 in May after we return from the recess. I hope my colleagues will consider carefully what I have said here today and lend their support to my bill. As I see it, our country's future depends on our having a vision of America with a telecommunications infrastructure that will enable us to be strong at home and abroad and then making that vision a reality.

NOTIFICATION OF CHEMICAL APPLICATION ACT OF 1991

Mr. LIEBERMAN. Mr. President, Senator REID and I have introduced legislation, S. 849, and rise today to discuss this bill. This legislation would require commercial applicators of lawn care and other nonagricultural chemicals to provide detailed written contracts to all customers as well as posting and notification to others who may come into contact with the chemicals, including neighbors, schoolchildren, office workers, and clients. The bill amends the Emergency Planning and Community Right-to-Know Act by requiring full disclosure, through posting and notification, of the chemicals to be applied and their known or potential effects on health and the environment.

With spring in full bloom, millions of Americans are applying millions of pounds of chemicals to their lawns to kill weeds and bugs and make the grass grow thicker and greener. An estimated 51 million homeowners do the work themselves. More than 8 million will hire professional lawn care companies to do the job. The sale of lawn care products and services has developed into a multibillion-dollar business.

But too many of us fail to recognize that chemicals that kill weeds and bugs are also powerful enough to threaten the environment, and even human health. Is a picture-perfect lawn worth the cost?

We do not yet know the full effect of lawn care and other nonagricultural chemicals on our ground water, our children, our neighbors, and our pets. We do know, however, that lawn care and other nonagricultural chemicals can poison fish, animals, and other wildlife. Labels on some lawn care products warn us to keep the product away from pregnant dogs or puppies and kittens, but say nothing of possible risks to pregnant women or to children.

There is evidence that some lawn care chemicals are toxic to humans. A Navy lieutenant died after exposure to lawn chemicals that had been sprayed on the Army-Navy golf course. The Toxic Substances, Environmental Oversight, Research and Development Subcommittee of the Environment and Public Works Committee heard testimony last year from that man's brother. We also heard from other witnesses who continue to suffer from chronic illnesses that are aggravated by exposure to lawn care chemicals.

The National Cancer Institute has conducted studies which show the rate of malignant brain tumors, and other forms of cancer, among farmers in Kansas and Nebraska increasing in direct proportion to the amount of 2,4-D used—that is the active ingredient in over 1,500 pesticide products. A researcher from the National Toxicology Program told us about studies which indicate that 2,4-D, a commonly used lawn care and agricultural chemical, is a human carcinogen. Meanwhile, the public continues to be exposed to 2,4-D with no notice of its application or its potential health effects.

Add to these problems the fact that the Environmental Protection Agency has failed to carry out its mission. EPA collects data and assesses health risks associated with chemicals used in lawn care and other nonagricultural products. But registration of such products with the EPA does not guarantee that the public health is protected from the dangers associated with the chemicals they use. To date, EPA has received the complete battery of toxicity data on only one of the 34 common active ingredients in lawn care chemicals.

Carbaryl, one of the most widely used lawn and garden products, has been shown to cause birth defects in dogs. There is reason to believe it may do the same in humans. EPA's regulations require the label to state, "Do not use on pregnant dogs." But there is no precaution for pregnant women.

More must be done to protect human health and the environment from the chemicals which we knowingly disperse onto our lawns and in and around buildings frequented by the public in the ordinary course of business. That is at the heart of legislation called the Notification of Chemical Application Act of 1991 that we are introducing. This bill requires companies that apply lawn care and other nonagricultural chemicals to provide written and posted notice and disclosure of all known health and environmental effects of the chemicals being used so that neighbors, schoolchildren, office workers, clients, and customers can take precautions to protect themselves, if they wish.

This bill targets not only the commercial application of lawn care chemicals, but also other nonagricultural chemicals that are commonly applied commercially. Its requirements apply to those chemicals, with a few exceptions, that are applied to public and private outdoor areas as well as to public buildings.

The legislation also prohibits misuse of the words "EPA registered," which is not, in fact, a guarantee of safety but is, nonetheless, widely used in labeling and advertising in a manner that implies that it is.

Mr. President, there are few activities undertaken by average citizens of the United States that involve such direct and intentional spreading of so much chemical dust or spray into the environment as the use of lawn care products to make lawns lush and green. That is why it is so important for the law to step in where lawn care and other nonagricultural commercial application companies fear to tread, and require that people have full and accurate information about the danger of these chemicals and how to minimize that danger. The Notification of Chemical Application Act of 1991 will provide Americans with the knowledge they need to help them make informed decisions regarding potential exposure to these chemicals and allow them ample time to seek protection from exposure, if they wish. Senator REID and I look forward to working with our colleagues in the Senate to help move this legislation forward and give the American citizens an opportunity to make those decisions.

I request unanimous consent that the bill be printed in its entirety immediately following my remarks and Senator REID'S remarks.

Mr. REID. Mr. President, in the spring, many homeowners' fancies turn to their lawns. All across the country people have begun to work on their lawns or, increasingly, hire others to do so. Homeowners are being bombarded with TV and other types of advertising from lawn care companies. Some of these ads include statements about lawn chemicals like "safe to use" and "practically nontoxic to humans, pets, and the environment."

Lawn care in the United States is a big business, with 1987 sales of $1.5 billion. Over 7 million Americans use these services. To assure that their customers receive picture-perfect lawns, many lawn care companies use chemical pesticides. According to a recent report by the National Academy of Sciences, on a per-acre basis lawn care pesticide use is up to 10 times that of agricultural use.

Beautiful lawns are nice, but it is more important that homeowners, as well as their neighbors and innocent passersby, be assured that lawn care products are safe or at least be made fully aware of the dangers to human health that may be posed by many of these products. Unfortunately, it does not appear that the American people can be given the assurance or information that they need.

Last year I chaired a hearing of the Subcommittee on Toxic Substances, Environmental Oversight, Research and Development concerning the use and regulation of lawn care products. A General Accounting Office report released at this hearing highlights problems in EPA's regulation of lawn chemicals and the misleading claims of safety by some advertisers concerning lawn chemicals.

The GAO report states that, "EPA has not completely reassessed the health risks of any of the major lawn care pesticides subject to registration" under the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1988. The GAO also found that enforcement activity by EPA concerning false or misleading pesticide advertising claims was actually receiving less attention than had previously been the case.

Last year's subcommittee hearing included testimony by witnesses who had suffered adverse reactions to the use of lawn chemicals. Kevin Ryan, an 11-year-old Illinois boy, presented gripping testimony on the symptoms he experienced from exposure to lawn and tree spray chemicals, which include respiratory problems, nausea, severe stomach pain, loss of memory, and depression. Kevin stated:

> There are many things I cannot do that a normal 11-year-old can. I can't even play in my own yard because my neighbors spray their lawns and trees. I feel like a prisoner in my home during the summer months when all of the other kids are outside playing.

Another witness, a Pennsylvania nurse and mother, described her plight in these words:

> Every time I leave my home I am risking exposure to pesticides and subsequent illness. Today, while sitting here, I am risking exposure to pesticides. I have no way of knowing where or when this building was treated with a pesticide.

The legislation that Senator LIEBERMAN and I have introduced would help to alleviate problems like those raised by these witnesses. Under the Notification of Chemical Application Act—S. 849—potentially exposed persons would be protected in three ways:

First, commercial applicators of chemicals applied to all outdoor areas and inside public buildings would be required to provide to the owner—and other occupants—a written contract which lists the brand and generic names of the substances to be applied, pertinent warning information, and the date(s) of application.

Second, the perimeters and entrances of the site would have to be posted with notices from 72 hours prior to chemical application until 72 hours afterward.

Third, adjacent residents would be given written notice 72 hours prior to application of a chemical substance.

These provisions would assure that occupants of sites, as well as their neighbors and passersby, will receive adequate notice when chemical substances are applied. Individuals sensitive to these chemicals will then at least be able to plan their lives accordingly. Until EPA has completed the pesticide reregistration process and assesses the safety of lawn chemicals—which will be 1997 at the earliest and most likely even later—this may be the best protection we can offer our citizens.

Lawn chemicals are a continuing concern of mine. My Toxic Substances Subcommittee has scheduled another hearing on this important subject for May 9. At that time we will explore several issues related to these products.

I urge the support of my colleagues for this bill.

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

S. 849

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 "Notification of Chemical Application Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that—

(1) exposure to many commonly used chemicals can result in serious adverse effects to human and animal life and health and to the environment;

(2) such chemicals are being applied at an increasing rate and are present in urban drinking water wells at a level approximately two and one half times that found in rural drinking water wells; and

(3) advance notice of an impending application of such chemicals can greatly reduce the risk of direct exposure, and thereby reduce, although not eliminate, the risk of adverse effects from such chemicals.

SEC. 3. APPLICATION OF CHEMICAL SUBSTANCES ON OUTDOOR AREAS, AND WITHIN PUBLIC BUILDINGS.

The Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001 et seq.) is amended by adding at the end thereof the following:

"Subtitle D—Commercial Application of Certain Substances

"SEC. 341. IDENTIFICATION OF CHEMICALS.

"(a) ESTABLISHMENT AND PUBLICATION OF LIST.—The Administrator shall, within 180 days following the date of the enactment of this subsection, identify and publish in the Federal Register a list of those chemicals applied to public and private outdoor areas, and inside public buildings, by commercial applicators, except those chemicals used for the purpose of cleaning, sanitizing, disinfecting, or painting, and those chemicals used in construction or renovation. Effective 90 days following the date of such publication, the substances contained on the list so published (hereafter in this section referred to as 'covered substances') shall be subject to the requirements of this section. The Administrator shall, from time to time, review such list and, if necessary, modify it. Any such modification shall be published in the Federal Register. Effective 90 days after such publication, such modifications shall be a covered substance and subject to this Act.

"(b) CONTRACT.—(1) Prior to any commercial application of any covered substance, the commercial applicator shall enter into a written contract with the site owner or his agent. Such contract shall specify, among other things the exact location of such application, the date or dates, or approximate date or dates, of such application, number of applications, and total cost for the service provided, or to be provided. A copy of such contract shall be made available to the site owner or his agent, and to all residents, tenants and other occupants of such site, including residential and commercial sites. Such copy shall be in at least 12-point type. Such contract shall further include—

"(A) the exact location of the site to which the covered substance is to be applied;

"(B) the number of applications, to be carried out at such location;

"(C) a list of the covered substances to be applied, including brand names and generic names of the chemicals;

"(D) all warnings required to appear on the label or Material Safety Data Sheet of all covered substances to be applied that are pertinent to the protection of humans, animals, or the environment; and

"(E) the company name, address, telephone number, business registration number and if applicable, the commercial applicator's identification number.

"(2) The use in any such contract or notice required by this subtitle of a false statement or representation that a covered substance has been approved by the Environmental Protection Agency is a violation of this Act, and is subject to a penalty under section 325 in the same manner and to the same extent as provided for a violation under section 304.

"(c) DATE OF APPLICATION.—In the event that the date or dates specified in the contract for application of the covered substance is changed, the commercial applicator shall give the site owner or his agent, and all

residents, tenants, and other occupants of such site, including residential and commercial sites, oral or written notice of the proposed alternative date or dates, and shall not carry out the application on such date or dates unless the owner or his agent has first approved such date or dates.

"(d) COPY TO BE RETAINED.—A commercial applicator entering into a contract pursuant to this section shall retain a copy of the executed contract for a period of 36 months following the date such contract is executed. A copy of such contract shall be made available to the Administrator upon request.

"(e) SCHOOL GROUNDS.—Prior to any application of a covered substance to or upon the grounds of any daycare facility, whether for-profit or not-for-profit, any public or private preschool, elementary school, or secondary school, the commercial applicator shall provide written notice to the parent or guardian of each child enrolled in such school. Prior to the application of a covered substance to or upon the grounds of any post-secondary school, including any college, university, trade or other vocational school, the applicator shall notify all students enrolled in such school. Such notice shall be given not less than 7 days prior to the application of the covered substance. Such notice shall be in at least 12-point type and shall further provide—

"(1) the exact location of the school grounds on which the covered substance is to be applied;

"(2) the number of applications to be carried out on such grounds;

"(3) a list of covered substances to be applied, including brand names and generic names of the chemicals;

"(4) all warnings required to appear on the label or Material Safety Data Sheet of each covered substance to be applied that are pertinent to the protection of humans, animals, or the environment; and

"(5) the company name of the commercial applicator, together with the address, telephone number and registration number of such company, and, if applicable, the commercial applicator's identification number.

"(f) POSTED NOTICE.—(1) Any person providing commercial application of a covered substance shall affix posted notices within or along the perimeter of the site, whether it be an area or structure, or both, where such substance is applied for the purpose of identifying such site including the following:

"(A) the exact location of the grounds on which the covered substance is to be applied;

"(B) the number of applications to be carried out at such location;

"(C) a list of the covered substances to be applied, including brand names and generic names of the chemicals;

"(D) all warnings required to appear on the label or Material Safety Data Sheet of all covered substances to be applied that are pertinent to the protection of humans, animals, or the environment; and

"(E) the company name, address, telephone number, business registration number and, if applicable, the commercial applicator's identification number.

"(2) Such posted notices shall be placed so as to be clearly visible to individuals immediately outside the perimeter of such site, in a manner reasonable to facilitate visibility. The notices shall be posted at least 12 inches above the ground and shall be at least 4 inches by 6 inches in size. Notices shall also be posted at all entrances to such sites, at least 48 inches above the ground and at least 12 inches by 18 inches in size. Entrances include driveways, walkways, paths, doorways, gates, and other such areas commonly used to gain entrance to a facility or a facility's grounds.

"(g) PLACING OF POSTED NOTICES.—The posted notices required by subsection (f) shall be in place at least 72 hours prior to when such substance is to be applied. Such posted notice shall further inform individuals of the scheduled times of application, and warn individuals not to enter the site within the exterior boundaries of the notices, and not to remove the notices, for a period of at least 72 hours subsequent to each such application. The information required by this subsection shall be printed in bold letters of at least one-half of an inch in height.

"(h) WRITTEN NOTICE.—Each commercial applicator shall notify, in writing, all site owners and occupants, any part of which site is within 1,000 linear feet of the outer-most extent of the site to which any covered substance is to be applied, to the effect that such substance is to be so applied. The notice shall be given at least 72 hours prior to the application of the substance, and shall include the date or dates that the substance is to be applied. Such notice shall also contain all warnings which are required under this or any other law to be included in the labeling, Material Safety Data Sheet, or any other warnings which are required to accompany a substance applied.".

SEC. 4. DEFINITIONS.

Section 329 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11049) is amended by adding at the end thereof the following:

"(11) COMMERCIAL APPLICATOR.—The term 'commercial applicator' means—

"(A) any person who, for hire, applies or causes to be applied any substance contained on the list compiled pursuant to section 341 to trees, ground areas, shrubs, plants, the atmosphere, or lakes and other open bodies of water; or

"(B) any person who, for hire, applies or causes to be applied any such substance in any public building.

"(12) PUBLIC BUILDING.—The term 'public building' means all schools, public and private, office buildings, and any other structure or facility frequented by the public in the ordinary course of business.

"(13) COMMERCIAL APPLICATION.—The term commercial application means applying, or causing to be applied, for hire, in commerce, any substance on the list published pursuant to section 341 of this Act to any tree, ground area, shrub, plant, or atmosphere, or applying or causing to be applied, for hire, in commerce, any such substance in any public building.

"(14) FULL DISCLOSURE.—The term 'full disclosure' means written disclosure, signed by all parties to a commercial transaction, of all known human health and environmental risks of the substances applied in such prominence and in such terms as to make such risks likely to be understood by the ordinary individual under customary conditions of purchase. Such disclosure shall also include a statement reflecting the level of testing for such risks which the substance has undergone.".

SEC. 5. PREEMPTION.

Section 321(a) of the Emergemcy Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11041(a)) is amended—

(1) by deleting "or" at the end of clause (2),

(2) by deleting the period at the end of clause (3) and inserting in lieu thereof a semicolon and the word "or", and

(3) by adding at the end thereof the following:

"(4) preempt in any way any State or local requirement regulating chemical use or requiring notification or posting.".

SEC. 6. AMENDMENT TO DEFINITION OF HAZARDOUS CHEMICAL

Section 311(e)(3) of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11021(e)(3)) is amended by inserting immediately before the period at the end thereof a comma and the following: "other than those substances contained on the list established pursuant to section 341(a) of this Act".

SEC. 105. GENERAL AMENDMENTS.

(a) AMENDMENT TO HEADING.—The heading for section 325(c) of the Emergency Planning and Community Right-to-know Act of 1986 (42 U.S.C. 11045(c)) is amended to read as follows:

"(c) CIVIL AND ADMINISTRATIVE PENALTIES FOR REPORTING RECORDKEEPING REQUIREMENTS.—"

(b) Section 325(c) of such Act is amended by adding immediately after paragraph (2), the following new paragraph:

"(3) Other than the reporting requirements covered by subsections (a) and (b) of this section, and paragraphs (1) and (2) of this subsection, any person who fails or refuses to (A) comply with any rule issued pursuant to this Act, (B) establish or maintain any record as required by this Act or any rule issued pursuant thereto, (C) or submit any report, notice, or other information as required by this Act or any rule issued pursuant thereto, (D) permit any entry or inspections as required by subsection (g) of this section, or (E) fully disclose all information required under any provisions of this Act, shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each such violation."

(c) AMENDMENT.—Section 325(c)(3) of such Act is amendment to read as follows:

"(4) Each day a violation described in paragraph (1), (2), or (3) continues, shall, for purposes of this subsection, constitute a separate violation.".

(d) AUTHORITY.—Section 325 of such Act is amended by adding at the end thereof the following:

"(g) For purposes of administering this Act, the Administrator, State and local governments, and any duly designated representative of the Administrator, State or local governments may enter and inspect, issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books or documents, and may obtain and execute warrants authorizing entry and inspection.".

TRIBUTE TO THE LATE ROBERT McCORMICK FIGG

Mr. THURMOND. Mr. President, I rise today to pay tribute to the memory of an outstanding South Carolinian, Mr. Robert Figg, who passed away at the end of January. Mr. Figg was the former dean of the University of South Carolina Law School and a personal friend of mine for many years. He was a devoted friend and one of the finest lawyers I have ever known.

Mr. Figg was a man of courage, compassion, and integrity, whose life was dedicated to assisting his fellow man. His long and distinguished career included service as an elected official, a

private attorney, a professor of law, and dean of the University of South Carolina Law School. He also served as president of the South Carolina Bar, and chairman of the College of Charleston Foundation, and as grand master of the South Carolina Masons.

Mr. President, Robert Figg was a true southern gentleman and a fine man, and I am proud he was my friend. I would like to extend my deepest condolences to his lovely daughter, Emily Figg Dalla Mura, his sons, Robert McCormick Figg and Jefferson Tobi Figg, and the rest of his family at this difficult time.

I ask unanimous consent that an article from the State newspaper in Columbia, SC and an editorial from the News and Courier newspaper of Charleston, SC be inserted into the RECORD following my remarks.

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

[From the Charleston News and Courier, Feb. 1, 1991]

ROBERT MCCORMICK FIGG, JR.

Only the day before the death of Robert McCormick Figg Jr. last Thursday at the age of 89, some of his observations on state government were being quoted by Gov. Carroll A. Campbell, Jr. in his State of the State address. The governor knew he couldn't go wrong citing the former dean of the University of South Carolina law school as his authority. Over the past half-century, governor after governor had come to rely on his expertise.

A native of Virginia, his legal intellect was recognized shortly after he began practicing law in Charleston in 1922. A former state legislator, solicitor and chairman of the State Reorganization Commission of the early 1950s, it was Bob Figg to whom local and state government leaders turned when they needed help. For example, he guided the creation of the S.C. State Ports Authority and Charleston County Council and played a role in the consolidation of Charleston schools.

While on the losing side of the 1934 school desegregation case—the most famous with which he was associated—it was his presentation before the U.S. Supreme Court that is credited with the judicious implementation of the order. He argued that caution was needed to preserve the public school system in the state.

He went on to become dean of the USC law school for a decade, to become the first president of the College of Charleston Foundation and to head S.C. Bar Association. One of his generation's recognized legal giants, he was a true scholar, always generous with his knowledge to the great benefit of all levels of government of his adopted state.

[From the Columbia State, Feb. 1, 1991]

FORMER USC LAW SCHOOL DEAN ROBERT FIGG DIES

Robert McCormick Figg Jr., former dean of the University of South Carolina School of Law and a prominent attorney in this state since 1922, died at his home in Columbia Thursday after a long illness. He was 89.

He was a former lawmaker and an adviser to governors, and his legal arguments led to orderly integration of South Carolina's public schools.

Mr. Figg's death came the day after Gov. Carroll Campbell, in his State of the State message, credited him with outlining reform of state government.

Mr. Figg had written in 1950 that the governor should oversee "a clean line of command from the top to the bottom and a return line of responsibility and accountability from the bottom to the top."

"I am saddened by Dean Figg's passing," Campbell said Thursday. "He was a pioneer for government restructuring. His words and service in support of government reform will live on."

Mr. Figg represented Clarendon County schools in the landmark school desegregation case of 1954. The case was incorporated with several others nationwide as Brown vs. Board of Education.

A year after the high court ruled that "separate-but-equal" schools for blacks and whites were unconstitutional, Mr. Figg persuaded the justices to move cautiously on desegregation.

Mr. Figg warned that the Summerton school white-to-black student ratio was 9-1. "I think if you ordered the trustees tomorrow to comply or else, that would destroy the public school system in South Carolina," Mr. Figg said.

The Supreme Court also accepted Mr. Figg's argument that federal courts should handle desegregation suits. It was a decade before substantive integration of South Carolina's public schools.

Mr. Figg was graduated from Columbia University Law School in 1922. He studied under the late Harlan F. Stone, later chief justice of the United States.

He was admitted to practice in South Carolina that year, later joining the Charleston firm of Rutledge, Hyde, Mann and Figg.

A lawyer is a public servant in private practice," he said in a 1964 interview with The Columbia Record. "Law is not a private calling."

Mr. Figg hewed to that belief throughout his career, and in 1982 he was honored by the South Carolina Bar for public service.

His first public office was in 1930, as chairman of the city of Charleston Zoning Board of Adjustment. In 1933 he was elected to the House of Representatives and after one term was elected 9th Circuit solicitor. He was reelected twice and served until 1947.

In 1947 Gov. Strom Thurmond asked Mr. Figg to prepare legislation creating the state Reorganization Commission and appointed him a member of it in 1949. Gov. James F. Byrnes named him chairman in 1951.

In 1942, Mr. Figg wrote legislation creating the Ports Authority as an independent, self-supporting state agency. He was its first general counsel and lived to see the Charleston port become one of the leading container-cargo ports in the nation.

Mr. Figg also served as counsel for Charleston County Council and board of education. He also was a former president of the Charleston County Bar.

His practice embraced virtually every phase of the law, and he was retained in important litigation throughout the state. He served as a special circuit judge in 1957, 1975 and 1976.

Mr. Figg became the law school's dean and a professor of law in 1959, succeeding the late Samuel L. Prince. On his retirement in 1970, more than 500 people attended a testimonial dinner in Carolina Coliseum.

Within a month of retiring from USC, Mr. Figg became president of the South Carolina Bar, and later that year, 1970, became chairman of the College of Charleston Foundation. He was associated with the Columbia law firm of Robinson, McFadden, Moore, Pope, Williams, Taylor and Brailsford.

Born in Radford, Va., on Oct. 22, 1901, Mr. Figg moved to Charleston as a teen-ager.

A son of the late Robert McCormick Figg and Helen Josephine Cecil Figg, he was married in 1927 to the late Sallie Alexander Tobias of Charleston.

Surviving are a daughter, Emily Figg Dalla Mura of Yonges Island; two sons, Robert McCormick Figg III of Tampa, Fla., and Jefferson Tobias Figg of Englewood, Colo.; a sister, Helen Spires of Jacksonville, Fla.; seven grandchildren and a great-grandchild.

Services will be at 11 a.m. Saturday at Dunbar Funeral Home, Devine Street Chapel.

Family members will receive friends at 1522 Deans Lane.

Memorials may be made to the Multiple Sclerosis Foundation or American Cancer Society.

HUMAN RIGHTS AND GUATEMALA

Mr. CRANSTON. Mr. President, I rise today to call attention to Guatemala's human rights nightmare. I have spoken about this situation on other occasions, and as I am a tireless opponent of the continuing abuse of basic freedoms in that beautiful and violent land, I am compelled to speak briefly again.

Guatemala's new President, Jorge Serrano Elias, made some promising statements in his inaugural address about commitments to reforming human rights in Guatemala. The events of recent months, however, indicate that the hopes raised by his speech were premature.

Two months ago four human rights activists were killed in the village of Chunima, and, although there are suspects in this case, local police have yet to detain anyone for questioning.

The Chunima incident does not reflect President Serrano's words that "hierarchies will not be able to go against the majesty of law. * * * He who breaks the law shall be punished without exception." It appears that the shadow of impunity that endured during the previous civilian administration of Vinicio Cerezo has yet to be cast off.

America's Watch, the respected human rights group, recently released a report that documents the events of Chunima. Ironically, at the time of the report's release on April 14, two more human rights activists were killed.

Mr. President, I ask unanimous consent that excerpts from the America's Watch report be inserted into the RECORD, as well as a letter my colleagues and I recently sent to President Serrano.

[From Americas Watch, Apr. 14, 1991]

GUATEMALA: SLAYING OF RIGHTS ACTIVISTS, IMPUNITY PREVAIL UNDER NEW GOVERNMENT

INTRODUCTION

"As President of the Republic, I reaffirm before the people and before its elected representatives, as well as before the peoples of the world and their governments the solemn commitment to make every possible effort to fully reestablish human rights in Guatemala. * * *

Hierarchies will not be able to go against the majesty of the law. * * * He who breaks the law shall be punished without exception."[1]

These promises were made by Jorge Serrano Elías, Guatemala's newly elected civilian president, at his inauguration on January 14, 1991. Yet the violent events of February 17, 1991, and their aftermath suggest that egregious violations continue to be committed with impunity by agents of the Guatemalan state and that human rights activists, who risk their lives to protect others, continue to be severely persecuted.

THE FEBRUARY 17, 1991, ATTACK ON CERJ ACTIVISTS

At about 5:30 a.m. on February 17, 1991, six men in civilian clothes shot human rights activists Juan Perebal Xirúm, 60, and his sons Manuel Perebal Morales, 26 and Diego Perebal León, 38, as they were walking on the road from their village, Chunimá, in the conflictive department of El Quiché, to the market in the nearby village of Chupol. Only Diego Perebal León survived the attack. He was hospitalized with two bullet wounds in the stomach and one in the arm which exited through his neck; wounds which may leave the peasant farmer paralyzed. His father died of gunshot wounds to the chest and his brother died of shots to the head. As Perebal León later described the attack to Americas Watch, the assailants approached the victims from behind and shot them from a distance of about 15 to 20 feet. First the men shot his father, then his brother, and then they turned to Perebal León. After one bullet knocked him to the ground, the assailants ran over and shot him again where he lay.

All three victims were active members of the Council of Ethnic Communities "We Are All Equal" (CERJ), the rural human rights group which won the 1990 Carter-Menil Human Rights Award together with a group from Sri Lanka. The president of the CERJ, Amílcar Méndez Urízar, was awarded the Robert F. Kennedy Memorial Human Rights Award in November 1990. Since its establishment as Guatemala's first and only rural human rights group in July 1988,[2] eight CERJ members have been assassinated and seven more disappeared, all apparently at the hands of the security forces or their agents.

In testimony to judges, to Americas Watch, and to the CERJ, Diego Perebal León identified two of his assailants as Manuel Perebal Ajtzalam III and Manuel León Lares, both of them former civil patrol chiefs from Chunimá who had repeatedly threatened the victims and other human rights activists in the village.[3] In fact on January 21, 1991, the judge at the Second District Court in Santa Cruz del Quiché had issued an arrest warrant for Manuel Perebal Ajtzalam III in connection with the kidnapping and murder months earlier of the CERJ delegate in Chunimá, Sebastián Velásquez Mejía. But the police simply failed to carry out the judge's order, leaving the patrol chief at liberty to kill again. Last year, the same district court ordered the arrest of Perebal Ajtzalam, León Lares and nine other patrollers as suspects in the March 2, 1990 stoning and beating of demonstrators from the Mutual Support Group (GAM), a Guatemala City-based human rights group. That order was also ignored by the police, despite the fact that Perebal Ajtzalam, León Lares, and the other suspects continued to live openly in Chunimá.

Finally, on February 18, 1991, the justice of the peace in Chichicastenango issued a new arrest warrant for Perebal Ajtzalam and León Lares in connection with the February 1991 slayings. As of this writing, the police have not acted on these arrest warrants either. The exasperated district court judge complained to Americas Watch that the patrollers have "tremendous impunity." So confident is Perebal Ajtzalam that the police will not arrest him that he was recently overheard boasting to a group of peasants, "I wipe my ass with arrest warrants!" according to the judge. The judge has repeatedly tried to speak on the telephone with President Serrano's newly appointed Interior Minister, Ricardo Méndez Ruiz, to request that he press the police, who are under his command, to carry out the arrest orders. But the Interior Minister has not returned the judge's calls. The CERJ has also sought a meeting with Minister Méndez to no avail. Nor have representatives of the Serrano government responded to an Americas Watch letter to President Serrano about the affair on February 19, 1991.

While the identified suspects remain at large, they have continued to threaten human rights monitors living in Chunimá, forcing many of them to abandon their homes. Since early March 1991, fifteen members of CERJ and their small children have taken refuge in the CERJ office in Santa Cruz del Quiché. The activists were evacuated from Chunimá by officials of the office of the government's Human Rights Ombudsman, which could not guarantee their safety as long as the patrol chiefs remained at liberty.

BACKGROUND TO THE ATTACK

Juan Perebal Xirúm and his two sons are only the latest human rights activists in Chunimá to be the victims of political murder. Each killing could be described as the Chronicle of a Death Foretold. Because the villagers of Chunimá resisted participation in the military—organized civil patrols, they have suffered nearly three years of nonstop harassment and threats from the army and its agents.[4] In particular, threats against Sebastián Velásquez Mejía, Manuel Perebal Morales, Diego Perebal León, and their friends and relatives were unflagging.

On May 25, 1988, Chunimá residents formally disbanded their civil patrol. In announcing their decision to the authorities, village representatives spoke of the hardship imposed on the impoverished peasant population by the unpaid labor, and their need to dedicate their energies to construction of an all-purpose room in the school and to earn extra money to pay a debt of 20,000 quetzales to the water department. From that point on, the military visited and occupied Chunimá repeatedly in an effort to compel the villagers to again take up the patrol. Soldiers warned the residents against joining independent organizations such as human rights groups or unions, which they said were guerrilla fronts or agents of foreign governments. After one such army visit on May 26, 1989, a group of villagers started a new patrol. The chiefs of the newly formed patrol, vested with authority and arms by the military, began a campaign of threats and harassment of the non-patrollers (nearly all of whom are active in either the GAM or the CERJ or both) which continues today.

In response to the campaign of intimidation in Chunimá and similar events in the neighboring village of Sacpulup, the GAM organized a delegation to travel to the villages from Guatemala City on March 2, 1990. However, when the GAM members reached Chupol, the point on the highway where vehicles had to be parked before the walk to the villages, they were set upon by about 100 civil patrollers and plainclothes soldiers who threw stones, hit them with sticks, and called them "guerrilla assassins". Twenty demonstrators were injured, some requiring hospital treatment. A GAM vehicle was partially destroyed. It was later learned that the incident had been organized by the army base at Chupol.[5] Although the District Court in Santa Cruz del Quiché subsequently issued warrants for the arrest of eleven patrollers for their participation in the attack,[6] the police never carried out the arrests. The involvement of the military in the incident was never probed.

On October 6, 1990, CERJ delegate and GAM member Sebastián Velásquez Mejía of Chunimá was kidnapped from kilometer 110 of the Pan American Highway where he was waiting for a bus. According to witnesses, Velásquez Mejia was kidnapped by five men driving a blue pickup truck which is known to be used by the army to make payments to soldiers in the area. Before they seized Velásquez Mejía, one of the kidnappers allegedly conferred with patrol chief Perebal Ajtzalam, who indicated which of the men waiting along the highway was Velásquez. The captors then grabbed Velásquez and shoved him into the bed of the truck where two of them sat on top of him as they headed off towards Guatemala City. Velásquez's body was found two days later in the capital.

The kidnapping of Velásquez, who had become the spokesperson for the non-patrollers in the village, provoked immediate panic amongst other villagers who had been threatened by the army and the patrols. Five CERJ members fled to the CERJ office in Santa Cruz del Quiché the day of the kidnapping,[7] while Velásquez's wife and children, along with six other human rights activists, fled to the GAM office in Guatemala City. At

[1] Inaugural address reprinted in Foreign Broadcast Information Service, Latin America Report, January 16, 1991, p. 15.

[2] See Americas Watch, *Persecuting Human Rights Monitors: The CERJ in Guatemala*, May 1989.

[3] The civil patrols were conceived of, organized by, and remain under the exclusive control of the army of Guatemala. The military leadership during the dictatorship of General Efraín Rios Montt developed the system in 1982 to consolidate control over remote mountain hamlets, some four hundred of which the army had destroyed to eradicate a leftist guerrilla movement. Although Perebal Ajtzalam and León Lares are no longer chiefs of the Chunimá patrol, they are among its most powerful leaders and they continue to terrorize villagers with the authority and weapons bestowed on them by the army.

[4] Under military rule all highland Indian men were required to serve between 12 and 24 hours every week or two in the patrol, for which they received no pay. Since its enactment at the onset of civilian government, the Constitution of 1985 has prohibited forced patrolling. Nonetheless, the military—which views the patrols as the key to keeping leftist insurgents at bay—continues to compel participation through various forms of pressure, including murder. Increasingly, the patrol chiefs have supplanted local civilian authorities and become instruments of army repression.

[5] See News From Americas Watch, "Guatemala: Army Campaign Against Rights Activists Intensifies," May 1990, pp. 2-3; and Minnesota Lawyers International Human Rights Committee, Justice Suspended: the Failure of the Habeas Corpus System in Guatemala, October 1990, pp. 79-82.

[6] Including chiefs Perebal Ajtzalam and León Lares, as noted above.

[7] Among those who fled were Manuel Perebal Morales and Diego Perebal León, witnesses to the abduction of Velásquez. As noted above, Manuel Perebal Morales and his father were killed in the February 1991 incident and Diego Perebal León was gravely injured.

the request of the CERJ, an official of the government Human Rights Ombudsman's office agreed to escort the five CERJ members back to Chunimá and to insist that the patrol chiefs leave them in peace.

Having been assaulted and threatened on a similar excursion earlier in the year,[8] the official, adjunct human rights ombudsman César Alvarez Guadamuz, insisted on a military escort when he took the CERJ men back to Chunimá on October 13, 1990. Nonetheless, shortly after the delegation arrived in the village, one of the patrollers under the command of Perebal Ajtzalam fired his gun and the others all cried out "War!" and "Open Fire!" The soldiers subdued the patrollers, but the outbreak, and the muttered death threats by the patrol chiefs, convinced the five CERJ members that they could not safely stay in Chunimá. Once again, they fled to the CERJ office.

On November 16, 1990, the chief Human Rights Ombudsman, Ramiro de León Carpio, and his adjunct, Alvarez Guadamuz, again brought the five back to Chunimá, along with Velásquez's widow and young children. This time they decided to stay and try to rebuild their lives, as the economic plight of their families had become desperate while they were away. As Diego Perebal León later told Americas Watch, the activists continued to receive threats from Perebal Ajtzalam and other patrollers. "Let them come, leave them alone for now," the patrol chiefs told villagers, "We'll kill them later."

Three of the CERJ members who had fled and later returned appeared at the Second District Court in Santa Cruz del Quiché to testify about the kidnapping and murder of Velásquez. The three men, Diego Perebal León (now gravely injured), Manuel Perebal Morales (now dead), and Manuel Suy Perebal, provided strong testimony linking patrol chief Perebal Ajtzalam to the abduction, according to the judge. On the basis of this testimony, the judge ordered the arrest of Perebel Ajtzalam on January 21, 1991.

Another human rights activist from Chunimá was killed on December 10, 1990—International Human Rights Day. Circumstantial evidence suggests the same patrol chiefs may have killed him as well. GAM member Diego Ic Suy of Chunimá was assassinated by two masked gunmen in Guatemala City's bus terminal on the evening after a massive demonstration marking International Human Rights Day. Ic Suy was carrying a large sum of money which was not taken by the killers.

Although Ic Suy lived in Chunimá he worked for extended periods in the bus terminal in Guatemala City. He had frequently visited the GAM office in Guatemala City in the months before his assassination to show support for his GAM colleagues from Chunimá who had taken refuge there in the wake of Velásquez's abduction. The GAM office is under constant surveillance by an army agent.

Hours before his assassination, Ic Suy participated in the peaceful demonstration in Guatemala City's central park to mark International Human Rights Day. Witnesses saw Chunimá patrol chiefs Perebal Ajtzalam and León Lares at the demonstration as well.[9] Ic Suy had complained to friends of surveillance by the civil patrols in the weeks before his death.

In addition, Perebal Ajtzalam had repeatedly threatened and harassed human rights activists from Chunimá in the same location in which Ic Suy was later murdered, according to a complaint filed with the Human Rights Ombudsman by victims of the harassment in October 1990. Several Chunimá residents, including Perebal Ajtzalam, sell their produce in the bus terminal.

MARCH 1991 MURDER OF CERJ ACTIVIST'S SONS

On March 15, 1991, two sons of an active CERJ member were kidnapped from a farm where they worked in the hamlet of Xoljuyub of the municipality of San Pedro Jocopilas in Quiché department. Unknown men in plain clothes seized the men, 18-year-old Manuel Ajiataz Chivalán and 29-year-old Pablo Ajiataz Chivalán, taking them to an unknown destination. On March 17, their bodies were found, nearly decapitated, in the nearby hamlet of Xetacur. The victims' father has expressed fear that his sons were killed because of his activism in the CERJ.

In 1990, two CERJ activists were murdered, apparently by civil patrol chiefs, in the same area.

U.S. SENATE,
Washington, DC, April 17, 1991.

President JORGE SERRANO ELIAS,
Presidente de la Republica de Guatemala, Palacio Nacional, Guatemala, Guatemala.

DEAR PRESIDENT SERRANO: We are writing to you today to express our deep concern about the recent slayings of several human rights workers in Guatemala and about reporting police interference in bringing those accused of these crimes to trial.

In a recent report issued by the Americas Watch human rights group charges that four human rights campaigners have been murdered and another seriously wounded in the past few months.

The information we have received suggests that the rights workers were all involved in efforts to inform members of peasant communities that their participation in paramilitary patrols is, according to Guatemalan law, voluntary.

Eyewitness testimony given both to Americas Watch and the prestigious Council of Ethnic Communities (CERJ) places the blame for the deaths on two former civil patrol chiefs from Chunima, who had repeatedly threatened the victims and other rights activists there.

Although there have been judicial warrants issued for both men's arrests for more than two months, the police apparently have not moved to detain either of them, despite the fact they continue to live openly in the area. At the same time, more than a dozen human rights activists have had to flee from Chunima several times out of fear for their lives.

Mr. President, we know of your great interest in human rights and of your sincere dedication to bringing the bloodshed that has wracked Guatemala for more than three decades to an end. Nevertheless, we believe it is vital that your government make clear to the military that civil patrol duty in Guatemala is a voluntary effort and refusal to participate does not mean that one is involved in subversive activities.

We also wish to express our concern for two other cases involving human rights workers. On April 14th, Camilo Ajqui Jimon, a CERJ member, was killed in Potrero Viejo, Zacualpa, El Quiche by three unidentified men. On April 15th Amilcar Mendez, president of CERG and the recipient of the 1990 Carter-Menil Human Rights Award, suffered an abduction attempt which was averted because bypassers intervened.

We respectfully ask that you offer guarantees to safeguard the lives of threatened rights activists and use your good offices to assure police cooperation in the case of those rights workers who have already been assassinated.

Please accept our warm personal regards and know that our interest in these cases springs from our own concern and affection for you and for the Guatemalan people.

Sincerely,

Alan Cranston, Wendell H. Ford, Brock Adams, Tom Harkin, Edward M. Kennedy, James M. Jeffords, Paul Wellstone.

WORKERS MEMORIAL DAY

Mr. KENNEDY. Mr. President, April 28 marks the third anniversary of Workers Memorial Day in recognition of workers who have been killed or injured on the job. It also marks the twentieth anniversary of the Occupational Safety and Health Act. There is no better way to recognize the suffering of the victims of workplace tragedies than by reaffirming our commitment to improving the Nation's occupational safety and health laws.

It is a national disgrace that in the 20 years since OSHA was enacted, 245,000 workers have been killed on the job, and an estimated 2 million more have died from the long-term effects of occupational diseases. Every year, 6.6 million workers are injured on the job and 60,000 more are permanently disabled. As the workplace has changed and new technologies have been introduced, new occupational health problems have emerged. But while the workplace and its risks have been transformed, OSHA has remained unchanged.

Our safety and health laws must be reformed if the promise of the act to assure safe and healthy working conditions is to be achieved. Implementation of the act has been hampered by workers' inability to participate in worksite safety and health decisions, and to obtain the information needed to play an active and useful role in working with employers to implement effective and workable programs. Delays in setting safety and health standards have left many serious hazards largely unregulated. And millions of workers—including many State and local government employees and workers in transportation, agriculture, and Federal nuclear facilities—are still outside the protection of OSHA.

Last year, Congress completed its overhaul of a major environmental safety and health statute—the Clean Air Act. This year, it is time for Congress to begin the process of revising and strengthening the primary health and safety statute regulating the envi-

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[8] The March 27, 1990 attack on the Adjunct Ombudsman's delegation is described in News From Americas Watch, "Guatemala: Army Campaign Against Rights Activists Intensifies," May 1990.

[9] These witnesses were personally threatened by Perebal Ajtzalam and León Lares in January 1991; the patrol chiefs told the witnesses that they had better be careful or they would suffer the same fate as Diego Ic Suy. The witnesses have requested anonymity.

ronment in the workplace. Later this year, I intend to introduce comprehensive OSHA reform legislation that will give workers a greater voice in safety and health decisions and a greater role in the procedures through which the act is enforced. We should expand the act to cover workers who currently enjoy little or no job-site protection. We must expedite the procedure for setting standards, and strengthen research and data collection efforts on occupational injury and diseases.

Twenty years ago this week, Congress enacted the landmark legislation that began the process of ensuring every worker a safe and healthy workplace. We made a good start in 1971. But too much time has passed with too little progress since then. Now, in 1991, it is time for Congress to finish the job.

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

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

The legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business?

If not, morning business is closed.

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEARS 1992, 1993, 1994, 1995, and 1996

The ACTING PRESIDENT pro tempore. The clerk will report the pending business.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 29) setting forth the congressional budget for the U.S. Government for fiscal years 1992, 1993, 1994, 1995, and 1996.

The Senate resumed consideration of the bill.

Pending:

McConnell amendment No. 80, to provide increased funding for child nutrition programs, and to eliminate monies in the Presidential Election Campaign Fund.

Mr. BOREN. Mr. President, I ask unanimous consent that I might be yielded 5 minutes from the time allocated to the majority floor manager to discuss the McConnell amendment, which will be considered later this morning.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. BOREN. Mr. President, I am not going to be able to come back to the floor later this morning when the McConnell amendment is again discussed. There was preliminary discussion of this amendment last night. It is an amendment that I think deserves the attention of all of the Members of the U.S. Senate.

This amendment, if adopted, would transfer all of the funds now allocated to finance the Presidential election system for other functions and other purposes of Government. In essence, it would be the abolition of the current way in which Presidential campaigns are financed. This is a major step for us to take at this point in time.

Mr. President, I point out that this system has been in place now for several years. It was enacted after the scandals of the Watergate period. It is a step toward reforming our system of government.

It was felt that the modest investment which came from the tax checkoff, voluntarily checked by members of the public as they file their income tax returns, was a small investment to make in good government, in clean government. As we have painfully learned over the years, the cost of bad government, the cost of government which, in the eyes of the American people, casts a cloud over the conduct of the affairs of state, that cost is certainly much higher than the modest cost of clean government and clean campaigns.

Since this system has been in place, 49 of the 50 candidates for President during this period of time have utilized this system. At least 30 million Americans participate every year by checking off a dollar on their tax returns to go to finance the Presidential system. In fact, it was reported that in 1990, for example, President Bush utilized the checkoff on his own tax return. That, in a sense, was his vote of confidence in the current system of financing Presidential campaigns.

This is not a partisan matter, Mr. President, and it must not be allowed to be a partisan matter. Candidates from both political parties have utilized the Presidential election system that we now have in place. Republican candidates, for example, have accepted and spent more than $200 million in funds from the checkoff account since this system has been put in place. President Reagan, President Bush, and our own distinguished minority leader, Senator DOLE, when he ran for President, for example, all participated in this system.

So we are not talking about a system that has favored one political party over another. We are talking about a bipartisan mechanism which had been put in place, which has received the vote of confidence of millions of Americans, which has been participated in by virtually all of the candidates for President since it has been there. The Republican National Committee has accepted $32 million in funds from this particular account to hold national conventions.

So, Mr. President, we should think long and hard before we take a step backward, back to the bad old days, when we had huge amounts of cash flowing into President campaigns; when we had competition based upon who could raise the most money; when we did not have a full accounting of the money in the political process. This is not what we want to do. If there are problems with the current system or the way we finance Presidential campaigns, the answer is to reform the system. The answer is not to go back to the system which was in place before the current reforms were adopted.

For example, this year we are struggling to try to reduce the influence of special interest groups in the political process, in the election process, for Members of Congress. We have all been alarmed, and this has been a view given on both sides of the aisle, by the increased dominance of political action committees as a form of financing congressional campaigns.

We have been alarmed by the fact that more than half of the Members of Congress elected in the last election received more than half of their funds, not from the people back home at the grass roots, not from individual contributors, but from political action committees and special interests, often headquarters here in Washington, DC, or in other regions of the country, having very little contact with the particular district or State of the Member up for election.

In contrast, only 2 percent of the funds which flowed into the Presidential election last time came from political action committees. So we need to think again before jettisoning a system that has by and large worked in the financing of Presidential campaigns, and that has recused the influence of money.

Instead of taking a step back, moving back toward the dark, back toward nondisclosure, let us go forward, let us work together on a bipartisan process of reforming the current system under which Presidential campaigns are conducted. There have been problems. The Senator from Kentucky has pointed them out himself in the past with soft money flowing in to State party committees. It is well known that both political parties utilize large contributions, such as $100,000 to party committees, to indirectly influence the Presidential elections.

It was estimated that in 1988 as much as $70 million may have passed through this soft money loophole. The answer, Mr. President, is not to take all of the campaign reform law that is now on the books off the books. The answer is not to march backward. The answer is not to lose the progress which has been made.

The answer is to take those steps to reform the system that need to be taken to make it work better, close the soft money loophole.

It is factually what we tried to do in the case of congressional campaigns with Senate bill 3 which has been introduced by the distinguished majority leader, myself, and others. Let us also not take partisan action on this kind of major provision which affects institutions of the government of this country. It is exactly why the Rules Committee reported out two congressional campaign reform bills just a few weeks ago. They not only reported out S. 3, sponsored principally by members on this side of the aisle, they also reported out the proposal of the distinguished Republican leader, the Senator from Kansas.

Mr. President, that is the spirit of bipartisanship which is necessary if we are to bring about the kind of reform that is needed in the campaign financing system.

So I appeal to my colleagues, think about this amendment, read this amendment before you vote on it, ask yourself, do we want to go back to those days in which huge amounts of unreported cash sloshed into Presidential campaigns in which special interest money had an undue dominance in Presidential election campaigns? Do we want to inject back into Presidential politics all of the evils we now see in the way we finance congressional campaigns? Do we want to undo the good that has been done? Do we want to go back to ground zero? Do we want to create in the Presidential system the very things we are trying to now change as we gamble with ways to reform congressional campaigns? I think not.

I urge my colleagues do not vote to undo the reform which already has been made. Instead, let us get together and work in a bipartisan way to close those loopholes that have developed in the Presidential system. Let us take a system which, by and large, is good which has received the vote of confidence of 49 out of 50 Presidential candidates in both parties. Let us not throw it out. Let us reform it. Let us make it better.

I urge my colleagues when the time comes to vote on the amendment of the Senator from Kentucky [Mr. MCCONNELL] that it be overwhelmingly rejected. Let us not cast aside the valuable experience that we have had with this Presidential system over the last several years.

I thank the Chair, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

PRIVILEGE OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that during the pendency of the matter that will be before the Senate briefly, the budget matter, that Karen Judge of my office and Wayne Mehl be allowed to be on the floor.

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

The Senator from Tennessee [Mr. GORE].

Mr. GORE. Mr. President, I ask unanimous consent that I be allowed to speak as if in morning business for 5 minutes.

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

FUTURE OF ANTARCTICA

Mr. GORE. Mr. President, I rise this morning to speak about a subject that is not often addressed on the floor of the Senate. I have spoken about it several times in the past. It is the future of Antarctica. The second round of negotiations is now underway in Madrid and there have been some welcome developments there and some unwelcome developments, and I would like to briefly report to my colleagues on them.

The good news and the surprising news from Madrid is that Japan has suddenly shifted its position and has now joined Australia, New Zealand, France, and many other nations, in calling for an indefinite ban on mining and oil drilling in Antarctica.

What this means is that the United States and the United Kingdom are now isolated in the entire world in opposition to this ban. Our country and Great Britain are now standing in the way of ensuring that the prestine Antarctic environment, extremely vulnerable as we saw Prince William Sound was vulnerable, is protected from development. Antarctica is much more so. We are standing in the way of protecting Antarctica.

This is an issue that has importance not only because of Antarctica, a large continent, larger than the United States, that we do not often think about, but it is important because this is an opportunity for the world community to set a precedent in pursuing the new approach to protecting the global environment that so many feel is the position our State Department is advocating. A temporary ban, lasting for only 20 to 30 to 40 years, is simply unacceptable. Last year, the Congress passed and President Bush signed into law a resolution that I introduced and a bill that my distinguished colleague from Massachusetts, Senator KERRY, introduced that expressly called for an indefinite ban on mining activities in the Antarctic.

In sending his representatives to the Madrid meeting instructed to push for less than an indefinite ban—a 20-year halt can in no way be considered indefinite—the President is ignoring the clearly expressed will of the American people as expressed through the votes here in the Congress.

Learning of the State Department's instructions some time ago, I was joined by 15 of my colleagues in writing to the President to urge him to carry out the legislation that he signed into law. Apparently, that message, too, has been ignored.

I would like to include after my comments an article from the Financial Times which reports on the shift of Japanese policy. I wish to commend the Japanese Government for this shift.

And also I would like to include the text of the letter that my colleagues, and I sent to the President asking him to honor the resolution and the law passed by the Congress and the wishes of the American people, Mr. President.

I yield back the remainder of my time.

I ask unanimous consent that these materials be printed in the RECORD.

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

[From Financial Times, Apr. 24, 1991]

JAPAN SHIFTS POLICY ON ANTARCTIC MINING

Japan has made a significant policy shift over mining in the Antarctic and asked for a moratorium until technology is advanced enough to safeguard its environment, a Japanese diplomat said yesterday, Reuter reports from Madrid.

"Japan wants an indefinite moratorium until we find technology allowing mining without harming the environment," said a Japanese embassy spokesman.

The Japanese proposal to a meeting of the 39-nation Antarctic Treaty in Madrid surprised environmentalists, who saw it as a radical change. The spokesman gave no explanation for the change of heart.

Japan had been part of a lobby including the U.S. and Britain in favour of limited exploitation of Antarctic mineral resources, which include oil and coal, under the strict 1988 Convention for the environmental safeguards set down in the Regulation of Mineral Activities in the Antarctic.

Britain has shifted its position to back a moratorium of 30 to 50 years since the 11th consultative meeting in Viña del Mar in Chile last December. The eight-day Madrid talks aim at finding consensus on mining in Antarctica.

Diplomats and environmentalists say the prohibition lobby, led by France, Australia and New Zealand, is gaining strength.

"This is fantastic news as far as we are concerned," said Mr. James Martin Jones of the Worldwide Fund for Nature. "I would say the U.S. and Britain look pretty isolated now."

U.S. SENATE,
Washington DC, March 25, 1991.

Hon. GEORGE BUSH,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: We are writing to express our grave concern that the preservation and protection of the Antarctic environment, that we worked hard to ensure in the last Congress, is still at issue. Specifically, it is our understanding that the United States,

in the upcoming meeting of the Antarctic Treaty Parties in Madrid, Spain, will encourage other nations to agree to a policy that would ultimately facilitate and encourage mining activities in the area.

On November 16, 1990, you signed into law two measures, Public Laws 101-594 and -620, that declare it to be the policy of the United States to pursue an indefinite prohibition of commercial minerals development and related activities in Antarctica. We understand, however, that U.S. representatives are instructed to urge that mining merely be prevented for a limited period—some 20 to 40 years—after which time the moratorium will be lifted. This position falls short of the standard we believe should apply. A prohibition which ends after a time certainly does not amount to an indefinite ban.

Moreover, it is also our understanding that the United States is prepared to suggest that the Convention on the Regulation of Antarctic Mineral Resource Activities (CRAMRA) be implemented when the mining prohibition is lifted. As was declared in both of the measures mentioned above, however, CRAMRA "does not guarantee the preservation of the fragile environment of Antarctica and could actually stimulate movement toward Antarctic mineral resource activity."

The draft Protocol on Environmental Protection that was negotiated by the Antarctic Treaty Parties in Chile in November of last year includes an incomplete article prohibiting mineral activities. It is our position that, in accord with the legislation passed last year and with the operation of the Antarctic Treaty System, the prohibition should be sustainable indefinitely, unless, through the operation of very carefully designed procedures, a consensus is reached among the Treaty Parties to modify its terms.

We realize the press of business, but the protection of the Antarctic is a duty not only to this, but to all future generations. If we work together, we are confident that an agreement can be negotiated and ratified that will effectively protect Antarctica's pristine environment.

Sincerely,

Senators Richard Lugar, Brock Adams, Thomas Daschle, James Jeffords, Quentin Burdick, Edward Kennedy, Joseph Biden, John Kerry, Al Gore, Carl Levin, Bill Bradley, Alan Cranston, Daniel Akaka, Joseph Lieberman, Tom Harkin, and Tim Wirth.

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEARS 1992, 1993, 1994, 1995, AND 1996

The Senate continued with the consideration of the concurrent resolution.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. The concurrent resolution is pending.

AMENDMENT NO. 81

(Purpose: To decrease funding for defense, and decrease the deficit)

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

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. BRADLEY], for himself and Mr. SIMON, proposes an amendment numbered 81.

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

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

The amendment is as follows:

On page 4, line 7, decrease the figure by $1,400,000,000.

On page 4, line 8, decrease the figure by $2,200,000,000.

On page 4, line 9, decrease the figure by $2,600,000,000.

On page 4, line 10, decrease the figure by $2,800,000,000.

On page 4, line 11, decrease the figure by $2,900,000,000.

On page 7, line 13, decrease the figure by $5,900,000,000.

On page 7, line 14, decrease the figure by $2,700,000,000.

On page 7, line 22, decrease the figure by $6,000,000,000.

On page 7, line 23, decrease the figure by $4,400,000,000.

On page 8, line 7, decrease the figure by $5,900,000,000.

On page 8, line 6, decrease the figure by $5,200,000,000.

On page 8, line 16, decrease the figure by $6,000,000,000.

On page 8, line 17, decrease the figure by $5,500,000,000.

On page 8, line 25, decrease the figure by $6,100,000,000.

On page 9, line 1, decrease the figure by $5,800,000,000.

On page 42, line 23, increase the figure by $2,900,000,000.

On page 42, line 24, increase the figure by $1,300,000,000.

On page 43, line 6, increase the figure by $3,000,000,000.

On page 43, line 7, increase the figure by $2,200,000,000.

On page 43, line 14, increase the figure by $2,900,000,000.

On page 43, line 15, increase the figure by $2,600,000,000.

On page 43, line 22, increase the figure by $3,000,000,000.

On page 43, line 23, increase the figure by $2,700,000,000.

On page 44, line 6, increase the figure by $3,100,000,000.

On page 44, line 7, increase the figure by $2,900,000,000.

Mr. BRADLEY. Mr. President, let me say to the distinguished manager of the bill that I am prepared to enter into a time agreement so that we can expedite other amendments that are offered this morning. I am prepared to enter into a time agreement of half an hour, equally divided.

Mr. SASSER. That is satisfactory.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the time on this amendment be one-half hour, equally divided.

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

Mr. BRADLEY. Mr. President, the amendment I offer is on behalf of myself and Senator SIMON.

This amendment to the budget resolution starts the process of reordering the priorities established in last year's budget deal. Unfortunately, last year's hastily assembled budget deal locked in budget choices for up to 5 years.

Last October, I said that I did not believe those long-term choices were well thought out. I did not believe they reflected the priorities of American families, and I did not believe they gave sufficient flexibility to respond to crises as they emerge. Mr. President, I still do not. And I see no reason not to pursue our real priorities.

This amendment shifts those priorities. It cuts defense spending by 2 percent a year over the next 5 years, and channels half of the $6 billion a year in savings to high priority domestic spending such as education, health care, and cleanup of the environment. The balance of the savings is used for deficit reduction.

The budget agreement now before us continues to provide insufficient resources to repair the bonds of community in our cities and improve education and clean up our environment. Too much is devoted to defense spending. Simply stated, we need to reorder those priorities.

Mr. President, this budget fails to take full advantage of the material changes in our relationship with the Soviet Union and its capacity to harm United States interests. The Soviet Union is now committed to withdrawing all its armed forces from Central Europe within the next few years, cutting support for old clients, Cuba, Vietnam, North Korea. Its deteriorating economy will force even deeper cuts in military forces, modernization, and support for expansionist adventures. Although Soviet or Russian military power should and will remain a long-term concern, it will not generate the threats in the 1990's comparable to those we faced in the 1980's.

We can safely concentrate instead on the many lesser challenges America faces. Moreover, we have also temporarily diminished at least for the next 5 years the need for more defense expenditures because United States forces virtually disarmed Iraq of its most offensive weaponry. Therefore, many weapons system such as the B-2 bomber and others which did not even help in the Persian Gulf are really no longer needed to counter the Soviet threat and therefore can be effectively reduced. We can ensure our security with a much smaller defense budget.

This budget package continues to waste taxpayers' dollars on such military luxuries as the B-2 bomber, and oversized naval forces. For 5 years we will squander resources on forces that could not be justified in the past, and instead of revamping programs to meet actual American security needs in the future.

Mr. President, part of the $30 billion in 5-year savings we obtain from this amendment and should achieve in the defense area; those savings can be used for high priority domestic programs. This amendment provides the Senate Appropriations Committee with about $3 billion a year in additional funds for high priority domestic spending.

We all know where we need to place more resources. The Women, Infants and Children Feeding Program only reached about 60 percent of the poor families in need of nutritious food supplements; Head Start only reaches about 20 to 25 percent of the eligible population; tens of thousands of pregnant women do not have access to quality prenatal care; 25,000 young children got measles last year because they were not adequately immunized. Middle-income and lower-income families are finding it increasingly hard to send their children to college and move up the ladder of upward mobility. Our infrastructure in this country needs sizable investment. And we need to do more to clean up our environment.

Last, Mr. President, the amendment reduces the cumulative deficit over the 1992–96 period by an additional $13 billion. We know that further deficit reduction is needed. This amendment further reduces the deficit. We should not wait until 1996 to take these steps if we can obtain the savings out of the defense budget.

Will this amendment meet all the needs I have discussed in terms of child care needs, being able to send our children to college, cleaning up the environment, providing prenatal care for women who are poor and pregnant? The answer is no, it will not meet all these needs. But it will provide additional resources so more of our pressing domestic needs can be met. And the amendment reduces the deficit at the same time. And it does not raise taxes.

Mr. President, in summary, I think this is an appropriate and important amendment. I expect the distinguished chairman of the committee will raise the point of order that the amendment violates last year's budget deal. To that charge I plead guilty. As I said before, I believe last year's budget deal set us on the wrong course with the wrong choices and the wrong priorities. It is true that even if my amendment today is adopted, extra funds, however, will not be made available for meeting priority domestic needs yet. Before extra funds can be made available, we need to change the new budget statute that caps discretionary spending.

The legislation Senator Simon and I introduced will do just that. Our bill would permit Congress to shift funds from among various Federal spending categories which will allow us to realize future savings from defense spending and address pressing domestic needs.

Last year's law, in the name of budget reform, established a supermajority vote to take money from defense and spend it in the nondefense area, in the domestic programs. If you cut the defense budget and you want to use some of that money, as I would like to in this amendment, in order to provide child care or clean up the environment, as a result of last year's Budget Act you need 60 votes in order to do that.

Mr. President, in addition to that, even with 60 Senators, if 60 Senators agreed to the shift from defense to nondefense, the law still subjects all the programs in the increased category to an across-the-board cut.

What does that mean? It means it is very, very hard to cut defense and terminate funding for wasteful programs like the B–1 bomber and use part of these savings for underfunded programs that work, such as Head Start, WIC, maternal and child health grants and other investments in children. It does not mean we will have more budget discipline.

What incentive is there to search out and realize savings in one area if there is no way to use any of those savings for any other priority?

Mr. President, the legislation Senator SIMON and I introduced solves the problem with two modifications to the Budget Act. First, it permits Congress to exceed the budget cap in any category if and only if the increase is offset by a reduction in another category. Congress may make such transfer by a simple majority vote; not 60 votes, a simple majority vote. Second, the bill we have introduced says there will be no across-the-board reductions if offsets are provided.

This bill does not change the overall spending blueprint in current law. Overall discretionary spending would not change. But we will be able to make the choices we were elected to make.

Mr. President, last month President Bush asked a joint session of Congress to move forward aggressively on the domestic front. Those were his words. The American people are also asking us to deal on the domestic front with the health care crisis, the recession, drugs, crime, infrastructure, children, and the other challenges here at home. They believe we can give priority to these crises without raising taxes by finding savings elsewhere in the budget. They are right. But we need a system that lets us make those transfers when we find them.

The amendment I am offering today with Senator SIMON shifts budget priorities. If it is adopted, we will need to follow up with legislation to reform the budget process, to enable the shifting of those priorities.

I hope the Senators who support our efforts to shift priorities will support this amendment and support our efforts to change the budget rules that stop us from moving forward effectively on the real priorities that face America.

Mr. President, this amendment is offered in hopes that the Senate will clearly state its desire to move ahead with more help on the domestic front and that we see a means of doing that by not increasing the deficit. We should be cutting the defense budget, and taking part of those savings and spending them on the domestic side and using the other half of the cut in defense to reduce the deficit.

This amendment would allow us to reduce the deficit and spend more on very high priority domestic programs.

Mr. SASSER. Mr. President, let me propound a question to the distinguished Senator from New Jersey on the time of the opponents to the amendment.

Would the distinguished Senator advise the manager of the amount of money his amendment would transfer from defense to domestic discretionary accounts?

Mr. BRADLEY. In 1992, the defense amount would be, in budget authority, 5.9 and in outlays 2.7; 1993, outlays 4.4; 1994, 5.2; 1995, 5.5; 1996, 5.8. Half to domestic, half to lower deficits.

Mr. SASSER. I thank the distinguished Senator from New Jersey.

Mr. President, I have to say at the outset that I am very sympathetic with the Senator's amendment and very sympathetic to what he is seeking to do here this morning. This amendment will transfer funds out of the Defense Department account into various domestic discretionary spending accounts. We have done that at other times in other years.

The Appropriations Committee has done that in making their final allocations. But, as the distinguished chairman of the Appropriations Committee said yesterday, in arriving at these agreements with the administration to reduce the deficit and to put ourselves on the path to reducing overall spending, we have to make some agreements that we are not fully satisfied with.

We cannot have everything our way all the time, as the distinguished chairman of the Appropriations Committee said.

While I am very sympathetic with what the distinguished Senator from New Jersey is urging this body to do today and although I would like very much to not only accommodate him but be a cosponsor of his amendment, that is just simply not possible because we entered into a solemn agreement with the administration. In that agreement, we agreed to certain caps on all spending in discretionary accounts, including domestic spending, and in defense spending.

We further agreed you would not be able to transfer funds between these two accounts as we had done in prior years. And we are compelled today—

unless this body wishes to reverse it by a 60-vote margin—to carry out that agreement.

As I said, I wish it could be otherwise. I think the distinguished Senator from New Jersey makes a clear and compelling case for transferring these funds from defense into these very worthwhile domestic discretionary programs such as Head Start. In the view of this Senator a whole host of programs actually need additional funding and, have much more to do with national security and much more to do with, certainly, national, economic, and Social Security; and in the longrun will protect the interests of this country much more than, perhaps, spending billions of dollars on the development and acquisition of a B-1 bomber, which the Senator from New Jersey used in his illustration.

But that is just not going to be possible if we are to live up to the solemn agreement that we made with the administration in the fall of last year. So, Mr. President, the pending amendment would violate section 601(b) of the Congressional Budget Act. The adoption of the amendment would result in spending in a discretionary appropriations category excess of the cap for that category under section 601(a) of the Budget Act, as adjusted in accordance with Gramm-Rudman-Hollings.

At the conclusion, when all time has been yielded back I will raise the appropriate point of order pursuant to the Congressional Budget Act. I might say to my friend from New Jersey, I raise it reluctantly. I wish it were otherwise. But we have entered into a solemn agreement here, and it is my duty to enforce it.

Mr. BRADLEY. Mr. President, how much time remains on the side of the proponents?

The PRESIDING OFFICER (Mr. GORE). The Senator from New Jersey has 4½ minutes remaining.

Mr. BRADLEY. Mr. President, let me say I respect what the Senator from Tennessee has said about the solemn budget agreement last year that locked everyone in concrete for the next 5 years, regardless of what events occur in the world.

Since that solemn agreement, we had a war in the Persian Gulf that dramatically demonstrated not only the effectiveness of our military weaponry, but also changed the geopolitical circumstances of the region so that in fact it is an argument for reduced defense spending.

We do not need to have massive naval forces offshore. The war demonstrated the importance of having land-based forces. And we will continue to have access in the region, which is another argument for why we can reduce defense spending by a greater amount than envisioned last October, which illustrates the other point, which is that times change.

The Senate and the Congress should not lock itself into an agreement for 5 years that it cannot change, notwithstanding changes in the world.

The fact of the matter is, with 25,000 kids getting measles because they cannot be immunized in this country; with Head Start providing services to only 25 percent of the eligible population and WIC to about 60 percent of the eligible population; with countless thousands of low- and middle-income families across this country that want to send their children to college, but cannot because they do not have enough money—Mr. President, things change. Times change. You cannot afford to lock yourself into a budget agreement that was decided in a room with about 10 people in the room and say there will be no changes in that agreement.

This is an opportunity to begin to register the Senate's opinion that the priorities in the budget agreement last year we do not agree with. We want less defense spending because of the changes in the world, and we want more spending on the domestic front. And we want more deficit reduction.

The real irony here is we have the Budget Committee making a point of order that the amendment of the Senator from New Jersey cuts the budget deficit too much. What is the Budget Committee supposed to do, if not cut the budget deficit?

I appreciate the points of the distinguished Senator from Tennessee. However, I do not accept them, and I hope the Senate will support this amendment.

I am prepared to yield 1 minute to the distinguished Senator from Illinois, if he desires it.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I am pleased to be a cosponsor of this, because the budget process is about priorities. Our priorities in this Nation ought to be, No. 1, getting that deficit down; and No. 2, doing something about this problem of education. In fiscal year 1949, we spent 9 percent of our budget on education. Today we are spending 3 percent of our budget on education.

This amendment moves us in the right direction. The agreement was an agreement that I voted against. It says you have to have 60 votes. But it is not any violation of the agreement to go ahead.

I think we made a mistake in agreeing to the 60-vote provision, but it takes, as I understand it, 60 votes. Let us set the right kind of priorities. Let us not just drift into the future.

That is what the Bradley amendment calls for, and I am pleased to be a cosponsor.

The PRESIDING OFFICER. The Senator from New Jersey has 30 seconds remaining.

Mr. BRADLEY. Mr. President, if I could have the attention of the distinguished chairman? When the chairman makes his point of order, I will then, pursuant to section 904, move to waive the Budget Act.

If we are going to delay this vote, will he assure that, in order to move to waive the Budget Act, I could be on the floor when he makes his point of order?

Mr. KERRY. Mr. President, I rise today in support of the Bradley amendment because it will transfer unnecessary spending from the Defense budget into domestic programs that are in need of more funding to stimulate the economy and help those who have been hurt by the recession. The amendment offered by the distinguished Senator from New Jersey puts more money into those areas where the needs are greatest and goes further than last year's deficit reduction package in reducing our national debt.

I opposed last year's budget agreement, in large part, because the new budget rules prohibit transferring money from one part of the budget to another. At the time, I expressed my concern about the impact this rule change would have on the Federal Government's ability to respond to unanticipated problems. By requiring a 60-vote super majority to transfer money from one account to another, we find ourselves today in a position where the majority of the Senate can no longer work its will.

We have a major problem in Massachusetts right now. The economy is in a deep recession, unemployment is almost 10 percent, and people are suffering. And the pain of the recession hasn't been limited to the Northeast. So far, the Federal Government has done absolutely nothing. Today, we have a chance to do something. I personally don't think it goes far enough, but at least it's a step in the right direction.

The Bradley amendment would provide for a 2-percent reduction in the Defense budget for each of the next 5 years, roughly $30 billion. The savings would be divided evenly between deficit reduction and funding for domestic discretionary programs. The extra money will help fund those programs like unemployment benefits and job training that need more money in a recession without jeopardizing our national security interests.

Simply stated, there are savings that can be made in the defense budget. The administration has requested about $25.5 billion over the next 5 years for the B-2 Stealth bomber. The Congressional Budget Office has estimated that the total cost of the B-2 program will be $65 billion, or $860 million for each of the 75 planes the Air Force plans on buying. This would make the B-2 the most expensive strategic weapons system ever built. Notwithstanding the budget deficit and the large number of

domestic problems confronting this country, the bottom line is that we do not need the B-2.

The administration argues that we need another penetrating bomber in addition to the B-1 bomber because modernization of Soviet air defenses will make the B-1 obsolete by the end of the decade. However, even if the Soviets decided to squander what little economic resources they have on improving their air defenses, cruise missiles would provide an equally lethal retaliatory threat against most Soviet targets.

Nor do the proposed missions of the B-2 make sense. The primary mission would be to destroy Soviet mobile missiles during a nuclear war. Ignoring the issue of whether bombers could survive in such an environment long enough to find and destroy any missiles that had not been launched, these missiles could easily be dispersed and hidden. The Air Force also claims that the B-2 could be used for conventional missions. However, because of its cost, sensitive technology, and primary strategic functions, we would be unlikely to use the B-2 for this purpose.

The remaining $4.4 billion in defense cuts required by the Bradley amendment could be taken from the SDI Program. In the 8 years since President Reagan proposed SDI as a means of making nuclear weapons impotent and obsolete, we have spent over $20 billion on the SDI Program yet there is virtually no evidence that we are any closer to developing a survivable and cost-effective system capable of defending against a large-scale ballistic missile attack. In addition, deployment, as well as some development and testing, of SDI would require abandonment of the ABM Treaty. This would inevitably create an offense-defense arms race spiral, resulting in the proliferation of both types of systems and an end to nuclear weapons constraints. The combining of partial missile defenses and highly accurate offensive nuclear forces also would provide an incentive to strike first in a crisis.

Proponents of SDI, most recently reincarnated under the name Global Protection Against Limited Strikes or GPALS, argue that it is necessary to combat the threat of ballistic missile proliferation around the world. For the foreseeable future. however, China will remain the only developing country with the capability to strike the United States with ballistic missiles. As for defending our friends and allies overseas against missile threats, the space-based elements that are central to the SDI concept would be useless against most nonstrategic ballistic missiles because they do not fly high enough to be targeted by the space-based elements. Our attention should therefore be devoted to controlling proliferation and developing ground-based, ABM Treaty-compliant theater missile defenses such as the Patriot system rather than pursuing SDI.

Mr. President, I could say much more about the deficiencies of the B-2 and SDI Programs but I will save that for the debate on the Defense authorization bill. For now let me simply conclude by saying cuts can be made in the defense budget by abandoning the B-2 and reducing the SDI Program. This would be an extremely prudent means of saving money without jeopardizing our national security in any way.

Shortly after this vote, the Senate will take up consideration of the Simon amendment. While I am sympathetic to the need to cut unnecessary defense spending, I am reluctant to cut that spending in difficult economic times if that money is not put to other uses that benefit people and regions hurt by the recession. That is why I oppose this amendment but support the Bradley amendment which cuts defense spending and channels a portion of that cut to domestic needs that are critical to Massachusetts and the rest of the Nation.

The PRESIDING OFFICER. The time of the Senator from New Jersey has expired. The senior Senator from Tennessee has 9 minutes and 20 seconds remaining.

Mr. SASSER. Mr. President, I advise the distinguished Senator from New Jersey that he can move to waive the point of order. We will then stack the vote to occur after the 12:15 vote on the McConnell amendment; this issue we will return to at 11:45.

I might make just two or three points in response to my friend from New Jersey. No. 1, the budget agreement itself does not fence off defense and discretionary spending accounts for the full 5 years of the agreement. The ability to move funds between the defense accounts and the domestic discretionary accounts will return after only 3 years of the budget summit agreement.

In other words, there is a 3-year prohibition between moving funds back and forth between the defense account and the domestic discretionary account.

You can cut defense spending under the budget agreement. If it is the intent of the movers of this amendment to seek to reduce the deficit, they can do so simply by cutting defense spending.

The distinguished Senator from Illinois, one of the cosponsors of this amendment, later on today I am advised will offer one or perhaps two amendments to do just that—to reduce the deficit further by cutting defense spending below the caps. And I have supported the distinguished Senator from Illinois on at least one of his amendments in the budget agreement.

This budget agreement is not an inflexible agreement. It can be overturned by 60 Senators, voting to overturn a particular section of the budget agreement. In particular this section prohibits the transfer of funds between defense and domestic discretionary, or between the defense and the international affairs section of the budget or between domestic discretionary and the international affairs section of the budget.

So it can be overturned. It is not something that is chiseled in stone, but it simply takes a supermajority to do it, a majority of 60 Senators to overturn the budget agreement.

As I said earlier, if I had had my way in the negotiation of this agreement, these fences would not have been erected between defense and domestic discretionary, but we cannot have our way at all times. The guiding principle behind the budget summit agreement was to reduce the deficit itself, and the only way to get the administation's cooperation in moving in that direction was to erect these fences for a 3-year period.

Mr. President, having said that, I want to yield back all of the time of the opponents, to the amendment of the Senator from New Jersey.

The PRESIDING OFFICER. All time is yielded back. All time has expired.

Mr. SASSER. Mr. President, pursuant to section 601(b) of the Congressional Budget Act, I raise a point of order against the amendment of the Senator from New Jersey.

Mr. BRADLEY. Mr. President, pursuant to section 904 of the Budget Act, I move to waive the Budget Act.

The PRESIDING OFFICER. The motion to waive is debatable. There is 1 hour equally divided.

Mr. SASSER. Mr. President, it is my understanding that the Senator from New Jersey is willing to yield back his time on the waiver. In that event, I will be willing to yield back my time.

Mr. BRADLEY. Mr. President, I yield back all of the time on the waiver.

The PRESIDING OFFICER. All time is yielded back.

Mr. BRADLEY. I ask for the yeas and nays in the waiver.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SASSER. Mr. President, I ask unanimous consent that the vote on the Budget Act waiver take place immediately following the disposition of the McConnell amendment this afternoon, and if the Senate votes to waive the Budget Act, that the vote on the Bradley amendment take place immediately after the vote on waiving the Budget Act.

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

Mr. BRADLEY. Mr. President, I am not certain of the outcome, but I hope, if the Budget Act is waived, that we

might have 5 minutes, equally divided, to describe the amendment.

Mr. SASSER. In the event the Budget Act is waived, Mr. President, we can certainly accommodate that wish and can yield time off the resolution itself.

Mr. BRADLEY. I read the chairman.

Mr. SASSER. I thank the Senator from the New Jersey.

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

I will refrain from that. I see the distinguished Senator from Illinois, who I understand wishes to call up an amendment at this time.

AMENDMENT NO. 82

Mr. SIMON. 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 Illinois [Mr. SIMON], for himself and Mr. BRADLEY, proposes an amendment numbered 82.

Mr. SIMON. 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:

DEFICITS

On page 4, line 7, decrease the figure by $2,700,000,000.

On page 4, line 8, decrease the figure by $4,400,000,000.

On page 4, line 9, decrease the figure by $5,200,000,000.

On page 4, line 10, decrease the figure by $5,500,000,000.

On page 4, line 11, decrease the figure by $13,900,000,000.

NATIONAL DEFENSE

On page 7, line 13, decrease the figure by $5,900,000,000.

On page 7, line 15, decrease the figure by $2,700,000,000.

On page 7, line 21, decrease the figure by $6,000,000,000.

On page 7, line 23, decrease the figure by $4,400,000,000.

On page 8, line 6, decrease the figure by $5,900,000,000.

On page 8, line 8, decrease the figure by $5,200,000,000.

On page 8, line 15, decrease the figure by $6,000,000,000.

On page 8, line 17, decrease the figure by $5,500,000,000.

On page 8, line 25, decrease the figure by $8,900,000,000.

On page 9, line 1, decrease the figure by $13,900,000,000.

Mr. SIMON. Mr. President, I am pleased to have the Senator from New Jersey as a cosponsor on this amendment, an amendment that does not violate the agreement but gets to a No. 1 priority in this Nation, and that is, it would reduce the budget authority for defense spending by 2 percent. I point out that a former Secretary of Defense, Robert McNamara, has suggested that we have a 10-percent cut each year in defense spending for 5 years and that we would still have a strong, flexible defense to deal with an Iraq-type situation. This does not call for that. It calls for only a 2-percent reduction.

I point out also, after World War II, we reduced defense spending 90 percent in 3 years. No one is suggesting anything like that. We could argue that we got into difficulty in Korea because we had an excessive cut in defense. But there is a huge difference between where we are now and that 90-percent cut in defense.

Where have we been in 1991 dollars on defense spending in the cold war? If we take out Korea and Vietnam and look at the cold war, we will see that we have had an average of $235 billion in 1991 dollars on defense spending. Now that the cold war is over, what are we spending? $290 billion. It is just totally irrational, and much of it is for exotic things that have absolutely no relevancy to the kind of a threat posed today.

For at least 12 years, and probably longer, we have been debating the B-1 bomber in the Senate and the House. How many B-1 bombers were used in the Middle East? Not a single one, because it is impractical.

I think a fundamental question is what is the great threat facing this Nation today? Is it a security threat or is it a threat to our economy? I suggest any rational analysis suggests that it is the threat to our economy.

Let me just go over a few statistics with my colleagues. One of the things that we have shifted on when we list interest now, we ordinarily mean net interest instead of gross interest. What is the difference between net interest and gross interest? We subtract the interest earned by the Social Security trust funds and the other trust funds before we list interest. In fiscal year 1980, we spent $74 billion on interest. This fiscal year, we will spend somewhere between $287 and $290 billion on interest. The fastest growing item in the budget by far is interest. It is a massive welfare program, taking from people of limited means, giving it to the more fortunate and particularly now the more fortunate beyond our borders.

While the budget agreement limited spending somewhat, frankly, we have not faced up to this in either political party. The deficit this year, according to CBO estimates, is $371 billion. It is an astronomical figure. We have to get ahold of this thing. I think we should ask ourselves long term—the Presiding Officer, the Senator from Tennessee, is one who has done more long-term thinking than most Members of this body, to his credit—where do we go long term if we do not get hold of this deficit?

Starting about the year 2003, we are going to have a lot of people retiring. Starting at the year 2010, a great many people will be retiring. This is not theory. These are people who are alive today. We are now heavily dependent on Social Security funds to buy our bonds. At that point, we will have one of three, and only three, decisions to make: No. 1, we can significantly reduce Social Security retirement payments, and we know how politically popular that would be; or, No. 2, we can dramatically increase taxes, and we know how politically popular that would be; and the third option is to print more money. That is the politically easy way out, and that is where we are drifting at the present time, and we have to stop it. It is why I favor a constitutional amendment to require a balanced budget unless there is a 60-percent vote of Congress to the contrary.

We are in jeopardy, and this amendment says simply let us reduce budget authority for defense by 2 percent. That is it.

Mr. President, as I indicated, I am pleased to have Senator BRADLEY as a cosponsor of this amendment.

I would ask unanimous consent that if this amendment is defeated when we stack votes, then I will be offering a second amendment for a 1-percent cut. I would ask unanimous consent that we have 5 minutes on each side when I present that amendment, and I ask unanimous consent to present that amendment after this one at the time we stack the votes. A little complicated, but I think the Parliamentarian understands the thrust of what I am doing, and I do not think there would be any opposition from Senator SASSER or Senator DOMENICI.

The PRESIDING OFFICER. The Senator from Illinois has requested unanimous consent that in the event the pending amendment is not acted upon favorably by the Senate, he be at that point recognized to offer a second amendment described as a 1-percent cut in remarks just made, and that on that second amendment 5 minutes be allocated in favor and 5 minutes against, and that the vote occur on that second amendment at that time. Is there objection?

Mr. SASSER. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. As I understand what the Senator from Illinois wishes to do, following the vote on his amendment to reduce defense spending by 2 percent, should that amendment be unsuccessful, then the Senator wishes to introduce his amendment to reduce defense spending by 1 percent and have debate for a period of time on the 1-percent amendment.

Mr. SIMON. That is right. Just 5 minutes on each side.

Mr. SASSER. I have no objection, Mr. President.

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

Mr. BRADLEY. Mr. President, I am pleased to cosponsor the amendment by the Senator from Illinois. I think he makes a very important point that is all too often missed and ignored. And that is the impact of these deficits on our children. We had a very full debate yesterday about the Social Security tax proposal of the distinguished Senator from New York. My opposition to his effort was in large part based upon what it implied about the impact on future generations. The tax cut is, in fact, a tax increase time bomb that would come in addition to what we have already bequeathed to future generations, which is a massive debt.

I think the Senator is right to take this position. I remember recently I was at a meeting and made the point about what we are doing to our children and their children in terms of bequeathing this deficit, and somebody said, "Well, 5-year-olds do not vote." That is true, but the objective here is to try to lengthen our time horizon, to try to begin to make decisions today that will have a positive impact on our children, not simply an impact on us now, at this moment, that makes us feel good, but an impact that will be positive for our children.

That view of the future, I believe, is embodied in the amendment of the Senator from Illinois. Things have changed. The war has been fought, a clear reason for less defense expenditures. We are locked into a budget agreement. The chairman says not fully for 5, but for 3. All right, 3. It is real irony, maybe even something else, for an effort to reduce the deficit to be opposed by those who have stated they want to reduce the deficit.

Mr. President, I strongly support the amendment of the Senator from Illinois. I think it is a very clear statement: Changed circumstances; reduce defense spending. Let us use the money to reduce the impact of that deficit on our children and their prospects.

I am pleased to join in this effort and hope that we will prevail.

Mr. SASSER. Mr. President, I yield myself such time as I may consume off of the resolution.

Mr. President, the amendment that is presented to us today by the distinguished Senator from Illinois, frankly, in the final analysis makes a very minor change in the President's plan. The amendment of the distinguished Senator would reduce outlays for fiscal year 1992 by only $2.7 billion and reduce them for fiscal year 1993 by only $4.4 billion.

To me, that appears to be an eminently reasonable amount and this is an eminently reasonable amendment. Even under the plan that is being urged upon us today by Senator SIMON, defense spending adjusted for inflation by 1996 would still exceed the cold war average of $235 billion if this very modest amendment were adopted, Mr. President. Still exceed the cold war average when the Warsaw Pact is nonexistent.

I was in Eastern Europe just last year and met with the defense ministers in a number of the Eastern European countries. They told me that the Warsaw Pact existed only on papers. It was not, indeed, a military alliance at all; it was totally ineffectual. They were going to exclude Soviet troops from their borders just as rapidly as they could. They had no intention of fighting on the side of the Soviets should war break out in Europe.

This is what I was told in Hungary, Czechoslovakia, and Poland.

This modest amendment, if it were to be adopted by this body, would still leave defense spending above the cold war average by 1996.

Now, what are we arming against? The Warsaw Pact is dissolved. The Soviet Union is on the brink of anarchy. Yet we are still spending these enormous sums of money for defense.

I would look to the chairman of the Joint Chiefs of Staff. Gen. Colin Powell, for his views to reinforce the argument in behalf of the amendment of the distinguished Senator. General Powell recently said that he sees no threat looming in the next 5 years that would require an immediate and immense deployment like that that occurred in conjunction with Operation Desert Shield. Make no mistake about it, even following a 25-percent reduction in the defense establishment at the end of the 5 years as proposed by the administration itself, we would still have the capability to deploy the same military force as we deployed in Operation Desert Shield following that 25 percent reduction.

General Powell lamented, and I quote him, "I'm running out of demons. I'm running out of villains. I'm down to Castro and Kim Il-song." Those are the two villains that the Chairman of the Joint Chiefs of Staff points to now. No longer do we have to spend $300 billion to ward off the evil empire that is collapsing before our very eyes, and we are concerned to some extent because of the collapse.

Mr. President, the Simon amendment would require no additional changes in the military personnel force structure beyond those that were recommended in the President's budget. The Simon amendment would make the savings by freezing funding for the strategic defense initiative at least year's level. The President proposes nearly $5 billion for the so-called star wars or strategic defense initiative.

The Simon amendment would save $2 billion out of star wars alone. So if we hear argument or debate this morning that if the Simon amendment is adopted you are going to see wholesale personnel cuts in the military establishment, I say that is not necessary. That argument is simply fallacious.

These defense reductions are minor in the Simon plan. They would focus largely on research and development accounts, and on procurement accounts.

So, Mr. President, I think the Senator from Illinois brings us a worthwhile amendment. I am going to support the amendment when it comes to a vote on the floor.

There will be opponents to the amendment. I assume that the distinguished Senator from New Mexico will join us shortly to speak in opposition.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. First, I want to thank my colleague from Tennessee. I applaud his leadership. He has been a superb chairman. This is one of the examples where he has shown courage. I really appreciate it.

How much time do I have remaining?

The PRESIDING OFFICER. Forty-eight minutes thirty seconds.

Mr. SIMON. I will not be using anywhere near that amount I want to assure the Presiding Officer. Let me yield 5 minutes to my colleague from Minnesota.

Mr. WELLSTONE. Thank you, Mr. President. I assure my distinguished colleague from Illinois I will not be using the 48 minutes either.

Mr. President, the administration is asking for $290 billion for the military. That is the maximum amount allowed in the 1990 Budget Enforcement Act. That is a lot of money. To put it in perspective, it is half again as much as we are proposing to spend on all the discretionary domestic programs altogether. What the Senator from Illinois is asking us to consider today is whether or not this much money is needed given the new realities in the world and also the very serious budget constraints that we are operating under.

Mr. President, for decades the United States and our allies have fought the cold war against the Soviet Union. As the son of an immigrant from the Soviet Union I fully appreciate why. Over the course of the 1980's, we doubled the Pentagon's budget in response to a presumed growing Soviet threat. The nature of the threat was debatable.

But now it is undebatable. That threat is a thing of the past. As Albert Einstein said, in a somewhat different context today, it is a different world today.

The Warsaw Pact was formally dissolved in March. The Berlin Wall has come down. Vaclav Havel is President of Czechoslovakia, Lech Walesa is the head of the Government of Poland. We live in a very different world today.

But the budget that has been presented to us by the administration for the military does not respond to these new realities. Half of our budget, over half according to Pentagon estimates, $160 to $170 billion, goes toward defend-

ing Western Europe against a war or a threat of a war by the Soviet Union and the Warsaw Pact.

In other words, Mr. President, we are pouring $170 billion into a defense against a pact that no longer exists, preparing for a war that is never going to be fought. There is no more East and West Germany. It is one Germany. It is a different Eastern Europe. The Soviet economy is in shambles. It's leadership is different. This budget simply makes no sense given these new realities.

To go on, Mr. President, there is just too much waste in this budget with the kind of fiscal constraints that we are dealing with. The administration requests $4.8 billion to build four, only four, Stealth bombers, B-2 bombers. This obscenely expensive plane is designed to carry nuclear bombs to be dropped on Soviet targets. It was a marginal and dubious proposition at best in an age of missiles. Now it is an absurd anachronism. The list of obsolete weapons goes on.

Mr. President, money is being foolishly spent not only in Europe. For example, $9 billion is being spent to keep 50,000 soldiers and 55,000 dependents in Japan. A lot has changed since 1947, not the least of which Japan has become a powerful economic nation with its own strong economy, and is more than able to defend itself.

The question before us, Mr. President, in this amendment introduced by the Senator from Illinois, and in the amendment introduced by the Senator from New Jersey, and in the wonderful work that has been done by the Senator from Tennessee, is not whether or not we are going to have a strong defense; we are; not whether or not we are going to have a strong military; we must. We have seen how the military can perform in the Persian Gulf. The question is whether or not we are going to continue to spend money in a defense budget which is based upon unnecessary expenditures for a cold war that simply does not exist any longer.

Given the structure of the budget agreement struck last year every dollar not spent on defense will be used for deficit reduction. I submit that today that is of the utmost importance; $1 out of every $5 we spend is on deficit reduction. We are no longer able to plant our seed corn. We are eating it up with the debt.

I submit that this proposal by the Senator from Illinois, is an important step, albeit a small step, toward beginning to reduce that deficit and thereby free up dollars to fight wars in this country.

I want us to fight a war against drugs. I want us to fight a war against homelessness. I want us to invest in our own people. And most important of all, Mr. President, I want us to ensure that our real national security will be based upon our economic strength. A secure and strong community is one where people have jobs, where we invest in education, where there is health care, where there is transportation, where there is child care, where small businesses can make a go of it, where we have family farms, where every child in our country can grow up dreaming to be President of the United States. That is real national security.

I believe what the Senator from Illinois has proposed today in his amendment is important. It is a 2-percent cut in the Pentagon budget. That is such a small step. It is a modest step. But I hope other Senators in the U.S. Senate will join us today in this first small step so that tomorrow we can take a much bigger step.

Thank you very much, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Mr. President, I suggest the absence of a quorum, and I ask that it be charged against both sides equally.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant 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, in order to expedite this, I am going to yield back all but 5 minutes of my side.

The PRESIDING OFFICER. The Senator has that right. The Senator yields back all but 5 minutes.

Mr. SIMON. I question the presence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SASSER. Mr. President, I yield 10 minutes to the distinguished Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Before the Senator proceeds, the Senate will come to order.

The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I have said as a teacher for over 20 years that the Federal budget offers the most comprehensive State of the Union message about what our priorities are, and about how we distribute the costs and the benefits within American society. It will serve as a blueprint for the Appropriations Committee, and it will serve as a blueprint as we develop our 13 annual appropriations bills.

Most debates on the Federal budget reflect profoundly differing visions about where we should go as a nation. But this year we are faced with a new reality. Profoundly constrained by the spending caps contained in last year's budget agreement, we are unable to only offer modest program changes in this democratically crafted package that my distinguished colleague from Tennessee has labored so hard to put together.

I am concerned that last year's budget agreement hamstrings our ability to govern. During the course of the last 10 years it seems to me that we have really abandoned a far-reaching significant debate about priorities, about defense and social spending, about guns versus butter. Instead now what we have done is boiled the debate down to an argument about how a stick of butter is to be divided.

Mr. President, it is so heartbreaking to see citizens in our country who testify before our committees and to know that under this budget agreement that if we provide money for students to have accessibility to higher education we will not have the money for the Women and Children Program. If we commit funding for the Women and Children we might not have enough for the Head Start Program.

It is just simply outrageous to see groups of people pitted against one another. I argue today, Mr. President, that until we challenge two propositions, proposition No. 1 that we need $300 billion for the military, and proposition No. 2, that we cannot apply progressivity to the Income Tax Code of our country, we will never be able to fashion a visionary budget which will lead our Nation forward.

Mr. President, Senate Congressional Resolution 29 reflects 5-year spending priorities which differ in several important ways from the President's budget proposed in February. Again, the President has proposed a budget which is so draconian in social cuts that it was only able to garner 89 Republican votes in the House of Representatives, and I do not think it will do much better in the U.S. Senate.

Mr. President, this budget makes no attempt to focus on the 37 million Americans with no health insurance whatsoever. Instead it proposes cutting $25 billion over 5 years in Medicare which will affect 34 million Americans in our county. I maintain that today with all of my heart we cannot and we must not try and balance this budget on the backs of those who are the most vulnerable citizens in the United States of America.

The President's budget cuts are in mortgage credit, ground transportation, social services, health care, education, and job training but there is more for Federal law enforcement including prisoners and prosecutors. I do not want to belittle the importance of Federal enforcement but I want to make it clear that if we do not invest in our children when they are young, we are going to pay the price over and over again with high rates of illiteracy,

high school dropouts, drug abuse, alcoholism, and crime.

We must begin to invest in the critical areas of social life in our country today and that starts with an investment in our young people. It is not there in this budget, nor is it there on energy policy, nor is it there dealing with the concerns and circumstances of the unemployed.

The President supports and has proposed once again a cut in the capital gains tax. We have been through this debate over the last 3 or 4 years.

We will lose $1.4 billion over the next several years. It is regressive. Facts are stubborn things. So I do not believe that this proposal will be accepted in the Senate or the House, but I think, instead we have to finally start looking at a progressive income tax where those citizens with high incomes and the wealth pay their fair share.

There is also mischief in the defense budget. Why $4.6 billion for star wars in space? Why not invest that money in growing food and feeding the hungry right here on Earth? Why again approve an almost $300 billion military budget which does not reflect the fact that the cold war is over? Why spend $160 billion preparing for a war in Europe that will never be fought?

Mr. President, I am grateful that this Democratic alternative before us rejects the President's proposed huge cuts in key social programs. I am grateful to Senator SASSER for his leadership. I am grateful to Senator WIRTH for his home front initiative, and I certainly want to see the money spent on childhood immunization, and the WIC program, and Head Start, and the Pell Grant Program. I want to see us begin to invest in people, in human capital.

Mr. President, I think this budget—and I have discussed this with my distinguished colleague from Tennessee—falls far short of the kind of priorities that we need to set forth, if we are really to make strides in education, and in health care, and in physical infrastructure, and job training, and job creation.

Mr. President, as a new Member of this body, I did not play a role in developing last year's budget agreement, which placed strict spending caps on defense, international affairs, and domestic discretionary programs. I have many serious concerns about this agreement, which I think places severe constraints on the Congress to the point where we cannot do what is fair, and just, and responsible.

I must admit candidly to you, Mr. President, that I am not a student of the Federal budget process, but I do understand the basic outlines of the problem.

During the 1980's, the Reagan and Bush administrations doubled the Pentagon budget, eroded the revenue base, built up the deficits, built up the interest payments and, as a result, we are essentially paralyzed by this legacy; and now are in a position of laboring, and sometimes even cowering and sweating, to try and meet basic human needs.

Prevented from making choices about the folly or the wisdom of these kinds of economic policies, Congress has instead, I think, focused on elaborate procedural safeguards. Gramm-Rudman here, Gramm-Rudman there. We have tried to resolve procedurally what we are unable or unwilling to resolve politically.

Mr. President, this is the first budget resolution that I will be voting on as a new Member of this body. This is a difficult choice for me. Should I follow the advice of my colleagues who have argued that I should not let the perfect be the enemy of the good, and that I should swallow hard and vote for a budget which, despite the hard work of the Budget Committee, falls short of being a visionary road map about where we need to go as a nation, if we are to be strong, and whole, and vital, and fair, and just. Or should I oppose this resolution, even though I know my colleagues on the committee have labored mightily to produce it in protest against the budget process and a budget product that I know, in my heart of hearts, is seriously flawed?

Mr. President, I do not know what my final decision will be, but this is what I do know: I do know that, to use an old Yiddish proverb, "You cannot dance at two weddings at the same time." I do know that we are going to be able to reduce the deficit and clean up the environment and have a credible energy policy, and invest in health care, and invest in children, in education, and make the kind of capital investments that we need to do to be strong economically, unless we break away from a budget that has been so narrowly construed.

Mr. President, we have to eventually get serious about being able to make the cuts we need to make in the military budget, so we have a strong defense but have a new definition of national security, and invest back into our economy and our people.

Mr. President, the time has come for us to begin to overturn what was the most regressive piece of legislation in the last 50 years—the 1981 tax cut—and move toward a system of progressive taxation, so we have the revenue but we do not tax the working people, and we have fair taxation where people on the top pay their fair share.

I will continue, regardless of how I vote on this, to protest and to object to this straitjacket process. It is seriously flawed. We have not been able to do enough.

Mr. President, while I admire the work of my distinguished colleague from Tennessee—and we have talked about this personally, and I really appreciate what he has done—this is going to be as difficult a decision as I have had to make in my 3 months here in the U.S. Senate.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, I see the distinguished Senator from Colorado on the floor. Does he wish to offer an amendment at this time?

Mr. BROWN. I thank the Senator from Tennessee. I would like to offer my amendment at this point.

Mr. SASSER. If the Senator will withhold for just one moment, Mr. President, I see the distinguished Senator from Illinois. He is on the floor now.

Mr. SIMON. If we can reserve time.

UNANIMOUS CONSENT REQUEST

Mr. SASSER. Mr. President, on behalf of the distinguished Senator from Illinois, I ask unanimous consent that after disposition of the Bradley amendment this afternoon there be 10 minutes of debate on the Simon amendment No. 82, which is the amendment that cuts 2 percent from defense, to be equally divided and controlled by the proponent of the amendment and the Republican manager of the resolution, and that after those 10 minutes are consumed or yielded back the Senate, without intervening debate, proceed to vote on or in relation to the Simon amendment No. 82.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Mr. President, reserving the right to object, and I might object, let me state to the chairman I have not had a chance to discuss this with him.

Frankly, as the Senator knows and the Senate knows, the armed services people, the chairman and ranking member, are at John Tower's memorial ceremony. We could not go because of this business, but they went. Frankly, I want to make sure both SAM NUNN and JOHN WARNER are offered an opportunity to indicate to the Senator from New Mexico whether they want to come to the floor and discuss this issue. I am not suggesting they must.

I do not think I want to agree that we only have 5 minutes under those circumstances. If the Senator can phrase it in such a way that the Senator from New Mexico can use additional time off the resolution, it is all right with me. You can do 5 and 5. But do not at this point lock out others who might want to talk to that.

I want to say the same is true for the Bradley amendment. I have a lot of time on the resolution and I intend to yield a lot back, as I told you, Mr. President, but I need a little lead there for the military people to see if they want to talk on that amendment, too.

Mr. SASSER. Mr. President, let me modify the unanimous-consent request.

This may meet the needs of the distinguished ranking member.

Prefatory to propounding the unanimous-consent request, I intend to modify it in such a way that we may yield time off of the resolution if there is need for additional debate.

Mr. DOMENICI. Good.

TIME-LIMITATION AGREEMENT

Mr. SASSER. So I would now propound the unanimous-consent request again.

Mr. President, I ask unanimous consent that after disposition of the Bradley amendment this afternoon there be 10 minutes of debate on the Simon amendment No. 82, equally divided and controlled by the proponent of the amendment and the Republican manager of the resolution, and that after those 10 minutes are consumed or yielded back the Senate proceed to vote on or in relation to the Simon amendment No. 82, not precluding the right of the managers on either side to yield additional time off the resolution for debate on the Simon amendment.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Mr. President, reserving the right to object, and we are going to work this out, because I understand Senator SIMON wants to know with certainty what event will precede him, and then he will be next. Other than setting a time certain for the disposition of the McConnell amendment or any amendments to it, we have not yet set a time certain for the Bradley amendment, but only that it would follow that event. Is that correct?

Mr. SASSER. That is correct.

Let me say to the distinguished Senator from New Mexico that the order of voting as I have it at this time would be the McConnell amendment to be voted upon at 12:15; after the McConnell amendment is disposed of there would then ensue a vote on the Bradley motion to waive the Budget Act. We have not yet set a time or procedure for a vote on the Simon amendment which would be the next amendment in order of introduction.

Mr. DOMENICI. Mr. President, let me just ask the chairman if my understanding is correct. Senator BRADLEY intends to move to waive the point of order. Before that vote occurs, whether it is up or down or tabling, or whatever, the Senator from New Mexico can yield time off the resolution to debate that, can he not? I did not agree that I could not.

Mr. SASSER. Yield time off the resolution to debate the Bradley motion?

Mr. DOMENICI. Yes. I have not debated the Bradley proposal to change the budget agreement of last year. I want to do that. It is the same reasoning I had before. That is a defense issue plus whether we are violating the agreement issue. I want to do that after asking the defense leaders here if they want to participate in that.

Mr. SASSER. Certainly that can be done.

Mr. DOMENICI. Just so I am not precluded, I would then not object to this. As I read it, I can debate at length, although I do not intend to, the Bradley motion before it occurs, because there is no time certain in it and I have not agreed for the Senate to take away my opportunity to yield off the resolution. As long as that is understood, it is all right for me to enter into the agreement the Senator has just talked about.

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

Mr. SASSER. Mr. President, we would now be in a posture to take the Brown amendment, if the distinguished Senator from Colorado wishes to call it up.

The PRESIDING OFFICER. The Senator from Colorado.

AMENDMENT NO. 76

(Purpose: To eliminate the honey price support program)

Mr. BROWN. Mr. President, I call up amendment No. 76.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Colorado [Mr. BROWN] proposes an amendment numbered 76.

Mr. BROWN. 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 3, line 18, decrease the figure by $51,000,000.

On page 3, line 19, decrease the figure by $41,000,000.

On page 3, line 20, decrease the figure by $35,000,000.

On page 3, line 21, decrease the figure by $37,000,000.

On page 3, line 22, decrease the figure by $39,000,000.

On page 3, line 25, decrease the figure by $51,000,000.

On page 4, line 1, decrease the figure by $41,000,000.

On page 4, line 2, decrease the figure by $35,000,000.

On page 4, line 3, decrease the figure by $37,000,000.

On page 4, line 4, decrease the figure by $39,000,000.

On page 4, line 7, decrease the figure by $51,000,000.

On page 4, line 8, decrease the figure by $41,000,000.

On page 4, line 9, decrease the figure by $35,000,000.

On page 4, line 10, decrease the figure by $37,000,000.

On page 4, line 11, decrease the figure by $39,000,000.

On page 4, line 14, decrease the figure by $51,000,000.

On page 4, line 15, decrease the figure by $92,000,000.

On page 4, line 16, decrease the figure by $127,000,000.

On page 4, line 17, decrease the figure by $164,000,000.

On page 4, line 18, decrease the figure by $203,000,000.

On page 5, line 21, decrease the figure by $51,000,000.

On page 5, line 22, decrease the figure by $41,000,000.

On page 5, line 23, decrease the figure by $35,000,000.

On page 5, line 24, decrease the figure by $37,000,000.

On page 5, line 25, decrease the figure by $39,000,000.

On page 17, line 6, decrease the figure by $49,000,000.

On page 17, line 7, decrease the figure by $49,000,000.

On page 17, line 16, decrease the figure by $36,000,000.

On page 17, line 17, decrease the figure by $36,000,000.

On page 18, line 2, decrease the figure by $27,000,000.

On page 18, line 3, decrease the figure by $27,000,000.

On page 18, line 12, decrease the figure by $26,000,000.

On page 18, line 13, decrease the figure by $26,000,000.

On page 18, line 22, decrease the figure by $26,000,000.

On page 18, line 23, decrease the figure by $26,000,000.

On page 40, line 21, decrease the figure by $2,000,000.

On page 40, line 22, decrease the figure by $2,000,000.

On page 41, line 5, decrease the figure by $5,000,000.

On page 41, line 6, decrease the figure by $5,000,000.

On page 41, line 14, decrease the figure by $8,000,000.

On page 41, line 15, decrease the figure by $8,000,000.

On page 41, line 23, decrease the figure by $11,000,000.

On page 41, line 24, decrease the figure by $11,000,000.

On page 42, line 7, decrease the figure by $13,000,000.

On page 42, line 8, decrease the figure by $13,000,000.

On page 42, line 16, decrease the figure by $2,000,000.

On page 42, line 17, decrease the figure by $5,000,000.

On page 42, line 18, decrease the figure by $8,000,000.

On page 42, line 19, decrease the figure by $11,000,000.

On page 42, line 20, decrease the figure by $13,000,000.

Mr. BROWN. Mr. President, I rise this morning to suggest there are alternatives for us in this budget process. As all of our colleagues are well aware, the budget deficit last year was $220 billion—an astounding figure—that imposes an enormous burden that I know every Member of this body is concerned about. But the fact is that burden has not been reduced on the American people. It has risen.

The latest estimate indicates the deficit this fiscal year may rise as high as $371 billion and perhaps go even higher. The fact is, for all our labors, all the hard work, this deficit is headed in the wrong direction.

How do you deal with that? The simple fact is dedicated men and women of both parties have to come to grips with this problem or it will swallow up not only our future but the future of our

children and our grandchildren. I dare say every Member of this body understands that and agrees we have to face up to it.

The President proposed, in what must be considered a modest step but at least a step, that we limit increases in spending to 2.6 percent this year and we do something very unusual: We specifically identify programs of low priority and eliminate them.

Does that sound unusual? Perhaps not to the American people. They understand in doing their own budgets that they have to be willing to set priorities and eliminate those things that are low priorities.

That does not surprise anyone. The President proposed 237 programs be eliminated in this coming fiscal year. He identified 3,573 projects specifically that would be eliminated. Let us ask ourselves, as we bring this important budget to the floor, how many of those programs have been eliminated. Out of 237, how many has the Budget Committee decided to terminate?

Mr. President, this budget resolution does not terminate any of the 237 programs the President mentioned; not a single one. Not one of them is eliminated.

Our Budget Committee has included language that urges the appropriations committees to review these programs thoroughly and completely, and hopefully can be made, let us look at the record.

In the last decade, as deficits have skyrocketed in this country, we have only eliminated three basic programs, and two of them were primarily name changes. The one that really was eliminated, revenue sharing, was money that was spent by somebody else. This body and the House, the other body, will not receive a gold medal for budget balancing. We are not in the Olympics in that category, and no one has suggested that we enter.

The fact is that we have the highest deficit in the history of the world. We have the highest deficit of any country in the history of the world.

Of the 3,573 projects the President recommended that the next budget eliminate, our budget does not specify a single one. Will the trend continue? I hope not. I do not think, for the welfare of our Nation and our children and grandchildren, that it can. I do not want the day to pass without this body having an opportunity to vote on at least one program elimination.

Mr. President, that is what we bring to the floor. The Brown-Reid amendment suggests the elimination, that is the termination, of the honey program. Now some will say, "Hank, you can't be serious. The honey program?" My guess is that most Americans would not believe we have a honey program, or if they do believe we have a honey program, they might suspect it did not deal with the product of bees, but something else.

But yes, we do have a program called the honey program. If we cannot eliminate the honey program, we cannot eliminate anything. My guess is most Americans would think the only reason we have a honey program is to show we have a sense of humor.

What is the honey program? It is a program that loans money to maintain high prices on honey. There are 5,500 active participants, and next year they will sting the taxpayers for $49 million, net cost. Let me repeat that. We have a program that artificially maintains the price of honey at a level higher than it would be. Those who are so concerned about consumers have to be horrified by this kind of philosophy.

I simply say that this body has an opportunity to specifically identify at least one program. I think if we can eliminate this one, we can come back and eliminate more. Any journey, including the journey to reduce the deficit, has to start one step at a time. That is what this amendment is; it is a step toward eliminating the most crushing deficit burden any nation has had to face. The way we do it is one step at a time, one program at a time, one project at a time.

Mr. President, when this passes, and I believe it will pass, we will come back and try to do another and another and another, because America's future has to be in setting priorities and reducing the waste.

Let us take a look at that program. The program stings the American taxpayer for $49 million next year. We can save that money. And we can save the taxpayers money on this. It stings the American consumer by providing higher prices for honey than the marketplace would provide. It stings our trade deficit by replacing American-produced honey in our market, in our own market, with imported honey.

The reason the imported honey comes in and takes the American market is because we artificially pay the price of honey, and what it does is it guarantees the foreign companies can sell their product below our price in the heart of America, in the heart of the greatest agriculture country in the world. We are No. 1 in agriculture. We produce more agriculture products, of better quality and greater volume, than any people in the history of the world, and yet honey is pegged at a price where we cannot even compete.

I do not mean we cannot compete in foreign markets, where you have the expense of shipping it overseas. I mean we cannot even compete in our home market because of this program. Why do we have to have the program? What is the justification for it? I hope the people who believe in this kind of program that destroys our market, that costs the taxpayers money, and gouges the consumer, will come to the floor and tell us why we have to have this kind of program.

We are going to have a vote so the American people can see who supports this kind of waste. Does someone really contend that bees are going to go on strike or that bees in America cost more than bees in China? This program is an example of the ludicrous kind of spending this Nation has gotten into. I believe America needs to face up to it. I believe the American taxpayer wants to face up to it.

Mr. President, let me emphasize that the concern over the deficit does not reside only in one party. The Senator from Nevada has joined me in this amendment. And just as this amendment is bipartisan, I believe the concern over reducing the deficit of this Nation is bipartisan. I believe the concern over eliminating wasteful, shameful programs that imposes burdens on American consumers and taxpayers is bipartisan.

I hope, when we vote on this amendment, that the men and women of this body will send a clear message that not only the time has come to end the honey program, but the time has come to end programs of this ilk.

Mr. President, I reserve 15 minutes of my time, and yield back the remainder.

The PRESIDING OFFICER (Mr. ROBB). The Senator has that right.

Who yields time?

Mr. SASSER. Mr. President, there are Senators who wish to speak in opposition to the Brown amendment. I do not see them on the floor at the moment.

I suggest the absence of a quorum, and ask that it be charged equally against both sides.

The PRESIDING OFFICER. Without objection, the time will be charged equally.

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

The legislative clerk proceeded to call the roll.

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

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

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Mr. President, I yield such time as the Senator from South Dakota might consume.

The PRESIDING OFFICER. The Senator from South Dakota is recognized in accordance with that request.

Mr. DASCHLE. I thank the distinguished Senator from Tennessee, the chairman of the Budget Committee.

I rise this morning to talk specifically about the amendment offered by the distinguished Senator from Colorado. But prior to the time I make some formal remarks, I will simply ask for a clarification of the ramifications of this amendment. I hope those who are deciding the merits of the amend-

ment will pay close heed to the answers of the Senator from Tennessee in this regard because I think it is an issue that really has to be addressed carefully.

I ask the Senator from Tennessee, is it his understanding that this amendment will preclude agriculture from pursuing any legislation until the savings required in this amendment are realized?

Mr. SASSER. That is my understanding; that the amendment, as offered proposes savings that would be made by the Agriculture Committee. The Agriculture Committee could be precluded from moving any spending legislation until the savings had been made. If the committee attempted to move any legislation which did not achieve some measure of net savings, then that legislation could be subject to a 60-vote point of order.

Mr. DASCHLE. If the Senator will respond further, is it his understanding the action would have to be not only precipitated but completed prior to the time any additional action by the committee could be taken?

In other words, simply for the Agriculture Committee to take the action may not be enough. The Congress would have to act; and the President would then have to sign into law whatever savings would have to be realized in order for the Agriculture Committee to function in a normal fashion; is that correct?

Mr. SASSER. The Senator from South Dakota is correct.

Mr. DASCHLE. I thank the Senator very much. I think that clarification, Mr. President, is a very critical one. We are not only going after the honey program per se but we are telling Congress, look, until the Senate acts, until the House acts, until the President signs that particular action into law, agriculture is going to be frozen out. They are not going to have any ability with which to deal with this issue.

So I appreciate the intentions of the Senator from Colorado, even though I differ with him, but I think it is very important for people to understand the procedural consequences of voting for this amendment. The fact is we are going to stop the Agriculture Committee in all of its jurisdiction from being allowed to perform the duties that have been legislated and required of it as a result of the adoption of this amendment. So it is not only a procedural issue, but it is a very important substantive issue that has to be addressed.

Let me talk specifically to the amendment itself. The significance of the beekeeping industry to the rest of agriculture frankly is often overlooked and maligned. It even happens from time to time here on the floor. But the fact is that it is vital to American agriculture.

Government has supported the price of honey since 1950 by providing market price stability to honey producers to encourage them to maintain sufficient honeybee populations to pollinate important agricultural crops.

More than 140 cultivated crops either require or are benefited by bee pollination, including millions of acres of fruits, vegetables, oilseeds, and legume seed crops.

Pollination provided by honeybees has increased in importance to farmers in recent years as urbanization and other pressures on the environment have reduced availability of other natural pollinators.

This is a very important point that I hope people understand. Let me repeat that. Pollination provided by honeybees has increased in importance because of urbanization and other pressures on the environment that have reduced the availability of other pollinators. Other pollinators are not around anymore.

If we do not preserve this opportunity to continue the natural process, we are going to have to come up with some artificial ways to do it. That is what we are talking about here.

Do we begin to rely more and more on artificial methods or do we use the natural methods that have been in existence for ages? The United States recognizes this need, and as a result of that recognition has created a very marginal program in terms of costs in the United States.

The United States, frankly, is a net importer of honey today. While we import honey, we cannot import pollination. A vast majority of pollination is provided free to the public through the random movement of bees. It is not unreasonable that the public pay for this pollination through a loan program to keep the pollination services available.

A study last year by Cornell University placed the value added to pollinated crops by the U.S. honeybee at $9.7 billion. We are talking about a $125 million program that benefits U.S. commerce at a level of $9.7 billion last year, according to Cornell University.

Although we have slightly older figures than that available to us, the fact is we have every reason to believe it is even more than that today. The ratio of value added is $9.7 billion to the $41 million cost of the program in fiscal year 1991. That is, for every dollar invested, we get a $237 return on investment in the country. Next year, with a decrease in program costs to $25 million, this ratio will almost double. I do not know how many other programs can say that, but that has been the impact of this program since it started. For every dollar we invest you can count on $237 back.

Bee culture is practiced throughout the United States in areas of widely different types of climate and flora. Beekeepers move their bee colonies 30 times or more a year, from several miles to several thousand miles, to provide pollination services or increase honey production.

Consumers benefit indirectly from the honey program because of its influence in maintaining sufficent honeybee colonies so that many important food and fiber crops are pollinated. An estimated 15 percent of the plant-derived portion of the human diet comes from plants dependent on or benefited by insect pollination. Much of the beef and dairy products consumed in the United States are produced from the insect pollinated legumes; about one third of the human diet is derived directly or indirectly from insect pollinated plants.

The value of honeybees as pollinators far exceeds the value of honey and beeswax produced. That is the important point to remember. If all people were thinking about was honey, it would be one thing. We have to recognize the value of the $9.7 billion return on investment through pollination that exists throughout the country and, frankly, within our economy. However, for most beekeepers the receipts of honey and beeswax sales exceed the fees received for pollination services. In fact, they do not get pollination service fees very frequently.

Honeybees also provide benefits for home gardens, orchards, and natural ecosystems. If the price-support program is withdrawn or reduced, the supply of honeybee colonies will clearly be jeopardized, and much U.S. agriculture that depends upon pollination, frankly, is going to be devastated by it. Honey production provides the incentive for beekeepers to maintain strong colonies of bees during the many months of the year that bees are not involved in commercial pollination.

The honey price support program has enabled beekeepers to continue operations and provide vital pollinating services while also assuring consumers of a stable supply of nutritious honey at a reasonable price.

Any decline in the number of honeybee colonies that may result from changes in the honey program will directly affect the number of honeybees available for pollination. Of the most concern will be pollination of those agricultural crops that require large concentrations of bees for commercial crops. It is unlikely that areas where these crops are grown contain a sufficient number of wild bees, other pollinating insects, or honeybees managed by local beekeepers to provide adequate pollination without the assistance of commercial beekeepers.

Mr. President, I ask how much time has been allocated for this amendment?

The PRESIDING OFFICER. The Senator from Tennessee controls 36 minutes in opposition.

Mr. DASCHLE. I thank the Chair.

Since I see no other Senators at this time, I will continue briefly. I do not want to take all of the time because I know that several others do intend to speak.

While some farmers do maintain a small number of honeybee colonies to pollinate their crops, it is unlikely that large producers of field crops would have the expertise, labor, capital, investment, or bee pasture needed to permanently maintain large numbers of honeybee colonies. Some who criticize the program point to a General Accounting Office report that concluded that the program is not needed to ensure crop pollination. However, there were serious flaws in the arguments for discontinuing the loan program. GAO looked only at the benefits of honeybees from pollinating crops for producers that provide cash rent and overlooked the benefits to wildlife, home gardeners, the environment and other agricultural producers who do not pay rent for pollution

In summary, the honey program has undergone extensive revisions in the last two farm bills. In the 1985 farm bill the loan rate for honey was reduced at a rate of 5 percent a year. The 1990 farm bill froze the loan rate at 53.8 cents per pound but lessened the benefits producers receive by increasing the price at which they are able to redeem honey that is under loan. The result is that the cost of the program has dropped from $100 million in 1988 to a projected cost of $25 million in fiscal year 1992. That is a decline of 75 percent over the space of 5 years. Since 1985 the volume of stocks being held by the Commodiy Credit Corporation has dropped from 103 million pounds to 2.2 million at the present time.

DECLINE OF THE INDUSTRY

What we have left is a honey program that has been cut down to its bare bones. The effect can be seen in the honey industry today. Despite the importance of bee colonies, the number has been declining. Since the peak in 1947 to 5.9 million, the number has dropped to the most recent estimate of 3.2 million colonies, based on beekeepers with 5 or more colonies.

The decline in colonies is connected to the decline in the price for honey. Since 1981, the average price of honey has declined from a record 63.2 cents per pound to about 50 cents per pound, larely due to the declining support price.

Meanwhile, the costs of honey production have been rising. Honey producers also are facing increasing competition from imports of honey from countries such as China. Even though the program has been cut to very low levels, it is still necessary to help cope with these and other threats.

In addition to dealing with massive cuts in their support program, honey producers are struggling with two mites which are devastating the industry, and no viable control measures are available at this time. To add to these problems, the Africanized, or so-called killer bees have arrived in southern Texas. As the industry deals with the economic impact of these threats, now is a poor time to make other changes that will threaten the industy's survival.

No one should underestimate the danger posed by the Africanized bee. The Africanized bee is generally not agressive when forraging, but it is extremely aggressive and unpredicable in the defense of its hive. Studies show that the Africanized bee reacts 10 times more severely than the European bee when its hive is threatened.

The costs to beekeepers to maintain nonaggressive colonies through breeding programs will be substantial. If there is not a viable honey industry, there will not be enough beekeepers available to provide a first line of defense to control the invasion of Africanized bees. As a result, the costs of containing the invasion by Federal, State, and local authorities without beekeepers, will far exceed the cost of the loan program.

Mr. President, contrary to arguments that honey producers are well off, testimony from a Michigan State University entomologist before the Agriculture Committee showed that most commercial beekeepers are operating at a loss. The commercial beekeepers are in serious financial difficulty. The average yields per colony do not allow a return on investment, and in some cases even a reasonable salary.

Beekeeping supplies and equipment costs are rising at or higher than the inflation rate. Even with the program commercial beekeepers are losing $4 for every colony they operate. The program represents 20 percent of their income. Without that beekeepers would be losing even more money.

The decline of commercial beekeepers has increased in recent years. If we continue to reduce the price support program many commercial beekeepers are going to face a similar fate.

You have heard or you will hear that the program benefits only a few. But the beekeepers who participate in the program are precisely the ones who are commercial operators. Everyone with an apple tree in their backyard is not operating a fruit orchard. Likewise, not everyone with a bee colony is a commercial beekeeper.

Roughly 5,300 commercial beekeepers who participate in the honey board programs account for 99 percent of the honey produced in the United States.

You have also heard that honey producers are receiving large payments. Keep in mind that to reach the maximum loan benefit cap of $250,000, a beekeeper must have at least 16,000 colonies producing more than 1.6 million pounds of honey and employ 16 to 20 full-time workers. According to the honey board, only eight producers—we are not talking percentage here, eight producers, people somewhere in the country—meet that description. Over half the producers who participate in the program receive less than $5,000.

Keep in mind the 1990 farm bill reduces the maximum benefit a producer can receive to $100,000 in the next 3 years. The average commercial operation is only 2,400 colonies. The most an operation of that size may receive from a program is half the maximum loan benefit amount.

Also keep in mind that beekeeping is extremely labor intensive. The average commercial operation with 2,400 colonies is supporting a family and at least 3 full-time employees; $125,000 may sound like a lot to one person, but it is not when it is spread over the entire cost of the operation that supports at least three families.

Mr. President, I know that there are others who want to speak. Let me summarize. There are three reasons why I hope everybody understands the ramifications of this amendment and will defeat it.

First, it stops all of agriculture in its tracks.

Second, we are dealing with a $9.7 billion contribution to the economy, a 237-to-1 ratio of benefit to cost.

And, three, you are talking about a very minute and very important part of agriculture that is so successfully served by a minor investment of $25 million, what amounts to a couple of seconds worth of spending in the entire overall annual Federal budget.

With that, Mr. President, I yield the floor.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I yield myself 2 minutes. I know the time goes back to Senator MCCONNELL at 15 of.

Does the Senator need time before the McConnell amendment?

Mr. CONRAD. Yes. I would like to discuss the Brown amendment.

Mr. DOMENICI. Far be it for me to allocate time here, but the unanimous-consent agreement says 15 of the hour Senator MCCONNELL has the floor on the McConnell amendment. I do not think we are going to change that now. That is the next amendment we will vote on. But the Senator can have time later in opposition. Is that correct?

The PRESIDING OFFICER. The Senator is correct. The McConnell amendment is scheduled under the unanimous-consent agreement to be taken up 15 minutes before the hour. At the conclusion of that amendment or disposition of that amendment, the Bradley amendment will be taken up next. But the Brown amendment would be concluded at the conclusion of those amendments already placed on the cal-

endar by the unanimous-consent agreement.

Mr. DOMENICI. Mr. President, I want to use the time between now and 15 of, to say to the Senators who are not here—and that is understandable—but those Senators that have an interest in maintaining the defense spending level as agreed to in the economic summit and currently planned by the Defense Department of the United States should know the following: Once we have disposed of the McConnell amendment, there will be three amendments in a row that will address the defense numbers for the years 1991 and 1992 and thereafter.

The Bradley amendment would reduce the defense spending by $7.1 billion, that is, below the 5-year plan that the economic summit agreed to, and that is in the budget.

Senator SIMON has two amendments—one would reduce it by 2 percent in 1992 which is $5.2 billion in budget authority, $5.2 billion reduction, and that would be followed sometime thereafter by a 1-percent reduction which is a $2.3 billion reduction.

The reason I raise this is the Senator from New Mexico can arrange additional time if somebody wants to argue against these amendments. If they do not, obviously, we are going to expedite this, and I will take only a few moments and yield so we can get on with voting.

If Senators wanted to have a few minutes to state their reason for opposing this, I hope they will contact us so we can make arrangements. Otherwise, we will not have very much time. We want to finish this resolution tonight.

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the McConnell amendment with 30 minutes to be equally divided, 15 minutes per side.

Mr. CONRAD. Parliamentary inquiry? Will the Senator yield?

Mr. President, I was under the impression that we were on the Brown amendment. I understand that the unanimous consent was to go to McConnell amendment for what period of time?

The PRESIDING OFFICER. Thirty minutes, equally divided, at which time a vote will occur on the McConnell amendment.

Mr. CONRAD. At that time, is there any unanimous-consent agreement as to what business we would turn to next?

The PRESIDING OFFICER. Under the unanimous-consent agreement, the Senate would proceed to an additional amendment, also indicated in the Calendar of Business on the first page, and the Senator would have to be yielded time to talk on that amendment.

Mr. CONRAD. What is the disposition of the Brown amendment? What is the posture of the Brown amendment that would begin at that point?

The PRESIDING OFFICER. Under the current unanimous-consent agreement, it would be stacked and taken up again after the Bradley and Simon amendments are disposed of.

Mr. CONRAD. I ask unanimous-consent to be able to speak on the Brown amendment after the other amendments have been disposed of.

The PRESIDING OFFICER. Is there objection?

Mr. CONRAD. I ask for 10 minutes.

Mr. SASSER. Reserving the right to object, I will not object, Mr. President, but it is my understanding that the order of business will be the McConnell amendment, and after it is disposed of, then we proceed to the Bradley motion to waive the Budget Act, and there may be additional debate on that if the distinguished ranking member wishes to take time off the bill to debate the Bradley motion to waive the Budget Act.

Following the disposition of the Bradley motion, we move then to a Simon amendment, and there may be additional time for debate on that if the distinguished ranking member wishes to take time off the bill.

Following that, we would move back to the Brown amendment.

And may I inquire of the Chair, how much time is remaining at the present time on the Brown amendment?

The PRESIDING OFFICER. The time for the proponents has expired. The opponents have approximately 28 minutes remaining on the Brown amendment.

Mr. SASSER. The opponents have 28 minutes remaining and I assume the distinguished Senator from North Dakota will be speaking in opposition to the Brown amendment.

Mr. CONRAD. The chairman is correct. I would like 10 minutes, if I might, out of the 28 minutes. I just want to be certain, after having come to the floor, to address the Brown amendment, that I have an opportunity to do that at some point.

Mr. SASSER. I assume I will be in control of the time in opposition to the Brown amendment.

I would be pleased to, at that time, in the proper sequence of events, yield 10 minutes to the distinguished Senator from North Dakota.

Mr. CONRAD. Might I further inquire of the Chair, with the indulgence of the Senator from Kentucky?

I have another amendment that is on the list. I would be happy to enter into a time agreement on that if that would help expedite matters. If not, I would be happy to proceed under the order.

Mr. SASSER. As I understand, the Senator from North Dakota has a Conrad sense-of-the-Congress resolution. We would welcome a time limitation on that.

Could I suggest 15 minutes, equally divided?

Mr. CONRAD. If we could agree to 20 minutes, equally divided, that would certainly be fine. If we can do it less, that would be all the better.

Mr. SASSER. Could the Senator enlighten us on the subject of his sense-of-the-Congress amendment?

Mr. CONRAD. Yes. The sense of my amendment simply is that because of events since we entered into the summit agreement last year the deficit is once again burgeoning. I would like to offer a sense-of-the-Congress amendment that we direct the leadership and the President to go back to the drawing boards this year to prepare a plan that would be presented to us next year about how we deal with the tremendous slippage that has occurred since the time we put the budget summit into place last year.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request offered by the Senator from North Dakota?

Mr. DOMENICI. Reserving the right to object, the Senator is proposing 20 minutes equally divided on the amendment he just described. Did he also include a unanimous consent for him to speak in opposition to the Brown amendment?

Mr. CONRAD. The Senator is correct.

Mr. DOMENICI. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Who yields time?

Mr. DOMENICI. Mr. President, I yield myself 2 minutes off the bill.

First we ought to finish this so the Senator can have his time. We are talking on Senator MCCONNELL's time.

I do not think we ought to get into a habit at all of having unanimous consents for Senators to speak for a time certain when there is time on the amendment that can be yielded by the managers. We put this in the budget process to have some order. The chairman indicated that he will give you 10 minutes of his 20.

I will say, if it does not work out, I will give the Senator 10.

Mr. CONRAD. This is fine.

Mr. DOMENICI. I have no objection to the unanimous-consent request, so long as that part is dropped.

The PRESIDING OFFICER. Does the Senator modify his unanimous-consent request in accordance with that understanding?

Mr. CONRAD. Mr. President, I am happy to do that.

The PRESIDING OFFICER. Is there objection?

Mr. SASSER. Reserving the right to object, parliamentary inquiry. As I understand the unanimous-consent request now, we seek to enter into a unanimous-consent request wherein 20 minutes will be consumed on the sense-of-the-Congress resolution introduced by the Senator from North Dakota, to be equally divided.

The PRESIDING OFFICER. Correct.

Mr. CONRAD. Mr. President, do we have the understanding that the manager of the bill will give me 10 minutes on the Brown amendment?

Mr. SASSER. Yes.

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

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the discussion which occurred for the last 5 minutes be equally charged to both sides on the McConnell amendment.

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

Is there objection to the unanimous-consent request? If not, it is so ordered.

The Senate returns to consideration of the McConnell amendment, the time being equally charged to both sides.

AMENDMENT NO. 80

Mr. McCONNELL. Mr. President, the McConnell amendment is not complicated. We are dealing here with a budget resolution, which is obviously what we think the priorities ought to be for this country. The McConnell amendment asks the Senate to choose between feeding children and allocating funds in next year's budget, public funds, tax funds, to continue paying for campaigns for President of the United States.

The checkoff for the Presidential election campaign fund brings in approximately $30 million a year, and estimated under this budget resolution up to $50 million. That is a lot of school lunches, Mr. President; it could also pay for startup funds for the School Breakfast Program, for the Child Care Food Program.

The Food Research Action Center estimates that 5.5 million American children under 12 go hungry. This is one in eight American children. Studies show children eating school lunches receive one-third to one-half of their daily nutrients from the School Lunch Program.

Mr. President, participation in the School Breakfast Program is associated with improvements in achievement test scores and reduced absenteeism and tardiness. Fewer than half of the schools nationwide that offer lunch also offer breakfast.

Our Nation's children need money that now goes to political campaigns, to television ads, to week-long junkets that we call the national nominating conventions, and to numerous fringe candidates with agendas, who can qualify for Federal matching funds.

So the priorities here, Mr. President, seem to be clear. Do we prefer to enhance feeding programs for children, or do we want to continue with a program that has been thoroughly discredited by virtually everybody who has studied it, except by a group we are familiar with called Common Cause.

Walter Mondale has said, "There have been so many loopholes written into the law that it holds the whole thing up to ridicule." That was Mondale speaking on the Presidential campaign system.

The notion has been propounded that the checkoff does not cost anybody anything. Twenty percent of Americans—a distinct minority—roughly one-fifth of those filing their income tax returns, check the box diverting tax dollars to the Presidential election campaign system. The notion has been put forward that it somehow does not cost anything. Well, it does cost something. It diverts those funds, Mr. President, away from other programs, thereby denying the remaining 80 percent their right to spend that money on something else; it designates that money and takes it away from existing programs.

One of the programs I am suggesting today just might enjoy a higher priority, just might be more important to the Senate, than funding national conventions every 4 years, or campaigns for President of the United States—that is, feeding hungry children.

I think most Americans, given this choice, would conclude that it is more important to feed hungry children than to provide money for the political conventions every 4 years.

The other notion that has been put forward is that the checkoff somehow replaces special interest money. In fact, Mr. President, we now know, having studied the way the system has worked, it has only spawned a proliferation of special interest money in the Presidential campaign. In fact, spending is out of control.

It has been estimated by qualified experts that the spending in the Presidential race, which is supposed to be a race with spending limits and public finance, escalated 50 percent from 1984 to 1988—50 percent. That is in the race which is supposed to have spending limits.

Meanwhile, in the congressional system, where there are no spending limits, spending is going down. Not only are we squandering tax dollars, we are also having no impact at all on reducing spending.

In addition to that, Mr. President, the Presidential system is a regulatory disaster, a complete and total disaster. For those of my colleagues here who have sought the Presidency, they know that the first thing they do is sit down with their lawyer and accountant; that is the first thing one does when running for President these days—not go out and seek support, but sit down with his lawyer and accountant to figure out how to comply with—and in many instances get around—the ridiculous rules embodied in the Presidential system.

What happened as a result of this regulatory nightmare is that one out of every four of these public dollars that have been spent on political campaigns have gone to the lawyers and to the accountants. It has been a great system, if you are a lawyer or an accountant. You would make a lot of money off of this. It comes right out of the Treasury and goes right over to the lawyers and accountants.

What are the lawyers telling them to do? They are telling them how to get around the spending limits. You heard the horror stories. Rent a room outside of Iowa for your staff, and then they travel over into Iowa each day in order to try to skirt the limit. It is absurd, it is a disgrace, and it should stop, beginning in the next budget year.

In addition, Mr. President, when you go to a system of public funding, as we have learned in the Presidential system, you cannot say that only Republicans and Democrats are allowed to dip into the Treasury and get those tax dollars. Oh, no, Mr. President. You cannot just say that Republicans and Democrats are entitled to the Treasury. In fact, almost anyone can qualify. And so we have given $1 million to an American I am sure everyone here has heard of—Lenora Fulani, a well-known candidate for President of the United States—to go out and run for President under this system.

Well, there may be a few people that have not heard of her. Maybe they have heard of Lyndon LaRouche. He has gotten $500,000 to run for President under this system—Lyndon LaRouche, Mr. President. So not only has $1 out of $4 gone to lawyers and accountants; not only have we squandered one-half billion dollars; not only has there been a regulatory nightmare; but we are also funding fringe candidates with tax dollars that could go to feed hungry children.

I quoted former Vice President Walter Mondale earlier. Let me come back to what he has said. He said the Presidential system of taxpayer financing and spending is a joke; is a joke. The taxpayers, Mr. President, are not amused; the taxpayers are not amused about this joke. Arguably, that is why only 20 percent of them are checking off their tax returns. They are voting once a year; they are voting on their tax returns. And four out of five of them are saying even though it does not cost an additional dollar, do not take it away from things like feeding children and give it to politicians for a political convention. So the American people have been voting on this.

Let me just say, Mr. President, in summary, I cannot think of a single Federal program that has been more thoroughly and totally discredited than this one.

And we have an opportunity today, beginning with the next budget year, to say to the American people, "We

have noticed how you have been voting. We noticed four out of five of you choose not to support allocating public funds for fringe candidates, for lawyers and accountants, for nominating conventions. And we think you are making a proper judgment. So we are going to divert that money, beginning in the next budget year, over to something that most of us feel is a little more worthwhile, like getting hungry children off on the right footing as they go off to school."

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. KOHL). The Senator has 3 minutes remaining.

Mr. MCCONNELL. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, the amendment to eliminate public financing of Presidential campaigns would be a giant step backward in the American election campaign process. We would return once again to a system marked not by the quality of the candidates running, but by their ability to hustle campaign contributions.

This amendment ignores the scandal-ridden background against which public financing was enacted in 1974. By ignoring history, it invites a repetition of such scandals.

Just yesterday, I had the opportunity to participate in a meeting with former President Richard M. Nixon wherein he gave a report to Senators regarding his recent trip to the Soviet Union. I might say it was a highly informative and exceedingly thoughtful briefing.

My mind ran back to the Presidential Election Campaign of 1972, and how President Nixon was, in the final analysis, done in by those around him who were hustling enormous sums of campaign money. Quite frankly, I am not sure that former President Nixon can be held fully responsible for that. I think he was simply, to some extent, a victim of the circumstances of the time.

Twenty years ago, American Presidential campaigns in our Nation were financed by the wealthiest, the most influential, and all too often, most secretive individuals in our society. The Nation's largest and wealthiest corporations were subjectd to what can only be called a shakedown by Presidential fundraisers who implied that those who failed to give enough would find themselves facing regulatory problems. The scandal that has come to be known as Watergate was fueled and sustained by the drive to ensure election victory at all costs. That goal lay at the heart of the so-called enemies list, as well as the threats of tax reprisals by the politicians against citizens of this country.

It was against this background, Mr. President, that Congress enacted the 1974 reforms that were essential to free Presidential elections from the taint of enormous cash donations, given in secret, given without accountability.

The reform recognized that in a nation of 200 million people, the cost of reaching voters with a campaign message has outrun what private fundraising systems could accountably, credibly, and ethically raise. Equally important, the reform ensured that challengers to a sitting President who could not call on the vast array of Government programs and offices to bolster their campaigns would have a more equal chance to bring their candidacy to the people.

Despite the fact that the checkoff has not been altered or changed for the 15 years it has been in effect, while campaign spending has risen substantially, the checkoff today represents the most broadly based public participation in our electoral system short of actually casting the ballot itself.

In the 1988 election cycle, 32 million of our countrymen agreed to participate by checking off the $1 per taxpayer option; 27 percent of the electorate volunteered for the checkoff. In comparison, only 6 percent of our fellow citizens give donations to political candidates or political parties.

Even though this checkoff has not been widely advertised, even though it is said that some taxpayers may be confused, even though some taxpayers say they would like to make the checkoff but they forget about it and believe it adds to their tax bill, millions of Americans have repeatedly made it clear by their actions that they believe enough in our system of free elections to participate when doing so is as simple and as direct as the dollar checkoff. I know of no other program or proposal which can point to such a long-term testimony of totally voluntary public support.

Critics claim because more people do not participate, the checkoff is some kind of failure. That is the same kind of reasoning one would say that a lower voter turnout is an indictment of free elections and we ought to do away with those also.

Never in the history of this country has the whole public, or even as much as half of the public, chosen to voluntarily engage in political activity, whether giving donations or volunteering their time. We can deplore that fact if we choose to. But in a free society, it reflects the freely made choices of the overwhelming majority of our fellow citizens.

It is ironic opponents of the checkoff say the failure of 73 percent of Americans to take part proves it is a failure. If we follow that logic, we would say that the system of private financing is an equally large failure because 94 percent of the people refuse to take part in that.

Under our system, contributing time or money to political parties and candidates is entirely voluntary. So is the dollar checkoff. And a great many more of our people have chosen to participate by using the checkoff than those choosing to give time or money directly to a candidate.

That outcome says millions of Americans are concerned enough about the health of our free system of elections to support the principle, which is all that the checkoff provides for all, even though they are not devoted enough to either party or any candidate to do so directly.

That, to me, is a pretty good vindication of the success of the 1974 reform. The reform has also been vindicated by the campaigns themselves.

Since 1976, when public funds were first involved, Presidential election campaigns have been untainted by the kinds of scandals which marred the 1972 campaign. Congressional campaigns, which rely entirely on private funding, are the source of scandal and public cynicism instead. The supporters of this proposal have failed to learn from history and they are ignoring current reality as well.

Americans have always regarded their political leaders with a healthy dose of skepticism. Americans think for themselves and they do not buy everything they are told. That is good for politics and it is good for our freedom.

But when public skepticism becomes public cynicism, the ability of Government to function is undermined. The ability of the Congress to write reasoned legislation is narrowed. The willingness of a President to ask for national sacrifice is weakened. The ability to serve the long-term interests of our Nation, not just its immediate needs, is shaken.

Public cynicism is corrosive of public institutions.

Public financing of Presidential campaigns will not end cynicism. It will not solve all our political problems. But the claim that is has failed to do so is a straw man. Private financing of campaigns has not solved our problems either.

Instead, it has added to them the corrosive factor of broad public cynicism about the persons and the process that constitute their government.

We must remember that the publicly financed Presidential system is entirely voluntary. No one is forced to accept public financing to run for President. But in the four elections since the program was created, every candidate but one has chosen public financing and the spending limits which are part of the program.

It is ironic that the supporters of this repeal proposal are members of the political party whose Presidential candidates have repeatedly accepted public financing even as they vocally reject public financing for other cam-

paigns. President Bush, like President Reagan before him, accepted without demure millions of dollars of public funding for his successful election campaign. President Reagan's three campaigns for President were all publicly financed. In his three elections for President, Reagan took more than $20 million in public financing. George Bush has taken $14 million in his elections for President.

Both took the money, as did their unsuccessful Democratic opponents. Yet, like President Reagan before him, President Bush has made no effort to credit the process which spared him and his predecessor some of the most arduous and time-consuming work of any campaign—the private fund raising that consumes so much energy and time.

Former Senator Paul Laxalt, the close friend of President Reagan and his campaign chairman in two successful Presidential campaigns, summed it up best when, after his retirement, he confessed that public financing works.

"* * * [I]t was like a breath of fresh air," Senator Laxalt said, not to have to engage in the interminable round of fund raising that used to be the hallmark of Presidential campaigns, as it still is of every congressional campaign.

I regret very much that those who have personally benefited from the system do not defend it. It would be a breath of fresh air if they did. But in the larger sense, the dollar checkoff has already won the endorsement it deserves: The practical endorsement of 32 million American taxpayers, who see better than some of their elected leaders what is at stake, and who choose, of their own free will, with no public encouragement or leadership, to take part in the free electoral process that lies at the heart of our system of government.

Those who want to roll back this reform in the name of partisan advantage are selling short the value of our system. Their proposal should be soundly rejected.

Mr. President, I ask how much time I have remaining.

The PRESIDING OFFICER. The Senator has 4½ minutes.

Mr. SASSER. Mr. President, I reserve the remainder of my time.

Mr. McCONNELL. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. McCONNELL. The Senator from Kentucky has 3 minutes, and the distinguished manager of the bill has 4 minutes?

The PRESIDING OFFICER. The Senator is correct.

Mr. McCONNELL. I thought the vote was going to occur at 12:15.

The PRESIDING OFFICER. The Chair goes by the clock at the desk. The clock on the wall is not quite accurate.

Mr. McCONNELL. Mr. President, let me make some further observation about the McConnell amendment. This amendment does not affect money currently in the Presidential election fund or additional moneys that will come in this year as a result of checkoffs on tax returns filed earlier this year. This amendment simply directs money budgeted for the Presidential fund beginning in 1992 to Federal child nutrition programs, including school breakfast, school lunch, and child care food programs. In sum, what this amendment does is put children first and candidates for President second.

Mr. President, I suspect that there may be some efforts to second-degree this amendment. I want to say something to my colleagues about that should that occur.

I do not know why, if the Presidential fund is so popular, we should be reluctant to vote on it. The argument is made over and over and over again that the Presidential fund has been such a wonderful innovation for American politics, how it has cleansed the system. Of course, all of that is totally disputed by the facts, Mr. President. But if this fund is so popular, why not vote on the McConnell amendment as it is written? Surely this would be a defensible vote if the Presidential election fund is so popular out there in the land. Why not an up or down vote on the McConnell amendment? Let the Senate say to the American people we believe that this fund is important and ought to be continued, more important than anything, even feeding children.

Apparently, Mr. President, there is some thought that this might not be a very good political vote for some Members of this body. I would suggest that the American people would like to know where we stand on spending tax dollars for political campaigns. This is the first opportunity this calendar year we will have to test that. I hope the Senate will have the courage to stand up and vote on this issue and let the American people know where we stand. The truth of the matter is, Mr. President, that there is no Federal program that has been more thoroughly discredited than the Presidential system. I hope the Senate will adopt the McConnell amendment.

Mr. SASSER. Mr. President, has all time expired on the part of the proponents of the amendment?

The PRESIDING OFFICER. Yes.

Mr. SASSER. Mr. President, I yield to the distinguished Senator from Massachusetts 10 minutes off of the bill.

Mr. KERRY. Mr. President, I send a perfecting amendment to the desk.

The PRESIDING OFFICER. There are 3 minutes remaining on the pending McConnell amendment.

Mr. SASSER. Mr. President, prior to yielding back my time on the pending amendment, I yield 2 minutes to the distinguished Senator from New Jersey.

Mr. BRADLEY. I thank the distinguished chairman of the Budget Committee very much for yielding.

I would simply like to comment to the distinguished Senator from Kentucky, who is an opponent of public financing, and my guess is that this will be the first of many battles we will have on public financing, that the issue is basically in the eyes of the beholder.

As the Senator from Kentucky knows, the Senator from Massachusetts, the Senator from Delaware, and I have introduced a public financing bill that would apply to the Congress and the Senate. One of our arguments is how well the Presidential checkoff has worked. The Senator from Kentucky is now moving to essentially eliminate the Presidential checkoff because he is against public financing. It is in the eyes of the beholder.

We have in the press today and yesterday and the day before a lot of stories about the Chief of Staff of the White House, who is using Government planes to attend political events. Now, the Chief of Staff of the White House maintains that for those events that were political, that he has fully reimbursed first-class air fare, not the full cost to the public of the plane, but first-class air fare. One might look at that and say, now that is a form of public finance because the Speaker of the House, who is in line for the Presidency, cannot summon up a Government plane to fly him to a political event and reimburse only first-class air fare. So maybe we should amend this particular amendment with an amendment that says that anybody in the executive branch that goes to a political event must pay the full cost of the airplane, not simply first-class air fare.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SASSER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time to the Senator from Massachusetts?

Mr. SASSER. I yield time to the Senator from Massachusetts off the bill.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 83 TO AMENDMENT NO. 80

(Purpose: To provide increased funding for child nutrition programs by imposing a filing fee at the Federal Election Commission for all expenditures of "soft money" that affect federal elections)

Mr. KERRY. Mr. President, I now send a perfecting amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY] proposes an amendment numbered 83 to amendment No. 80.

Mr. KERRY. 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 31, line 2, increase the amount by $50,000,000.

On page 31, line 3, increase the amount by $55,000,000.

On page 31, line 12, increase the amount by $50,000,000.

On page 31, line 22, increase the amount by $50,000,000.

On page 32, line 7, increase the amount by $50,000,000.

On page 32, line 8, increase the amount by $50,000,000.

On page 32, line 17, increase the amount by $50,000,000.

On page 32, line 13, increase the amount by $250,000,000.

On page 38, line 24, reduce the amount by $50,000,000.

On page 38, line 25, reduce the amount by $55,000,000.

On page 39, line 8, reduce the amount by $50,000,000.

On page 39, line 17, reduce the amount by $50,000,000.

On page 40, line 2, reduce the amount by $50,000,000.

On page 40, line 3, reduce the amount by $50,000,000.

On page 40, line 11, reduce the amount by $50,000,000.

On page 40, line 12, reduce the amount by $250,000,000.

Mr. BROWN. Mr. President, as designated floor manager, 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. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Who yields time to the Senator from New Jersey?

Mr. SASSER. Mr. President, I yield 5 minutes to the Senator from New Jersey.

Mr. BRADLEY. Mr. President, I wonder if I could get the attention of the Senator from Kentucky? Mr. President, I wonder if, in the interim since I first made my suggestion, if the Senator from Kentucky has given it sufficient thought that he would be willing to amend his amendment with the suggestion that we require anyone in the executive branch except the President and Vice President, when they order up a big government plane to fly to a political fundraiser, that they would have to pay the full cost of that airplane?

Mr. McCONNELL. Mr. President, I would say to my friend from New Jersey that, if public funding of Presidential elections is so popular, why not just allow a vote on the McConnell amendment. Obviously there is a good deal of scurrying around on the other side to try to avoid voting here.

The issue is whether or not we want to continue to spend tax dollars on political campaigns for President of the United States; whether we want to provide money for the national conventions; whether we want to provide money for Lyndon LaRouche and Lenora Fulani. Maybe the Senator is in favor of all of those things, and if he is, why not just allow a vote on the McConnell amendment?

Mr. BRADLEY. I appreciate the Senator did not answer the question directly. But I can appreciate why he would not answer the question directly.

Let me suggest that we should be interested, not only in honest campaigns but honest government. If you have an executive branch where the Chief of Staff of the White House is ordering up a Government airplane to fly to a political event and reimburses the Government only the costs of commercial air fare, there is a big gap between the cost of a big airplane owned by the Government, probably the Air Force, flying someone across country to a political fundraiser, and the executive who takes that plane only paying the cost of the air fare. There is a big gap. One might cost a couple of hundred dollars, the other might cost $15,000 or $17,000 that the taxpayer has to pay.

It seems to me what we ought to do is think about amending this so we not only have honest campaigns but we have honest government.

Mr. BROWN. Will the Senator yield? I think the suggestion of the Senator is an excellent one. My inquiry would be simply, since this is an excellent idea, if my colleague would be willing to extend the same rule to Members of Congress and also provide that when they take a corporate jet for campaign fundraising that we have a similar rule for all?

Mr. BRADLEY. I would have no problem with that. My guess is a lot of these amendments we will deal with in the course of campaign reform, which is the appropriate place to begin to focus on the issue of public financing. The distinguished Senator from Kentucky is against public financing and yet, as he knows, when the campaign committees of the Senate send mail out soliciting funds all over this country, they have a subsidized rate. Is that not public financing? I would say that is, too.

Mr. President, this is only to say there are a whole range of issues that we are going to begin to focus on when we come to the floor to debate campaign reform. I hope we would not just talk about those things. As the Senator says, he wants a vote. There are some of us who want votes on a whole series of amendments. I do not want to take time away from the distinguished Senator from Massachusetts who has his amendment pending but this is only to illustrate public financing is in the eyes of the beholder.

There are plenty of people out there, citizens of this country, hardworking taxpayers, who think when a government official flies from one place to another in a Government airplane and he pays only the commercial air fare, that that is a form of public financing. Not for someone who was elected like the President or Vice President, but for someone who is appointed.

Mr. McCONNELL. Will the Senator yield?

I might say, I think this is a very legitimate issue. It has nothing to do with the amendment before us but I think my colleague raised a legitimate issue. I have some sympathy for some of the observations my colleague made and I think we ought to take a look at that at the appropriate time.

Mr. BRADLEY. I thank the Senator.

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

Mr. KERRY. Mr. President, I thank my distinguished colleague from New Jersey for raising one of many issues of both the inconsistency as well as impropriety in the current campaign finance law structure. But the amendment I have proposed to the amendment of the Senator from Kentucky, really tries to deal more realistically with the problem that apparently the Senator from Kentucky wants to deal with. He wants increased funding for child nutrition but he wants to fund it by ending the most fundamental reform that has been put into the campaign finance law of this country in the last 16 or 17 years.

All you have to do is go back and remember Watergate, which produced the biggest changeover in the U.S. Congress, perhaps in this century, not to mention the greatest sense of scandal this country has had in this century. Out of that Watergate scandal came the effort to have campaign finance reform. And, indeed, the centerpiece of that campaign finance reform was a system that separated candidates for President of the United States from big money.

What the Senator from Kentucky is doing is not coming to the floor of the U.S. Senate and expressing a real concern for child nutrition but rather expressing a disdain for the limitations that those reforms put in place. He wants to undo a system where Americans have been able to elect a President of the United States with a sense of confidence that they are not bought out or funded by the big interests of this country. It is the only elected office in this land of which we can say that, and he wants to undo that. He wants to go back to a system of making candidates for President of the United States grovel around the country, Dialing For Dollars, having the big

folks come in who want to be Ambassadors or whatever—and they already can do it, incidentally, in something I hope we are also going to reform, which is the whole soft money process. That is the way I think we ought to begin funding child nutrition, which is a concern of everybody I know in the U.S. Senate.

Big money is the biggest problem in politics today. So let us fund child nutrition by putting a filing fee on any Federal election use of soft money. When people want to spend $100,000, which they are allowed to do, for a Presidential campaign through the soft money non-governmental-purpose loophole that exists, let us put a fee on that. That fee would not supplant the fundamental reform that was passed during those Watergate years.

That is what my amendment seeks to do and I believe it is a more sensible way of dealing with this problem.

The Senator from Kentucky is willing to rely on special-interest soft money to fund Presidential elections and there is a reason why. Because this is the most ready source of money for the Republican Party. They outraise us by countless millions of dollars. When I served as chairman of the Democratic Senate Campaign Committee, we were just elated to be able to raise the grand sum of about $16 million. Well, our friends on the other side of the aisle raised $75 or $80 million that year.

The year the distinguished majority leader of the Senate, Senator MITCHELL, was chairman of the Democrat Campaign Committee, the Democrats raised $12 million. We could not even fully fund all of the amount that we could give legally to each of the campaigns in the country for Senate. We could not do it. That year the Republicans had $96 million to the $12 million.

So what the Senator from Kentucky seeks to do today under the guise of helping the child nutrition program is further advantage the Republican Presidential candidates and Republican Party by allowing them unlimited capacity to raise money. And there is a reason that it is unlimited because the Supreme Court's constitutional restraints under Buckley versus Valeo require public funding in order to have voluntary limits. If you do away with the public funding, you have surreptitiously done away with the very restraint that exists on campaigns expenditures in total.

So this is a very damaging and significant amendment that is in front of the Senate at this particular moment.

Mr. President, if we want to encourage a problem that the Senator from Maryland [Mr. SARBANES] very adequately brought to the attention of the Senate of those numbers of people who contribute $100,000 who wind up getting ambassadorships, if we want to encourage that, then we can vote for the amendment of the Senator from Kentucky.

I think there were something like 240 wealthy individuals and corporations who put $100,000 into the Bush campaign. I am not going to say it is only the Bush campaign. There were $100,000 donators to the Dukakis campaign, too. It is as obscene for the Democratic side as it is for the Republican side. The question is, do we want to encourage going back to a process of making Presidential races have unlimited amounts of expenditure and go around having to raise those kinds of sums of money?

It seems to me all we have to do is look at recent history with Charles Keating and Lincoln Savings, with all the other folks involved in the savings and loan scandal, and it has touched Democrats and Republicans. There is no partisanship in where the problem goes.

But, Mr. President, the problem is it goes to the heart of our governing process, ultimately. It goes to all American's perception that the Congress of the United States and the people who are supposed to be making sort of meritorious decisions about this country are somehow free from political influence, as least as represented by money, and making those decisions based on the merits or the best interests of the electorate.

I respectfully submit, Mr. President, that one of the most significant reasons that not a lot happens sometimes in the Senate and in the House is because of the big influence of money. It is not that it always gets its way or winds up producing legislation that is affirmative for the particular interest expressed. More often than not, it succeeds only in delaying things. It succeeds in creating a gridlock because the interests are so powerful on both sides that the easier choice for people is to do nothing, not to decide between them, and we get a process of delay.

I cannot find the justification for suggesting that we want to do away with a system that has worked. The system as it is today has 33 million Americans voluntarily checking off on their tax returns, saying I want this money to fund clean government. That is what it does. It is one of the very few opportunities Americans get to choose as to where their tax dollars go.

What the Senator from Kentucky wants to do is take away from Americans the right to choose. He wants to take away from them the right to say of all the dollars I spend, of all the things that you people down there decide to put into, whether it is the B-2 bomber or whether it is child nutrition, I want $1 to go to clean elections for the President of the United States. I want to know that there is a limit on expenditures and the candidate for President on the Republican side and the candidate for President on the Democratic side both get the same amount of money and neither of them is tied specifically to the interests that they feel are so huge and so enormous and so distant from them that it separates them from their Government and from the Presidency itself.

I am amazed that the Republicans are suddenly so excited about saying we do not want our tax dollars going to fund elections because an awful lot of them have relied on that system in the past and never said a word about it. Ronald Reagan ran for President of the United States and he used the fund. George Bush ran for President, got elected; he used the fund, and we never heard him say this is a priority. ROBERT DOLE, the minority leader, ran for President and he used the fund, and countless Democrats have used the fund, likewise, when they have run for President through the matching fund process.

Mr. President, it seems to me that it would be just an extraordinary setback to everything that we have tried to do to suddenly take away from Americans the right to be able to choose to have a government, at least a President that is not tied to that money.

The Senator from Kentucky will say: Well, Senator KERRY, there is not enough money in the fund; contributions are going down, so how do we do this? Mr. President, we have not changed the amount of money permitted in the tax checkoff since the year it was passed. It was $1 15 years ago; it is $1 today.

Second, the last time we advertised aggressively in this country trying to promote to Americans the notion of why it is important to check it off was 15 years ago. We have no public outreach effort whatsoever to encourage people to fill out their tax returns and to do this. All the tax preparers in the Nation do not receive encouragement from the Government to say it would be good if you suggested to your client that they check off $1 to help fund elections that are free from the influence of money. That does not happen.

Third, and must importantly, Mr. President, if you are an average American looking at the situation in politics today where you see nothing but money, nothing but scandal, in their perception, it is pretty hard to say, hey, take my hard-earned tax dollar and fund some other politican who is going to tell me a lie, or not pass legislation that is in my interest, and I am interested in supporting that.

What has happened in America in the last few years is that we have seen decreasing participation by Americans in the electoral process because they do not believe us, because they do not believe the system. All we have to do to make people more cynical about this system is take away the one thing that gives us a President of the United States who is not tied to those big dol-

lars. That is what the amendment of the Senator from Kentucky will do. It will say, no, we are not going to allow Americans to choose to put $1 into the Presidential fund, where 33 million Americans have exercised that choice. It is going to say we are going to wipe that out and make them go out and raise a lot of money.

The Senator might say, "Well, we are still going to have limits; you only have $2,000." That does not deal with soft money. We still have all the soft money.

The fact is, Mr. President, we would not still have the limits and the reason we would not still have the limits is because of Buckley versus Valeo. Buckley versus Valeo, the Supreme Court case regarding public funding, says that spending limits are only constitutional if they are voluntary, and we can make them voluntary by tying them to a system of public funding. That is precisely what the Senator from New Jersey was just talking about.

There is a place to be arguing about whether or not we want the public funding or do not want the public funding. It is not here and now on this budget process. It is when we have compaign finance reform next month, and we are going to have it.

But even then, Senators should be aware, and let me read what Buckley versus Valeo says:

> Congress may condition acceptance of public funds on an agreement by the candidate to abide by a specified expenditure limitation. Just as a candidate may voluntarily limit the size of the contributions he chooses to accept, he may decide to forgo private fundraising and accept public funding.

So the only way that we keep limitations constitutionally valid is by keeping in place the ability to have some form of pubic funding in the process.

If you do away with this limitation, it will mean that you have no limits whatsoever in the Presidential race, and you have the ability to have this arms race of money funding. We all know what happens when you have that arms race underway. It simply would be destructive to the process.

Mr. President, let me remind my colleagues that the reform which promoted this system that the Senator from Kentucky wants to do away with came out of something real. It came out of a felt need in this country to have reform of the political process. It has worked since then. No one has ever suggested that the Presidential election system has not worked. We have had the money there. We have elected our Presidents. All of the Presidents elected since this reform went into place have been elected with that system, all of them.

What was the felt need? Let me remind my colleagues of the Gulf Oil cases which arose in 1972. In December 1975, the Gulf Oil Corp. reported to the Securities and Exchange Commission that it had made expenditures totaling more than $5 million of corporate funds to the campaign efforts of dozens of members. The recipients of these funds included some of the most influential Members of Congress.

I quote the 1976 annual Congressional Quarterly. James R. Jones, Democrat of Oklahoma, pleaded guilty to a misdemeanor in connection with failure to report a contribution. A currently sitting Senator publicly admitted having received illegal contributions from the oil company. But the bulk of public attention focused on charges that Senate minority leader Hugh Scott at that time had received up to $100,000 in illegal campaign contributions from Gulf Oil lobbyists.

What happened was that a scandal which implicated a lot of people came about through corporate contributions, through big money in the electoral process. In addition to those Members who admitted that there had been malfeasance in this process, five other Senators were questioned by the Special Prosecutor's Office in what was ranked to be the largest scandal in the 94th Congress.

These cases provided the earliest evidence that limitations on contributions without limitations on expenditures themselves invite abuse. That is precisely what took place. That is precisely why the effort subsequently was to have the expenditure limitation linked to public funding. That is precisely the direction in which many Members voted we ought to be moving with respect to Senate and other elections in this country.

What happened in the 1970's took place in an environment where candidates had the incentive to raise as much legal money as they possibly could. If you had those limits in place, then you would have had no reason to seek the additional illegal contributions.

What I believe will happen is that you will open up a Pandora's box. Only a few years later, we had the Koreagate scandal. We have recently been through the Keating episode. I think everything that is part of the political reform process now is trying to get us away from being dependent on money. I do not think it makes sense to create a situation which undoes much of that reform and moves us back into that prior status.

AMENDMENT NO. 83, AS MODIFIED

Mr. KERRY. Mr. President, under my right to make a modification, I send to the desk a modification of my amendment.

The PRESIDENT OFFICER. The Senator has a right to modify it. The amendment is so modified.

The amendment as modified is as follows:

On page 31, line 2, increase the amount by $50,000,000.

On page 31, line 3, increase the amount by $55,000,000.

On page 31, line 12, increase the amount by $50,000,000.

On page 31, line 22, increase the amount by $50,000,000.

On page 32, line 7, increase the amount by $50,000,000.

On page 32, line 8, increase the amount by $50,000,000.

On page 32, line 17, increase the amount by $50,000,000.

On page 32, line 18, increase the amount by $250,000,000.

On page 38, line 24, reduce the amount by $50,000,000.

On page 38, line 25, reduce the amount by $55,000,000.

On page 39, line 8, reduce the amount by $50,000,000.

On page 39, line 17, reduce the amount by $50,000,000.

On page 40, line 2, reduce the amount by $50,000,000.

On page 40, line 3, reduce the amount by $50,000,000.

On page 40, line 11, reduce the amount by $50,000,000.

Mr. KERRY. Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BROWN. Mr. President, I would like to address inquiries to the distinguished Senator from Massachusetts, if he would care to respond, with regard to his amendment. I was hoping the Senator would advise us if the purpose of his amendment is to set aside the McConnell amendment or merely add to it?

Mr. KERRY. Mr. President, the Senator from Massachusetts has no intention at this point in time, unless the Senator from Kentucky desires to ignore his amendment, to react spontaneously, but as long as his amendment is pending, my amendment is pending in the effort to modify it.

Mr. BROWN. So the amendment of the Senator would simply add the Senator's concern over the filing fee and additional appropriate revenue? It is not the intention of the Senator to eliminate the stated purpose of his amendment which is to eliminate the Presidential checkoff?

Mr. KERRY. My amendment would, in fact, supplant his amendment, that is correct. It would eliminate his elimination of the checkoff.

Mr. BROWN. I appreciate the distinguished Senator's clarification, and I think that is helpful, because if I understand what the Senator is saying, the amendment will have the effect of doing two things: It will advance the program of imposing a filing fee and using that money for beneficial purposes, as well as eliminating the elimination of the Presidential checkoff.

Mr. KERRY. The Senator is absolutely correct.

Mr. BROWN. I hope that the Senator would advise us as to the source of his revenue estimate he used here.

Mr. KERRY. If I could interrupt the Senator, with his permission.

Mr. BROWN. Surely.

Mr. KERRY. This is not revenue strictly in the sense of the raised fee. It is a standard fee, filing fee. It is not revenue. It is not a tax of any kind whatsoever.

Mr. BROWN. I appreciate that, the point being it is in category 800 so that it comes under a different classification than straight taxes.

I am wondering if the distinguished Senator has the source of his estimate of where this money would come from?

Mr. KERRY. The answer to the Senator's question is that it depends entirely on how much soft money contribution is made or raised. It would be based on a pro rated basis not capable of being determined by us at this time in the budget resolution but having to be determined obviously by the appropriate committee, but it would come based on the amount of money.

If there is $90 million in soft money contributions, then you would have *x* amount of that go to the filing fee and, clearly, the appropriate authorizing committee would establish a prorated structure that would guarantee, based on prior experience and judgments about how much soft money is used, that there would be sufficient money to accomplish the purpose set out by the Senator from Kentucky.

Mr. BROWN. The Senator, I think, appropriately points out that our appropriate committee will take this recommendation and fashion $55 million, I assume, in new filing fees to come from it. But what I am wondering is, does the Senator have as source which has advised him that a filing fee on these soft contributions could, indeed, yield $55 million? Is this an estimate from the blue or has the Congressional Budget Office come up with this estimate? What would be the source of this estimate?

Mr. KERRY. If you have contributions exceeding $55 million—and you do—you can clearly set a percentage of filing fee that gets you the amount of money that is necessary. On its face, it is prima facie evidence that you have sufficient money because we know that far in excess of the $55 million is already donated in soft money. It means a high filing fee, but that is the purpose.

Mr. BROWN. I think I may share the Senator's sentiments about soft money, at least I suspect I do. My question was really to inquire whether or not the Congressional Budget Office has given the Senator this estimate, or OMB, if there is a source for this $55 million, or it is the Senator's own estimate of what might be raised here.

Mr. KERRY. Mr. President, It is not the Senator's own estimate. It is based entirely on the trend chart. I can provide it for the Senator.

But in each year the amount of soft money has far exceeded the amount we are seeking to raise. So the only issue here is really what one deems to be an appropriate and adequate filing fee.

But it is something I know the Senator's children and mine can figure out based on the amount of money that has been made available.

Mr. BROWN. I have a great deal of faith in the Senator's children. I will not speak for all of my children's ability. But I guess the point I wanted to discover was if we have an independent agency that has indeed said $55 million can be raised here, my understanding of the Senator's point is it is clearly an established fact that there is soft money and, while we do not have a formal agency, it is the feeling of the Senator from Massachusetts that it is not an unreasonable estimate. But if that is indeed the case, I wonder if the Senator would advise us. Does he contemplate a fee for each donation of soft money or is he contemplating a fee that is a percent of all soft money donated?

Mr. KERRY. I think again this is the kind of detail that even the amendment of the Senator from Kentucky has not fleshed out. You could go either way. My preferences personally would be each individual donation would be subject to a fixed fee so that you might even scale it accordingly to discourage even the large amounts and have it as it gets larger to be larger.

Again that is a discretion the budgeting process now does not require us, nor even permits us, to be able to answer. So we purposefully did not put that in the amendment because that has to be decided by jurisdictional rights of the appropriate authorizing committee.

Mr. BROWN. I can appreciate the Senator's point. I think he can appreciate my concern that if we are increasing spending by $55 million, somewhere we ought to have a pretty good idea we can raise it. If indeed our thought is to impose a fee on each donation of soft money, I wonder if the Senator can tell me how many donations there were last year. How much are we going to charge per donation of soft money?

Mr. McCONNELL. Will the Senator yield for an observation?

Mr. BROWN. I know the Senator from Massachusetts is consulting some material. In the interim, I would like to yield to the Senator from Kentucky.

Mr. McCONNELL. I wish to make an observation about the question my friend asked. It is not possible to determine how much soft money there is. There is no reporting on it.

It is off the books; undisclosed. So I would say to my friend from Colorado that he asks a good question. There would be no way to determine how much such a fee would yield because there is no reporting of soft money.

Both political parties voluntarily in recent years have disclosed party soft money but should it be the desire of the Senator from Massachusetts to get at nonparty soft money, which is the real sore money, there is no disclosing, there is no accounting, and it would be very difficult to ascertain the fee or how much would be raised thereby.

Mr. BROWN. Speaking for this Senator, I must say I count myself among those who would like to see us require reporting of soft money and would like to see us do reasonable things that would not discourage that. But I am speaking as one who is concerned about budget matters. To suggest we are going to increase spending by $55 million, come up with $55 million from somewhere, that we do not know exactly how much donations are made or what they involve, based on the supposition that people will pay for the privilege of giving away their money, strikes me as somewhat strained budget analysis.

To increase spending based on the assumption we are going to have people eager to donate additional taxes for the privilege of giving away their money strikes me as simply an unsound approach to budgeting and not one that is likely to lead us out of the current budget deficit that we have.

Mr. McCONNELL. Would the Senator yield for a further observation? It is widely believed, hardly in dispute, that the largest amount of so-called soft money, off the books money, being spent in political campaigns in this country is by organized labor.

I am hopeful the Senator from Massachusetts may well be suggesting here that maybe we get a handle on that. I wonder if he would place a fee on the expenditure of labor soft money, if that may be what he has in mind. I look forward to hearing his observation on that since that is the largest pool of soft money being spent in political campaigns in this country.

Mr. BROWN. Obviously we are talking about raising millions of dollars off of soft money. It is difficult for me to think you could exclude major portions of the soft money.

Let me lay out at least where I see where we are with regard to this amendment. We have had a suggestion that you increase spending by $55 million and you finance that by levying a fee. But we do not have a single agency that has come forward to indicate to us how much you could raise by that fee—not one estimate.

In addition, we are unable to identify on this floor how much money is donated through soft money. We are unable to identify how many times or periods in which people make those donations.

I merely suggest to the Senator that the suggestion we can raise $55 million from a source that we do not know the nature of, nor how many times it is used, and in which no recognized agency has come up with an estimate, is highly creative budgeting.

Mr. McCONNELL. I say to my friend he is absolutely correct. There would be simply no way to ascertain what kind of money this might raise because we have no idea what is being spent.

Mr. BROWN. I thank the Senator.

I wonder if I might address an inquiry to the Senator, the distinguished Senator from Kentucky, as to his thoughts as to how soft money should be handled from an electoral purpose.

Mr. McCONNELL. I think the soft money abuses going on in this country are occurring for the most part in the Presidential system the distinguished Senator from Massachusets is seeking to defend. It has been the system of spending limits in public finance that has spawned the growth in soft money.

As a matter of fact, there was a 50-percent increase in spending from the 1984 Presidential race to the 1988 Presidential race, most of it soft money, both party and nonparty.

We had a sense of what the party soft money was because both parties voluntarily disclosed. Most of the soft money was nonparty soft money off the books. And what has spawned the growth of soft money and returned the big contributor to the political process has been precisely the system—which the Senator from Kentucky today begins the long tortuous process of trying to eliminate. So ironically, the position of the Senator from Massachusetts is directly at variance with experience.

Mr. BROWN. I thank the Senator from Kentucky.

Mr. KERRY. Will the Senator from Kentucky yield for a question?

Mr. McCONNELL. Yes.

Mr. KERRY. Will the Senator from Kentucky perhaps at least acknowledge that there might be an issue as to which comes first, the chicken or the egg, a little bit here? It is because you have limits that I will agree people have tried to find a way to get outside limits and have more money, but what really drives it is not the fact you have those initial limits in the first place; it is that the limits really are not sufficient, that we have encouraged people to find the loopholes because the natural part of the political process is because it is competitive. You have to have as much money as you can gather. So people have found a legal way to get more money.

The solution is not to take away the first part of the chicken coop so the folks can get in and get at all the chickens; it is to eliminate the holes that exist. It seems to me we would be better advised to place limitations on soft money and all of us stop running for office with this notion that the only way to get elected is to spend more than the next person.

Mr. McCONNELL. Is that a question?

Mr. KERRY. It is a question. The question is could it not be the opposite of what the Senator is saying?

Mr. McCONNELL. The dilemma is the Constitution of the United States which said it is impermissible under the first amendment to quantify speech. In other words, you cannot by legislation say Senator BROWN is entitled to so much speech and Senator KERRY is entitled to so much speech. Buckley versus Valeo said you cannot quantify speech. It did say it is constitutional and permissible to limit what an individual can give a candidate. We have done that in the congressional system and in the early stages of the Presidential system.

The only way the Presidential system has been allowed to thrive is because the entitlement is very generous.

So the finance chairman comes into the Presidential candidate; he says we would love not to accept this public money but there is so much of it that we cannot possibly say no. And so the candidate voluntarily agrees to limit spending. The problem is, you cannot constitutionally limit all these avenues that my friend from Massachusetts would like to limit. You cannot do it constitutionally, because it deals with the first amendment. And you run smack in the face of the first amendment time and time again in this particular debate.

I say that it is totally clear to all of those who ever studied the system, with the exception possibly of Common Cause, that the Presidential election system is a disaster and should be repealed.

Michael Malbin, of the Rockefeller Institute, one of the renowned experts—and I say it is very difficult to find an expert who studied this in America who defends the current system—testified before the Rules Committee last month. Let me give the Senator a sense of what he had to say.

He said:

> In every Presidential election since public funding, spending has gone up, with more and more of the money going off the books and underground. If people care enough about an election, they will look for ways to get involved. If they are big and well organized and cannot contribute directly, then they will look at independent expenditures, or delegate committees, or registration and get-out-the-vote, or communicating with Members, or buying issue ads that publicize the position of an incumbent without directly advocating election or defeat, or other devices, some of which have not even been thought up.
>
> Off-the-book activities like these have become more prominent in every election since 1976. Some of them can be regulated, but there is no way they can all be eliminated without running roughshod over the first amendment.

Therein, I say to my friend from Massachusetts, lies the problem. You cannot plug every hole in the system without running roughshod over the first amendment.

Mr. BROWN. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER (Mr. ADAMS). The Senator from Massachusetts has 8 minutes. The Senator from Colorado has 12 minutes.

Mr. BROWN. Thank you. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. Mr. President, may I speak on my time? I yielded the floor to the Senator from Kentucky.

The Senators from California and from Kentucky were conducting an inquiry.

Mr. BROWN. Mr. President, I would be happy to yield time to the distinguished Senator from Massachusetts from our time, if he would like.

Mr. KERRY. Mr. President, I ask if the Senator from Tennessee would yield me 4 minutes.

Mr. SASSER. Mr. President, let me inquire of the Chair, once again, how much time is remaining for each side?

The PRESIDING OFFICER. The Senator from Massachussetts has 8 minutes. The Senator from Colorado has 12 minutes.

Mr. SASSER. Well, the Senator from Colorado has offered to yield.

Mr. KERRY. I ask for 2 minutes.

Mr. BROWN. I yield 2 minutes, Mr. President, from our time to the Senator from Massachusetts.

Mr. KERRY. Mr. President, let me say to the Senator from Kentucky that he is correct, that there are indeed problems in the current process. The question is, is the approach of the Senator from Kentucky the way to deal with those problems, or will it exacerbate the situation?

I very respectfully submit that it will undo what little hold we have and what progress we have made, and take away from our capacity to deal with some of the other problems that he raises.

The other problems he raises are real. Money has gone underground. What we need to do—and I believe we can through disclosure rules, through the voluntary limits, and other methods available to us—is create a public consensus about what is appropriate and what is not, or at least a consensus of our own behavior, some standards by which professionals can try to guide their behavior, so we can do better than we are doing now.

But I think if you undo this, you will be stepping back from what little restraint we have today on these abuses, and it will make it that much harder to turn around and say you ought to have restraints here, when in fact you have undone the very constitutionally permissible piece that allows you to put restraints in the first place.

Second, with respect to the first amendment, the Supreme Court was very clear in Buckley versus Valeo that where there are perceived or real perceptions of corruption, and where limitations are linked to dealing with those problems of corruption, the court

may, in fact, or we may in fact—Congress—impose the limitations.

I respectfully suggest that the current perceptions of corruption are so strong, and I share that there are a number of polls done not long ago which show that 81 percent or so of the American people believe that big money has too much influence in the process and want us to find a way to do it. This was a Business Week poll, April 16, 1990.

And a Greenberg poll indicates 81 percent of the American people feel campaign laws are flawed and need revision. The same percentage overwhelmingly responded to a Harris poll that contributors have too much influence over public officials.

I think the case can be made that Buckley versus Valeo is satisfied and the restraint on the first amendment is satisfied. And the question is whether Congress individually will be satisfied.

I yield back my time.

Mr. SASSER. Mr. President, I yield myself such time as I may consume off the resolution.

First of all, Mr. President, a budget resolution is really not the place to be debating campaign finance reform. Frankly, out of all due respect to all Senators here, and particularly my friend from New Jersey, a budget debate is not a place to be debating so-called Air Sununu, as some of the press has referred to it in the last day or two.

We are in a debate here on campaign finance reform. I think that is unfortunate, but I do not support Senator MCCONNELL'S underlying amendment for a lot of reasons, not the least is I do not believe it is time to eliminate the Presidential checkoff.

But there is a fundamental flaw in his amendment I think all of our colleagues should be aware of. What this amendment seeks to become is a pay-as-you-go increase in a program under the jurisdiction of the Committee on Agriculture that is paid for by offset under the jurisdiction of the Rules Committee.

Let us be very clear about it. There is no way to ensure that these committees would end up doing what the amendment proposes, even if it passes this body. We have no reconciliation directives this year. So there is no way to enforce a proposal like Senator MCCONNELL'S, in the event that it should pass this body today.

We have simply succeeded in burning up, right now, about 2 hours of our own time in debating an issue that has no place on a budget resolution. I know what is going to happen. Our colleagues are going to start coming over here about 5 o'clock or 5:30, and they are going to say, "I have an airplane to catch; I have to go to Utah." Or, "I have to go to Tennessee," or, "I have to go to New Mexico. When are we going to be through?"

The reason we will still be engaged in a debate on the budget resolution is because we have not been addressing ourselves to the business of the budget resolution. We have collateral and political amendments coming in here, purely motivated by a wish to gain political gain. There will be a time to debate these amendments, but I say it should not be on the budget resolution here today.

If we are going to have to vote on these two amendments, frankly, I think the sponsors of the amendments would do us all a favor if they would just pull them down. They have had their debate. Let us not vote on them today. Let us vote on them on another day on a proper vehicle.

But if we must vote on them today, then I will vote to support the amendment offered by the Senator from Massachusetts. Clearly I think evils of so-called soft money outweigh any concerns we might have about the Presidential checkoff. The Kerry amendment, perhaps, will dilute the influence of a handful of big money givers, most of whom would prefer to remain in the shadows. I do not know how much it is going to raise. Perhaps the Senator from Massachusetts can tell us precisely. I doubt that he can. But it is immaterial. It at least would have the effect, I think, of diminishing some of these soft money contributions.

Contrast that with the McConnell amendment, which would simply deprive 32 million Americans to contribute by way of checkoff, which they have chosen to do in the recent past.

Mr. President, I think they know what they are doing. So my message to our colleagues here is that we have done an awful lot of wheel spinning here this morning on something that ought not to be considered on a budget resolution. When we are standing here tonight at midnight, I want our colleagues to know why we are here. We are here because people want to propose amendments, bring them up, debate them, vote on them—amendments that have no place and have no effect on a budget resolution.

Mr. President, may I ask how much time is remaining now on the amendment of the Senator from Massachusetts perfecting amendment?

The PRESIDING OFFICER. The Senator from Colorado has 9 minutes on the amendment, and the Senator from Massachusetts has 8 minutes.

Mr. SASSER. Mr. President, we would be ready to go to vote if the Senators who yield back all of their time.

I understand the distinguished minority leader is away from the Chamber and will return shortly.

Mr. McCONNELL. Mr. President, how much time is remaining on this side?

The PRESIDING OFFICER. The time remaining is 9 minutes for the Senator from Colorado and the time remaining is 8 minutes for the Senator from Massachusetts in opposition.

The Senator from Colorado.

Mr. BROWN. Mr. President, I share many of the sentiments of the distinguished Senator from Tennessee, although his call for full disclosure is the reason why this Chamber may be in late tonight I am not sure I want to join in. But other than that full disclosure I think he summarized the arguments quite well. It does seem to me whether you like the Presidential checkoff or not—if you like the checkoff, I suspect you are going to want to vote "aye" because the substitute amendment or the second-degree amendment that has been offered will indeed have the effect of retaining the Presidential checkoff. If you do not think having the citizens of this country pay for the Presidential campaigns in the way they do through the Presidential checkoff, I suspect you are going to want to vote "no" on that second-degree amendment.

Mr. President, at this point I ask unanimous consent that the remainder of the time on this side be now controlled by the distinguished Senator from Kentucky.

The PRESIDING OFFICER. Is there objection?

Hearing no objection, the time for the proponents will now be controlled by the Senator from Kentucky [Mr. MCCONNELL].

The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I might say it is certainly not the desire of the Senator from Kentucky to prolong this issue. The McConnell amendment was scheduled for a vote at 12:15. The reason that has not occurred is because of the obvious interest on the other side in avoiding a vote on the McConnell amendment, and that is what is dragging this process out.

I argue that it is entirely relevant, as we consider the Nation's budget priorities, to consider whether or not we ought to be spending this public money on political campaigns. So I think it is entirely relevant to the consideration before us, and it had been my hope that we could vote on the McConnell amendment an hour ago, at 12:15, as it was originally scheduled. It is unfortunate there is such an interest on the other side in avoiding voting on the continuation of this public subsidy.

Mr. President, let me just recount the principal arguments in the few minutes we have remaining here before the vote on the Kerry second-degree amendment. Only 20 percent of Americans are using the checkoff to fund Presidential campaigns. What that means is that 80 percent are voting "no," 80 percent are saying they do not want their tax dollars to go to pay for political campaigns or political conventions, or fringe candidates.

In addition, the public funds and the spending limit have not done anything

about soft money. In fact, there has been an explosion of soft money in the Presidential system, an explosion of off-the-books spending, unaccounted for, undisclosed, to the point where spending went up 50 percent between 1984 and 1988. Clearly, it is not working, and virtually everyone outside of this body and outside of Common Cause who has studied it thinks it is a disaster. Former Vice President Mondale said there have been so many loopholes written into the law that the whole thing is up to ridicule.

My friend from Massachusetts, Senator KERRY, said, well, let us close the loopholes. The problem is you run smack into the first amendment. You cannot constitutionally keep people from participating in campaigns, so they will find a way to do it. Unfortunately, with the system of spending limits in public finance, the ways in which they are forced to participate are unaccounted for and undisclosed.

In addition, the Presidential system is a regulatory disaster. The most important people in every Presidential campaign are not the candidates, not the campaign managers, but the lawyers and the accountants to whom one out of every four of these dollars have gone seeking to figure out how to live with, deal with, and, yes, skirt the current system because it is so unnatural.

In addition, Mr. President, you cannot deny public funds to extremist candidates. I have mentioned Lenora Fulani and Lyndon LaRouche, who got together, between the two of them, $1.5 million in public funds to run for President of the United States. It is a disgrace. It is a disgrace, Mr. President, and if this system of Presidential funding of campaigns is so popular, I do not know why we could not have had the vote at 12:15, giving the American people the sense of how we feel about this. Instead, we are here dealing with a second-degree amendment.

Mr. President, in every conceivable way by which you measure a successful election system, the Presidential system has been a failure. Public money is squandered. It is a benefit program for lawyers and accountants and fringe candidates dipping into the public Treasury. Honest candidates are required, because of the system, to figure out some way to skirt the law. Every Presidential candidate but one was cited for major violations because the law is so absurd. In every single way that you measure a successful campaign system, this has been a disaster.

All the McConnell amendment does, which I had hoped we would vote on an hour ago, is simply say to the American people we think it is more important to feed children than to continue to pay for political conventions, Presidential candidates, fringe candidates, lawyers, and accountants.

Mr. President, I hope that we will have an opportunity to vote on that amendment. I think it is entirely relevant to setting the budget priorities for this country.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2 minutes and 45 seconds.

Mr. McCONNELL. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Massachusetts has 8 minutes.

Mr. KERRY. Mr. President, I am not going to take all that time. I am going to take a couple moments to say that the Senator from Kentucky stated that only 20 percent of the American people check off the tax return. Then he leaps to the conclusion stating: "Therefore, 80 percent are voting no." That is just a non sequitur. Eighty percent are perhaps not even voting at all, not voting "no." There are many of them who are simply not even aware of the choice because we have not advertised or tried to reach out to them, many inadvertently just passing it by, who just do not understand the value of it because it has never been something that has been promoted.

If his theory is true, then you look at the reality that only 6 or 7 percent of Americans contribute privately to elections. Does that mean 94 percent of the rest of America is voting no? Obviously not. And if only 6 percent of America is contributing privately to elections, we all know who most of them are—people with money. And what is going to happen is, if you make it more advantageous for that small 6 percent to play in the political process, you are going to reduce the rest of America's willingness to believe that the system is on the up and up, accessible and meaningful to them.

I respectfully suggest to my colleague—because I agree with him, I think he has genuine concern about the problem that exists in the electoral process—that the way to this cure is not to come in and suggest on the budget process, in the name of assisting nutrition programs, that we are going to do away with the Presidential process, but rather to find ways to deal with the voluntary restraints that could be put in place.

My colleague from Kentucky complains about the Presidential system. Well, Mr. President, the Supreme Court of the United States has found that the Presidential system is voluntary and that it is constitutional. Those are critical components. In fact, the Supreme Court has said that, as to contributions, you can have voluntary restraints. The Supreme Court did not reach the question of expenditures as opposed to contributions because there was not a showing of corruption. They did find the showing of corruption in contributions.

I very respectfully submit to the Senate that much has changed since that decision was made and that the Supreme Court might well find today sufficient corruption in the expenditure process to find that constitutional limitations would apply to that process also. The question is, are we willing to put it to the test? That is really what this is about.

I respectfully suggest—I think my colleagues know this—that we could do a better job of controlling the abuses and the excesses which the Senator from Kentucky has appropriately said exists. But, by gosh, if we throw this whole thing out, we are making a mockery of the notion of ever trying to fix those and we will have opened up Pandora's box and returned us to pre-Watergate days with respect to the electoral process in the country.

Mr. President, I am willing to yield back my time if the Senator from Kentucky is willing to yield back his time.

The PRESIDING OFFICER. The Senator from Massachusetts has offered to yield back his time if the Senator from Kentucky offers to yield back his time.

Mr. McCONNELL. I say to my friend from Massachusetts, the Republican leader is on his way back to the floor. I would like to given him an opportunity to get here before we do that. I think I do have a couple of minutes left.

Mr. KERRY. Mr. President, this will be on the time of the Senator from Kentucky.

The PRESIDING OFFICER. Yes, at this point it will be on the time of the Senator from Kentucky, because the Senator from Massachusetts has yielded the floor as I understand it.

The Senator from Kentucky is recognized.

Mr. McCONNELL. Mr. President, let me just close by saying that it should be noted that the filing fee proposed in the Kerry second-degree amendment is in fact a tax that would be applied not only to political party soft money, but also to private activities that could be classified as soft money. Voter registration drives by the League of Women Voters, minority participation projects, assistance for disabled voters, labor union mailings to members, AARP communications to members, potentially all of these could be classified as soft money and potentially taxed under this proposal.

But the bottom line is this: The Kerry second-degree amendment seeks to defeat the McConnell amendment which seeks to eliminate the money in the Presidential fund in the next budget year. So for Senators who will be coming over shortly to vote on the Kerry second-degree amendment, let me just sum it up. If you are against public funding, taxpayer funding of political campaigns, you should vote

against the Kerry second-degree amendment. It is as simple as that.

Beyond that, if we can ever get a vote on the McConnell amendment, you not only have an opportunity to vote against taxpayer funding of political campaigns, you also have the chance to shift some money to children's nutrition, certainly something that I believe most Americans would rate much more highly as a budget priority for them than spending taxpayer dollars on political conventions, political campaigns for the President and candidates like Lenora Fulani and Lyndon LaRouche.

So if you are for children's nutrition and against public funding, you should vote against the second-degree amendment upon which we will be voting shortly.

Mr. President, do we have the yeas and nays on the Kerry second-degree amendment?

Mr. KERRY. 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 time of the Senator from Kentucky has expired.

Mr. KERRY. Mr. President, I yield back whatever time I have remaining.

The PRESIDING OFFICER. The Senator from Massachusetts has yielded back his time. All time has expired on the amendment of the Senator from Massachusetts [Mr. KERRY]. The yeas and nays have been ordered.

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

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

(The remarks of Mr. STEVENS pertaining to the introduction of S. 946 through S. 950 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Tennessee is recognized.

Mr. SASSER. Mr. President, before putting the Senate into a quorum call I request unanimous consent the time be charged equally against both sides.

The PRESIDING OFFICER. Is there objection to the unanimous consent request of the Senator from Tennessee?

Mr. DOMENICI. Did the Senator mean all that we used up since I put the quorum in?

The PRESIDING OFFICER. All time since originally putting in the quorum call shall be charged to both sides, is that the request of the Senator from Tennessee?

Mr. SASSER. That is correct.

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

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

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

All time on the Kerry amendment has expired. The yeas and nays have been ordered.

Mr. SASSER. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that it be charged equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. It will be charged equally to both sides.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SASSER. Mr. President, I yield 5 minutes to the distinguished Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 5 minutes under the bill.

(The remarks of Mr. DECONCINI pertaining to the introduction of S. 971 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DECONCINI. I thank Senator SASSER, chairman of the Budget Committee, for letting me interrupt at this time.

Mr. SASSER. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is a vote to occur on the Kerry amendment in the second degree. The yeas and nays have been ordered. The Chair is prepared to put the question.

Mr. MCCONNELL. Mr. President, I move to table the underlying first-degree amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs upon a motion to table the McConnell amendment, which is a first-degree amendment. The yeas and nays have been ordered. The clerk will call the roll.

Mr. SASSER. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Tennessee will state his parliamentary inquiry.

Mr. SASSER. What will the body be voting on at this point?

The PRESIDING OFFICER. It is the Chair's understanding that the Senator from Kentucky made a motion to table his own amendment, which was his amendment in the first degree, and the vote would occur upon the tabling motion of the Senator from Kentucky of his own first-degree amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN], the Senator from Indiana [Mr. LUGAR], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "nay."

The result was announced—yeas 0, nays 95, as follows:

[Rollcall Vote No. 48 Leg.]

YEAS—0

NAYS—95

Adams	Exon	Metzenbaum
Akaka	Ford	Mikulski
Baucus	Fowler	Mitchell
Bentsen	Glenn	Moynihan
Biden	Gore	Murkowski
Bingaman	Gorton	Nickles
Bond	Graham	Nunn
Boren	Gramm	Packwood
Bradley	Grassley	Pell
Breaux	Harkin	Pressler
Brown	Hatch	Reid
Bryan	Hatfield	Riegle
Bumpers	Heflin	Robb
Burdick	Helms	Rockefeller
Burns	Hollings	Roth
Byrd	Inouye	Rudman
Chafee	Jeffords	Sanford
Coats	Johnston	Sarbanes
Cochran	Kassebaum	Sasser
Cohen	Kasten	Seymour
Conrad	Kennedy	Shelby
Craig	Kerrey	Simon
Cranston	Kerry	Simpson
D'Amato	Kohl	Smith
Danforth	Lautenberg	Specter
Daschle	Leahy	Stevens
DeConcini	Levin	Symms
Dixon	Lieberman	Thurmond
Dodd	Lott	Warner
Dole	Mack	Wellstone
Domenici	McCain	Wirth
Durenberger	McConnell	

NOT VOTING—4

Garn	Pryor	Wallop
Lugar		

So the motion to table the amendment (No. 80) was rejected.

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator will state it.

Mr. DOMENICI. Mr. President, if the Senator from Kentucky [Mr. MCCONNELL] was to, under unanimous con-

sent, withdraw the underlying amendment, would both amendments fall?

The PRESIDING OFFICER. The Senator is correct.

TIME-LIMITATION AGREEMENT

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senator from Kentucky be permitted to speak for 5 minutes and the Senator from Massachusetts [Mr. KERRY] be permitted to speak for 5 minutes, after which time the Senator from Kentucky desires to have his underlying amendment withdrawn. Therefore, I ask unanimous consent that it be in order after the 10 minutes that I have just requested elapses, that the Senator have permission to withdraw the underlying amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Kentucky is recognized for 5 minutes following which the Senator from Massachusetts is recognized for 5 minutes.

The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, we are dealing with a budget question.

It was my hope in offering the amendment last evening which was originally scheduled to be voted on at 12:15, that we would have a chance to put the Senate on record in terms of its priorities as we deal with the passing of a budget resolution this year. Mr. President, what a budget resolution is about is establishing priorities.

It was my feeling that the Senate ought to have an opportunity to speak on the issue of whether it felt public dollars should continue to be spent in electing the Presidents of the United States, and supporting fringe candidates and supporting lawyers and accountants, who are necessary to monitor that system, and in supporting such things as paying for political conventions.

It was also my feeling that it would be appropriate to shift that money to a real need in the country and that is the question of providing better nutrition for children.

At this point, it is perfectly clear that the majority wishes to avoid having to vote on the Presidential election campaign system. Clearly, it is reasonable to conclude that that thoroughly discredited system would have been in great difficulty had we had a meaningful vote on the issue of continuing that public funding for yet another year.

It is my suspicion that Senators realize that the American people if they really understood what was happening in the presidential election system would overwhelmingly object to it.

As a matter of fact, it is pretty clear already that they object to it. Four out of five Americans choose not to check off their income tax returns to divert money from other Federal programs into the Presidential election system.

The American people are voting every April 15 on the Presidential system and the overwhelming majority are voting "no." My suspicion is Mr. President, if they knew even more about where their tax dollars were going, to fringe candidates, to lawyers and accountants, to political conventions, virtually none of them would check off, virtually none.

So it was my hope that we would have a chance for the Senate to go on record. I hoped we would do that at 12:15. It is now 2:25, and even though we could stay here all afternoon and probably at some point get a vote on the McConnell amendment, it seems to this Senator that the point has been made. The majority is very, very fearful of this issue. They fear that the American people overwhelmingly oppose this and they would like very, very much to avoid a vote on the Presidential system.

It is not surprising that some Senators would like to avoid a vote on the Presidential system. Not only do 80 percent of Americans choose not to participate, the checkoff has not replaced special interest money in Presidential campaigns, in fact there is more of it. The Presidential system had no limited spending. In fact, spending went up 50 percent from 1948 to 1988. The Presidential system is a regulatory disaster with $1 out of every $4 going to lawyers and accountants, and the Presidential system is a fringe benefit for fringe candidates like Lenora Fulani and Lyndon LaRouche.

Former Vice President Mondale called the presidential system, the taxpayer finance and spending limits, a joke, and boy is he correct about that. It has cost the taxpayers $500 million since 1976 and produced nothing positive with regard to the system.

So, Mr. President, let me just close by saying this issue is going to be back. It is going to be back. It will be back in the campaign finance debate with regard to the congressional system, because the bill that passed here last year would set up a similar system for congressional races.

The FEC testified they would need 2,500 auditors to monitor that system if we extended public funding to an additional 535 races. So the Presidential system is very relevant to that debate, and we will have that debate again on another day.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MCCONNELL. Mr. President, I hope that the Senate on some other day will vote to eliminate the Presidential system and get this disaster off the books.

The PRESIDING OFFICER. Pursuant to the previously announced unanimous-consent agreement, the Senator from Massachusetts has 5 minutes.

The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, the Senator from Kentucky just said to the Senate that nothing positive has been produced from the Presidential system.

I really think that that avoids recognition of what created this system in the first place and of the history of what has led us to be where we are today. The Presidential system was put in place to do away with extraordinary abuse of corporate money and excessive money in the election of our Presidents. And Members of the House and Senate had paid a price, some of them criminal and other political, for having been victims of that process.

Countless Members of this body have participated in that process. The distinguished minority leader, Senator DOLE, the current President of the United States, President Bush, the former President, President Reagan, many Members of the U.S. Senate have run for President, and none of them have ever complained that the system that made that money available to them voluntarily from a $1 voluntary checkoff on tax returns was somehow abusive.

What we just saw on the Senate floor was not really a vote about child nutrition. It was a vote to restore the process of unlimited money in politics, unlimited money in the electoral process of our Presidential elections. And it was an exercise in politics that would have given to the Republican Party, which already has tremendous advantages in fundraising, even more advantages in the political process that is dependent on money. Americans are tired of a process dependent on money, and nothing distances the election process more from the American people than their perception that big money controls it. What we just voted on was a chance to say we are ready to vote to reform the process but let us do it sensibly.

My colleague says we just passed up an opportunity to vote for more money for child nutrition. Well, the parliamentary situation at the end of that vote made my amendment—which would have put a filing fee on all the big soft money, corporate money, and the filing fee would have gone to child nutrition. The distinguished Senator from Kentucky withdrew his amendment. It was not defeated. By withdrawing his amendment he withdrew the underlying amendment which would have allowed us to vote more money for child nutrition, but to take that money from the big corporate contributions and the big individual hundred-thousand-dollar contributions and use that for child nutrition.

The Senator from Kentucky decided he did not want the U.S. Senate to vote on child nutrition, because that is not what this was about. This was about relinquishing the one hold we have that puts some order into the process.

Now I agree with the Senator from Kentucky. There are problems in the Presidential election process, but the place to fix them is not here today on the budget resolution. The place to fix them is in campaign finance reform, when we take the issue up in May. I hope at that time we can revisit this issue and improve those parts and process that need to be improved.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Massachusetts has 58 seconds.

Mr. KERRY. Mr. President, I would simply leave my colleagues with the thought that the reason that my colleague from Kentucky can say that people are voting no on the checkoff system is not that they are voting at all on it but many of them do not even know about it. The amount of money for the checkoff has not been changed since 1975.

Clearly if more Americans were given an opportunity to choose to get politicians away from big money by just contributing $2 themselves, if that were a choice in America, if America were given the proposition: "Would you rather liberate the U.S. Congress from fundraising by having a $2 or $3 checkoff or would you rather have them beholden to special interests," there is no doubt in my mind that 85-90 percent of the American people would vote for that kind of checkoff system. The problem is, the issue has never been put to them in that fashion.

I yield the floor.

The PRESIDING OFFICER. Pursuant to the previous order, the Senator from Kentucky is recognized for the purposes of his amendment. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The Senator from Kentucky has withdrawn his amendment.

The amendment (No. 80) was withdrawn.

AMENDMENT NO. 81

BUDGET ACT WAIVER

The PRESIDING OFFICER. The pending question is a motion of the Senator from New Jersey [Mr. BRADLEY] to waive the Congressional Budget Act of 1974, as amended, for the consideration of the Bradley amendment No. 81. All time for debate on the motion has expired. The yeas and nays have been ordered.

Mr. DOMENICI. Mr. President, I indicated this morning that I might use a few minutes on the Bradley motion. There is a certain similarity of resonance between his motion and the next two amendments offered by Senator SIMON.

So I am going to use a bit of time. I yield myself 5 minutes at this point. If Senator WARNER wants to speak, if he comes to the floor then I will yield him a few minutes and we will be finished.

So I yield myself 5 minutes at this point.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 5 minutes.

Mr. DOMENICI. Mr. President, before I speak on the Bradley motion, while the Senator from Kentucky is on the floor, let me first say to him that while his amendment did not prevail today that another day may be needed for the issue that he addressed to be addressed forthrightly by the U.S. Senate. I think a lot of Senators, I believe on both sides, but certainly on our side, have learned a great deal about this process that he brings before us in his amendment.

If you ask most people, they think that the present process for the primaries is just clean as a whistle and everything is just working great. The American people are very excited about it. They are certainly checking off in great quantities to put money in. Let me suggest that what I have learned from the Senator is that none of the above is true. Quite to the contrary, it is a very significant mess at best.

Whether it should be repealed or fixed is a question for another day. But the Senator from New Mexico thanks the Senator for bringing us current to that extent as he participated in the past few weeks and today on the floor of the Senate. I thank the Senator for that.

Mr. McCONNELL. I thank my good friend from New Mexico.

Mr. DOMENICI. Mr. President, let me say that we are going to have three votes here. The one that is pending right now is a motion by Senator BRADLEY to waive the Budget Act, because the distinguished chairman has made a point of order that his amendment is out of order under the Budget Act, as amended by the summit agreement. So when we vote, if we want Senator BRADLEY to prevail, we are going to waive the Budget Act, waive the economic summit agreement, and that is going to take 60 votes.

Frankly, I think the Bradley motion should be very disturbing for those who want some fiscal soundness; some assurance that we are moving in the right direction with the deficit. We have an executive and legislative agreement on how to deal with the deficit which will be pretty binding. We know where we are going for the first time in a long time, and it ought to be disturbing enough to vote to set that aside, which is essentially what we would be doing. We would be plowing a big hole in the budget agreement. I do not think anyone wants to do that. And I hope 60 Senators do not want to do that.

But now on the specifics. For the first time since we have had the budget process, we have fixed numbers, dollar numbers for defense, for next year and the year after. We have asked our defense experts, and the generals that we have been praising, to plan the reduction in our defense against those established numbers.

Now Senator BRADLEY is saying I do not like those numbers. He is saying that he wants to cut that by $7.1 billion. So that is the first point. He reduces defense by $7.1 billion over 2 years.

Many think we should have more money in defense rather than less. Many think the caps were too stringent. I see my friend from Mississippi. He has said that a number of times, even on the floor. The $177 billion that we took out of defense in the budget summit is now being implemented in these caps, these dollar numbers that we cannot exceed for defense.

Senator BRADLEY would cut $7.1 billion over the next 2 years below that. That ought to be enough to vote against Senator BRADLEY and not grant his extraordinary motion to set aside the Budget Act and its points of order.

Now if that was not enough, let me give you a second point. The summiteers said if you want to cut defense, or if you want to cut domestic programs, you take whatever you cut and you reduce the deficit by that amount. That was a very good concept.

We were all worried about deficit reduction, so we said, here is what we ought to live by. But if you want to reduce defense spending, put the money on the deficit. Well, the distinguished Senator from New Jersey [Mr. BRADLEY] says, no, we will cut defense but we will take part of the money that we take out of defense and we will add it to the domestic discretionary. So it would seem to me, for those who were concerned about cutting defense more than we did, they ought to be doubly concerned that we are doing that and taking part of the savings and increasing domestic discretionary spending.

Frankly, for the first time in many, many years, we have quite appropriately, I believe, set our Government into three logical compartments: defense, domestic, and foreign. We have said we are not going to mix them for a few years. If you want to save in one category, put the savings on the deficit, but do not save in one and put it in the other.

The distinguished Senator from New Jersey thinks that is not the right way to do it and would like to do some mixing, so he has taken some of the defense savings and put it in the domestic to increase them.

All of that flies in the face of what we agreed to. In my humble opinion, it puts us back were we were for years, where we thought we knew what we were going to spend on defense only to find we took some of it away and spent it somewhere else.

The defense leaders of our Nation want some continuity and certainty for a while. They believe they can plan better, save more, and give us more for our money if we will give them 2 or 3 years of consistency of numbers. If each year, now, we are going to take those defense caps and come to the floor and change them and then after we have changed them, not even give them that money but spend it somewhere else, it seems to me the discipline is gone and the opportunity for the Defense Department to truly save and plan—as they are trying to do—is probably gone. We will get less for our money, spending less dollars, being less secure.

I believe we ought to say to our friend from New Jersey, whom we greatly respect, this is not the time nor place to grant his motion, but to protect these caps and multiyear approaches that, for the first time in the budget history, make eminent sense.

I ask if Senator STEVENS, who is the ranking Republican on defense appropriations, if he agreed with me—if he did or not, either way—would he like to speak for a few minutes?

I yield up to 5 minutes to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska is recognized for up to 5 minutes.

Mr. STEVENS. Mr. President, I am pleased to respond to the Senator from New Mexico. I believe the funding levels in the agreement that are in effect now are worrisome already. I call attention to the fact the 5-year plan that has been submitted by Secretary Cheney will reduce defense spending through 1996 to less than 3.6 percent of the gross national product and approximately 18 percent of total Federal outlays.

The last budget President Kennedy submitted to the Senate provided for 52 percent of the Federal outlays being for defense. By 1996, we will have an outlay ceiling of 18 percent. We plan to reduce our divisions from 18 to 12, to reduce the Air Force from 36 to 25 tactical fighter wings, reduce our Navy from 540 to 450 ships. We have already had a series of base closure announcements.

If the amendment of the Senator from New Jersey is agreed to, there will have to be, once again, another series of base closures and more layoffs of civilians because of closing production lines. I believe it is going too far.

Beyond that, in my judgment, the Senate ought to watch what is happening in the Soviet Union. In my judgment, the Soviet Union is more unstable now than it has been in years. Many of the systems they told us they would destroy they are sending over the Ural Mountains, out to the Soviet far east, and Siberia.

We know their production lines are still going on. They are going to come through the START period with a stronger intercontinental missile force than they had to begin with. It is my judgment it is going to be very difficult for the United States to maintain the peace if we continue to change the funding.

The Senator from New Mexico is absolutely right. It is the changes in funding that bring the drastic changes in the production lines and in our ability to maintain the peace at the least cost possible to our taxpayers. I believe the funding levels of the current budget resolution are the very lowest we can accept. They should be floors rather than ceilings, in my opinion, and I urge the Senate to oppose this amendment.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I yield myself whatever time I need off the bill.

Mr. President, I believe I said to the Senate that I have joined Senator SASSER in making the point of order and that I am joining him in opposing the granting of Senator BRADLEY's motion to waive the Budget Act. But I want everyone to know, we are both on the same side on this, trying to enforce the agreement. The chairman of the Budget Committee and the ranking member both say we should not waive the Budget Act. Senator WARNER will speak on the Simon amendment which follows the Bradley motion. The Simon amendment is essentially a 2-percent cut in defense budget authority, and the resultant outlaws, with the entire amount of savings applied to the deficit.

If my colleagues vote for this, they are essentially voting to get rid of whatever agreements we have from the economic summit. As some say, all bets are off. I think we are back to ground zero. Some think that is great. I think it would be a disaster for the United States. So I hope we do not agree to this.

I yield back whatever time I have.

The PRESIDING OFFICER. The pending question is the motion by the Senator from New Jersey.

The Senator from Tennessee is recognized.

Mr. SASSER. Mr. President, with the discussion we have had here on the Bradley amendment, I think we have been successful in stimulating further debate, and I am advised that the Senator from New Jersey is on his way to the floor to make some statement. So I suggest the absence of a quorum. I ask the time be charged equally against both sides.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SASSER. Mr. President, I yield 2 minutes to the distinguished Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, the amendment we are about to vote on poses the question about what the priorities of our country should be. Our amendment suggests that we cut defense expenditures by 2 percent; we use 1 percent of that cut to reduce the budget deficit, and we use 1 percent to increase funding for priority programs like education, health care, and environmental cleanup. It is a very simple amendment.

Things have changed. If anything, since last October when we locked ourselves into a 5-year agreement on the budget, the Persian Gulf war has shown we do not need more—and we can do with less—defense expenditures. We will have a land base and land access in the Persian Gulf.

We need less, 2 percent less, and this money will be available in part to reduce the budget deficit. This is an amendment that would reduce the budget deficit and at the same time increase funding to try to help 25,000 kids out there who have measles, have measles because they are not immunized; to try to fully fund the Head Start Program and the WIC Program; to begin to give middle-class families in this country who want for their child the opportunity to get a college education. That is what this amendment is about. That is the choice it poses.

Some of the opponents say that if we left it all for deficit reduction, maybe it could be supported. We are going to have a vote on that position in a few minutes. My guess is that most of the opponents of my amendment will also oppose the amendment of the distinguished Senator from Illinois [Mr. SIMON] even though it adds nothing to the domestic side of the budget.

So, Mr. President, I see no reason to lock us into a budgetary circumstance that says if we are able to cut defense expenditures, it will take 60 votes to transfer some of the savings to the domestic side. That is what we need in this amendment. I do not know if we will get 60 votes. But at least we ought to send the signal that we do not want to bias this institution to increasing taxes. We ought to be able to use defense expenditures, that we should cut, for high priority domestic needs.

The PRESIDING OFFICER. The time of the Senator has expired.

All time has expired. The question is on agreeing to the motion to waive the Congressional Budget Act for consideration of the Bradley amendment No. 81.

The yeas and nays have been ordered. The clerk will call the role.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN], the Senator from Indiana [Mr. LUGAR], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "nay."

The PRESIDING OFFICER (Mr. REID). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 22, nays 73, as follows:

[Rollcall Vote No. 49 Leg.]

YEAS—22

Adams	Harkin	Riegle
Baucus	Hatfield	Rockefeller
Biden	Kennedy	Sarbanes
Bradley	Kerry	Simon
Burdick	Kohl	Wellstone
Conrad	Lautenberg	Wirth
Cranston	Metzenbaum	
Daschle	Pell	

NAYS—73

Akaka	Ford	Mikulski
Bentsen	Fowler	Mitchell
Bingaman	Glenn	Moynihan
Bond	Gore	Murkowski
Boren	Gorton	Nickles
Breaux	Graham	Nunn
Brown	Gramm	Packwood
Bryan	Grassley	Pressler
Bumpers	Hatch	Reid
Burns	Heflin	Robb
Byrd	Helms	Roth
Chafee	Hollings	Rudman
Coats	Inouye	Sanford
Cochran	Jeffords	Sasser
Cohen	Johnston	Seymour
Craig	Kassebaum	Shelby
D'Amato	Kasten	Simpson
Danforth	Kerrey	Smith
DeConcini	Leahy	Specter
Dixon	Levin	Stevens
Dodd	Lieberman	Symms
Dole	Lott	Thurmond
Domenici	Mack	Warner
Durenberger	McCain	
Exon	McConnell	

NOT VOTING—4

Garn	Pryor	Wallop
Lugar		

The PRESIDING OFFICER. On this vote, the yeas are 22, the nays are 73. The motion to waive is rejected. The adoption of the Bradley amendment, because the levels of the discretionary category exceed the discretionary spending limit for the categories set forth in section 601(a) of the Congressional Budget Act, adjusted pursuant to the Balanced Budget Emergency Deficit Control Act of 1985, is in violation of section 601(b) of the Congressional Budget Act. The point of order is sustained. The Bradley amendment (No. 81) falls.

Mr. DOMENICI addressed the Chair.

AMENDMENT NO. 82

The PRESIDING OFFICER. The pending question is amendment No. 82, offered by the Senator from Illinois [Mr. SIMON] on which there remains 10 minutes to debate equally divided in the usual form.

The Senate will come to order. Senators will please take their seats.

Mr. SASSER. Mr. President, before moving to the Simon amendment, I move to reconsider the vote by which the motion to waive was rejected.

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

The motion to lay on the table was agreed to.

Mr. DOMENICI. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will come to order. The managers of the bill cannot be heard.

Who now yields time?

Mr. SASSER. Mr. President, under a previous unanimous-consent request, I was under the impression that the Senator from Illinois had 10 minutes remaining. Is that correct?

The PRESIDING OFFICER. The Chair was about to announce that. That is the order.

The Senator from Illinois.

Mr. SIMON. Mr. President, if I could have a little order here, you are striving valiantly to get that.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, this is a very simple amendment that reduces budget authority for the defense function by 2 percent. I am pleased to say it has the support of the chairman of the Budget Committee, Senator SASSER. What has happened historically is this: After World War II, in 3 years we reduced defense spending 90 percent. No one suggests that we should be doing that today, though a former Secretary of Defense, Robert McNamara, had suggested a 10 percent cut each year for 5 years.

What I am suggesting here is a 2 percent cut in budget authority, which results in a cut in outlay of less than 1 percent—$12.7 billion. That is modest, my friends. I think we have to ask ourselves: What is the great threat to our Nation today? Is it on the security side or is it to our economy? We do not want to take any chances on the security side. We want a strong defense.

I served overseas in the Army. I am proud to have done so. But on the basis of statements that Senator SASSER quoted before from Gen. Colin Powell and from others, I think it is very clear we are in a dramatically different situation. If I just may use this example, also: During the cold war, when you exclude Vietnam and Korea and the Reagan years, we spent an average—if I may have attention again, Mr. President, because I know my colleagues from Alabama and Texas and Indiana will want to hear this——

During the cold war, when you exclude those areas, Korea, Vietnam, and the early Reagan years, we spent an average of $235 billion a year on defense in 1991 dollars. Now we are spending $290 billion a year. That just does not make sense, particularly with the kind of threat we face.

So this very modest amendment takes a small step in the right direction. It says, let us reduce budget authority by 2 percent, and let us reduce the outlay by a little less than 1 percent. My hope is that my colleagues will see the wisdom of adopting this and will accept the amendment.

I retain the remainder of my time.

The PRESIDING OFFICER. The Senator from New Mexico has 5 minutes; the Senator from Illinois 2 minutes.

Mr. DOMENICI. Mr. President, may I ask the Senator from Illinois, this is the 2-percent cut?

Mr. SIMON. That is correct.

Mr. DOMENICI. Might I ask him, does he intend to have a vote on that?

Mr. SIMON. I ask for the yeas and nays right now.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, the Senate a few minutes ago voted overwhelmingly to deny Senator BRADLEY the exact same defense cut. Defense will suffer exactly the same 2-percent cut; that is, $5.9, almost $6 billion, in budget authority less than is in the resolution for 1992. The only difference here is the Senator from Illinois takes that money and reduces the deficit. Senator BRADLEY had put part of it, half, in domestic spending and half in the deficit. All the arguments that were made about defense spending apply equally to this amendment as to the one before.

I do not need any additional time. I believe the Senate will continue to hold up the validity of the 5-year agreement and say to the Defense Department, and to those who are planning, if you can save $177 billion, you are ordered to do so, such that we prepare ourselves adequately and get the very best deal for the taxpayers, we want you to do that.

This 2 percent will put them on another up and down track so that, once again, we do not know where we are going. We ought not to do that.

Mr. SASSER. Mr. President, as much as it pains me to disagree with the distinguished ranking member, it is my view that the Simon amendment differs markedly from the Bradley amendment that was defeated just a short time ago.

The Bradley amendment would have done violence to the Budget Summit Agreement enacted into law last year. My objection to the Bradley amendment was not that it reduced defense spending, and was not that it took that defense spending and put it into domestic discretionary spending. My objection was not that the Bradley amendment portion of the funds taken from

defense were then used to reduce the deficit.

My objection was that it violated the Budget Summit Agreement entered into last year. If we had adopted the Bradley amendment, we might very well have started going down the road and set the precedent of breaking out of the spending caps that we had prescribed, because it would have done just that. It would have burst the spending cap for domestic discretionary spending.

Conversely, the amendment offered by the distinguished Senator from Illinois conforms to the Budget Summit Agreement. I think my distinguished friend from New Mexico might have inadvertently misspoken himself when he indicated that it would breach the Budget Summit Agreement. It was specifically in the agreement that we could lower defense spending below the caps, if we wished to do so, by 51 votes. It was agreed that we could lower domestic discretionary spending, if we agreed to do so, by 51 votes. It was agreed that we could lower international spending, if we wished to do so, by 51 votes. What was prohibited was raising spending in either of those three categories to the point that it exceeded the caps.

So the thrust of the Budget Summit Agreement was to allow us to reduce spending as much as we wished in all three categories. It simply said we could not raise spending to the point that we exceeded the caps in those three categories.

My distinguished friend from Illinois is simply seeking to save money, to reduce the deficit—all in the defense spending category and pursuant to the Budget Summit Agreement itself. So I would not want my colleagues to feel that if they support the initiative of the Senator from Illinois, they would be violating the Budget Summit Agreement adopted last year.

Mr. President, I yield a minute to the distinguished Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois has 2 minutes remaining. The time used by the Senator from Tennessee was charged to the resolution.

AMENDMENT NO. 82, AS MODIFIED

Mr. SIMON. Mr. President, I ask unanimous consent to make a technical correction of a typographical error at one point.

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

Mr. SIMON. Mr. President, I agree with Senator SASSER, and I applaud his remarks.

I ask unanimous consent to have a statement by the National Taxpayer's Union in support of my amendment printed in the RECORD.

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

NATIONAL TAXPAYERS UNION,
Washington, DC, April 25, 1991.

Hon. PAUL SIMON,
U.S. Senate,
Washington, DC.

DEAR SENATOR SIMON: The National Taxpayers Union supports prudent reductions of our defense budget that will not undermine our legitimate national security needs. Your proposed amendment providing for a 2 percent reduction is certainly consistent with this approach, and we recommend its adoption by the Senate.

In your "Dear Colleague" letter, you have identified a proposal that the National Taxpayers Union has long advocated: Increased burden sharing by our allies, especially in Europe. While your amendment does not specifically recommend this, or any other means to achieve your proposed reduction, we do believe the Defense Department—and other Federal agencies—can absorb further reductions in spending.

With a record Federal deficit, it is imperative that Congress identify all opportunities for reducing spending. We strongly opposed last year's so-called budget deal, in part because of the enormous spending increases which it contemplated. The Senate should use the pending budget resolution to hold the line on all Federal spending.

Sincerely,

JAMES D. DAVIDSON,
Chairman.

The PRESIDING OFFICER. Did the Senator send the technical correction to the desk?

Mr. SIMON. It is on its way, Mr. President.

The amendment, as modified, is as follows:

DEFICITS

On page 4, line 7, decrease the figure by $2,700,000,000.

On page 4, line 8, decrease the figure by $4,400,000,000.

On page 4, line 9, decrease the figure by $5,200,000,000.

On page 4, line 10, decrease the figure by $5,500,000,000.

On page 4, line 11, decrease the figure by $13,900,000,000.

NATIONAL DEFENSE

On page 7, line 13, decrease the figure by $5,900,000,000.

On page 7, line 14, decrease the figure by $2,700,000,000.

On page 7, line 21, decrease the figure by $6,000,000,000.

On page 7, line 23, decrease the figure by $4,400,000,000.

On page 8, line 6, decrease the figure by $5,900,000,000.

On page 8, line 8, decrease the figure by $5,200,000,000.

On page 8, line 15, decrease the figure by $6,000,000,000.

On page 8, line 17, decrease the figure by $5,500,000,000.

On page 8, line 25, decrease the figure by $8,900,000,000.

On page 9, line 1, decrease the figure by $13,900,000,000.

The PRESIDING OFFICER. Who yields time.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I yield myself 30 seconds, and then I will yield to Senator WARNER.

Mr. President, let me say that I do not agree with my friend, the chairman, at all. The Senator from New Mexico says if you cut defense $6 billion more than the economic summit agreed to—that is, the President and Congress—you have changed the summit agreement regarding defense. That is what I call breaking the summit agreement. So I stand by my statement.

This does not violate any procedures. If you want to reduce any of them, you can. But we will still be changing what we agreed to if we reduce defense $6 billion more in the first year.

I yield 5 minutes to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 5 minutes.

Mr. WARNER. Mr. President, I thank the ranking member of the Budget Committee. I have been privileged to have the opportunity to join in this colloquy and debate regarding the defense cut. The chairman of the Armed Services Committee, Senator NUNN, and I are now in the process, ironically, of conducting a hearing on this year's defense budget, and our principal witness is the head of the GAO, Mr. Bowsher.

Senator NUNN and I agreed that I would come over. He is in opposition to the amendment by the Senator from Illinois, but I think I can speak and indicate the sentiment of both the chairman and myself.

Mr. President, the Armed Services Committee has the responsibility to assess, each year, the threat as posed to our Nation, and to our allies, and to extrapolate this threat into the defense budget as it relates to the budget forwarded by the President. We are now, basically, a third of the way along in the series of hearings that we conduct annually to assess the threat, to establish what portions of the President's budget, in our judgment, have the higher priority, and should be addressed.

Subsequently, the committee would authorize and therefore submit to the appropriations process those authorizations that we deem appropriate. And at this point, to come along with just an across-the-board cut we think is not a wise nor prudent move.

Just this morning, I joined a number of others in a bipartisan meeting with the National Security Adviser to the President, General Scowcroft, and we were having a general discussion on the overall threat posed to the United States, taking each of the major geographic areas of the world. And we addressed, in specific, the Soviet Union. We all recognize the turbulence now in that nation. They are in the grip of an economic revolution, a political revolution, a stress between the central government and the republics, a tug of war; and at this time, for the United

States to begin to build down, as such, or lessen its defenses, could have not only drastic results to us, but to other areas of the world that are faced with the Soviet threat.

So I ask my distinguished colleague from Illinois to reply to this question on my time: Has he made an analysis of this threat to underpin his thesis that now is the time to reduce the defense budget?

Mr. SIMON. Mr. President, I would be pleased to yield to respond to my colleague. The reality is—and I said this before the Senator came over here—that when the threat from the Soviet Union was a very real threat, when you exclude Vietnam and Korea and take out the Reagan years, during the height of the cold war, we spent an average of $235 billion on defense, in 1991 dollars. Now the cold war is over, and we are spending $298 billion on defense.

Mr. WARNER. Mr. President, if the Senator will yield, are those constant dollars, or does the Senator build in inflation?

Mr. SIMON. Adjusted dollars. I think we have to ask ouselves what is the great threat to our country today? Is it from an arms attack, or is it a weakening economy? And I think a logical answer has to be that the great threat today is a weakening economy.

I am not suggesting anything drastic. It is a cut of less than 1 percent in outlays. Nobody can say that is very drastic but at least a $2.7 billion reduction in outlays is at least a small, small step in the direction this Nation has to go.

Mr. WARNER. Mr. President, I see others anxious to address this point. I would simply say to my friend that in the words of the National Security Adviser this morning it is far more difficult to predict today the moves within the power structure of the Soviet Union than it was, say, 8 years ago in 1983 when he, General Scowcroft, issued the famous Scowcroft report on our long-term strategic posture. This country in my judgment, speaking only for myself, is on the brink of reopening the window of vulnerability certainly as it relates to our ground-based strategic systems.

Therefore, I suggest that the appropriate time to consider an amendment of this type would be after the work performed by the Armed Services Committee which it was said earlier was about one-third of the way along in extrapolating from the threat as we perceive it the necessary budgetary items.

I yield the floor.

The PRESIDING OFFICER. All time has expired on this.

The Chair revises that there are 15 seconds remaining to the Senator from Illinois and 1 minute and 54 seconds to those opposing the amendment.

Who yields time?

Mr. DOMENICI. Mr. President, I yield the Senator 1 minute off the resolution in opposition.

Mr. NUNN. Mr. President, I agree with those who oppose the amendment. I know the Senator from Virginia has just given a number of reasons. I know the Senator from New Mexico has given a number of reasons.

I would like to just say to my colleagues that defense cuts already contributed in terms of the budget agreement that we passed last year and we are implementing now 40 percent of the total in terms of the cuts that have been made. Of the total package of approximately $500 billion defense contributes about 40 percent of that. Under the agreement, defense spending will be held to the lowest level of the gross national product in over a half century, and that will happen by the end of the 5-year period if we stay on the track we are on now.

I also would say that it is apparent that if we have completed the end of the 5 years the track we are on now we will have lowered defense spending in real terms every year for 12 straight years by the end of this 5-year period. If anyone wants to open up the whole budget agreement and readdress everything including domestic, including entitlements, including taxes then I think defense would be willing to open that back up, at least many of us would be. But to break the agreement based on one part of the package without the other I think would be very shortsighted.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, very briefly. First, as the chairman of the Senate Budget Committee has pointed out this does not violate the agreement. Second, my good friend from Georgia, for whom I have the greatest respect, yesterday voted for an amendment that would have cut $2 billion in outlays on defense. This cuts $2.7 billion. So it is not much greater than the amendment.

Mr. NUNN. What did the other part of the amendment do? It addresses the other parts across the board.

Mr. SIMON. No question about it.

Mr. NUNN. That is a different situation and different framework.

The PRESIDING OFFICER. All time has expired.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I yield 1 minute to Senator COHEN from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized for 1 minute.

Mr. COHEN. Mr. President, I rise in opposition to this 2-percent solution to our budget. It seems to me that we are a little bit in the Alice-in-Wonderland category. We have the verdict first and the trial later. Here we are pronouncing a verdict we can live with this 2-percent reduction in defense at a time when we are going through base closures on which we have yet to make any final decisions; we are watching continued aggressive strategic modernization in the Soviet Union; we are being called upon to build a new tactical Air Force fighter jet, and we do not seem to have enough money for it; and now Senators come along saying take 2 percent; it is not that much without the benefit of hearings to judge whether those funds are necessary or not.

I think we ought to be doing the reverse. Let us have the trial first and verdict later. We ought to postpone any judgment on this as to whether to cut it further or not.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. EXON. Mr. President, I ask unanimous consent for 30 seconds.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. I yield 30 seconds off the resolution.

Mr. EXON. Mr. President, I join my colleagues in opposition to the amendment sponsored by the Senator from Illinois. The Armed Services Committee has been going through a painful process, well thought through and defined, in keeping with the budget agreement to reduce expenditures for national defense.

All is not well and the threat from the Soviet Union still exists. There is only one nation in the world today that possesses a real threat to the United States of America still, and they are modernizing their ICBM forces very directly.

I ask that we vote down the amendment offered by the Senator from Illinois as inappropriate.

The PRESIDING OFFICER. The Senator from Illinois seeks the floor.

Mr. SIMON. Mr. President, I ask Senator SASSER to yield me 30 seconds.

Mr. SASSER. Mr. President, I yield the distinguished Senator 30 seconds, even a minute if he wishes.

Mr. SIMON. I will just take 30 seconds.

Mr. President, ask anyone who takes a serious look at our country what the great threat is. It is to our economy. Not just the experts, ask people in the gallery, ask the people back in Nevada, in Virginia, anywhere. The great threat is this deficit we are not dealing with. This is a small chance to deal with it, Mr. President.

Mr. DURENBERGER. Mr. President, I rise to oppose the amendment by the Senator from Illinois to reduce the defense budget by another 2 percent. As my colleagues and constituents are well aware, I support a prudent, responsible reduction in our defense spending and a drawdown of our forces. And I believe that the budget proposed by President Bush and Secretary Cheney is in fact responsible and prudent.

In real, inflation-adjusted dollars, the administration's budget represents a decline of 1 percent compared to fiscal year 1991; a decline of 11.2 percent compared to fiscal year 1990; and a decline of 22.7 percent compared to fiscal year 1985, the peak year of the 1980's defense buildup.

Further reducing the budget by another 2 percent, or even the 1 percent that the Senator from Illinois has also suggested, risks gutting our force structures and capabilities at a time when we still face threats around the world.

It has been suggested by proponents of this amendment that the United States does not face any threats any more. The cold war has ended. The Soviets are in retreat in Europe and at home. Democracy is on the march around the world.

Mr. President, the cold war may be over, but U.S. forces remain in the Persian Gulf region. The war against Iraq has not been over for 2 months, and already some of us have forgotten that United States interests are still threatened in different parts of the world, and that we must maintain a strong, robust defense capability to protect those interests.

The Secretary of Defense and Chairman of the Joint Chiefs of Staff have testified before Congress that the United States can adequately and securely meet its defense requirements within the parameters set by the budget agreement. I agree with the Secretary and Chairman, and I support the administration's defense budget proposal.

Mr. President, interestingly enough, however, in congressional testimony, both the Secretary and Chairman raised the very real possibility that our security needs might actually increase in the coming years, and not decrease, as we all hope. Given the experience in the gulf, this seems to be a plausible suggestion.

Although we can meet our needs as now projected, the Secretary and Chairman emphasized that the United States must be prepared to reevaluate our security requirements in the future and make appropriate adjustments if necessary. The administration has not indicated in any way that it will seek adjustments, only that adjustments might be required in the future. I believe this is a very prudent, responsible, and realistic approach to take.

Funding for U.S. defense requirements has to be based on our potential adversaries' capabilities as well as overall political conditions. Our security requirements will no doubt change, and we will modify our forces accordingly, but the reality of today's world is that very real threats to our interests remain.

Further reductions in the defense budget at this time will not help secure this Nation's future. We're reducing the defense budget steadily and responsibly. Should we debate the specific programs and priorities within the overall limits? Absolutely. We must maximize every defense dollar we spend to ensure that we maintain a defense posture that can adequately address potential threats. But wholesale additional cuts in defense spending cannot conceivably serve the interests of peace and stability.

Mr. President, I urge my colleagues to defeat this amendment. I have great confidence in the ability of President Bush, Secretary Cheney, and Chairman Powell to lead this country safely and securely through an uncertain world. Let us not pull the rug out from under them. Thank you. I yield the floor.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the amendment of the Senator from Illinois. On this question, the yeas have been ordered, and the clerk will call the roll.

The legisltive clerk called the roll.

Mr. Ford. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN], the Senator from Indiana [Mr. LUGAR], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 25, nays 70, as follows:

[Rollcall Vote No. 50 Leg.]

YEAS—25

Adams	Grassley	Pell
Baucus	Harkin	Riegle
Biden	Hatfield	Rockefeller
Bradley	Jeffords	Sasser
Burdick	Kennedy	Simon
Byrd	Kohl	Wellstone
Conrad	Leahy	Wirth
Cranston	Metzenbaum	
Daschle	Mitchell	

NAYS—70

Akaka	Ford	Mikulski
Bentsen	Fowler	Moynihan
Bingaman	Glenn	Murkowski
Bond	Gore	Nickles
Boren	Gorton	Nunn
Breaux	Graham	Packwood
Brown	Gramm	Pressler
Bryan	Hatch	Reid
Bumpers	Heflin	Robb
Burns	Helms	Roth
Chafee	Hollings	Rudman
Coats	Inouye	Sanford
Cochran	Johnston	Sarbanes
Cohen	Kassebaum	Seymour
Craig	Kasten	Shelby
D'Amato	Kerrey	Simpson
Danforth	Kerry	Smith
DeConcini	Lautenberg	Specter
Dixon	Levin	Stevens
Dodd	Lieberman	Symms
Dole	Lott	Thurmond
Domenici	Mack	Warner
Durenberger	McCain	
Exon	McConnell	

NOT VOTING—4

Garn	Pryor
Lugar	Wallop

So, the amendment (No. 82) was rejected.

Mr. SASSER. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois is recognized to offer another amendment with 10 minutes equally divided.

Mr. SASSER. May we have order, Mr. President.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 84

Mr. SIMON. 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 Illinois [Mr. SIMON] proposes an amendment numbered 84.

Mr. SIMON. 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:

DEFICITS

On page 4, line 7, decrease the figure by $1,300,000,000.

On page 4, line 8, decrease the figure by $2,200,000,000.

On page 4, line 9, decrease the figure by $2,600,000,000.

On page 4, line 10, decrease the figure by $2,700,000,000.

On page 4, line 11, decrease the figure by $11,000,000,000.

NATIONAL DEFENSE

On page 7, line 13, decrease the figure by $2,900,000,000.

On page 7, line 14, decrease the figure by $1,300,000,000.

On page 7, line 21, decrease the figure by $3,000,000,000.

On page 7, line 23, decrease the figure by $2,200,000,000.

On page 8, line 6, decrease the figure by $2,900,000,000.

On page 8, line 8, decrease the figure by $2,600,000,000.

On page 8, line 15, decrease the figure by $3,000,000,000.

On page 8, line 17, decrease the figure by $2,700,000,000.

On page 8, line 25, decrease the figure by $5,900,000,000.

On page 9, line 1, decrease the figure by $11,000,000,000.

Mr. SIMON. Mr. President, I was just asked by the ranking member on the Budget Committee if I wanted a vote. 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. SIMON. Mr. President, I think we have to determine whether we are going to go on record being willing to do anything about defense expenditures. I recognize the mood, because of the Middle East situation, is favorable to defense. And there is no question, our Armed Forces performed superbly. Those of us who had a chance to work with General Schwarzkopf and General Powell and the others have been favorably impressed. But most of the big ticket items in the defense budget are not things that could be used in the Middle East.

The Presiding Officer and a lot of the Members here will remember we, for 12 or 14 years, have been debating the B-1 bomber, for example. How many B-1 bombers were used in the Middle East? Not a single one, because it was useless in that kind of situation. The same can be said for star wars and the MX missile and a lot of other big ticket items.

This amendment is a very simple one. It reduces outlays by less than 1 percent—less than one-half of 1 percent, actually; it reduces budget authority by less than 1 percent. It is really a test of whether we are willing to do anything in the way of these astronomical costs in the field of defense expenditure.

I think we have to use a little common sense in this field, and I ask my colleagues again: What is the great threat to the future of this country? It is what is happening to the economy. I want a strong defense; I want a flexible defense. This does not impair that one iota.

I hope my colleagues will vote favorably, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I yield myself 1 minute, and then we hopefully will vote.

Mr. President, I think it is unfair to the Senate and to those who are listening to say we will not do anything unless we cut another 1 percent off defense, having already agreed to cut $177 billion off defense in the economic summit, which is encapsulated in this budget.

As Senator NUNN, the chairman of the Committee on Armed Servcies, said, 40 percent of the deficit reduction we were able to accomplish all comes out of defense. So we go off and we cut it, and then someone can come to the floor and say we have done nothing.

We already know about the base closure difficulties, the reduction in manpower difficulties. Those are all because we have already cut. So I think we are at about the right level, and I hope the Senate again denies this amendment's validity in not cutting defense more than we already have agreed.

It seems to me enough is enough. We ought to wait and see how the world looks. We have a $177 billion cut already before us.

I yield back my time.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I just point out once again, the National Taxpayers Unions have endorsed this amendment. I think it makes sense by any kind of measure, whether it is security, budget, whatever it is. I yield back the remainder of my time.

Mr. LEVIN. Mr. President, I will vote for the Simon amendment for a 1-percent cut in the defense spending because that significant deficit reduction will require some cut in defense spending. The level of that cut should take into account the fact that some long-term defense cuts like closing military bases will require costs up front. Deeper cuts in defense spending consistent with meeting the defense of our Nation will be needed as part of a comprehensive deficit reduction approach covering all categories of spending and including selected revenue increases.

The PRESIDING OFFICER. All time has been yielded back.

The question now is on agreeing to the Simon amendment.

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 Vermont [Mr. LEAHY] is absent on official business.

I also announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

I further announce that, if present and voting, the Senator from Vermont [Mr. LEAHY] would vote "aye."

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN], the Senator from Indiana [Mr. LUGAR], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 30, nays 64, as follows:

[Rollcall Vote No. 51 Leg.]

YEAS—30

Adams	DeConcini	Mitchell
Baucus	Grassley	Pell
Biden	Harkin	Riegle
Bradley	Hatfield	Rockefeller
Brown	Jeffords	Roth
Burdick	Kennedy	Sarbanes
Byrd	Kohl	Sasser
Conrad	Lautenberg	Simon
Cranston	Levin	Wellstone
Daschle	Metzenbaum	Wirth

NAYS—64

Akaka	Bumpers	D'Amato
Bentsen	Burns	Danforth
Bingaman	Chafee	Dixon
Bond	Coats	Dodd
Boren	Cochran	Dole
Breaux	Cohen	Domenici
Bryan	Craig	Durenberger
Exon	Kasten	Reid
Ford	Kerrey	Robb
Fowler	Kerry	Rudman
Glenn	Lieberman	Sanford
Gore	Lott	Seymour
Gorton	Mack	Shelby
Graham	McCain	Simpson
Gramm	McConnell	Smith
Hatch	Mikulski	Specter
Heflin	Moynihan	Stevens
Helms	Murkowski	Symms
Hollings	Nickles	Thurmond
Inouye	Nunn	Warner
Johnston	Packwood	
Kassebaum	Pressler	

NOT VOTING—5

Garn	Lugar	Wallop
Leahy	Pryor	

So the amendment (No. 84) was rejected.

Mr. DOMENICI. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

AMENDMENT NO. 76

Mr. SASSER. Mr. President, I might inquire of the Chair if the Brown honey amendment is not the pending business?

The PRESIDING OFFICER (Mr. SIMON). That is the pending business.

Mr. SASSER. How much time is remaining on that amendment, Mr. President?

The PRESIDING OFFICER. The Senator from Tennessee has 29 minutes in opposition. The Senator from Colorado has yielded his time, but he may reclaim most of that.

Mr. SASSER. As I understand it, the Senator from Colorado [Mr. BROWN] has used all of his time as a proponent of the amendment?

The PRESIDING OFFICER. He used some of his time and yielded back the remainder. What has been yielded can be reclaimed.

Mr. SASSER. Can be reclaimed?

The PRESIDING OFFICER. That is correct.

Mr. SASSER. What has been yielded by the Senator from Colorado can be reclaimed. So, in other words, the Senator from Colorado is willing to yield back all of his time but will reclaim a portion of it should he exercise that option later?

The PRESIDING OFFICER. That is up to the Senator from Colorado.

Mr. SASSER. Mr. President, it is my understanding that the Senator from North Dakota wants to be recognized to speak for a time up to 10 minutes in opposition to the Brown amendment.

The PRESIDING OFFICER. Does the Senator from Tennessee yield 10 minutes to the Senator?

Mr. SASSER. I will yield 10 minutes to the distinguished Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized for 10 minutes.

Mr. CONRAD. I thank the chairman and thank the Chair as well. Might I inquire, how much time did the Senator from Colorado consume as a proponent of the amendment?

The PRESIDING OFFICER. The Senator from Colorado consumed 23 minutes.

Mr. CONRAD. I thank the Chair. I will be brief.

If I might ask the Senator from Tennessee, the chairman of the committee, does the amendment of the Senator from Colorado suggest that his proposed cut will eliminate the honey program? Is the Senator from Colorado correct that his amendment will accomplish that purpose?

Mr. SASSER. Under the rules that govern the Budget Act and budget procedure, the Brown amendment would simply cut the total spending function for agriculture. As to what program would be cut with regard to the spending programs under the jurisdiction of the committee on agriculture would be determined by that committee is my understanding.

Mr. CONRAD. I thank the chairman. I would suggest that the amendment of the Senator from Colorado will not simply eliminate the honey program. The amendment of the Senator from Colorado will reduce the agriculture function. This amendment will require another $164 million in reductions to agriculture programs.

Mr. President, I hope my colleagues will resist this amendment. Agriculture was cut 26 percent during the last summit agreement, 10 times as much as any other function. This cannot be allowed to continue. The amendment of the Senator from Colorado, which purports to cut the honey program, might in fact cut wheat, might cut cotton, might cut rice, might cut corn, might cut any of our agriculture programs.

It does not cut the honey program. It cuts agriculture. Agriculture has already been cut and cut deeply.

Mr. President, let me relate what this amendment could mean for my own State. A chief economist at North Dakota State University has informed me that 35 percent of the farmers of my State will not cashflow this year. When we adjust for inflation, we learn that wheat is at its lowest price since we started keeping records. There is a crisis in the heartland of this country. The amendment of the Senator from Colorado will make that crisis worse.

Economists estimate that net farm income is going to be down 18 percent this year in this country. Are we going to reduce it even more on the floor of the Senate this afternoon? I hope not.

Mr. President, in the first place, this amendment does not do what it purports to do. Second, the amendment cuts agriculture programs severely. Even if it were to cut only the program that the Senator from Colorado suggests should be cut, the amendment would be wrong. If there is any part of the budget that pays for itself over and over again, it is the honey program. Is that according to the Senator from North Dakota who has the biggest honey State in the Nation? No. This fact comes to us from USDA.

In a publication USDA prepared for the Senate Agriculture Committee during the 1990 farm bill, we learn that pollination services come primarily from bees. In addition, the bees that pollinate over 40 crops in this country come from hives belonging to this nation's honey producers. The USDA estimates that the value of the increased yield that is due to pollination services was about $9.3 billion in 1985. The value attributable to honeybee pollination of those crops for which a rental fee was collected was about $3.2 billion. Obviously, bees and the honey program provide an extraordinary benefit to all of agriculture.

Mr. President, this is not the time to argue the honey program because the amendment of the Senator from Colorado does not do what he says it will do. It does not touch the honey program. It simply cuts the agriculture function which has already been cut too much.

Mr. President, I am hopeful that today we will reject the amendment of the Senator from Colorado, and at the appropriate time I will move to table it. If the Senator from Colorado is willing, and if the chairman is willing to yield time, I would be happy to make that motion at this time.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Mr. President, I reclaim my time, and at this time I yield 5 minutes to the distinguished Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I want to commend the junior Senator from Colorado for undertaking this amendment here this afternoon. It is a cause that I have been interested in for many years and, indeed, the original proponent of the honey amendment, that is getting rid of the subsidy on honey, was our distinguished Vice President of the United States when he was the Senator from Indiana. And he prevailed on the floor of this Senate. We eliminated the price subsidies for honey under the Quayle amendment back in probably 1986 or 1987.

Unfortunately, the farm bill then went to conference, where the House conferees insisted on the rejection of the elimination of the price supports for honey.

Then when the Senator from Indiana moved on to Vice President, I took up the cudgels for this, and we prevailed twice on the floor, to the best of my memory. Certainly, a little over a year ago on the floor of the Senate we prevailed in eliminating the price supports for honey.

The argument for these will be forcefully presented by the distinguished junior Senator from Colorado. All I want to say is that I think he is right on target. We have known from the history of these price supports on honey, they all go to a very few rich honey producers. It is not the person that has a few bees, a few hives, that benefits.

So, first of all, it is a subsidy for the rich. Indeed, it has prompted a distortion of the honey sales in the United States. The price support is so high for honey that the flood of imports is coming into the United States to reach the market level. So we have an incongruous situation, the U.S. Government buying honey, preserving it, keeping the price high for the price supports, and meanwhile a flood of imports to take care of the normal purchaser who wants to buy some honey.

There is one other point. Some will say that it is essential to have these price supports so we can have bees for pollination. That is nonsense. That argument holds no water whatsoever. The pollination is done by those who transport bees around and has nothing to do with those who benefit from the price supports on honey. So I congratulate our distinguished colleague and urge him on to success. Thank you.

Mr. BROWN. I thank the distinguished Senator from Rhode Island.

Mr. President, I want to add a few remarks to close out the debate. It has been suggested by some of the opponents to this amendment that the language on the budget resolution is not controlling, that it does not force the Agriculture Committee to do away with the honey program. In that context, they are absolutely right. That is my understanding.

This is offered with a clear intent to eliminate the honey program. That is stated, and I think that will be clear to the Agriculture Committee. It eliminates the amount of money. But their contention that it is not forcing this is true. The Agriculture Committee retains discretion in that area.

It has been suggested by some that the passage of this amendment will indeed make pollinating a lost art in the United States. As one of the few Members of the Senate that has earned his living in agriculture, let me assure the Members of this body that that is absolutely inaccurate. I am happy to stand here and suggest to our membership that bees will not lose interest in flowers should this amendment pass.

Mr. President, if we cannot eliminate the honey program, if we cannot say no to 5,500 beekeepers in this Nation, in one of the silliest programs ever thought up in this Nation or any nation at any time in the history of the world, if we cannot say no to that special interest, who can we say no to? We have a deficit of $371 billion, and we

cannot say no to the beekeepers? I have more faith in this country and in this institution than that. Here is a chance to save some money, to reduce the deficit, and here is a chance to eliminate one program. Let us not let the opportunity pass to put our country on the right path.

I yield back the remainder of my time, Mr. President.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

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

The PRESIDING OFFICER. Does the Senator from Tennessee yield time to the Senator from North Dakota?

Mr. SASSER. Mr. President, how much time does the Senator want?

Mr. CONRAD. One minute.

Mr. SASSER. I yield 1 minute.

Mr. CONRAD. Mr. President, the Senator from Rhode Island and the Senator from Colorado suggest that the honey program does not matter. They argue that pollination services are going to occur whether there is a program in place or not.

I chaired a hearing at which we heard from industry, academics, and producers who benefit from the pollination services. Witnesses at this hearing told us that if we did not have our honey program to provide the bees that supply much of the pollination in this country, we would have to create another program to accomplish this purpose.

I think we should understand that this is not a referendum on bees and the honey program. This is a question of cuts to agriculture programs. We must say no to the Senator from Colorado on this proposal.

Mr. SASSER. Mr. President, I yield to the Senator from Vermont.

Mr. LEAHY. Mr. President, I just want to make clear what the amendment from the Senator from Colorado will do. It has nothing to do with the honey program.

The amendment would simply direct the Agriculture Committee to find savings within the Agriculture function of the budget. That could mean cuts in wheat, it could mean corn, it could mean tobacco, it could mean cotton or rice, it could even mean dairy.

The response could be, OK, so it is not honey, let us just cut agricultural programs more.

Before we agree to that, let us go back and review what has happened to commodity program spending in past reconciliations.

In last year's reconciliation alone, we cut $13.3 billion from commodity program spending in fiscal years 1991 through 1995. If one looks at reconciliations in the past, the committee cut $4.1 billion in the 1987 and 1989 reconciliation acts.

In fact, Mr. President, no other budget function has taken as large a percentage cut as agriculture. And yet in spite of that, we continue to face this kind of amendment. This amendment is simply unfair to all American farmers.

Furthermore, if this amendment goes through, the Agriculture Committee will be precluded from taking any spending action without facing a 60-vote point of order on the floor.

The Budget Committee chairman and the Senator from South Dakota spoke about this earlier, but I think it is important that we reiterate.

A 60-vote point of order would apply to a technical corrections bill for the farm bill.

The same would apply to legislation to expand credit guarantees to the Soviet Union.

The same point of order would apply to any spending action taken by the committee.

I do not see this type of amendment being discussed for any other committee. Is the Senator from Colorado prepared to offer a similar amendment for the Veterans' Affairs Committee? For the Judiciary? For Labor?

Mr. President, I will vote against this amendment and urge all of my colleagues to do the same.

Mr. SASSER. Mr. President, I thank the distinguished chairman of the Committee on Agriculture for his brevity this afternoon. He has earned the gratitude of a number of his colleagues.

Mr. PRESSLER. Mr. President, the USDA honey program is very important to my home State of South Dakota, one of the top five honey-producing States in the Nation.

The cost of the honey program is small compared to the benefits received from the beekeeping industry. These benefits include an estimated value for the pollination done by domestic bees of more than $9 billion. Domestic bees play a key role in the fight against the Africanized bees that are making dangerous inroads into this country because the Africanized bees do not flourish in areas already inhabited by domestic bees.

Elimination of the USDA honey program certainly would result in a dramatic reduction in the number of U.S. beekeeping operations. They could not survive economically without the honey program. If that happens we will lose billions of dollars' worth of bee pollination. Also, the cost of an eradication program to fight the Africanized bees certainly would cost far more than the honey program in its current form.

Mr. President, a balanced budget is very important to me. We must cut Federal spending. However, we must be careful to avoid making the mistake of eliminating essential programs. Elimination of the honey program could save a few million dollars right now but ultimately would cost billions of dollars in the future.

I strongly urge my colleagues to oppose this amendment.

Mr. President, I ask unanimous consent that an article stating the seriousness of the killer bee problem from the Wednesday, April 24, 1991, Washington Times be printed in the RECORD.

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

MEANER THAN HORNETS, "KILLER BEES" HIT TEXAS

(By Hugh Aynesworth)

DALLAS.—The "killer bees" have finally made it to Texas, but it'll be years before people in the Northeast have to worry. Maybe.

They've been labeled "killer bees" because there have been several deaths attributed to the swarmin' varmints since they started working their way north out of Brazil in the late 1950s.

Some claim reports from most of South and Central America are unreliable. But everyone seems to agree that this new strain is meaner and 10 times more aggressive than the "European" bees we're used to in this country.

Their sting is no more dangerous. But the big fear is that if the nasty newcomers replace the more docile bees that are moved around to pollinate crops, the result will be frenzied activity when beekeepers trundle their hives from county to county and state to state.

The government is working with the state of Texas, county agriculture experts and top entomologists from several universities to try to determine just how heavy the influx is and what to expect in the summer months.

Over the past two years, a joint U.S.-Mexico program has wiped out at least 60,000 swarms—but they still keep coming.

The advent of the "killer bees" has been a topic of discussion and even humor for almost a decade, but the first swarm identified absolutely was found last October in Hidalgo, Texas. Since then, three more such colonies have been located and killed in Alamo, Brownsville and Roma—all in the lower Rio Grande Valley, close to the border.

The dead bees are sent to the Animal and Plant Health Information Service's Bee Research Lab in Beltsville, Md., for positive identification.

Entomologist John Thomas of Texas A&M says the newcomers are like wild animals. "The Africanized bee" he said, "exhibits the traits one would expect to find in a wild animal that has had to survive the predations of man and animals for thousands of years. They're mean as hell."

But while the threat to people is not as wild as the tabloids would have one believe, the danger to agriculture is, experts claim. They point out that bees pollinate more than $10 billion worth of U.S. crops each year, including apples, berries and melons—anything with nectar involved.

With more than 240 commercial beekeepers in Texas, there are more than 100,000 hives moved around each year as the crops blossom.

"They just hate to be moved," said Anita Collins of the U.S. Department of Agriculture lab in Weslaco. "They won't tolerate being dragged around the countryside."

The "killer bees" originated about 35 years ago in Brazil when researchers tried to breed a honeybee more tolerant of the tropics. Several African queens were brought in to crossbreed with the slower, easygoing Brazilian bees.

The new breed didn't mind the heat, but they did mind being bothered. Where a couple of European bees might scramble to protect a hive, the crossbreeds would send out a whole squadron.

The Brazilian government informed the world scientific community when 26 colonies of the new breed escaped in 1957. Within a decade they had run wild over Brazil and neighboring countries, almost completely wiping out the European bees. As they multiplied rapidly, they swarmed farther from their origin—and headed north.

Some observers play down the "killer" label. But Darrell Lister, a beekeeper in Bellaire, Texas, near Houston, said he knows of 11 deaths in Costa Rica since 1985. Mr. Lister, who has tracked the bees throughout Central America, said the U.S. government isn't taking this nearly seriously enough.

"Until some politician's kid gets killed, we won't hear much about it," Mr. Lister said the other day.

But Fowden G. Maxwell, head of the entomology department at Texas A&M University, said steps are being taken to curb the migration.

Kim Kaplan, a spokeswoman for the Agriculture Research Service in Beltsville, said several hundred "traps" have been placed along the border.

She said a mosquito repellant called Deet is effective in slowing the bees, though it didn't seem to kill them. "And they have to be sprayed directly with it," she said. "Course, if they sprayed me in the face with repellant, I'd probably get out of there, too."

Mr. BAUCUS. Mr. President, I rise in strong opposition to the amendment offered by the distinguished Senator from Colorado.

Beekeeping is vital to American agriculture.

As we all know, bees are critical for the production of honey for human consumption. But what some of us may forget is that bees are also critical for pollinating important agricultural crops.

Nearly 150 domestic crops either require or benefit from bee pollination. These crops include oilseeds, fruits, vegetables and flowers. In addition, bees provide benefits for home gardens, orchards and other natural ecosystems.

Without the honey program these benefits would not be available to producers.

Beekeepers would simply not be able to afford to continue to raise bees.

Senators should also take note of a Cornell University study which was published a couple of years ago. The study estimated that honey bees add about $9.7 billion to the value of pollinated crops

At the same time, Mr. President, the total cost of the honey program to the Federal Government is only about $49 million. Therefore, the ratio of value added to cost is about 198 to 1.

I daresay that if the value of every Federal program were 198 times the cost, we would not have any economic problems.

Clearly, this is a program that works. It provides tremendous value to major sectors of our economy which could suffer substantial hardship without it.

Another important consideration in this debate is the positive impact the honey program has had on reducing the U.S. dependence on imported honey.

In 1985, before the current honey program was in place, the United States was forced to import about 54 percent of U.S. honey consumption. In 1989, that number decreased to 17 percent.

Again, the program is working and achieving the goals it was designed to achieve.

Finally, Mr. President, it makes little sense to me why the Senator from Colorado has chosen to reduce the deficit on the backs of the honey producers.

The fact of the matter is that the honey program has taken by far the largest share of cuts since 1985, on a percentage basis, than any other commodity program.

Specifically, the honey price support has declined 22 percent since 1985. This cut is compared to an average cut of about 10 percent for other major commodity programs.

Honey producers have paid their dues in budget reduction. They should not be forced to cut back any more.

In addition, since 1985, the cost of doing business has skyrocketed by about 25 percent.

Now, Mr. President, I think you will agree that very few business men or women can remain in business when their income declines by 22 percent and their costs increase by 25 percent over 5 years.

The fact of the matter is that honey producers are going broke.

Honey producers today are being driven out of existence.

In my home State of Montana, for example, honey production has fallen from 9.7 million pounds in 1987 to 6.3 million pounds in 1989—a decrease of about 35 percent.

I strongly urge my colleagues to oppose this amendment. If it is agreed to, many producers will be forced out of business and all benefits they provide will be lost.

Mr. KERRY. Mr. President, I am dismayed that the Senate must once again debate the honey subsidy program, when we have repeatedly voted to eliminate it. As we found out in last year's farm bill debate, only 2,100 of 200,000 beekeepers benefit from this program. They received about $185,000 each over the past 5 years. American taxpayers are tired of paying for programs that are no longer necessary and that benefit so few. We can no longer afford such a program, and I will once again cast my vote to eliminate it.

The opposition argues that the amendment could result in cuts in other programs. Although this is possible, I believe this amendment is clearly directed at the honey program and that is why I am voting against the motion to table.

Mr. DASCHLE. Mr. President, will the Senator from Tennessee yield?

Mr. SASSER. I yield.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. DASCHLE. Mr. President, I had the opportunity to speak this morning. I will not prolong the debate. The arguments on the part of the Senator from North Dakota in particular have been very persuasively made.

I move to table the amendment of the Senator from Colorado, and 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 of the Senator from South Dakota to lay on the table the amendment of the Senator from Colorado.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN], the Senator from Indiana [Mr. LUGAR], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "yea."

The PRESIDING OFFICER (Mr. LAUTENBERG). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 57, nays 38, as follows:

[Rollcall Vote No. 52 Leg.]

YEAS—57

Adams	Dole	Lott
Akaka	Domenici	Mack
Baucus	Durenberger	Mikulski
Bentsen	Exon	Mitchell
Bingaman	Ford	Nunn
Bond	Fowler	Pressler
Boren	Gore	Riegle
Breaux	Graham	Robb
Bumpers	Gramm	Rockefeller
Burdick	Grassley	Sanford
Burns	Harkin	Sasser
Byrd	Heflin	Seymour
Cochran	Inouye	Shelby
Conrad	Jeffords	Simon
Craig	Johnston	Simpson
Cranston	Kassebaum	Symms
Daschle	Kerrey	Thurmond
DeConcini	Kohl	Warner
Dixon	Leahy	Wellstone

NAYS—38

Biden	Gorton	McCain
Bradley	Hatch	McConnell
Brown	Hatfield	Metzenbaum
Bryan	Helms	Moynihan
Chafee	Hollings	Murkowski
Coats	Kasten	Nickles
Cohen	Kennedy	Packwood
D'Amato	Kerry	Pell
Danforth	Lautenberg	Reid
Dodd	Levin	Roth
Glenn	Lieberman	

Rudman	Smith	Stevens
Sarbanes	Specter	Wirth

NOT VOTING—4

Garn	Pryor
Lugar	Wallop

So, the motion to lay on the table the amendment (No. 76) was agreed to.

Mr. SASSER. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. SASSER. Mr. President, I ask unanimous consent that debate on the following amendments be limited to the following amounts of time: 1 hour on the Reid amendment, equally divided; 30 minutes on two Specter amendments, equally divided; 20 minutes on a Conrad sense-of-the-Congress resolution, equally divided.

To my knowledge, Mr. President, that constitutes the remaining business of the Senate this evening.

The PRESIDING OFFICER. Is there objection? The Senator from Nevada.

Mr. REID. Mr. President, I reserve the right to object. On the unanimous-consent request the Senator has offered, if a second-degree amendment is offered, that would not be part of the hour time agreement; is that correct?

Mr. SASSER. That is correct.

Mr. REID. Fine. I have no objection.

The PRESIDING OFFICER. Without objection, therefore, the unanimous-consent request is agreed to.

Mr. SASSER. The unanimous-consent request is agreed to. To clarify the matter with the Senator from Nevada, in the event a second-degree amendment is forthcoming, time expended on that second-degree amendment would be in addition to the hour equally divided allocated to the amendment of the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 85

(Purpose: To provide for a more gradual period of transition (under a new alternative formula with respect to such transition) to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as such changes apply to workers born in the years after 1916 and before 1927 (and related beneficiaries) and to provide for increases in such workers' benefits accordingly)

Mr. REID. Mr. President, I send an amendment to the desk on behalf of myself, Senator BRYAN, Senator SANFORD, Senator PRESSLER, and Senator KASTEN, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for himself, Mr. BRYAN, Mr. SANFORD, Mr. PRESSLER, and Mr. KASTEN, proposes an amendment numbered 85.

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

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

The amendment is as follows:

On page 6, line 5, decrease the figure by $3.5 billion.

On page 6, line 6, decrease the figure by $4.7 billion.

On page 6, line 7, decrease the figure by $4.6 billion.

On page 6, line 8, decrease the figure by $4.6 billion.

On page 6, line 9, decrease the figure by $4.6 billion.

On page 6, line 24, increase the figure by $3.5 billion.

On page 6, line 25, increase the figure by $4.7 billion.

On page 6, line 26, increase the figure by $4.6 billion.

On page 7, line 1, increase the figure by $4.6 billion.

On page 7, line 2, increase the figure by $4.6 billion.

Mr. REID. Mr. President, I want those Senators in this Chamber, those Senators in their offices watching, the legislative directors, and everyone in the United States, to understand that the time has arrived for a vote on the notch.

The thousands of letters everyone has received from all over the country that have been answered, "We will vote to elimiante the notch when there is an opportunity to vote," those town hall meetings people have attended where they said, "Yes, I know you are right, and I will vote your way when I have the opportunity"—everyone should understand, that opportunity is here and now, Thursday afternoon, April 25, 1991, at 10 minutes after 5 o'clock.

From now on, when people go home and appear before a town hall meeting or some other assembly, and they are asked, "What are you going to do about the notch," you are going to be able to say that you either support the unfairness or oppose the unfairness.

When your legislative aides answer the multitude of questions on this issue, this is now the time that they can put in the letter, "Yes, I voted to support a change in the notch provision. I voted to support the notch babies."

I rise today, Mr. President, to correct an injustice which plagues a special group of Amercians, those affected by the Social Security notch. The Social Security notch affects 10 million Americans born between the years 1917 and 1926.

These retirees receive less Social Security benefits than Americans born outside the notch years. Due to changes made in a number of periods, but principally in 1977, when there was a change in the Social Security formula.

Under the current formula, benefits for retirees born between 1917 and 1926 are as much as 20 percent lower than benefits received by those born before 1917.

Your mail, Mr. President, and the mail of Members seated in this Senate Chamber has told woeful tales. I am going to give two examples of this from the State of Nevada. One is from a man by the name of Jack Gibson, from Carson City, a former military man attached to the 2d Marine Division during the Second World War. He said:

I saw action in the Pacific theater war. I am also a second-class citizen of the United States. That is because I was born in 1921. I became a working registrant of the Social Security system when it first started and have paid into it all my life except when I was in the Marine Corps. Yes, I am a notch baby, one of the forgotten citizens of this country, downgraded because I and thousands before me were born at the wrong time. Unfortunately, those born later or earlier have not had their Social Security payments docked due to legislation.

Edward Lillian, from a place called Thunder, NV, writes:

By procrastinating about the repeal of this act, you and your peers are, in fact, making the decision to ignore and discriminate against us.

End of letter.

But these are only two of hundreds and hundreds of letters that I have received. These are only two of thousands and thousands, maybe millions of letters that have been received by U.S. Congressmen and women.

I have felt compelled over the years to speak about this issue and the hardship that it poses on millions of Americans. The notch issue has been debated, and debated, and debated over the last several years. Yet, the inequity has not been eliminated. Because of this, older Americans must scrimp to afford the most basic of necessities. These are hard-working Americans, Mr. President. We are talking about hard-working Americans, people who paid into the Social Security system year after year after year until they retired at age 65 hoping to reap the benefits of their hard work and their Social Security payments.

There is no doubt in my mind that Congress and the President had good intentions when it changed the Social Security benefits in 1977. Members of Congress and the President had attempted to institutionalize Social Security cost-of-living adjustments, which had previously been legislated inconsistently. Unfortunately, it soon became evident that the 1977 amendments were calculated incorrectly. In an attempt to write this formula, the Social Security notch was inadvertently born. Benefits were reduced by 10 to 20 percent for all Americans born between 1917 and 1926. These Americans, now known as notch babies, are not deserving of this treatment. These are the men and women who lived through the Great Depression. These are the men and women who fought in World War II, and, in spite of their great sacrifices to the country, they receive hundreds of dollars less in their Social Security checks than their friends and

relatives who were lucky enough to be born during the right years.

My brief synopsis, Mr. President, of the notch history reveals perhaps well-meaning intentions on the part of the Congress and the President to protect America's seniors. We must take responsibility, though, without delay for the fact that today Congress' actions have been truly disastrous. And time is running out. I do not need to tell you and the other Members of the Senate that our notch babies are not getting any younger. As a matter of fact, I have had many in Nevada ask if we here in Congress are waiting for them to die so that we do not have to worry about correcting the notch injustice. Can you imagine public officials being thought of by our constituents to be waiting around for people to pass on so we do not have to, in effect, make the right choice? I think it is a sad day when the public has so little faith in Government.

The amendment that I have offered will pave the way for us to correct this inequity by making room for S. 567, the Social Security Notch Adjustment Act, in the budget resolution being debated today. The Social Security Notch Adjustment Act, for those who do not know, incorporates the best features of many proposals offered during the past Congresses to address the notch injustices. Other legislative proposals have incorporated into this a simple, uncomplicated act which will restore the fair and democratic treatment to millions of our older Americans. This act, S. 567, which I am very happy to be a cosponsor of, was initiated by Senator SANFORD and others.

The correction of the notch is simple. It creates a transition formula to restore benefits to persons born in the years that I have talked about, 1917 through 1926. That is it. That this proposal is affordable makes it an especially attractive feature. It makes but a small dent in the huge Social Security trust fund surplus. Remember, Mr. President, this is Social Security moneys that are in a trust fund. We have treated it as if it is a slush fund, but it is a trust fund. It is to be treated and distributed to people who pay into the system along with their employers, and the surplus has not been building up because these moneys have been used to offset the deficit. Surely, we can see fit to spend Social Security funds on the very people whose money was collected year-after-year-after-year to create these trust funds, moneys collected to provide financial security in retirement to men and women who diligently paid into the system during their working years, and, I might add, their employers also paid in.

What we need to do today is make space in the budget resolution for the passage of notch legislation. The amendment that is offered will increase Social Security spending while decreasing the Social Security reserve by the same amount. The Social Security trust fund has in it almost $230 billion and continues to grow at a rapid rate. By the year 2000, the Social Security trust fund will exceed $1.2 trillion. We can afford to spend $22 billion on those who contributed the money to make the reserve so large.

Legislation to correct the notch is the only responsible solution to this inequity. To permit continuation of this discrimination, this injustice, this unfairness is morally wrong. This bill will not bankrupt the Social Security system. It increases notch babies' Social Security checks by an estimated $37 to $114 a month. This does not sound like much money to most people, such as my well-paid colleagues, but to a senior who lives on a fixed income, it could be a small fortune. This small amount, a fortune to some, can mean the ability to put food on the table; it can mean the ability to purchase a vital prescription drug.

So I ask my colleagues: How long can we ignore the Jack Gibsons of Carson City, the Edward Lillians of Thunder, NV, and many others around this country and the need to do something to correct the injustice with which they are afflicted? It is time for Congress to return dollars to the hands of those who have earned them, Social Security beneficiaries. We should not squander these trust fund moneys. It is time for my fellow Senators to listen to the cries of the notch babies in their respective States. It is time to destroy the notch. For millions of America's senior citizens, this will be no less than miraculous. For the 102d Congress, this will be no less miraculous.

I yield to Senator PRESSLER for 3 minutes.

The PRESIDING OFFICER. The Senator from South Dakota has 3 minutes.

Mr. PRESSLER. Mr. President, I rise as a cosponsor in support of this amendment. I congratulate my colleague from the State of Nevada for his leadership on this issue.

Mr. President, for many years we have been talking about correcting the notch. My mother happens to be a notch baby, and every time I go home she asks me, "Have you done anything about the notch." I say "We are working on it," but we cannot seem to get the notch legislation reported out of the Finance Committee. We cannot seem to get it going.

Today we have a chance to make same progress on this important issue. I am going to support this amendment and I urge my colleagues to join me.

A lot of Americans do not know who notch babies are. They think perhaps they are infants, but they are people born between the years 1917 and 1926. Because of a change in the Social Security formula, they are not treated fairly. They are not getting as much in Social Security benefits as people born before them.

I think we should make some adjustment. Maybe we cannot adjust it to the full amount. Maybe we can do half, maybe we can do three-fourths, but we should do something for the millions of senior citizens who are in this category. Many of them are in a marginal income situation. Many of our people depend on Social Security because they fall into a category where they worked part time or where they went from job to job. They are not covered under any other retirement program. The notch babies are treated differently, and it is time that we make a change.

After years of talking about it, we should finally change the notch system. We should help those senior citizens who are notch babies. In practically every campaign in the country, every candidate promises to help the notch babies, but because of our procedures here it never happens. I think that this amendment is the first step in helping the notch babies. I support this amendment. I hope we carry through so when I go home and talk not only to my mother, but to my constitutuents, I can report that this Congress has finally done something on this issue.

We have been talking and talking about the notch baby legislation but we never see any action. I believe there are more Members of Congress who have cosponsored notch correction legislation than any other type of legislation. There is probably no candidate for Congress in the United States who does not advocate changing the notch system.

We should find a formula or method that fairly increases the level of Social Security benefits paid to the notch babies of America, our senior citizens. This is a good first step. I am proud to cosponsor this amendment. I urge its adoption.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. How much time does the Senator from Nevada have remaining?

The PRESIDING OFFICER. The Senator from Nevada has 16 minutes remaining.

Mr. DOMENICI. Senator SASSER has time in opposition?

The PRESIDING OFFICER. He does. He has the full 30 minutes.

Mr. DOMENICI. I suggest the absence of a quorum and suggest that it be taken off the bill, both sides equally.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER (Mr. REID). The Senator from Iowa.

Mr. HARKIN. 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. HARKIN. Mr. President, I ask unanimous consent that I be allowed 5 minutes from the time allotted to the Senator from Tennessee.

The PRESIDING OFFICER. The Chair advises the Senator from Iowa, one of the managers has to yield time.

Mr. HARKIN. Mr. President, I ask unanimous consent I be allowed to speak for 3 minutes as in morning business.

The PRESIDING OFFICER. The Senator's original request he be allowed to speak on the time of the Senator from Tennessee for 5 minutes is agreed to.

Mr. HARKIN. Mr. President, I rise to congratulate the Senator from Nevada for offering this amendment. I am pleased to join my colleagues, and especially the Senator from Nevada and others, in support of the amendment before us that would move us forward in our long effort to win passage of notch correction legislation.

I ask unanimous consent I also be added as a cosponsor of the amendment.

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

Mr. HARKIN. The intent of this amendment is simply to allow for the will of the majority of the Members of this body to be able to decide for or against, finally, addressing the inequity known as the Social Security notch. The plan for which this amendment seeks fair treatment is a consensus plan which builds on the progress we made last year when, along with Senator SANFORD and others, I was able to get this important issue debated on the floor of the Senate for the first time. But at that time, because of procedural maneuvering on the underlying bill to which we were offering our notch correction amendment it was taken down on a procedural motion.

Mr. President, those who are caught in this notch deserve better, and now is the time for us to ensure they get it. Finding a solution to the Social Security notch problem has been a priority of mine for over 7 years. I have offered amendments, cosponsored and supported legislation, held hearings, testified at hearings, and spoken on many occasions. I can only tell you how frustrated I felt for 7 years in not being able to get a vote on this issue. And my frustration is shared by those affected by the notch. So I hope this Congress will finally bring justice to the millions of older Americans who are the victims of this inequity in our Social Security system.

As in the past, it will be a difficult task. The amendment we are now considering does not correct the notch but it moves us forward in deciding the fate of this important issue. I certainly urge all my colleagues to support the amendment offered by the distinguished Senator from Nevada.

I do not think we ought to let any reasonable opportunity go to correct this inequity in the Social Security system and to make it more fair. As I said, it has been very frustrating. In fact, just this morning a group of senior citizens was here from Iowa and asked me why we could not do something about the notch? I had a hard time explaining to them how, through procedural motions, we have never been able to bring it up for a vote. They said, this is a democracy, what do you mean? Bring it up. At least let us vote on it one way or the other. That has been my plea here, as I said, for 7 years. Let us vote on it. But, no, there has always been some procedural motion that knocks us out of the box.

So I think the amendment now before us will provide a window so we could, hopefully, sometime this year bring up for a vote this issue of correcting the notch. The money is in the Social Security system. It is there to fix it. It would make it more fair. If Senators do not want to vote for it, if they do not want to change it, that is fine. That is their privilege to vote that way. But at least allow us to have a vote on it up or down.

So again, Mr. President, this is an opportunity for us to open that window and I certainly urge all my colleagues to support the amendment of the Senator from Nevada.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HARKIN. Mr. President, I note the absence of a quorum under conditions that preceded my taking the floor and making this statement.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SASSER. Mr. President, we are prepared to yield back all of our time.

• Mr. LUGAR. Mr. President, I rise today to express my support for efforts to correct the Social Security notch. I have been a long-time supporter of attempts to address this inequity.

In 1972, Congress began double indexing benefits for inflation. Left unchecked, this error would have eventually bankrupted the Social Security trust fund. Congress acted again in 1977 to ameliorate the situation, but did not take back the overindexed benefits from those who had already retired and begun relying on this higher income.

Congress gradually realigned the benefits paid to ease the transition. However, the transition formula did not change the fact that a person born in 1916 retiring in 1981 receives $762 a month while someone born a year later and retiring in 1982 receives $607 a month—$155 less.

Once again I have joined with Senator SANFORD in introducing legislation to correct this inequity. For the first time we have introduced a consensus bill with Representative ROYBAL. We have made significant progress—there are 184 cosponsors in the House and 21 cosponsors here in the Senate.

This legislation evens out the notch by making the necessary adjustment gradually, so as not to upset the stability of the trust fund. It calls for a phase-in of a stable level of Social Security benefits for individuals born between 1917 and 1926, thus targeting benefits to those who need them most.

This is an important step in the long history of the struggle to correct the notch. I am hopeful that the Senate will act favorably on this consensus approach.•

Mr. BRYAN. Mr. President, I join with my colleague from Nevada in supporting this amendment to correct the Social Security notch inequity. The Social Security notch is a mistake that must be corrected.

I am pleased to be an original cosponsor of S. 567, the Social Security Notch Adjustment Act of 1991 introduced by Senator TERRY SANFORD earlier this year. Reflecting the bipartisan efforts of Senate and House Members, the bill is sound, consensus legislation to solve the notch issue.

The notch issue affects nearly 10 million seniors born between 1917 and 1926. Because of the 1977 Social Security benefit changes, these seniors receive lower Social Security benefits than those born earlier. People should not receive lower Social Security benefits than other recipients, just because they were born in a different year.

Since coming to the Senate, I have supported correction of the notch inequity. I continue to believe that it is only just that senior citizens receive the benefits they were promised by the Social Security system.

Correction of the notch mistake is simply an issue of fairness. I urge my colleagues to join in supporting this amendment to resolve the notch inequity. The seniors of this country deserve no less.

Mr. CHAFEE. Mr. President, I would like to take a moment to discuss the amendment regarding the Social Security notch problem that was just approved by the Senate.

In 1977, Congress approved some needed changes to the Social Security laws to ensure the long-term stability of the Social Security trust fund. Although these changes were necessary to protect benefits, they also resulted

in a transition formula that adversely affected Social Security notch recipients born between 1917 and 1926. These years have come to be known as the notch years. Individuals born between these years end up receiving lower benefits than other Social Security recipients, even if they had similar work histories.

I have long supported efforts to solve the notch problem. During the 100th and 101st Congresses, I cosponsored legislation to correct this inequity. Presently, I am a cosponsor of S. 567, the Social Security Notch Adjustment Act of 1991. This legislation fairly addresses the concerns of those affected by the notch and is a responsible solution to the notch problem. The amendment approved today lays the groundwork for further debate on this important legislation during consideration of the budget.

I am pleased that Members of the Senate realized this unfair treatment should not continue, and am hopeful that efforts to gain final approval of this legislation are successful.

Mr. REID. The Senator from Nevada will yield back his time.

Mr. SASSER. We will yield back all time in opposition.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Nevada.

The amendment (No. 85) was agreed to.

Mr. SASSER. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. SASSER. Mr. President, pursuant to the unanimous-consent order earlier entered, the next three amendments in order are a Specter amendment with 309 minutes equally divided, to be followed by a second Specter amendment with 30 minutes equally divided, to be followed by a 20-minute Conrad sense-of-the-Congress resolution.

They can be in any order. I see the Senator from North Dakota is on the floor. So in the interest of expediting matters, if he wishes to call up his resolution now, we can move forward.

AMENDMENT NO. 86

Mr. CONRAD. Mr. President, I thank the chairman and ranking member for the leadership they have shown in bringing this budget resolution to the floor. I thank them for the understanding of considering this amendment at this time.

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

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD] proposes an amendment numbered 86.

Mr. CONRAD. 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:

Since the deficit has grown from $73 billion to $318 billion and the national debt has grown from $908 billion to $3.6 trillion between 1980 and 1991;

Since last year's budget summit agreement was intended to save $40 billion in fiscal year 1991 and nearly $500 billion over five years;

Since the national economy's growth rate in real terms declined by 1.6 percent in the fourth quarter of 1990 and the unemployment rate has increased 1.2 percent since last August;

Since CBO estimates that the changes in the economy and increased cost of the savings and loan bailout will enlarge the deficit by an additional $540 billion over the life of the budget agreement;

Since interest rates in Germany and Japan are holding steady or increasing, making it more difficult for the United States to lower its interest rates; and

Since further reductions in the deficit should be combined with policies to lower interest rates in order to foster stable and long term growth in the economy.

Declared it is the sense of the Congress that the Budget Committees in conjunction with the administration and the bipartisan leadership should explore and develop a comprehensive, multiyear plan for further reductions in the deficit that would be considered by Congress next year.

Mr. CONRAD. Mr. President, as we consider the budget for the United States for the next year, I find that we are almost in a surrealistic position. We are seeing the growth of the debt continue. We are seeing the debt grow in terms of a percentage of the GNP.

Only 1 year after we put in place a budget summit agreement that sought to reduce the budget deficits $500 billion over 5 years, we find the economics going bad; we find that the money required for the S&L bailout skyrocketing, and as a result much of the good that was done last year being eroded.

It strikes me, after all of us understood the emergency last year to be moving to bring the deficits under control to strengthen this country, to prevent the continued erosion of the economic strength of our Nation, so much of the advance that was made has been lost. Yet, as we come to the floor addressing the budget resolution this year, there is almost no stomach for revisiting the issue and attempting to bring further deficit reduction. Obviously, that is made more difficult by the fact we are in a recession, and anything we would do by way of further budget cuts or further revenue would perhaps make the recession worse. All of us are sensitive to that.

In the Budget Committee, I offered a freeze amendment. It was an amendment that would have frozen Federal spending except for the trust fund part of Medicare and the trust funds of Social Security and certain high priority programs—education, certain health care programs, certain low-income programs, agriculture, and veterans. Those were allowed to increase to meet the needs of our time. But the rest of Federal spending was frozen.

That amendment would have saved $124 billion over the next 5 years. Unfortunately, we lost on a 10 to 10 tie vote. I was hopeful that in the weekend which followed the vote we could persuade some of our colleagues to change their minds, but that was not possible. When we started counting votes in offering a similar amendment on the floor, it was clear after the failure of the Grassley amendment that no other freeze amendment was going to be agreed to.

Mr. President, that does not change the urgent necessity of us going back to the drawing board and trying to craft further deficit reduction, because if we do not the national debt will grow some $2 trillion over the next 5 years, approaching $2 trillion at least, Mr. President. That is just unacceptable. That kind of growth in the national debt weakens America. It makes it possible for our competitors in Japan and Europe to continue to gain ground on the United States.

Mr. President, with that in mind I have offered the resolution that is before us. Let me just read it. It says:

Since the deficit has grown from $73 billion to $318 billion and the national debt has grown from $908 billion to $3.6 trillion between 1980 and 1991;

Since last year's budget summit agreement was intended to save $40 billion in fiscal year 1991 and nearly $500 billion over five years:

Since the national economy's growth rate in real terms declined by 1.6 percent in the fourth quarter of 1990 and the unemployment rate has increased 1.2 percent since last August;

Since CBO estimates that the changes in the economy and increased cost of the savings and loan bailout will enlarge the deficit by an additional $540 billion over the life of the budget agreement;

Since interest rates in Germany and Japan are holding steady or increasing, making it more difficult for the United States to lower its interest rates;

Since further reductions in the deficit should be combined with policies to lower interest rates in order to foster stable and long term growth in the economy.

Declared it is the sense of the Congress that the Budget Committees in conjunction with the administration and the bipartisan leadership should explore and develop a comprehensive, multiyear plan for further reductions in the deficit that would be considered by Congress next year.

Very simply Mr. President, I am hoping that this will galvanize the leadership and the President and the budget committees to work on an additional plan of deficit reduction to join with the actions of the summit agreement so that we can present a plan here on

the floor next year for consideration by our colleagues.

With that, Mr. President, I yield the floor and urge my colleagues to support this resolution.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Mr. President, we yield—has the Senator consumed all of his time?

Mr. CONARD. Yes. I yield any time that I have.

Mr. SASSER. Mr. President, we yield back all time in opposition.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the amendment of the Senator from North Dakota.

The amendment (No. 86) was agreed to.

Mr. SASSER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. SASSER. Mr. President, I yield 2 minutes to the distinguished Senator from Washington for the purpose of introducing some legislation.

Mr. ADAMS. Mr. President, I thank the Senator from Tennessee very much.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. ADAMS. I thank the Chair.

(The remarks of Mr. ADAMS pertaining to the introduction of S. 973 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEARS 1992, 1993, 1994, 1995, and 1996.

The Senate continued with consideration of the concurrent resolution.

Mr. SASSER. Mr. President, I see the Senator from Pennsylvania has arrived on the floor. He has two amendments for our consideration here this evening. There are 30 minutes, as I understand it, equally divided on each of the amendments of the distinguished Senator from Pennsylvania.

Perhaps given his eloquence, he could explain those amendments even quicker than in the time allocated.

Mr. SPECTER. May the record show I have not just arrived on the floor. I have been on the floor most of the day. I am ready, willing, and able to proceed and will do so with dispatch.

The two amendments which I have reserved relate to expenditures for highways and mass transit. The basic thrust of the amendments which I intend to offer go to using the funds, the trust funds, for highways and for mass transit, which is the purpose for which they were intended instead of having those funds lumped together for accounting purposes to appear to reduce the deficit which is a matter of exception.

The deficit is in fact not reduced, and the American taxpayers who have paid the gasoline tax are expecting the money to go for highways and for mass transit and the moneys have been diluted.

Mr. President, I had originally been informed that one amendment would be accepted, and that one amendment would be contested and require a rollcall vote.

If I could ascertain from the managers with certainty at this time the latest representation having been made to this Senator that both would be accepted, it would expedite the presentation of my argument here this evening.

Mr. SASSER. Mr. President, let me say to the able Senator from Pennsylvania that the managers will accept the Specter amendment dealing with the service transportation budget, increasing budget authority for highway mass transit and capital highway grant programs.

We are still considering the second amendment to be offered by the Senator from Pennsylvania dealing with the highway trust fund. We hope to be able to respond affirmatively on that in a very short order.

Mr. SPECTER. Mr. President, I thank my friend from Tennessee.

AMENDMENT NO. 87

(Purpose: To increase budget authority for the Department of Transportation to reduce the cash balance of the transit and highway accounts in the highway trust fund and to provide additional funding for our Nation's infrastructure)

Mr. SPECTER. At this time, Mr. President, I send on 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 Pennsylvania [Mr. SPECTER], for himself and Mr. LAUTENBERG, proposes an amendment numbered 87.

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

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

The amendment is as follows:

On page 21, increase the amount on line 10 by $1,609,000,000.

On page 21, increase the amount on line 19 by $1,390,000,000.

On page 22, increase the amount on line 3 by $1,426,000,000.

On page 22, increase the amount on line 12 by $2,342,000,000.

On page 22, increase the amount on line 22 by $3,786,000,000.

On page 3, increase the amount on line 18 by $1,609,000,000.

On page 3, increase the amount on line 19 by $1,390,000,000.

On page 3, increase the amount on line 20 by $1,426,000,000.

On page 3, increase the amount on line 21 by $2,342,000,000.

On page 3, increase the amount on line 22 by $3,786,000,000.

Mr. SPECTER. Mr. President, this is an amendment which is designed to increase the funding for highways and for mass transit out of the highway trust fund.

I had intended to offer a different amendment on this subject in differing amounts, to add $2 billion for highways and $1 billion for mass transit. But after I gave notice to the managers of what I intended to do, I then found that there was a move in the authorizing committee to increase certain funding. I decided to accept the amounts which the authorizing committee had worked out so that there would be an agreement on the amounts.

And what is even of greater importance to this Senator is that there should be a statement made by the Senate moving to use the highway trust fund for highway construction, and moving to use the mass transit fund for mass transit purposes because our infrastructure is so important in that we really ought to move to use those funds for the purpose for which they were intended because that would make a stronger America; and by building our infrastructure on highways, we would make money; and by using the funds on mass transit, we would be accomplishing a great many important purposes. But there again it is the use for which they were intended.

At the outset, Mr. President, I want to credit my former colleague, Senator John Heinz, with whom I had worked on these subjects. We had discussed this approach, after having taken a very close look at Pennsylvania's mass transit problems which are very similar to mass transit problems in the entire country, and after having taken a look at Pennsylvania's highway problems.

Senator Heinz was a member of the Senate Committee on Banking, Housing, and Urban Affairs which has the responsibility for authorizing the issues relating to mass transit. And on the last day before the most recent recess, Mr. President, March 22, Senator Heinz and I spent the day traveling, leaving National Airport before 7 a.m. going to Philadelphia, taking a look at the SEPTA system there, which is in urgent need of additional funding from the State, Federal, and local levels then proceeding to Harrisburg where we had a meeting of transportation officials from Lancaster.

Wilkes-Barre, Scranton, Johnstown, Williamsport, and then moving on to Pittsburgh where we took a look at a decaying bridge which is so much in need of assistance from the Federal Government on the Federal bridge program.

On Wednesday, April 3, Senator Heinz and I were together in Altoona, PA, where we spent the better part of a 2-hour meeting with business leaders in that community. One item high on the agenda in Altoona, in Blair County, is the issue of adequate highways as that issue is so important, really, across this country.

So that in offering these two amendments, I carry forward some of the joint thinking of Senator Heinz and myself on these important subjects.

Mr. President, the issue here on the use of the trust funds I think is a very fundamental one for the United States. It is a fundamental one, Mr. President, for a number of reasons.

We have an enormous problem with the deficit. There is no doubt about that. When the President's budget was submitted, with a deficit of $281 billion during the course of the gulf war, very little attention was paid to the deficit at that time.

It is a matter deluding the American people, Mr. President, to have the Social Security trust fund, to have the highway trust fund, the mass transit trust fund, to have the airport trust fund all a part of the unified budget, which does not tell the American people what the deficit really is.

Not only is it a matter of fraudulent accounting purposes, and what really amounts to fraudulent misrepresentation to the American people, but it is also a breach of trust. The Federal Government has a trust fund set up for highways and you have American motorists paying a gasoline tax, and you have a trust fund set up for mass transit, and you have funds allocated for that purpose.

A trust fund is precisely what it says. It is a fund set up in trust for a specific purpose. And when moneys are diverted from that fund, it is, in effect, a crime. It is a fraudulent conversion, and it is a matter of—realistically viewed—embezzling the public's money. But when the U.S. Government does it, there is nobody to complain.

When a criminal prosecution would be brought against any individual who took money from a trust fund for some purpose other than for which it was entrusted or intended, the U.S. attorney, the prosecuting attorney, or the district attorney, would bring a criminal action. But it is really criminal to have these funds set aside for the use of the highways and not be used for highways and bridges, when they are so decrepit. It is a breach of trust, when mass transit all across America is in such urgent need of financial assistance, not to use the funds for that purpose.

Mr. President, the calculations I have taken, which had been, as I say, suggested by the authorizing committee—and my figures were going to be different, but I have adopted their figures—for fiscal year 1992 there would be an increase in the highway expenditures of $1.3 billion, and an increase in mass transit expenditures of $300 million, and some funding in the amount of $9 million for commerce safety grants.

These figures would then be increased so that in 1993, there would be $1.069 billion for highways; in 1994, $1.092 billion; in 1995, $1.996 billion; in 1996, $3.427 billion.

The mass transit increase would be beyond 1992 with $300 million; in 1993, $312 million; in 1994, $324 million; in 1995, $336 million; in 1996, $349 million.

This is a start, Mr. President. But I think really equity, and justice, and good public policy would call for using these trust funds in their entirety, because even if we use them all, we are not going to satisfy the urgent needs of the highway system in the United States.

Mr. President, the Federal Highway Administration estimates the cost of bringing the Nation's roads up to minimum engineering standards to be between $565 billion to $655 billion over the next 20 years. So that even if we were to use the entire sum of the highway account, we would fall far short.

At the end of fiscal year 1991, there will be, in the highway trust fund, $11.1 billion. I suggest that it would make sense to America to spend those moneys on highways, because it would really, as a capital investment, help us make money.

On the transit line, Mr. President, by the end of fiscal year 1991, there will be $8.5 billion in the trust account for mass transit. So that in accepting the figures which had been prepared by the authorizing committee, $300 million—as I say I had originally thought of spending $1 billion of the $8.5 billion—we still have enormous sums remaining there.

In the interest of reducing congestion and air pollution, the very important matter of moving people to work so you can have greater job opportunities, in a city like Philadelphia or in a city like Pittsburgh, if urban mass transit moves workers, more jobs are undertaken and, of course, that is very important for the economy of the United States.

The hour is late, Mr. President, and I know my colleagues are anxious to conclude work on this bill. I wish I could have addressed this issue earlier, but I have condensed these considerations, and I shall not belabor them further. I see the distinguished ranking member of this committee on the floor, who is prepared to accept the amendment. So I will quit while I am at least this far ahead.

Mr. DOMENICI. Mr. President, I see the distinguished chairman here, and he is also prepared to accept it, as I understand it.

Mr. SASSER. Mr. President, I am indeed, I say to my friend from New Mexico.

We are prepared to yield back all time on the amendment, if the Senator from Pennsylvania is also prepared to do so.

Mr. SPECTER. Mr. President, I thank my colleagues, the distinguished chairman and the distinguished ranking member of the committee.

I yield the remainder of my time and urge the adoption of the amendment.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I do not want to garner back any time on these, but I have a little time on the bill, so let me just take a minute.

Let me say that the proposal the Senator tendered to the desk, which we are going to accept, has to do with adding budget authority or contract authority to accommodate the President's proposal for reauthorization of the Federal Highway Program.

I want to say to Senator SPECTER—and this is not just said by way of trying to give him credit that he is not entitled to, that he has truly found and identified a real problem with the budget resolution. It is not very often that occurs, that somebody finds that some important function is not what it ought to be. The Senator found a problem. Clearly, we did not provide in this budget resolution sufficient program authority, budget authority, for the highway bill. Surely that was everyone's intention, but it somehow did not happen.

So during the course of events of the year—and I am sure we are going to hold this number for budget authority, because it is correct, we are going to be able to accommodate the new program authority that comes out of the committee. It is going to be because the Senator asked us to amend it here tonight.

I congratulate the Senator, and I am willing to accept it.

The other proposal, which was a sense-of-the-Congress notion with reference to the trust fund, while I have reservations about it, I am willing to accept it tonight, and I thank him for that one, too.

Mr. SPECTER. Mr. President, I thank my friend from New Mexico.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment (No. 87) was agreed to.

Mr. SPECTER. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Pennsylvania.

AMENDMENT NO. 88

Mr. SPECTER. Mr. President, I send at this time an amendment to the desk

and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 88.

At the end of the concurrent resolution add the following:

SEC. .

(a) FINDINGS.—The Congress finds that—

(1) under current law, surpluses in the transportation trust fund, both the highway account and transit account, are included in calculations of the deficit;

(2) the inclusion of the transportation trust fund in the calculation of the deficit creates the illusion that the deficit is being brought into balance through the inclusion of the funds;

(3) the accumulation of the uncommitted balance in these accounts is intended to be used for construction and maintenance of our Nation's infrastructure;

(4) the use of the transportation trust fund for its intended purpose would bolster the economic capacity of the United States;

(5) the intended purpose of the transportation trust fund could best be protected by excluding it from the calculation of the deficit.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that Congress should enact legislation to exclude the funds within the transportation trust fund from the definition of the deficit.

Mr. SPECTER. Mr. President, I have taken the unusual course of having the full amendment read because it articulates the reasons in favor of the amendment in a concise manner.

Mr. President, we will have in the highway trust fund at the end of fiscal year 1991 a surplus of some $11.1 billion. We will have in the transit account a surplus of $8.5 billion. Those funds are put into those accounts for highways and mass transit.

When they are part of a unified budget, it deludes the American people as to what the real deficit figure is. Those funds really ought to be available for highways and mass transit.

I recollect, Mr. President, the battles which my departed colleague, Senator John Heinz, waged on this floor to take Social Security off budget, because there was a delusion of the American people when Social Security trust funds were in jeopardy. Senator Heinz fought so valiantly for the interests of the elderly. Finally, Senator Heinz set that path in motion.

I remember one night Senator Heinz struggled on this floor for hours, as sometimes has to be to tie up the activity of the U.S. Senate in order to make his point. He made it very effectively.

He and I frequently talked over the issues of the airport trust fund, the highway trust fund, and the mass transit trust fund. So in offering this amendment today, I carry forward the work that Senator Heinz had undertaken.

I know that this gives a little heartburn to the accountants, to the green eyeshade people, in terms of what this looks like on the deficit. But facts are facts, and this will bring forward the truth. It will bring us a step closer to using these funds for the purposes intended.

Mr. President, at this juncture, I have not had word whether the amendment will be accepted. I do not want to argue unnecessarily. So if the managers of the bill will make some indication, this Senator would appreciate it.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. SASSER. Mr. President, is the Senator prepared to yield back the remainder of his time?

Mr. SPECTER. Not until I hear the intention of the distinguished chairman of the committee.

Mr. SASSER. We intend to accept the amendment of the Senator.

Mr. SPECTER. In that event, I yield back.

Mr. SASSER. Let me withhold for a moment.

Mr. President, I am going to have to withhold for a moment and suggest the absence of a quorum. We have a Senator on the way who wishes to speak on the Specter amendment. I am not sure if he is speaking in support or in opposition. But I do think I have an obligation to wait a few moments until he gets here.

So I suggest the absence of a quorum, and ask unanimous consent it be charged against the resolution and against both sides simultaneously.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SPECTER. Mr. President, while there is a lull in the action, I ask unanimous consent to proceed for the purpose of taking 3 minutes as if in morning business.

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

Who yields time?

Mr. SASSER. Mr. President, I yield 2 minutes to the distinguished Senator.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, I rise in support of the first amendment offered by the distinguished Senator from Pennsylvania which was just accepted. The amendment would provide additional budget authority for function 400 programs.

As the chairman of the Senate Housing and Urban Affairs Subcommittee, I am working on legislation to reauthorize the Federal public transit programs. And I have been looking at ways to improve mass transit in our country at this historic juncture in Federal transportation policy.

Our country is desparately in need of a truly advanced, integrated transportation system—one that cuts air pollution, decreases reliance on foreign oil, and clears roadway congestion. We are far behind our European allies in this regard and our economic competitiveness has suffered as a result.

Our urban and suburban roadways are blocked with intolerable congestion. According to a Federal Highway Administration study, 11 percent of all labor force work hours are spent on our highways.

Our problems with air pollution continue. Some 55 percent of the Nation's population lies in areas that fail to meet minimum air quality standards. Transportation sources cause about one-third of all carbon dioxide pollution; one-half of all ozone pollution; and three-quarters of all carbon monoxide pollution. That is costing us tens of billions of dollars in extra health care costs, in needless losses to agriculture and in other costs.

Our overreliance on foreign oil weakens our national security. The war against Iraq made more vivid than ever the costs and dangers of a shortsighted transportation policy that requires 63 percent of all United States oil consumption. A single person commuting by transit can save 200 gallons of gasoline per year. And increasing transit ridership by 10 percent in our five largest metropolitan areas would save 85 million gallons of gasoline per year.

A large part of the solution to these many problems must be improved public transit.

Unfortunately, the Federal commitment to mass transit in recent years has failed to meet the needs of our Nation. Over the past decade, Federal support for transit fell by 5 percent—a cut of 50 percent in real terms after inflation.

In the last Congress, we enacted important legislation to clean our air and meet the needs of persons with disabilities. But these laws impose significant costs on transit operators throughout the country. We need to provide the additional resources necessary to fulfill these important national priorities.

I support the efforts of my colleague from Pennsylvania to increase funding for all of our transportation needs. I am concerned, however, about how these funds will be allocated among highways, mass transit, and other modes.

At the same time that we've been starving our transit providers, highway spending increased by 85 percent, and aviation spending increased by 131 percent. The administration's proposal freezes mass transit funding at the fiscal year 1991 levels through fiscal year 1995 with a modest 1-percent nominal increase in fiscal year 1996, while proposing increases of 39 percent for high-

ways. These policies don't make sense given the priorities of energy conservation, a cleaner environment, improved mobility, reduced congestion, economic productivity, and international competitiveness.

I hope that my colleagues on the Budget and Appropriations Committee will work to ensure an equitable share of spending for important transit programs.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank my distinguished colleague from California for his generous remarks. The distinguished Senator from California chairs the subcommittee which deals with mass transit, and I had the opportunity to attend the last meeting, which was very interestingly structured as a roundtable, as opposed to the customary question and answer.

At that time, I raised a number of the issues which I have raised here today. My colleague, Senator Heinz, was not present, but an unusual practice was followed of having his photograph on the wall.

I look forward to working with the distinguished Senator from California in trying to make a number of these funds directed for mass transit, directed at highways, available for those important purposes.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that it be charged against the resolution.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SASSER. Mr. President, we are prepared to yield back all of our time and accept the amendment of the Senator from Pennsylvania if he is prepared to yield back his time.

Mr. SPECTER. On those conditions, I do yield back the remainder of my time.

Mr. SASSER. I yield back all time for the opponent.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania [Mr. SPECTER].

The amendment (No. 88) was agreed to.

Mr. SASSER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I yield myself 30 seconds off the resolution.

Mr. President, I thank Senator SPECTER, from Pennsylvania, who has been here most of the day patiently waiting while we were trying to negotiate matters, and we succeeded. He was very accommodating toward the Senate at this late hour. Obviously, he had much more to say, but I know he wanted to let us all finish this bill as soon as possible, and I want to indicate I greatly appreciate it. I thank the Senator.

Mr. SPECTER. I thank my distinguished colleague for those generous remarks. I did have a great deal more to say. We Senators sometimes like rollcall votes because, if they are impressive, it has a better chance in conference. But I am confident the managers will fight hard for these amendments in conference. I think they are very important, and we have, I think, accomplished a valuable purpose.

I yield the floor.

Mr. SASSER. 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 will roll.

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

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

Mr. SYMMS. Mr. President, I yield myself 5 minutes off of the time of Senator DOMENICI.

Mr. President, I think at some point in time in history people are going to look back at this budget and the budget last year and the year before and wonder what in the world the U.S. Congress was thinking about when it expands spending for the welfare state which interferes with the ability of the American people to produce, to save, and to invest.

We are continually doing things like punishing people who work. If they are 65 years old, they cannot work without being overtaxed until they are 70, when the record shows that if people stay active, Mr. President, they are much healthier, they live much longer, and then when they get sick at the end of their life it usually goes pretty fast. It saves money on Medicare, too, if people work longer. But this Government of ours has a policy that punishes people for work.

At the other end of the welfare state, we tell younger people that we think they should work but, if they go to work, we are going to make them pay more rent with less help; if they are under assistance, take away their AFDC payment, take away their food stamps. It is no wonder they do not want to go to work.

What we are doing is raising taxes on the American people. We have expanded funding of the welfare state. We have expanded funding of every regulatory agency on the books. Just take your pick. They are all getting more money. They have more people to go out and harass more people, businesses, and producers.

At the same time this is happening, the economy has crashed in the communistic bloc. We have won the ideal war of capitalism versus communism. It is obvious the people of the world want freedom. They want economic freedom. I spoke to this the other day, but I just want to repeat a part of it.

If the rest of the world seems to know that this system of ours that has served us so well for so long is what they want, why is it we are trying to run headlong into their systems and funding a massive bureaucracy that is negative and against production at the same time the only real savings in the budget of last year and the repeat of that budget this year is a cut of 25 percent over 5 years in military spending?

We have just come out of a traumatic crisis in the Middle East where we know our investment in people, in training, in new equipment paid enormous dividends in terms of saving lives of young Americans and of seeing America able to extend peace and freedom, if you will, and stability to the world. But what we are doing here is we are going to create and continue to fund an economic system of bureaucracy, the welfare state, that is going to refuse us or deny us, I should say, Mr. President, the opportunity to continue to be the productive Nation that will be needed to lead the free world, and lead the whole world and to give stability to the world.

I want to register as one Member of the Senate, I think this is a sad day in history that we are spending money to make it harder to have a modern, 21st-century economy which we so badly need because we do all kinds of things with the use of Government to encourage people not to work, not to save, not to invest; by discouragements in the Tax Code, by discouragements in the welfare system. We do not seem to be willing to try to help people where it would really be helpful; put more money in the front end to bring on more science, more technology, more enhancement and encouragement for people. At the same time we are slashing defense while in the Soviet Union, the only thing they have to rely on now is their strong military.

They are expanding and improving their SS-18's, SS-25's, and SS-24's, rail mobile and mobile missiles. They are expanding their submarine fleet, their bomber fleet. We are day by day, weakening our ability to defend peace and freedom.

I am realy disappointed this Congress cannot see what works and emphasize what works when the rest of the world seems to be able to see it better than the Congress. Someday, Mr. President,

when the historians write about this, they are going to say it was a foolish bunch back in 1989, 1990, and 1991 in the U.S. Congress, that gutted their capability for defense and poured the money on to discourage people from being able to work, save and invest and have a strong, modern economy.

If we would reform the welfare state, we would have economic growth that would go on and on. And I think then we would have the ability to see the world as a peaceful place. But if we leave our children with the heritage that the United States is not strong enough to lead the world, it will be a sad day. Then we will have a world as we just witnessed it on the television. We saw people in Tel Aviv racing for their gas masks. If it had not have been for the United States Patriot system I wonder what would have happened and how many millions of people might have been killed in the Middle East?

It was because the United States invested in our technology and our military and our training and our people and our equipment, we were able to avert a terrible, tragic, bloody war that could have happened. It will happen again if we are not willing to do what it is that is necessary, and that is protect peace and freedom, preserve economic freedom for the people here at home.

This budget sets the stage for an expansion of the bureaucratic, negative welfare state that beats the production out of people and dramatically reduces our defenses over a period of 5 years, although we will still have substantial capability. And then it leaves us with a less efficient economy because we refuse to put those efficiencies back in the Tax Code.

We should be reducing the payroll taxes, we should be reducing the capital gains taxes, we should be encouraging IRA's and savings, and freezing nondefense spending like we did defense spending. If we were freezing nondefense spending and let it take a real cut in all of these regulators that run around and stop production in this country—let them take the same kind of cuts they are taking in the military today—then we would revive our economy and have a strong economy.

I have spoken long enough. I think my displeasure with what has happened here is well understood by my colleagues. I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, let me say I heard Senator SYMMS loud and clear. I assume he was saying a strong letter would follow with reference to his objection to the budget? Is that fair?

Mr. SYMMS. That is correct. My colleague does not need to put me down as undecided.

HONORING MEMBERS OF THE RESERVES FOR THEIR CONTRIBUTION TO VICTORY IN THE PERSIAN GULF

Mr. DOMENICI. Mr. President, the Senator from New Mexico is going to have to leave the Senate temporarily at 7:30, if we have not completed this matter. I would have to ask somebody to take the management role here for me and I ask Senator DOLE if he will do that.

But, shortly after we complete the budget resolution, and I believe we will here, soon tonight, and appoint conferees, in the course of wrap up business we are going to take up a resolution, congressional resolution, regarding the reservists of the United States. Many Senators cosponsored that measure with the Senator from New Mexico. I was first joined by the distinguished Senator from Hawaii [Mr. INOUYE].

We introduced the resolution. It was referred to the Armed Services Committee. They actually had a brief hearing on the matter, which I think is the way resolutions ought to be handled. Then they approved it unanimously and sent it here to the desk and we are going to take it up.

Mr. President, I was going to leave it to the wrap-up time, but since we have a few moments here I have been told by the leadership of Senator SASSER's concurrence. We can proceed to do it now.

Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 64 Senate Joint Resolution 97 regarding the contribution of the reserve forces to Desert Storm.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 97) to recognize and honor members of the reserve components of the Armed Forces of the United States for their contribution to victory in the Persian Gulf.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution which had been reported from the Committee on Armed Services with an amendment.

Mr. DOMENICI. Mr. President, today I rise with my distinguished colleague Senator INOUYE to seek final passage of the Persian Gulf War Reserve Component Commemorative Act. Over 200,000 National Guard and reservists were called to active duty since the beginning of Operation Desert Shield/Storm on August 2, 1990. Mr. President, about half of these Americans were sent to Saudi Arabia to serve in that theatre, but over 120,000 who were called to active duty remained here in the United States. They constituted the backbone of the line of support for our troops stationed in Saudi Arabia.

We are justifiably proud of our service men and women who took us to victory in the Persian Gulf. However, we must not forget that this victory could not have been possible without the efforts of those members of the National Guard and Reserve forces called to active duty but who remained here in the United States.

Many of these National Guard members and reservists come from all walks of life. Some of them are engineers, some are doctors, some are small store owners—but they are all dedicated and hard-working Americans. One of these reservists called to active duty is a member of my staff in New Mexico, so I know about what they are going through. It is a credit to them and to our country that such a massive number of people could be called to active duty and serve with such professionalism, skill and pride. One of the lessons we have learned from this war is the value of the professional soldier, who is trained, educated, and well-equipped. This is what these reservists who were called to active duty demonstrated, very plainly, to the American people and to the world.

It is important to point out that the lives of these National Guard members, reservists and their families were as equally disrupted as the active duty component of our Armed Forces that left for the Saudi Arabian theatre. It does not really matter to a 4-or 5-year old whose parent is called to active duty where their mother or father serves. Georgia, Florida, or New Mexico can be as far away in their eyes as Saudi Arabia. All they really know is that mommy or daddy is gone and they do not know for certain when he or she might be coming home again.

Therefore, Mr. President, I rise to call to the attention of this body, the American people, and the rest of the world, the valiant efforts of our National Guard and reservists called to active duty and remaining in the United States to support the efforts of those deployed elsewhere. Their actions were truly an indispensable contribution in carrying the Nation to victory. They deserve to be honored in this way, and and I am very pleased that 59 of my fellow colleagues have joined in cosponsoring this resolution. In doing so, they are sending a clear message to these reservists. The message is: We are proud of you, we needed you, and when the chips were down, you came through.

SALUTE TO SENATOR DOMENICI

Mr. DOLE. Mr. President, each year, the Veterans of Foreign Wars chooses 1 legislator among the 535 Members of the House and Senate to receive their Congressional Award.

This award is presented to a legislator who exemplifies the principles of civic duty, unswerving loyalty to the defense and security of our Nation, and

compassionate attention to the needs of our service men and women.

And this year, the VFW has chosen a most worthy recipient for this prestigious award—our friend and colleague, Senator PETE DOMENICI.

In his 19 years in this Chamber, Senator DOMENICI has been an eloquent voice for those who risk their lives in defense of freedom. This fact can be seen in his sponsorship of Senate Joint Resolution 97, which recognizes the reserve components of the Armed Forces who served so ably during Desert Shield and Desert Storm.

Mr. President, I join my colleagues in congratulating Senator DOMENICI for this well-deserved award, and ask unanimous consent the remarks he delivered at the awards ceremony be printed in the RECORD, together with amplifying information about the award.

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

STATEMENT OF SENATOR PETE V. DOMENICI, VETERANS OF FOREIGN WARS OF THE UNITED STATES, VFW CONGRESSIONAL AWARD ACCEPTANCE SPEECH, MARCH 5, 1991

Commander and Chief of the Veterans of Foreign Wars, James 'Jim' Kimrey, and his wife, Dorothy; Frances Booth, the national president to the Ladies Auxiliary of the VFW, and her husband, Robert; all the rest of the distinguished Americans at the head table, beautiful young people in front of us, veterans, auxiliary members, and friends.

First, let me say to the Veterans of Foreign Wars, I want to thank you from the bottom of my heart for this award. I will always cherish it.

Let me say to Elizabeth from New York and all of the other young people, but in particular to you. After hearing your marvelous dissertation on freedom, I really don't have much to say. In fact, I wondered if anyone should say anything. (Applause) Let me say if that was in the Senate, I would take it that you didn't want to hear anything from me. Since that applause is not coming from New Mexicans, I will continue.

Let me suggest to you, young people, that particularly, you, by being here and representing millions of our young men and women, you cap off a very special all-American week. Because you know, as you think about what has just happened in this world, you can't help but conclude that you are citizens of a very special country, a very special country.

Special countries have special people, and you have just seen them all week long, and the week before that, and the week before that. You saw them far, far away. You have now seen them at war, and you have seen them win. And If you ever worry or wonder what this is all about, then just remember what we are talking about tonight. We are talking about our extraordinary gift of freedom that came to us with our constitution. In some strange and almost miraculous and inevitable way, we were destined as a people to take that great gift of freedom. If we had kept it all for ourselves it would probably disappear. So, what we have done is to say to the world, 'If you want freedom, we will help you.' To those who want to look at a country where freedom is meaningful, we said, 'Look at us!'—with that very special privilege of being different, of being principled, of being for the rule of law, of being for individuals, of being for government of the people, and for being opposed to bullies in the world.

When that special country called America is asked to do something to preserve what it has and extend it out into the world, you see events like those that have unfolded this week. I am sure that everyone of the young Americans here over the past months saw scenes that make them proud. Well, let me tell you, if you have, you are not alone. For most adults in America had a rekindling of pride and patriotism, the likes of which we have not seen for a long, long time. We saw young men and women not only brave and forceful, but decent and considerate.

So tonight I say to all of you, thank God for America. The world thanks America. Thank God for our leaders, and thank God for the young people who are willing to follow in the footsteps of Americans who are willing to do almost anything for their freedom. If you ever wonder why we have achieved so much, remember that significant human achievement occurs when men and women are free. We have gambled with freedom in abundance, and we have reaped a harvest of achievement from it. So tonight I say thanks to the Veterans of Foreign Wars, who have served us well in the past, who have done their duty. Thank you very much. It's great to be here.

THE V.F.W. CONGRESSIONAL AWARD

The V.F.W. Congressional Award endeavors to do homage to that single legislator among the 535 Members of Congress who seems most nearly to meet the following criteria:

1. contribution to the preservation and perpetuation of the ideals upon which the American system of government is based;

2. recognition by his colleagues of his service, whether that service be one of quiet dedication and hard work or one achieving wide publicity, to the best and highest interests of the nation;

3. exemplification of the principles of civic duty shared by the V.F.W., which emphasize the individual, the community, the State and the nation;

4. unswerving loyalty to, and active performance in, the defense and security of the nation against its foes whomever and wherever they may be;

5. compassionate, practical attention to the needs of those men and women who have selflessly given of themselves to the service of America, not only in its wars, but in peaceful pursuits as well;

6. dedication to his legislative responsibilities over a period of years and continuous growth in legislative responsibility and experience, not only in fields of special interest to any particular group in American life but in his overall stewardship.

THE VFW CONGRESSIONAL AWARD

Awarded upon authorization of National Council of Administration to a sitting Member of the Congress for outstanding service to the Nation.

RECIPIENTS

1964: Senator Carl Hayden (D).
1965: Congressman John W. McCormack (D).
1966: Senator Everette M. Dirksen (R).
1967: Congressman Wilbur D. Mills (D).
1968: Senator Richard B. Russell (D).
1969: Congressman Olin E. Teague (D).
1970: Senator Harry H. Jackson (D).
1971: Congressman Leslie C. Arends (R).
1972: Congressman Thomas E. Morgan (D).
1973: Senator John C. Stennis (D).
1974: Congressman George H. Mahon (D).
1975: Senator Barry Goldwater (R).
1976: Congressman F. Edward Hebert (D).
1977: Senator Herman E. Talmadge (D).
1978: Congressman John J. Rhodes (R).
1979: Senator Bob Dole (R).
1980: Congressman G.V. "Sonny" Montgomery (D).
1981: Senator Paul Laxalt (R).
1982: Congressman Samuel S. Stratton (D).
1983: Senator John G. Tower (R).
1984: Congressman John Paul Hammerschmidt (R).
1985: Senator Strom Thurmond (R).
1986: Congresswoman Lindy (Mrs. Hale) Boggs (D).
1987: Senator Daniel K. Inouye (D).
1988: Congressman William Nichols (D).
1989: Senator Sam Nunn (D).
1990: Congressman Bob Traxler (D).

Mr. DOMENICI. I thank the distinguished Republican leader for his statement. I was very privileged sometime back to receive the Veterans of Foreign Wars Legislator of the Year Award. Senator DOLE in referring to this joint resolution regarding the reservists, alludes to that evening and to the remarks I said that evening. In his speech he incorporates my brief remarks before that group that evening and I thank him for that.

Let me just close, with reference to the joint resolution itself, by indicating when the House passes this joint resolution we will be saying to the thousands of reservists, men and women, that we are proud of them. Whether they went overseas or whether they were taken from their homes and served here, this resolution says we know you did a grand job and that you sacrificed immensely. That is what the joint resolution is about. I hope we will pass it here this evening.

The PRESIDING OFFICER. Is there further debate? If there is no further debate, the substitute amendment is agreed to.

The joint resolution as amended was ordered to be engrossed for a third reading, was read the third time, and passed.

The amendment to the preamble is agreed to.

The preamble, as amended, is agreed to.

The joint resolution, as amended, and the preamble, as amended, are as follows:

S.J. RES. 97

Whereas over 227,000 National Guardsmen and Reservists were called to active duty in conjunction with Operation Desert Shield and Operation Desert Storm;

Whereas over 120,000 of such National Guardsmen and Reservists were ordered to serve their country at locations throughout the United States and elsewhere around the world outside of the Persian Gulf area of operations;

Whereas members of the National Guard and Reserve participated in planning for all aspects of Operation Desert Shield and Operation Desert Storm;

Whereas, on August 22, 1990, the date on which the President authorized the call of the Selected Reserve to active duty in connection with Operation Desert Shield, over

10,000 National Guard and Reservists were already voluntarily serving on active duty in, and in support of, that operation;

Whereas members of the National Guard and Reserve staffed the mobilization stations that facilitated the largest mobilization of Reserves since the Korean War;

Whereas maintenance personnel of the National Guard and Reserve joined with active component maintenance personnel to prepare vast quantities of military equipment in the United States for use in the Persian Gulf area under the uniquely demanding conditions of the Middle Eastern desert environment;

Whereas members of the National Guard and Reserve were instrumental in the success of the enormous logistical operations that were carried out to supply adequately the force of over 500,000 members of the Armed Forces of the United States deployed to the Middle East;

Whereas members of the National Guard and Reserve assisted in planning for and coordinating the many complex aspects of transporting the large volume of personnel, equipment, and supplies from military installations and mobilization stations to embarkation points and on to the Arabian Peninsula;

Whereas the National Guard and the Reserve provided almost all of the aerial and maritime port services units that loaded and serviced the ships and aircraft comprising the force deployed by the United States to the Persian Gulf region;

Whereas members of the National Guard and Reserve joined members of the active components of the Armed Forces and civilian authorities to secure ports of embarkation and military installations from terrorist attack;

Whereas members of the National Guard and Reserve were extensively involved as maintenance teams and aircraft crews in the airlift and aerial refueling operations supporting Operation Desert Shield and Operation Desert Storm;

Whereas health care professionals in the National Guard and Reserve replaced medical personnel deployed abroad in order to provide continuing health care for military personnel and their families in the United States;

Whereas members of the National Guard and Reserve were actively involved with the casualty assistance teams providing assistance for the families of service members killed, injured, or interned as prisoners of war;

Whereas members of the National Guard and Reserve serving on active duty in connection with the Persian Gulf conflict completed rigorous predeployment training which qualfied them for service in the Persian Gulf area of operations;

Whereas the lives of the members of the National Guard and Reserve and their families were disrupted as they diligently and bravely served the United States in connection with Operation Desert Shield and Operation Desert Storm; and

Whereas the great success of Operation Desert Storm could not have been achieved without the courageous efforts of the members of the National Guard and Reserve: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the members of the National Guard and Reserve are recognized and honored for the courage and dedication that they displayed in, and in support of, Operation Desert Shield and Operation Desert Storm and for the indispensable contributions that they made to the successful prosecution of such operations and to victory in the Persian Gulf conflict.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. DOMENICI. I thank the Chair and thank the Senate for permitting us to pass that joint resolution, which I think is very important. I yield the floor.

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEARS 1992, 1993, 1994, 1995, AND 1996

The Senate continued with the consideration of the bill.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Mr. President, I see the Senator from Alabama on his feet.

Mr. HEFLIN. How about 6 or 7 minutes as in morning business?

Mr. SASSER. I yield the distinguished Senator 7 minutes.

TRIBUTE TO ALBERT McKINLEY RAINS

Mr. HEFLIN. Mr. President, Alabama recently lost one of our greatest statesmen. There are few men who fit the definition of a statesman as well as Albert M. Rains, who recently died in Gadsden, AL. Albert Rains served with distinction in the U.S. House of Representatives for over 20 years and will long be remembered for his devoted service to his constituents and to the country.

Although Albert Rains represented a rural district for most of his tenure in Congress, he is perhaps best remembered for his impact on housing legislation. He proved that you could have a truly national focus while still representing and protecting the interests of your own district.

Albert Rains was born in Grove Oak in De Kalb County in northeastern Alabama. Early in his life, Albert was a school teacher before returning to college and earning his law degree from the University of Alabama. His legal expertise began to emerge during his tenure as the city attorney for the city of Gadsden and the district attorney for Etowah County. He earned the respect of the citizens of Etowah County and was elected to the Alabama Legislature in 1940 and the U.S. Congress in 1944. It was then that Albert Rains found his calling as he so diligently represented the interests of the then Fifth Congressional District here in Washington. He served in the 79th Congress and the nine succeeding Congresses before retiring in 1965.

Through his years in Congress, Albert's influence in Washington grew and his seniority grew. In fact, many people have suggested that in different times, Albert Rains might have become the Speaker of the House of Representatives following Sam Rayburn's death in 1961. At that time in history, it would have been impossible for a Southerner to be elected to such a position. By 1965 when Albert retired, he had risen to the position of chairman of the Special Housing Subcommittee and the top ranking member of the House Committee on Banking and Currency.

While chairman of the Special Housing Subcommittee, Albert Rains wrote virtually all of the housing legislation passed by the House of Representatives. He became known as Mr. Housing and was responsible for numerous programs which are still providing millions of people with places to live. Mr. Rains' influence is also seen in college housing, in military housing, and in nursing homes. He has helped thousands of Americans buy their first homes through the Federal Housing Administration. While many people looked at housing as an urban problem, Albert Rains saw the need to create effective rural housing programs in addition to the urban renewal and redevelopment programs. Many Congressmen considered him one of the best debaters, one of the ablest floor managers, and one of the most knowledgeable parliamentarians in the House of Representatives.

In 1963, President John Kennedy called upon Albert Rains to steer the mass transit bill through Congress. President Kennedy knew that his friend from Alabama could provide the influence and legislative skills to garner the support of his colleagues on both sides of the aisle for this controversial issue.

The task was not easy, for the bill had been blocked for nearly 2 years in the Public Works Committee. However, Albert had such respect and following that he was able to succeed where others had failed. A year later, President Lyndon Johnson signed the bill into law calling it, "the bill that rose from the grave and walked on water." Today, millions of Americans have enjoyed the Metrorail system here in the Nation's Capital due to the leadership of Albert Rains.

In addition to his national influence, he was also recognized and respected by all Alabamians. His final election was a statewide race for an at-large congressional seat. This election came about after the State failed to redistrict following the loss of one seat based on the 1960 census. Albert led the ticket, outpolling all of the other at-large candidates. He retired from Congress following this impressive victory. Therefter, a large segment of Alabama wanted him to run for Governor, but Albert Rains decided it was time for his family to enjoy the fruits of private life.

Although he was an extremely busy man, Albert Rains never neglected his civic duties in Washington and in Gadsden. He was active in the Lions Club and held offices at the local, State, national, and international level. He was also on the board of directors for the American Cancer Society and the National Housing Conference. He served as the Democratic National Committeeman from Alabama.

After retiring from Congress, Mr. Rains practiced law and founded City National Bank which later became First Alabama Bank, Gadsden. His knowledge of the banking industry also served him well as a member of the board of directors of First Alabama Bancshares, Inc.

Albert Rains' devoted friend, E.E. "Red" Cox, served as his administrative assistant for 20 years. Red remained a faithful companion and trusted adviser to Albert throughout his life. He admired Albert's ability to succeed in the face of long odds and says, "I always hoped that some of Albert would rub off on me. Even in his ill health, Albert never lost his sense of humor and was a great joy to be with."

Mr. President, Albert Rains had lived a full life and gathered a long list of accomplishments by the time of his death at the age of 89. One of his favorite sayings was, "If you are pursuing the right objective and you are sincere, you can get the job done." Albert always got the job done and he always did it well.

My thoughts and prayers are with his wonderful wife, Allison, and the rest of his family. It is comforting to know that Albert Rains left behind a legacy to a country which is better for his having served her.

Thank you, Mr. President.

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEARS 1992, 1993, 1994, 1995, and 1996

The Senate continued with the consideration of the concurrent resolution.

The PRESIDNG OFFICER. Who yields time?

Mr. SASSER. Mr. President, I suggest the absence of a quorum, to be charged against each side equally on the resolution.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SASSER. Mr. President, I yield off the resolution 7 minutes to the distinguished Senator from California.

The PRESIDNG OFFICER. The Chair recognizes the Senator from California [Mr. CRANSTON].

IF SADDAM IS HITLER, THEN WE MUST SUPPORT THE KURDS

Mr. CRANSTON. Mr. President, I thank the distinguished chairman of the committee. I rise today to urge in the strongest possible way a vigorous U.S. policy in support of the Kurdish people and other dissidents in Iraq.

I rise also to call attention to an overlooked issue in the Kurdish drama: The widespread human horror of Kurds living in concentration camps in northern Iraq.

These are the Kurds you do not see on CNN.

They live in what the Iraqis euphemistically call "Victory Cities"—as many as 50 such cities.

Best available estimates say there may be as many as 1 million forgotten people starving in these cities that are actually in effect, concentration camps.

Mr. President, one of the main objectives of the war in the Persian Gulf should have been to get rid of Saddam Hussein, who President Bush properly likened to Adolf Hitler.

Well, "Adolf" Hussein is still in power, he is still the unbowed dictator of Iraq, and he still rules with the bloodied iron hand of the heavily armed Republican Guard.

The atrocities Saddam Hussein has committed against the Kurds both before and since the war are as bad or worse than his invasion of Kuwait. We must not give him the opportunity to resume the savagery of genocide.

Mr. President, I call on President Bush to make clear that the United States has a firm commitment to the Kurds and others who rebelled against Saddam Hussein that we and other coalition forces will stay in Iraq until Saddam is out of power, or until we are told by the leaders of autonomous Kurdistan our presence is no longer needed.

The news today is that the Kurds are struggling to achieve some accommodation with Saddam Hussein in order to avoid a continuation of the genocide.

U.S. policy must do nothing to undercut Kurdish aspirations—and I urge President Bush to do everything he can to make Saddam understand that the Kurdish position—self-determination and multiparty pluralism—is our position.

In the meantime, amid the horror and the anguished pleas for help, we should not act as though Kurdish refugees realistically can return to their villages.

The fact is that Saddam Hussein's forces leveled those villages at a time when the Reagan-Bush State Department was cozying up to the Iraqi dictator.

They've wiped the villages out like Hitler wiped out the Czechoslovakian town of Lidice during World War II.

The United States and its allies ought to be expanding the refugee safe-haven zone in northern Iraq.

We should step up the pace of relief efforts to an estimated 800,000 Kurds living in fields and camps near the Turkish border.

And we should not be turning a blind eye, using the most specious arguments, to the plight of another 1.5 million refugees on the border with Iran.

Mr. President, for years the democratic, partisan forces fighting the Saddam dictatorship have looked to the United States for help and for support. Even in the worst moments of terror, in the streets of Basra and in the mountains of Kurdistan, brave men and women secretly thrilled to the same ideas of democracy and respect for the rights of man that motivated Jefferson and Lincoln.

Unfortunately, the United States failure to respond to the desperate cries of Iraqi freedom fighters this year, in 1991, is not the first time Iraqi democrats have felt betrayed by American actions.

In the mid-1970's Henry Kissinger's State Department and the Shah of Iran cut a deal that effectively turned our backs on our former Kurdish allies, paving the way for their bloody suppression. Kissinger later callously dismissed complaints about the human cost of this cynical betrayal by saying: "Covert action isn't missionary work."

In recent years, tens of thousands of Kurds have been imprisoned, tortured, and murdered by Saddam and his brutal forces. Deference to Turkey, and to Saddam himself, made our reponse to these outrages shamelessly muted.

Today, representatives of Physicians for Human Rights suggest that every day as many as 1,000 refugees on the Iraq-Turkey border alone are dying.

Iran claims it is spending $10 million a day on refugee relief.

Yet, to date, no direct U.S. aid has been given to the people there.

President Bush mustered world opinion ably and well against the Iraqi invasion of Kuwait. Yet, his administration seems positively wimpish about calling on the international community to show the same concern about Saddam's victims in Iraq.

Mr. President, this is not a new world order; this is a brave new world, where in order to save Iraqi national sovereignty have ended up as silent accomplices in the destruction of Iraqis; where big brother Saddam continues to receive our deference, and where human freedom is merely a slogan mouthed by policymakers, not a policy itself.

It is shameful, and it must stop.

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEARS 1992, 1993, 1994, 1995, AND 1996

The Senate continued with the consideration of the concurrent resolution.

The PRESIDING OFFICER. Who yields time?

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

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

Who yields time?

Mr. SASSER. Mr. President, may I ask for what purpose the Senator rises?

Mr. McCAIN. To speak as in morning business.

I will be glad to delay that if there are further proceedings that have a priority. I was going to make a few remarks about this morning's memorial service for Senator Tower.

Mr. SASSER. Mr. President, if the Senator from Arizona will withhold and let us move forward here on the resolution, then we can return to his matter.

Mr. McCAIN. Certainly.

Mr. STEVENS. Mr. President, I would appreciate if the chairman of the Budget Committee, Senator SASSER, and the ranking minority member, Senator DOMENICI, would clarify for the Senate their position on a budget-scoring issue.

Mr. SASSER. I would be happy to address the Senator from Alaska's question.

Mr. STEVENS. As the chairman and ranking member are aware, there has been some confusion in recent months over the appropriate budgetary scoring of potential receipts from oil and gas leasing in the Arctic National Wildlife Refuge—what we refer to as ANWR.

Last October, the Office of Management and Budget issued a letter stating that, "OMB's continuing policy is to score receipts from oil and gas leasing on the Arctic National Wildlife Refuge [ANWR] as a valid measure to meet G-R-H deficit reduction targets."

However, the Congressional Budget Office issued a contradictory letter stating, "we believe that lease sales on ANWR constitute asset sales" and therefore "cannot be counted as revenues for the purposes of deficit reduction."

Mr. President, I do not intend to get involved in this controversy about whether ANWR receipts can be scored as receipts to the U.S. Treasury. The question of whether ANWR is a revenue raiser or is deficit neutral is a matter for the Budget Committee.

However, I am very interested in clarifying that if the Budget Committee chooses to follow the CBO's position, that their position not be taken to an illogical extreme of scoring ANWR as a budget loser. Let me explain the precise issue I am concerned about.

As I said, the CBO has issued an opinion that because lease sales on ANWR in their view constitute asset sales, they cannot be scored as receipts to the Treasury. It would seem clear to me that if receipts from ANWR are not scored as receipts to the Treasury, any payment to Alaska—for its entitled State share of the receipts—should likewise not be scored as spending by the Federal Government. Any decision not to score ANWR receipts, but on the other hand, to go ahead and score the payment of Alaska's share, would produce the result that ANWR lease sales would increase the Federal deficit.

Mr. DOMENICI. If the Senator will yield, let me say that I agree with him that if receipts from ANWR leasing are not scored, any receipts that are shared with Alaska should not be scored.

Mr. STEVENS. I thank the Senator from New Mexico. Clearly, if ANWR is open up for leasing, money will be flowing into the Treasury, and the deficit would not increase.

Therefore, I would like to know if the Chairman of the Budget Committee agrees that if, on behalf of the committee, he advises the Chair that receipts from ANWR may not be scored, that he would therefore also take the position that any payment to Alaska, as a share of those receipts, would likewise not be scored.

Mr. SASSER. I thank the Senator from Alaska for bringing this matter to my attention. Let me begin by saying that the Budget Committee concurs with CBO's opinion that lease sales on ANWR constitute asset sales. The problem you describe with regard to ANWR raises some valid concerns. In this particular instance, the Budget Committee will not score the payments to Alaska, which could result from the leasing of ANWR, as a deficit increase. I hope that my statement addresses the concerns raised by my good friend, the Senator from Alaska.

Mr. DOMENICI. I agree with the chairman.

Mr. STEVENS. Therefore, would the chairman and ranking member agree, that if ANWR is opened for leasing—from a budgetary point of view—payments to States resulting from the lease will not be scored as increasing the deficit?

Mr. SASSER. The Senator from Alaska has correctly stated the alternatives.

Mr. DOMENICI. I agree with the chairman.

Mr. STEVENS. I thank the Senators for addressing this issue.

CONSIDERATION OF THE MOYNIHAN SOCIAL SECURITY AMENDMENT

Mr. DODD. Mr President, yesterday the Senate voted to block consideration of the proposal by Senator MOYNIHAN to lower payroll taxes for all American workers and businesses. I believe that was the wrong decision.

When the Congress voted to support the payroll tax increases to protect the integrity of the Social Security fund in 1983, it never intended for the surplus in the fund to mask the deficit. On the contrary, a vote cast in 1983 was a vote to ensure the soundness of the Social Security Program, not a vote for new revenues to fund non-Social Security Programs. Unfortunately, we all know that the surplus has not been used to assure the future of retirees. Nor has it been used to invest in the future of this country. Instead, it has been and continues to be spent on unrelated programs.

With this in mind, the only right thing to do is to return some of the surplus from the payroll tax to working Americans. As workers and businesses have been affected this year by the recession, the reason for a return to pay-as-you-go basis becomes all the more apparent. A tax cut would provide a much-needed boost to the economy and relief to families and individuals who are suffering during these hard economic times, especially in States like Connecticut where the economy is weak and unemployment high. Connecticut and the Northeast are now in the deepest recession since the 1930's. And State and local governments alike in Connecticut are faced with lower revenues and unmanageable deficits.

A return to pay-as-you-go would provide the median two-earner family $2,300 more in earnings over the next 5 years. The same tax break would reduce payroll costs for State and local governments, many of which are struggling to balance budgets and lower deficits. It would also give a much-needed break to businesses. And, the money governments and businesses save from the payroll tax would be freed up to create new jobs or provide critically needed resources to our schools and communities.

Support for the amendment offered by my colleague, Senator MOYNIHAN, would have opened the way to debate on the substance of S. 11, the Social Security Tax Cut Act of 1991. What Senator MOYNIHAN proposed would not jeopardize the soundness of the Social Security Program for retirees. While it would have provided a tax cut for over 100 million workers, the Moynihan proposal also protected the Social Security obligations to all retirees. The payroll tax would have been lowered from its current 6.2 percent to 5.2 percent by January of 1996. When we expect the number of retirees to rise, the

payroll tax would have risen accordingly beginning in 2010.

If adopted, S. 11 would have maintained reserves in the Social Security trust fund to protect against unforeseen economic shifts. The trust fund would have accumulated 1 year's worth of reserves before the first payroll tax cut went into effect. And the reserves would have been worth 1½ year's of benefits within the next 3 years.

In sum, Mr. President, I am deeply disappointed that this body cut short a much-needed debate on a proposal to increase the equity of our tax system while assuring retirees that the Government will always fulfill its obligations to make Social Security payments.

FY 1992 FUNDING FOR THE RADIATION EXPOSURE COMPENSATION ACT

Mr. DOMENICI. Mr. President, I would like to ask the distinguished chairman of the Budget Committee, Mr. SASSER, if he would yield for the purpose of a brief colloquy.

Mr. SASSER. I will gladly yield to my friend, the distinguished ranking minority member of the committee, Mr. DOMENICI.

Mr. DOMENICI. Mr. President, I would like to raise an issue that I hope, upon conclusion of consideration of the budget resolution, the Senator from Tennessee [Mr. SASSER] and other members of the Appropriations Committee, including this Senator, can turn their attention to.

Last year the Radiation Exposure Compensation Act (Public Law 101–426) was enacted. The Act establishes a Trust Fund from which victims who suffered from radiation fallout from open-air nuclear testing and uranium mining during the 1950's through 1970's in the Southwest, may receive a small payment for injuries sustained as a result of Federal activities.

I first became involved in this issue 12 years ago when the problem of lung cancer and other respiratory diseases among uranimum mines was brought to my attention. Since then I have taken an active role in attempts to provide a measure of justice to these groups of deserving victims. The Congress has spoken with a national apology and now we must ensure that funds are made available to pay claims.

I am informed that the Department of Justice will have the regulations in place to implement this program shortly and will be prepared to process and perhaps pay claims by the end of the current fiscal year.

I look forward to meeting with my colleagues on the Appropriations Committee to decide the best way to ensure that much-needed funding for these long suffering victims is included in fiscal year 1992 appropriations bills. I believe we would all like to make sure the Congress meets its obligation to these victims as soon as possible, as I am sure the distinguished Senator from Tennessee would agree.

Mr. SASSER. Mr. President, I agree wholeheartedly with my friend from New Mexico [Mr. DOMENICI], and I look forward to working with him and other members of the Appropriations Committee toward that end.

Mr. BINGAMAN. Mr. President, I would like to ask my friend to yield so that I may join in this colloquy?

Mr. SASSER. I will gladly yield to my friend from New Mexico [Mr. BINGAMAN].

Mr. BINGAMAN. Mr. President, last year the Congress took a great step by admitting a mistake of the past. By enacting the Radiation Exposure Compensation Act the Congress recognized that an injustice had been done to groups of victims that suffered from exposure to radiation as a result of the nuclear testing program and Federal uranium mining activities. The Congress determined that because the courts could not provide a remedy, a compassionate payment should be awarded to those who have suffered ill effects from these Government activities. Unfortunately, many of the victims have already passed away. Their families have been given the promise that something to help relieve their suffering is on the way. I also urge my colleagues on the Appropriations Committee to ensure that funding is made available to pay these claims as soon as possible.

Mr. MCCAIN. Mr. President, I would like to ask the distinguished chairman of the Budget Committee [Mr. SASSER], if he would yield so that I may join in this colloquy?

Mr. SASSER. I will gladly yield to my friend from Arizona [Mr. MCCAIN].

Mr. MCCAIN. Mr. President, I have also taken an active role in attempts to provide a remedy to these victims who were unfortunately sacrificed for purposes of national security. These victims have been waiting for many years for a remedy. They were unable to receive redress in the courts and the Congress therefore determined that justice requires that a compassionate payment be made to these people. I urge my colleagues on the Appropriations Committee to make funds available in fiscal year 1992.

I would like to commend the senior Senator from New Mexico for his leadership on these issues.

Mr. DECONCINI. Mr. President, I would like to ask my friend to yield so that I may join in this colloquy?

Mr. SASSER. I will gladly yield to my friend from Arizona [Mr. DECONCINI].

Mr. DECONCINI. Mr. President, I also became aware of this issue many years ago and am proud to have been a cosponsor of the legislation. Many of my constituents were former uranium miners or affected by downwind radiation in portions of Arizona. Their case presents a moral question for the Congress; what is the appropriate response when the Federal Government knowingly subjects innocent people to severe health hazards, but the courts lack authority to provide an adequate remedy? The Congress has determined that the Radiation Exposure Compensation Act is the appropriate, compassionate response. I look forward to working with my colleagues on the Appropriations Committee to ensure that funding is made available in fiscal year 1992 so that claims can be paid as soon as possible to these tragic victims.

Mr. REID. Mr. President, I would like to ask the distinguished chairman of the Budget Committee if he would yield so that I may join in this colloquy?

Mr. SASSER. I will gladly yield to my friend from Nevada.

Mr. REID. Mr. President, with the enactment of the Radiation Exposure Compensation Act last year, I was pleased to see that the many innocent victims exposed to unhealthy levels of ionizing radiation from tests performed at the Nevada Test Site would finally receive recognition. Although money can never truly compensate for their pain and suffering, this act made a national apology and promised compassionate payments that will mean a great deal to these tragic victims. It is our moral duty to provide compensation to these people; it is the obligation of Congress to ensure that funding is provided for this program. I join my distinguished colleagues to say that I look forward to working with them and the other members of the Appropriations Committee to make sure that funds are made available in fiscal year 1992.

COMMENDING SENATOR CONRAD

Mr. SASSER. As we complete our work on the budget resolution, I would like to take a moment to commend my colleague from North Dakota, KENT CONRAD, for his work.

There is no more persistent advocate for the cause of deficit reduction than Senator CONRAD. The Senator from North Dakota does not just talk about the deficit problem; he's doing something about it.

He has established a remarkable record in just over 4 years as a member of the Budget Committee. In addition to great technical expertise, he has demonstrated a true personal commitment to reducing the deficit and strengthening the Nation's financial health. I have not always agreed with his proposals, but I commend his courage and perseverance in bringing them forward.

I would like now to list for the record some of the legislative initiatives the Senator from North Dakota has brought to our committee and this body.

In 1987, Senator CONRAD sponsored a 2-percent, across-the-board spending

cut to save $30 billion; sponsored an amendment to set tougher Gramm-Rudman targets; and cosponsored a $40 billion spending freeze; and supported a spending plan in committee to cut the deficit $63 billion.

In 1988, Senator CONRAD founded the deficit reduction caucus, which today numbers 40 members. The caucus is a bipartisan forum for the discussion of the national economy, budget problems, and solutions. In the Budget Committee, he supported efforts to use more realistic economic assumptions in preparing the budget.

In 1989, Senator CONRAD sponsored an amendment directing the budget summit negotiators to return to the bargaining table to make deeper budget cuts and to use more realistic economic assumptions; along with Senators HOLLINGS, JOHNSTON, and EXON offered a budget package in the committee which included a $42 billion spending freeze; and joined several colleagues to propose a $46 billion spending freeze on the Senate floor.

In 1990, Senator CONRAD offered a comprehensive and detailed package in the Budget Committee to reduce the deficit by $56 billion in 1991, and $559 billion over 5 years. While his proposal did not prevail, significant elements of his plan were retained in the final committee bill. Following the 1990 budget summit, Senator CONRAD offered an alternative plan on the Senate floor to burst the income tax bubble, roll back the gas tax increase, impose a millionaire's surtax, and ease cuts in assistance to the elderly and to farmers.

And this year, Senator CONRAD offered an amendment in our committee to take $124.4 billion from the Federal budget over 5 years—over and above the budget summit agreement levels set in late 1990. He also supported a committee amendment to freeze spending at 1990 levels.

In addition to his work on deficit reduction and budget process reform, Senator CONRAD has become a leader in fair share programs to close the tax gap and make our tax laws more fair and efficient. And he was among the earliest Senate voices asking our allies in Western Europe and Japan share more of the burden in paying for our common defense needs.

In short, Senator CONRAD has quickly become a clear and consistent voice on deficit reduction and budget issues in this Chamber. I commend him on his admirable record.

Mr. HELMS. Mr. President, I have just learned that the managers of this budget resolution have told several Senators, in good faith, that there would be no rollcall vote on final adoption. As a result, I am advised that a number of Senators are already on airplanes headed to their home States.

I feel that the Senate should never pass an appropriations bill, or an authorization bill—or a budget resolution—without a requirement that Senators vote on it in a recorded rollcall vote.

In fact, I have an understanding with the leadership on this side that henceforth I will insist upon a rollcall vote, but in deference to the Senators who have already left Washington, I will not ask for the yeas and nays on this resolution.

Mr. President, with all due respect to the managers of the resolution and the members of the Senate Budget Committee, this is a bad—very bad—piece of legislation. Oh, I realize that there was a so-called budget agreement last year—but that was a turkey, too. That agreement raised taxes by more than $300 billion over the next 5 years.

And that, Mr. President, is what was absurdly described as the first step in reducing the Federal deficit.

Mr. President, this budget resolution, which will be approved without a rollcall vote, will: First, increase Federal spending; and second, increase that spending far in excess of the tax increases that Congress approved last year.

I might add that I strenuously opposed those tax increases, as did several other Senators.

There were two attempts to make this budget resolution somewhat more palatable. Both were defeated by the Senate. One would have frozen discretionary spending at fiscal year 1991 levels. The other would have allowed a reduction in Social Security taxes.

Mr. President, under the circumstances, I will not insist on a rollcall vote. But I want to say for the record right now that I hope there will be no attempt later in this session to pass either an appropriations bill or an authorization bill without requiring Senators to cast our votes in public and for the record.

This business of voice voting on important issues is bad policy for the Senate and we ought to stop it.

I wish to be recorded as being opposed, and that if there had been a rollcall vote, I would have voted in the negative.

Mr. DOLE. Mr. President, I want to take a few minutes to note that the rumors of the death the budget agreement have been greatly exaggerated. There were a number of Members on this side of the aisle who were convinced that the agreement would not last until the ink dried, but they have been proved wrong. By staying within the caps for discretionary spending, this budget resolution follows last year's budget agreement to the letter.

During the debate of this resolution, the budget agreement has survived its two most serious threats to date—the Moynihan amendment to raid the Social Security trust fund and the Bradley/Simon amendment to remove the discretionary spending caps. This body put party rhetoric aside and voted overwhelmingly to preserve the agreement.

I urge my colleagues to join me in voting for this budget resolution. Its adoption will prove the Senate's commitment to stick to the discipline of last year's landmark budget agreement.

Mr. KERRY. Mr. President, I will keep my remarks brief, but I do want to take this opportunity to express my opposition to the budget resolution.

I know that I am not the only Senator who is frustrated by the constraints that last year's budget agreement has placed on the Senate. Because of last year's 5-year agreement, we are locked into a budget that does not allow us to shift our spending priorities. Several Senators have tried to fashion a budget that better reflects that Nation's domestic priorities. I'm disappointed that our efforts have failed, but I'm not surprised. Most of what we've debated over the past 2 days was decided last year, and the new budget rules allow for very little flexibility.

So I cannot support this budget resolution. It is essentially the same budget I voted against last year and therefore wish to express my opposition to the resolution.

MOYNIHAN PAYROLL TAX AMENDMENT TO BUDGET RESOLUTION

Mr. MACK. Mr. President, yesterday the Senate turned down the amendment from the Senator from New York. As was made clear by the debate, the amendment would have made an adjustment to the budget resolution to help pave the way for a future payroll tax cut. I supported that amendment. I want to see the security restored to Social Security.

I am outraged that the money Americans contribute to the Social Security system is being siphoned off to other Government programs and will never be used for retirement benefits.

For a number of years, Americans have been contributing more to the Social Security system than our retirees have been receiving in benefits. This situation would be fine if those extra contributions were actually set aside to pay for future benefits.

But this is not the case. The Government isn't putting this money away in a safe place for future retirees. The Government is instead spending all of the money that is supposed to be held in reserve for retirement benefits. What's more, it's spending that money on other programs that don't have anything to do with Social Security.

I'd like to see those extra contributions returned to the American workers who put the money into the Social Security system. Doing this will not affect Social Security benefits now, a year from now, or 20 years from now. We made a contract with our senior citizens to pay benefits, and we will keep that contract.

The sham has got to stop. Congress must quit spending Social Security contributions on anything except Social Security benefits.

Surplus contributions ought to go back into the pockets of those who made those contributions. American workers can take those excess contributions and spend them on what they think is best. If American workers want to spend their own money on a new TV, or a new car, or go out to dinner, or their children's education, they can do it. What's important is that it will be their own decision, not that of a Government bureaucrat.

If this was done, we'd finally start being honest with the taxpayers of this country. The Social Security system would remain safe as far into the future as we can legitimately project.

The second reason I supported this amendment is that the sponsors made a significant change in the proposal underlying it. An earlier version would have lowered the payroll tax rate, but raised the wage base subject to payroll taxes. This makes no sense. The virtue of a payroll tax cut is that, quite simply, it is a tax cut. That virtue would have been compromised if there had been a counteracting tax increase in the form of a wage base increase.

There is still an aspect of the Moynihan proposal which concerns me, however. The proposal assumes an increase in the payroll tax rate many years from now in order to accommodate the pay-as-you-go financing plan. I think this is undesirable as well as being unnecessary.

The future tax rate increase assumed by the Moynihan proposal is based upon a long-term projection of trust fund balances made by Government forecasters. These are, of course, the same Government forecasters that routinely predict disaster resulting from any kind of tax cut.

The Congressional Budget Office has recently reported that the effects of a payroll tax cut will be slower economic growth. This is nonsense. Only in the upside-down world of Government forecasting can a policy which keeps American workers' incomes in their own pockets instead of in the hands of Government bureaucrats slow the economy.

The bottom line is that Government has trouble predicting the budget deficit as little as 1 year in advance. I have no confidence at all that we can predict Social Security trust fund balances well over a decade from now.

The last point that I want to make is that the best way to preserve the integrity of the Social Security system is to continue strong economic growth. And frankly, the evidence is overwhelming that the best single policy that Congress can employ to spur economic growth is to cut taxes.

In the early 1980's, when the Social Security system was in shambles, Congress made significant changes to put it on sound financial footing. The surpluses that have resulted are much larger than what was planned. Why? Because the income tax cuts we adopted in 1981–83 boosted economic growth far more than we expected, and accounted for hefty increases in payroll tax contributions.

The lesson to be learned is that we have to stop the sham with the Social Security trust fund. The best way to preserve those retirement contributions is to take them away from big spenders in Government and put them back in the pockets of American workers. What's more, the best way to ensure that there is a steady flow of income for everyone's retirement is to spur economic growth.

And that is why I favor cutting the payroll tax.

Mr. SASSER. Mr. President, I would characterize the past 3 days of debate on the fiscal year 1992 budget resolution as worthwhile and productive on the whole. But the curious thing is, not much of our debate has centered on the resolution itself.

We have spent far more time discussing collateral amendments than we have examining this resolution. But that does not bother me, Mr. President. When I recall the deep division and real discord that marked our debate last year, I welcome the calm this year. I would like to believe it's the result of broad agreement and solid consensus on the substance of this resolution.

On its merits, the resolution certainly deserves no less. It continues, in every respect, the principles and discipline we agreed to in the budget summit last year. It complies with the spending caps and the tightly calibrated pay-as-you-go constraints. It is the first link in the chain of postsummit budget resolutions that will lock in $482 billion in deficit savings over 5 years. As such, it is a well-forged and secure link.

And where this resolution takes initiative, it does so in a targeted, effective, and deficit-neutral way.

As I have said, Mr. President, we have spent more time on amendments than on the resolution itself. So let me return our focus to Senate Concurrent Resolution 29—the fiscal year 1992 budget resolution—for the remainder of the time before we vote.

Mr. President, what we are considering this evening is a family and economic security budget. It moves children and education to the top of the Federal budget agenda. And it pledges an extra measure of support to families during this time of recession.

The resolution contains a domestic discretionary component that is based on Senator WIRTH'S $4.4 billion homefront initiative and a mandatory component that includes carefully structured reserve funds.

On the discretionary side, the resolution proposes a $3.1 billion funding increase in fiscal 1992 for the Department of Education. There has long been talk of reinvesting in education. This budget seeks to do it.

It acknowledges the nationwide consensus that says increased investment in our schools and in the development of our children is absolutely critical to the future well-being of our Nation.

The resolution provides another $1.3 billion in targeted family assistance for programs with a proven record of success. I am referring to such programs as WIC, Head Start, and child care grants, as well as a job training initiative.

The list reads like a "Who's Who" of our most cost-effective and productive discretionary programs:

A $350 million increase for WIC. Every dollar invested here saves $2 to $3 in the first 60 days of a child's life in Medicaid savings alone.

A $500 million increase for Head Start, which would greatly increase the number of eligible children served by this preschool nutrition, medical, and education program.

A $450 million increase for education services for disabled children.

A $1 billion increase in student aid, including an increase in Pell grants for the neediest students without closing out students from moderate-income families.

A $140 million increase to combat infant mortality in both rural and urban areas.

A $300 million increase in vocational and adult education programs—central to ensuring basic skills and workplace training for hundreds of thousands of youths and adults.

The result of these investments will be healthier children better prepared to learn, and more secure families better able to manage these uncertain economic times.

Now, we all understand that under the caps we agreed to last year, there is little room for grand initiatives or bold statements. But on the flip side, you will not find much in the way of blue smoke or budget gimmickry here either. There are no surprises, trapdoors, or dark corners. What you get with this resolution is a commitment to carry forward the summit's goal of reducing the deficit to under 1 percent of GNP by 1995.

And you also get the opportunity to send a clarion message by putting resources toward education and income security. That message is simply this: The Congress of the United States is able and ready to make wise cost-effective investments in the American people, investments that are perfectly compatible with fiscal responsibility.

There is no breakdown in the workings of Government this year—no stalemate that keeps us from doing our job. This resolution shows the Amer-

ican people that we can govern without crisis. It is a measure of how far we have come.

Now, this resolution is also an economic and family security budget on the mandatory side. The emphasis here is on the deficit-neutral design of the pay-as-you-go system.

We have also included reserve fund language that will provide our committees the flexibility to work their will later in the year.

In particular, the Finance Committee has asked for reserve funds for deficit-neutral legislation in three areas having to do with the health and nutrition of children, economic recovery, and health care reform.

We have also incorporated reserves to permit initiatives that would expand early childhood development services and provide for a surface transportation act to repair highways.

I must emphasize again: No one is talking about taxes here. The resolution includes a committee-passed amendment that structures reserves so that initiatives made possible by them are offset by spending cuts only, not taxes.

In sum, Mr. President, this is the first resolution of the postsummit era, and it has upheld all of our expectations. It is a fiscally responsible document. It conforms in every way with the spending caps and the pay-as-you-go constraints that we wrote into law last year.

And where it takes initiative, it does so by affirming the principle of family and economic security—by elevating education and children and family security concerns to the level of top budget priorities.

We have crafted a resolution born of the most rigorous fiscal constraints this Congress has ever imposed on itself, and I urge my colleagues to support its passage.

Mr. DOLE. Mr. President, I yield back all of our time.

Mr. SASSER. Mr. President, I yield back all time on the resolution, as the distinguished Republican leader does.

The PRESIDING OFFICER. All time on the resolution has been yielded back.

Mr. SASSER. Mr. President, I ask unanimous consent that the Senate proceed to House Concurrent Resolution 121, Calendar No. 65, and that all after the resolving clause be stricken, and that the language of Senate Concurrent Resolution 29, as amended, be inserted in lieu thereof, and that all time on the resolution be yielded back.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 121) revising the congressional budget for the United States Government for the fiscal year 1991 and setting forth the congressional budget for the United States Government for the fiscal years 1992, 1993, 1994, 1995, and 1996.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution, as amended.

The concurrent resolution (H. Con. Res. 121), as amended, was agreed to.

Mr. SASSER. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The title was amended so as to read:

Concurrent resolution setting forth the congressional budget for the United States Government for fiscal years 1992, 1993, 1994, 1995, and 1996.

Mr. WELLSTONE. Mr. President, I would like the RECORD to show that if there had been a recorded vote, my vote would have been "nay."

The PRESIDING OFFICER. The RECORD will so reflect.

Mr. HOLLINGS. Mr. President, if there had been a recorded vote on the budget resolution, I would like the RECORD to show that I would have voted "no."

Mr. BIDEN. Mr. President, the budget resolution adopted by the Senate today does not do nearly enough to fight crime. This is an area where we need to beef up our efforts. Although this budget does not do the job, I am confident that by the time the budget process is completed adequate funding will be provided.

Second, this budget lacks specificity about how antidrug funds are to be spent. This is a problem that will also have to be addressed at a later stage, during the appropriations process.

In summary, I am concerned that this budget falls short in two important areas—crime and drug control. I intend to make every effort to redress this problem in the months ahead.

Mr. SASSER. Mr. President, I move that the Senate insist on its amendments and request a conference with the House on the disageeing votes of the two Houses, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. SASSER, Mr. JOHNSTON, Mr. RIEGLE, Mr. SIMON, Mr. FOWLER, Mr. DOMENICI, Mr. SYMMS, and Mr. GRASSLEY conferees on the part of the Senate.

Mr. SASSER. Mr. President, that concludes action on the budget resolution, and at this time, I want to express my appreciation to the distinguished ranking member of the committee, Senator DOMENICI, for his hard work during the course of the consideration of this resolution, and for his cooperation in those matters in which he felt he could conscientiously extend that cooperation.

I would also like to express my appreciation to the Budget Committee staff on the majority side. Larry Stein, the staff director; this is the first budget resolution that was produced under his direction. It has gone extraordinarily smoothly, and it is largely attributable to his efforts.

I express my appreciation to our general counsel, Bill Dauster, who has very ably guided us through the parliamentary shoals, and also to Alan Cohen, who has done an extraordinary job in keeping us advised as to the substance of the various amendments.

And also, Mr. President, I want to say that Bill Hoagland, the distinguished staff director on the minority side, has been a pleasure to work with, and we want to express our deep appreciation for his efforts in bringing this resolution to its conclusion, at least at this juncture.

Mr. President, I also express my appreciation to the floor staff for their able assistance: Charles Kinney, Marty Paone, and Lula Davis. Also I want to express my appreciation to the deputy staff director of the Senate Budget Committee, Dr. John Callahan, who has been a stalwart all through the deliberations and the problems of trying to put this budget resolution together. I was remiss in not mentioning him earlier. I want to do that at this time.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, I also thank the distinguished Senator from Tennessee, Senator SASSER, and my colleague from New Mexico for their splendid work on the budget resolution.

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

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

MEMORIAL TRIBUTE TO SENATOR JOHN GOODWIN TOWER

Mr. MCCAIN. Mr. President, today I and a number of Senators joined the friends and family of John Tower to pay tribute to the life of that great man in a memorial service at Arlington National Cemetery. It was a somber occasion. It was also an occasion to give thanks to God for the privilege of having known John Tower. In the all-too-brief time he was among us, John Tower enriched the lives of all his friends. We shall miss him very much, and we shall long remember him.

Mr. President, I ask unanimous consent that the program and the remarks that were made at the memorial service be printed in the RECORD at this time.

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

MEMORIAL TRIBUTE TO SENATOR JOHN GOODWIN TOWER, APRIL 25, 1991, ARLINGTON NATIONAL CEMETERY ARLINGTON, VA

NAVY HYMN

(Eternal Father)

Eternal Father, strong to save,
Whose arm hath bound the restless wave,
Who bidd'st the mighty ocean deep
Its own appointed limits keep;
Oh, hear us when we cry to Thee,
For those in peril on the sea!

O Christ! Whose voice the waters heard
And hushed their raging at Thy word,
Who walked'st on the foaming deep,
And calm amidst its rage didst sleep;
Oh, hear us when we cry to Thee
For those in peril on the sea!

Most Holy Spirit! Who didst brood
Upon the chaos dark and rude,
And bid its angry tumult cease,
And give, for wild confusion, peace;
Oh, hear us when we cry to Thee
For those in peril on the sea!

O Trinity of love and power!
Our brethren shield in danger's hour;
From rock and tempest, fire and foe,
Protect them wheresoe'er they go;
Glad hymns of praise from land and sea.

Amen.

A MEMORIAL TRIBUTE

Prelude: "The President's Own", United States Marine Band.

Opening Prayer: The Honorable William L. Ball, III, Former Secretary of the Navy and Administrative Assistant to Senator John G. Tower.

Welcoming Remarks: Senator Phil Gramm.

Tribute: Senator Robert Dole.

Poetry Reading: Senator William S. Cohen.

Scripture Reading: Senator John S. McCain, III.

America the Beautiful: MU.$_1$ Leslie Simpson, USN.

Tribute: Sir Antony Acland, British Ambassador.

Tribute: Vice President Quayle.

Navy Hymn: MU.$_1$ Leslie Simpson USN.

Benediction: Rear Admiral David E. White, CHC, USN, Deputy Chief of Chaplains.

Piping Ashore: Master Chief Boatswain's Mate Terry Graf, USN.

Rifle Salute Fly Over.

The following memorial funds have been established in memory of Senator Tower and Marian Tower for those individuals wishing to make a remembrance.

The John Goodwin Tower Library at Southwestern University, Southwestern University, Post Office Box 770, Georgetown, Texas 78627.

The John Goodwin Tower Memorial, Highland Park United Methodist Church, 3300 Mockingbird Lane, Dallas, Texas 75205.

The John Goodwin Tower Memorial Fund, Southern Methodist University, Department of Political Science, Dallas, Texas 75275.

Marian G. Tower, Society for the Prevention of Cruelty to Animals (SPCA), 362 South Industrial Boulevard, Dallas, Texas 75207.

OPENING PRAYER: JOHN TOWER MEMORIAL TRIBUTE, ARLINGTON NATIONAL CEMETERY

(Delivered by William L. Ball, III)

Eternal Father, we gather before you today at this historic and holy place in final tribute to one whose life we remember with respect and admiration this day.

Though our hearts know still the sorrow of the Nation's loss, we are filled nonetheless with gratitude for his having lived and served so very honorably and so well.

We here today knew John Tower as a public servant, a teacher, a statesman, and as a man who served his country at sea. A man who came from humble beginnings—from parents and grandparents that served in thy ministry; a man who in his youth took to the study of history, and then set out from Texas to make it***; a man drawn to teach who selflessly taught so much to so many*** and yet a man whose most satisfying moments in a life of stories achievements came with your assurance, Oh Lord, that he was in every way a good father.

We mourn too the loss of his daughter, Marian Tower, and we thank thee for the gift that was her happy, uplifting and joyous way in this life, so central always in her father's heart and so secure in his abiding love.

We ask this morning that you keep in our minds the memory of those decisive and indelible marks John Tower made on our consciousness as Americans and indeed upon the great struggles of his generation in both war and peace.

Grant in us all the wisdom to draw on the life of this remarkable man and sustain in us the same sense of purpose, strength of convictions, and depth of patriotism that were the hallmarks of his work.

Finally, we thank thee for this assembly of our Nation's leaders and ask that your guiding hand be extended to them and to our President. Be with the family members here and keep them in the constant orbit of your love and under your continuing watchcare.

We ask these things as we trust in thee now to lift our sorrow that we may offer a fitting and worthy tribute this morning to the blessing you bestowed upon our people in John Tower.

Amen.

STATEMENT OF U.S. SENATOR PHIL GRAMM

We gather today to honor our friend John Tower, a man who has touched each of our lives and whose service to our country affected the lives of all Americans.

On behalf of John's family, I thank you for joining us in paying tribute to the life and work of John Tower. I want to take this opportunity to recognize members of John's immediate family here today:

Lou Tower; John and Lou's daughters and their husbands, Penny Tower Cook and David Cook, Jean Tower Cox and Berry Cox; and John's sister, Jo Cochran.

John Tower spent a lifetime standing tall for Texas and for America. He was committed above all else to the service of the country he loved, and from his first day as an enlisted sailor in the U.S. Navy to his last day as chairman of the Senate Armed Services Committee, John fought for a strong national defense and a strong America.

He brought to public service a rare combination of talent and ability that propelled him from a West Texas school teacher to the corridors of power in Washington, and back again, with poise and determination. He met with triumph and disaster and treated those two imposters just the same.

Not only did John Tower serve America, but he inspired others to serve. Through his example, he brought into Government a flood of new talent, people who have gone on to become leaders in all branches of our Government, men and women whose role in governing America grows daily. Many of you are here today.

John was also an extraordinary father. The tragic fact that Marian was with him and died at his side is a testament to the special bond that linked John to each of his children, who were totally committed to him and he to them.

John Tower left us too soon. But his memory will gladden our hearts and his legacy will live through his work and through the work of those he helped call to the service of our Nation.

STATEMENT OF SENATOR BOB DOLE

Penny, Jeanne, Lou, Jo, Mr. Vice President, friends and colleagues:

We gather today in this final resting place of American heroes to honor another worthy of that title.

And as we remember John Tower, we also remember his daughter, Marian, who brought so much joy into her family's life.

It was 30 years ago next month when John Tower arrived in Washington as the Nation's Youngest Senator, and the first Republican Senator ever elected by the people of Texas.

Many in Washington regarded the freshman Senator as someone whose time here would be limited; as a one-termer, soon to exit from the national scene and return to his life as a professor.

Texans knew better. They knew that in electing John Tower they had elected a man of intelligence and integrity; a man of courage and conviction.

John Tower wasn't in the Senate to mark time. He was here to make a difference. And what a difference he made during his 24 years in the Senate—16 of which I was privileged to serve alongside him.

During those years, John and I were on the same side of the vast majority of issues. And you couldn't ask for a better ally, since he never went into a fight without being fully prepared, and without fully expecting to win.

In soldier's terminology, John Tower was the type of person you would want in your foxhole. John and I, however, served on opposite shores during World War II. I was in the hills of Italy, and he was a boatswain's mate on a gunboat in the Pacific.

It shouldn't come as a surprise that the boatswain's mate is the officer who usually has the greatest store of general knowledge about the ship.

It could be said that when it came to defense policy, John was the "boatswain's mate of the Senate," because he was unrivaled in his knowledge of military matters, and in his devotion to the welfare of America's servicemen and women.

In the 1970's he used this knowledge and devotion to battle those who sought to decimate our defenses. And in the 1980's, he used it to rebuild America's military and to restore her respect around the world.

History is full of politicians whose beliefs were proven correct long after they had left the scene. John Tower, however, had the good fortune of living to see his beliefs and his work completely vindicated.

John Tower believed that communism would fall only if America remained strong. And he lived to see the crumbling of the Berlin Wall, as a tidal wave of democracy swept across Eastern Europe.

John Tower believed that our fighting men and women deserved the best weapons and the most advanced technology.

And he lived to see our victory in the gulf—a victory, due in great part, to the weapons and technology he championed.

Many of those buried here at Arlington gave their life in defense of their country.

How fitting it is that today we honor a man who devoted himself to ensuring that America would be so strong that no others would have to make that same sacrifice.

In the final analysis, John was well aware that it is people, and not weapons, who serve as America's first and ultimate line of defense.

He knew that the source of our national strength can be found in the inner strength of men and women who love their country.

John had an uncanny ability to attract such people to Washington, and to convince them to dedicate themselves to the day to day work of democracy.

John's influence will live on for many years in the careers and contributions of many who now serve in the highest levels of Government.

Many honors and awards came John's way during and after his Senate career. But along with serving as chairman of the Armed Services Committee, I think the one honor that John cherished most was serving as International President—The "Grand Master"—of the Kappa Sigma Fraternity.

I am also a Kappa Sig, and know that for many years, John was a fixture at our national conclaves, always willing to volunteer his time to offer counsel to tomorrow's leaders.

One of the proudest moments of a Kappa Sig is the ceremony in which you become a member. And during that ceremony, these words are read:

"The Star and Crescent shall not be worn by every man, but only by him who is worthy to wear it. He must be a gentleman; a man of honor and courage; a man of zeal, yet humble; an intelligent man; a man of truth; one who tempers action with wisdom; and, above all else, one who walks in the light of God.".

No one fit that description better, and no one stood taller for Texas and for America, than John Tower.

And while we feel sorrow today, we also know that John will forever walk in the light of God, just as he will forever remain in our hearts.

STATEMENT OF SENATOR WILLIAM S. COHEN

A character in a Greek tragedy posed the question: "How do I praise you but not over praise and yet not mar your goodness by any stint thereof?" It is not possible for me to overstate the significance of John Tower's contribution to our nation and the importance of his friendship to me.

Shortly after John's nomination to be Secretary of Defense was rejected by the Senate, a group of his friends gathered with him at the home of Carl Smith. I was handed a collection of William Butler Yeats' poems. I turned to one that seemed appropriate:

Now all the truth is out,
Be secret and take defeat
From any brazen throat,
For how can you compete,
Being honor bred, with one
Who, were it proved he lies,
Were neither shamed in his own
Nor in his neighbors' eyes?
Bred to a harder thing
Than Triumph, turn away
And like a laughing string
Whereon mad fingers play
Amid a place of stone,
Be secret and exult,
Because of all things known
That is most difficult.

John was familiar with the poem but he took little comfort in it that night.

Yes, he was bred to something harder than triumph. And yes, he could exult in secret, knowing that his more than quarter century of public service could never dissolve to nothingness.

But he could never retreat or turn away and play madly on a laughing string amid a place of stone. Because fundamentally, John was a warrior who loved nothing more than a battle. He was at his best when strapping on his intellectual armor, preparing to debate with his Senate or House colleagues, or to negotiate with Viktor Karpov down to the last candle of the night defending his country's interests and honor.

John had in him the same courage and fighting spirit as Sam Houston who once told his colleagues:

"I wish no prouder epitaph to mark the board or slab that may lie on my tomb than this—'He loved his country; he was a patriot; he was devoted to the Union."

And like Sam Houston, he was a man of complexity and contradiction who never tested or yielded to the shifting winds of popular opinion.

Many people who encountered John every day saw only the exterior man, the one who did not walk gently through public or private life, who had a sharp mind and elbows to match, and crunched more than a few toes with his cowboy boots.

But inside that tough exterior you could find the warmth and kindness of a good father and a true friend and more than a touch of melancholy and sadness, too.

A poet says:

Sometimes, I hold it half a sin
to put in words the grief I feel;
for words, like Nature, half reveal
and half conceal the soul within.

There's the rub, of course, that too few of us ever knew the soul within.

Justice Holmes once wrote of his own generation:

"Through our great good fortune, in our youth our hearts were touched with fire. It was given to us to learn at the outset that life is a profound and passionate thing. While we are permitted to scorn nothing but indifference, and do not pretend to undervalue the worldly rewards of ambition, we have seen with our own eyes, beyond and above the gold fields, the snowy heights of honor, and it is for us to bear the report to those who come after us. But, above all, we have learned that whether a man accepts from Fortune her spade, and will look downward and dig, or from Aspiration her axe and cord, and will scale the ice, the one and only success which it is his to command is to bring to his work a mighty heart."

We honor the memory and contributions of a man who always brought to his work a mighty heart.

Tower was his name, and for me he always will.

REMARKS BY SENATOR JOHN MCCAIN AT THE MEMORIAL FOR SENATOR JOHN TOWER, APRIL 25, 1991

My friend, John Tower was a man for every season. He was a splendid man, a devoted father, an exemplary servant of his country and a faithful friend. And I am deeply saddened that the season has now passed when I can seek his company. But the memory of his friendship for us, of the experiences we had shared with him, of the lessons we had learned from him, of the great pleasure of his company will sustain us through this season for weeping and mourning.

I have the deepest sympathy for Penny and Jeanne and all of John and Marion's loved ones. Your pain will not lightly pass away. But I counsel you to use the memories of this great man and his beloved daughter to sustain you through this season of weeping and mourning.

John Tower lived life on his own terms. And in the process, he served God, man and country to the very best of his ability. His best was better than most. I am a better man for having known him, and I will long remember him.

I believe John would appreciate the epitaph Robert Louis Stevenson wrote for himself. I will recite it in appreciation of John's confidence that he sailed his ship by the light which God had granted him wisdom to see.

Under the wide and starry sky,
Dig the grave and let me lie.
Glad did I live and gladly die,
And I laid me down with a will.

This be the verse you grave for me:
Here he lies where he longed to be;
Home is the sailor, home from the sea,
And the hunter home from the hill.

ECCLESIASTES—CHAPTER 3

To every thing there is a season, and a time to every purpose under the heaven:

A time to be born, and a time to die; a time to plant, and a time to pluck up that which is planted;

A time to kill, and a time to heal; a time to break down, and a time to build up;

A time to weep, and a time to laugh; a time to mourn, and a time to dance;

A time to cast away stones, and a time to gather stones together; a time to embrace, and a time to refrain from embracing;

A time to get, and a time to lose; a time to keep, and a time to cast away;

A time to rend, and a time to sew; a time to keep silence, and a time to speak;

A time to love, and a time to hate; a time of war, and a time of peace.

TRIBUTE TO JOHN TOWER BY SIR ANTONY ACLAND GCMG KCVO, BRITISH AMBASSADOR

Others have paid their tributes to John Tower as an American, a Senator, a Texan. I am glad and honoured to pay my tribute to him as a stalwart friend of my country Britain, where indeed he had many friends, and as an admired performer on the international stage—particularly in the field of defence.

Part of his education was in Britain at the London School of Economics and from his time there, he acquired his taste for things British, ranging from savile row suits, Jermyn Street shirts, to a special brand of English cigarette. He was a true friend of Britain. But this was not a friendship founded on sentiment alone. He also had a profound intellectual conviction of the importance for the United States of continued links to Britain and to Europe more widely. He had a clear vision of America's place in the world, and he never shrank from trying to realise that vision. Blessed, too, with a keen sense of history, he was a constant and effective champion of the transatlantic partnership—and of NATO as a guarantor of military and political stability, and as a voluntary arrangement for preserving the collective security, peace and freedom of its members, with roots that go to the wellspring of human values. We in Britain are grateful to those Americans who, like him, have powerfully advocated a continued American involvement with Europe. John Tower had an unrivalled knowledge of defence strategy, of weapons systems, of arms control techniques. He firmly believed that only strength deters aggression. He preferred to be right and alone, than part of the crowd and wrong. He held throughout to Sidney Smith's famous dictum:

"There is only one principle of public policy: do what you think is right, and take place and power as an accident."

John Tower was a frequent visitor to London and was always welcomed there. He was a wise counsellor, a fine advocate of Anglo-American causes, and his history was intertwined with ours. As the roman writer Plautus put it:

"There is nothing, except the gods, better than a friendly man who is really a friend."

John Tower was indeed such a person and I feel very privileged to have had the chance of knowing him.

TRIBUTE TO JOHN TOWER MESSAGE FROM THE RIGHT HONOURABLE MARGARET THATCHER OM FRS MP

John Tower embodied the special relationship between the United States and Britain. Born and bred in Texas, educated at the London School of Economics, he became a powerful leader in your country and a true friend of mine. When the history of this century is written, the world will more fully appreciate John Tower's profound role in helping to bring about the victory of freedom over the forces of tyranny.

He was the indispensable legislative architect of President Reagan's defence build-up. He did the work in the trenches that brought renewed strength, determination, and credibility to America and to the Atlantic Alliance. I personally am so grateful for his many contributions to our collective defence, to the forging and strengthening of the special bonds between our two countries. He faced the supreme challenge of his time with courage and high purpose and he lived to see the Berlin wall come down and Eastern Europe swept over with freedom and democracy.

John Tower was our friend, Britain's friend. We will miss his intellect, his humour, and his fortitude during freedom's hour of danger. We know his legacy will never be forgotten. May his country and those who remember him always be proud.

VICE PRESIDENT'S EULOGY FOR SENATOR JOHN G. TOWER

Members of John Tower's family, honored guests—and as he might put it—Texans and other Americans:

Today we give honor to a super patriot.

And as we honor John Tower, it is important to share the special memories that are his legacy to us.

After the election of Ronald Reagan and George Bush in 1980, John Tower became chairman of the Senate Armed Services Committee.

Let me tell you what happened to a newly elected Senator at his first meeting of the committee in 1981.

After energetically rendering his opinions on several crucial national security matters, he was summoned by Chairman Tower.

The newcomer sat himself down next to Tower in STROM THURMOND's seat.

Then Tower gave me one of those special looks and said, "I just wanted to tell you I've been on this committee for 20 years, and it was 10 years before I ever spoke."

That was one of the most difficult moments of my entire congressional career.

In the course of his career, though, John Tower had more than his share of difficult moments.

As he said at the start of his ill-fated confirmation hearings in 1989, he realized he was not universally loved.

But he could have added—and I will say it as a postscript—he was universally respected.

He was called many things by many people—some kind, some not so kind.

I too called him many things.

Colleague and mentor.

Godfather and friend.

My Chairman.

Our champ.

He was master of details and boss of the big picture.

Most of all, he was a patriot's patriot.

If it's possible to love your country too much, then he was guilty.

He loved not only his country, but his family and his chairmanship of the Armed Services Committee.

I'll never forget one all-night conference of the Senate and House Committees, deadlocked over something about the Guard and Reserve—with Sonny Montgomery adamant in his position.

Chairman Tower took out that gold cigarette case, tapped his smoke on it, and made another offer.

(You can see him doing it, can't you?)

Senator THURMOND exclaimed, "Take it Sonny. Take it. It's the best you can do."

Chairman Montgomery took it.

John Tower tapped his cigarette case again and intoned, "The conference is concluded."

Though the conference is concluded for John Tower now, his legacy lives on.

It is so easy now, after the fall of the Wall and the collapse of the Curtain, to forget how bad things were during his heroic legislative battles over the course of two decades.

Years of abuse and neglect had crippled our Armed Forces, undercut our preparedness, and left America a tottering giant in a world of violent pygmies.

In that crisis, John Tower took command and set out to save the country he loved so dearly.

Many of us here today were members of his ragtag band.

The words of Shakespeare's Henry V have special meaning for those who worked closely with him:

"We few, we happy few, we band of brothers."

So set this down, not as epitaph but as accolade.

John Tower lived his robust life in service to the United States.

And if, at its end, there were heartaches, they could not lessen what he gave America when there was almost no one else to give it.

Headlines fade, especially in our profession.

The hurting does stop.

And others step into our limelight—for good or ill.

The really great ones—like John Tower—know that.

They know they will have, in the words of John Greenleaf Whittier, the safe appeal of Truth to Time.

That is what we affirm today,

And what we celebrate,

And what we thank God for in giving us John Tower when America most needed him.

BENEDICTION BY REAR ADMIRAL DAVID E. WHITE, CHC, U.S. NAVY DEPUTY CHIEF OF CHAPLAINS

In this memorial tribute, oh God, we are reminded of your special gifts to us through the lives to those individuals who;—unfold with us the potential of our dreaming—challenge us with the worth of being and doing—and reach out beyond themselves in service to others.

Therefore, we thank you, oh God, for the life and legacy of Senator John Goodwin Tower; for his presence among us as family member, colleague and friend and for his many contributions to this Nation as teacher and statesman.

And now, oh God, we pray for your abiding grace through all our days: about us, to keep us; above us, to protect us; beneath us, to uphold us; before us, to direct us. Let it be so for us always, oh Lord, for this is our prayer. Amen.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. I thank the Chair.

(The remarks of Mr. MCCAIN pertaining to the submission of Senate Resolution 118 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

The PRESIDING OFFICER. The Senator from New Jersey, Mr. BRADLEY.

Mr. BRADLEY. Mr. President, I yield 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. FORD. Mr. President, I ask unanimous consent that the order for the quorm call be rescinded.

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

UNANIMOUS CONSENT AGREEMENT—SENATE RESOLUTION 117

Mr. FORD. Mr. President, I ask unanimous consent that Senate Resolution 117 now at the desk be considered by the Senate on Tuesday, May 7; that on Tuesday, May 7, at 9:30 a.m., the Senate proceed to the consideration of Senate Resolution 117; that when the resolution is considered, there be 3 hours for debate, controlled in the following manner: 1 hour under the control of Senator DOLE, 1 hour under the control of Senator DECONCINI and 1 hour under the control of Senator BRADLEY; that no amendments be in order to the resolution; and that the vote on or in relation to the resolution occur at 2:15 Tuesday, May 7.

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

Mr. BRADLEY. Mr. President, when we return from the recess on May 7, we will debate this resolution which does extend agriculture export credit guarantees to the Soviet Union. My concern, I am sure, will be as great when we return as it is tonight. But there is a particular urgency about my concern tonight and that is, even as we are talking, Soviet repression is moving deeper into the Baltic States.

Mr. President, let me read just a sequence of events that have occurred over the last 5 days:

April 9, 1991: The Soviet military occupied another Lithuanian government building in Lithuania. Soviet soldiers, dressed in camouflage and bulletproof vests, seized a driver's education school in Vilnius.

April 19, 1991: Soviet troops focibly occupied and searched a Lithuanian customs post on the Byelorussian-Lithuanian border. The troops evicted the Lithuanian border guards, disconnected all communications lines and destroyed some equipment before leaving.

April 24, 1991: Soviet Interior Ministry troops seized a building housing two banks in Lithuania. A group of OMON or black beret soldiers overran the building at about 11 a.m. local time. Police loyal to the Lithuanian government who had been guarding the banks were displaced by OMON forces.

April 25, 1991: Soviet paratroopers stepped up moves against the Lithuanian independence drive by seizing even more buildings throughout Lithuania. Today 9 buildings have been occupied, among them a hotel and two airfields were seized. A report from the Lithuanian government states that this military action includes cities all across Lithuania not only Vilnius. During the night technical schools, and aviation factory and other buildings have been occupied. The military has confiscated technical equipment, building materials, inventory, and cars.

Mr. President, what we are seeing is the systematic repression of freedom in Lithuania. These recent military actions prove that the Soviets are not entering into good faith negotiations with the leaders of Estonia, Latvia, and Lithuania. They continue to use methods of force and intimidation to retain control over people who demonstrated their desire to be free and independent.

Mr. President, it is beyond me why, in this atmosphere at this time, the United States Senate wants to extend agriculture credits to the Soviet Union to fuel its repressive apparatus. The fact of the matter is that until we are willing to say no, and draw the line based upon values that we espouse, the Soviets will continue to repress the freedom of the people of the Baltics.

Mr. President, I look forward to this debate when we come back, because I think when the full Senate views the value of extending agriculture credits that will not outweigh the importance of standing with the people of the Baltics for their freedom and independence in standing against a repressive Soviet apparatus.

I yield the floor.

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

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

CONSUMER PROTECTION AGAINST PRICE-FIXING ACT

MOTION TO PROCEED

Mr. FORD. Mr. President, on behalf of the majority leader I move that the Senate proceed to the consideration of Calendar No. 68, S. 429, a bill to amend the Sherman Act regarding retail competition, and I send a cloture motion to the desk.

CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration of S. 429, a bill to amend the Sherman Act regarding retail competition:

Herb Kohl, D.K. Inouye, J. Lieberman, Carl Levin, Claiborne Pell, Paul Simon, Alan Cranston, Bob Graham, Chuck Robb, Howard Metzenbaum, Bill Bradley, Tom Harkin, J.J. Exon, Slade Gorton, Warren B. Rudman, Alfonse D'Amato.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business with Senators permitted to speak therein.

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

PRIVATE RIGHT OF ACTION FOR CUSTOMS FRAUD

Mr. SPECTER. Mr. President, I have sought the floor to introduce legislation calling for a private right of action for a customs fraud.

This legislation, Mr. President, follows legislation which this Senator has introduced over much of the past decade, with the first bill having been introduced on March 4, 1981, Senate bill 2167, in an effort to bring into enforcement of our trade laws private rights of action.

We have found that our trade has been crippled by subsidies, by dumping, and by customs fraud. The Federal Government is simply unable to handle these important issues. But if private parties had access to the courts to stop subsidies or to stop dumping or to stop customs fraud, I suggest it would be enormously helpful to trade in our Nation.

The extensive floor statement, Mr. President, specifies the enormous volume of customs fraud which is engaged in at the present time. I have not sought to have private rights of action for subsidies for dumping because it would complicate the passage of this legislation. So at this time, I am taking the first step on a private right of action to stop customs fraud.

Mr. President, I am today introducing a bill which would give American industries direct access to Federal courts to halt promptly the injurious import of products which are in violation of our customs laws, and to recover monetary damages for such violations.

The language of this bill was included in previous legislation which I introduced in prior Congresses to provided a private enforcement mechanism for customs fraud, subsidies, and dumping. The legislation I am introducing today contains only the customs fraud provision because I feel that it is an important provision in and of itself, and because it is not as sweeping.

The private right of action concept benefits from thorough consideration by the Senate. On March 4, 1982, I introduced S. 2167 to provide a private right of action in Federal court to enforce existing laws prohibiting illegal dumping or subsidizing of foreign imports. Hearings were held on this bill before the Judiciary Committee on May 24 and June 24, 1982. On December 15, 1982, I offered the text of this bill on the Senate floor as an amendment, which was tabled by a slim margin of 51 to 47.

During the 96th Congress, I reintroduced this legislation as S. 416 on February 3, 1983. The Judiciary Committee held a hearing on this bill on March 21, 1983. I offered the text of S. 418 as an amendment to the omnibus tariff bill on September 19, 1984; the amendment was tabled.

During the 99th Congress, I reintroduced this legislation as S. 236; I expanded the scope of this bill to include customs fraud violations and introduced S. 1655 on September 18, 1985. The Judiciary Committee held a hearing on S. 1655 on November 20, 1985, and favorably reported the bill by unanimous voice vote on March 20, 1986. The Finance Subcommittee on International Trade also held a hearing on S. 1655 pursuant to a sequential referral agreement. Significant progress was made toward reaching a unanimous consent agreement for full Senate consideration of S. 1655 prior to adjournment of the 99th Congress, but the press of other business prevented its coming up for floor action.

In the 100th Congress, I reintroduced comprehensive legislation, S. 361, to provide a private right of action in Federal court to enforce existing laws prohibiting illegal dumping or customs fraud.

I expanded the scope of this bill in S. 1396, which I introduced on June 19, 1987, to revise the subsidy provision to include a private right of action to allow injured American parties to sue in Federal court for injunctive relief against, and monetary damages from, foreign manufacturers and exporters who receive subsidies, and any importer related to the manufacturer or exporter.

This bill would have provided a comprehensive approach to address three of

the most pernicious unfair export strategies used by foreign companies against American companies: dumping, subsidies, and customs fraud.

During full Senate consideration of the Omnibus Trade and Competitiveness Act (S. 490), I filed the text of S. 1396 as amendment No. 315 on June 19, 1987, and offered it as an amendment to the trade bill on June 25, 1987. This amendment, however, was tabled.

I again filed the text of this bill as an amendment to the Textile and Apparel Trade Act, S. 2662, on September 9, 1988, and to the Technical Corrections Act, S. 2238, on September 29, 1988.

On July 15, 1987, I joined Senator Heinz as an original cosponsor of an amendment to S. 490 to provide a private right of action in the U.S. Court of International Trade for damages from customs fraud. Although the amendment was accepted by the Senate, it unfortunately was dropped in conference.

Customs fraud has become a serious threat to U.S. industries. Enormous quantities of articles which violate the customs laws enter the United States each year. Moreover, these laws prohibiting such illegal imports do not provide for sufficient remedies to compensate injured parties. Thus, as a result of customs fraud, domestic companies are suffering injury, and American jobs are being lost each year.

The bill I introduce today would address this problem by permitting injured American businesses to file suit in Federal court and seek injunctions against, and appropriate damages for, these illegal foreign trade practices. On November 20, 1985, the Judiciary Committee held a hearing on this bill's predecessor, S. 1655. Representatives of various domestic industries, including steel, textiles, and apparel, strongly supported enactment of this legislation. Legal experts testified about the urgent need for a private right of action in Federal court to supplement the current administrative practices.

American industries under this bill would be granted direct access to Federal court to seek swift injunctive relief against illegal imports in violation of our customs laws. The availability to U.S. companies of injunctive relief would place custom fraud violators on notice that any investment in customs fraud in the United States would be lost instantaneously.

Under this bill, an injured domestic business could file suit in the U.S. District Court for the District of Columbia or the Court of International Trade for an injunction against the import and sales of the goods which it could preliminarily demonstrate were violating customs laws. The court's order could be modified to provide a more permanent remedy based on a more detailed finding.

During the 1985 Judiciary Committee hearing, witnesses testified regarding the provision of the bill creating injunctive relief to halt illegal imports. Industry representatives stated that the Bureau of Customs is increasingly unable to cope with the rising incidence of customs fraud, primarily transshipments through third countries to circumvent a U.S. quota. Although injunctive relief would be a significant alternative to the current administrative process to halt illegal imports, the remedy of primary interest to the witnesses was the retroactive damages provision of the bill.

The availability under this bill of damages to U.S. companies, if customs fraud and injury are ultimately found to have occurred, will remove the illegally obtained profits of, and increase the cost of violating the customs laws for importers and foreign exporters and producers. Foreign enterprises, like any domestic company, would be held responsible for the economic consequences of their anticompetitive actions.

During the 1985 Judiciary Committee hearing, witnesses testified that the bill's provision to seek damages for injury from illegal imports would provide a more effective deterrent than current law, would provide retroactive relief to fill the gap under the existing law which imposes duties on only future imports, and would provide damage awards directly to the injured American industries. International trade lawyers also testified during the hearing that the provision of damages for injury sustained from customs fraud violations would be consistent with the General Agreement on Tariffs and Trade [GATT].

In the past, customs fraud has been found to be rampant with regard to textiles, apparel, computer software, hand tools, sugar, electronics, automotive products, chemicals, petrochemicals, agricultural products, pharmaceutical products, and other industries. Illegal dumping is severely injuring American steel, chemical, glass, textile, electronics, agriculture, rubber and cement, industries, among others. Foreign subsidies injure American manufacturers of footwear, steel, textiles, apparel, glass, wool, leather, tires, cement, sugar, iron, railway cars, and other products.

Customs violations appear in several pernicious forms. Massive country-of-origin fraud has been found to occur whereby a country which has reached its permissible quota for a given item or product circumvents the quota by transshipping the continued imports through another country which has not yet reached its quota. Most commonly—indeed, in hundreds of thousands of cases—imports are fraudulently mislabeled. Given the sheer volume of imports and the limited resources of the Customs Service, many imported textiles, apparel, and footwear simply are declared to be something which they are not, or are immensely underdisclosed in number—again, in order to evade quotas fixed by the administration.

The Customs Service's Office of Commercial Fraud Enforcement reports that in 1990, there were 14,436 cases, up from 3,600 in 1988. Of these cases, only 188 arrests were made, resulting in penalties in only 186 of the cases.

The Commercial Fraud Enforcement Office also reports that there were more seizures in 1990 for textile and apparel violations than for any other violation except flatgoods. The value of these 608 seizures totaled over $49 million.

When interested Members of the U.S. Senate and the House of Representatives take a look at this list of egregious violations of law currently unremedied, it is my thought that there will be an overwhelming majority in both Houses that will come forth and support this kind of reasonable, targeted, and directed remedy.

Mr. President, we should not be surprised by recent protectionist calls for new tariffs against goods from countries with large trade surpluses with the United States. I sympathize with the frustrations which lead to such efforts, even as I question their appropriateness. The way to avert such counterproductive measures is to enforce the trade laws which are already in place. This bill will greatly increase the enforcement of those laws, by letting injured American businesses go directly to Federal court—just as they can for violations of the antitrust laws—and seek quick injunctions, against continued illegal importation.

The bill I introduce today would in no way interfere with the administration's pursuit of voluntary import restraints. It would offer no new tariffs or quotas or protectionist barriers. It would not displace any existing remedies through the Customs Service or otherwise. Rather, it would reduce the pressures for resort to such disfavored measures, by allowing vigorous enforcement of laws already on the books.

Mr. President, there is nothing like the vigor of private plaintiffs when it comes to enforcement of trade laws or other means of self-help which have long been demonstrated to be the most effective way to get enforcement and action by those who are most directly affected and injured. We have many decades of evidence of this with regard to private enforcement of our antitrust laws. The theory that private plaintiffs would find strong incentive to bring such antitrust suits—and in so doing would both recoup deserved compensation for their injuries and advance strong national public policy interests—certainly has proved correct. There is no reason that the same would not be true of private suits to enforce our international trade laws.

The legal process is well attuned to this kind of an effective remedy. The case of Marathon versus Mobil Oil is an illustration of a case which involved a complex, factual legal situation which was decided by the U.S. district court in Cleveland in the course of some 6 weeks. It is important to enphasize that once such injunctions are issued they stay in effect and no goods can be shipped in violation of those prohibitions while any appeal is pending. That is so because the order of the district court remains in effect unless and until a supersedeas is ordered, which is not a practical reality given the requirement of posting a bond and the substantial sums of money involved in these matters. Similarly, the Federal discovery procedures lend an excellent avenue for injured U.S. interests to seek discovery from any importer who wants to utilize our markets. If importers wish to do business in the United States, they ought to be subject to the jurisdiction of our courts for equitable relief. They ought to be subject to telling specifically what has happened in terms of subsidies or dumping or in terms of the circuity and violations of the customs laws which are applicable in so many situations.

This is an effective remedy because it does not address the problem after the fact. It stops goods from coming into this country before they can displace American products and American jobs.

We desperately need the vigorous private enforcement this bill would spur if we are to successfully chart a course between the grave dangers of increased protectionism and the certain peril which would result from unabated illegal foreign imports. Accordingly, I urge my colleagues to join in supporting this bill.

Mr. President, I ask unanimous consent that certain tables citing statistics on this topic be printed in the RECORD.

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

FRAUD INVESTIGATIONS ENFORCEMENT STATISTICS

	Fiscal year—	
	1990	1989
Arrests	188	126
Indictments	180	254
Convictions	183	116
Seizures	171	237
Penalties	186	142

SEIZURES

Commodity	Fiscal year 1990		Fiscal year 1989	
	Domestic value	Number	Domestic value	Number
IPR	$89,239,109	522	$47,776,580	487
Textiles	49,168,554	608	59,565,822	1,113
Steel	2,985,106	30	3,646,956	65
Other	117,480,070	1,938	48,188,826	443
Total	258,872,839	3,098	159,178,184	2,108

Investigative manhours were expended on 14,436 different fraud cases customs collections resulting from 19 U.S.C. 1592 fraud violations—$36,407,444.00 for fiscal year 1990.

IPR SEIZURES COMPARISON OF FISCAL YEAR 1989 AND FISCAL YEAR 1990

	Fiscal year 1989		Fiscal year 1990	
	Seizures	Domestic value	Seizures	Domestic value
Commodity:				
Watches	71	$3,461,772	45	$14,634,855
Toys	47	2,496,624	68	2,786,251
Perfume	10	1,873,902	12	442,197
Computers	69	2,424,925	90	4,231,453
Other Electronics	12	862,209	11	780,961
Flatgoods	114	8,816,170	63	4,566,605
Textile and wearing apparel	57	2,932,129	83	5,696,799
Miscellaneous	107	24,908,849	150	56,099,988
Total	487	47,776,580	522	89,239,109
Country:				
Argentina	1	12,911		
Bangladesh	1	25,080		
Belgium			3	72,385
Brazil	2	11,132	10	899,168
Canada	2	19,000	6	219,465
Chile	1	23,131		
China	14	674,400	42	3,791,513
Dominican Republic			1	16,500
France	4	424,500	11	308,629
Germany	5	212,851	4	140,906
Great Britain	5	81,652	2	13,856
Greece	1	20,389		
Haiti			1	5,179
Hong Kong	70	2,754,604	53	10,695,391
India	3	94,000	1	4,000
Indonesia	2	67,038	2	107,100
Italy	5	2,826,342	14	566,750
Japan	35	5,748,644	15	829,251
Korea	132	9,390,763	98	8,757,489
Macau	1	107,388	2	76,560
Malaysia			1	352,000
Marianna Islands			3	129,261
Mexico	5	52,455	11	239,702
Netherlands	1	9,734		
Pakistan	3	73,937	3	52,485
Panama	4	537,311	5	161,317
Philippines	3	251,238	6	106,233
Portugal			1	9,867
Singapore	1	90,000	6	627,852
Spain	2	54,228		
Sweden	1	25,675		
Switzerland			3	1,440,007
Taiwan	87	5,299,175	119	6,090,685
Thailand	4	229,010	11	306,688
Tunisia			1	23,250
Turkey			1	720,756
United Arab Emirates	1	35,424	2	44,614
Venezuela	1	18,000	4	90,240
United States (search warrants)	90	18,606,568	80	52,340,010
Total	487	47,776,580	522	89,239,109

The following reflects the Customs commercial seizures for copyright and trademark violations for the period October 1, 1987 to September 30, 1988 (fiscal year 1988):

	Number of seizures	Domestic value
By commodity:		
Watches	76	$2,982,214
Toys	53	3,088,813
Perfume	10	914,826
Computers	86	7,741,168
Other electronics	26	1,210,029
Flatgoods	137	7,904,273
Textiles and wearing apparel	52	2,726,078
Miscellaneous commodities	39	2,108,153
Total	479	28,675,153
By country:		
Bahrain	1	38,970
Belgium	1	97,500
Canada	4	159,055
China	9	148,473
Colombia	2	27,000
Costa Rica	1	10,877
France	3	54,159
Germany	3	49,350
Haiti	3	131,760
Honduras	2	40,000
Hong Kong	61	3,151,992
India	1	8,904
Ireland	1	46,647
Israel	1	69,000
Italy	8	592,711
Japan	7	116,364
Korea	166	12,436,051
Lebanon	2	20,500
Mexico	3	241,884
Netherlands	1	101,606
Panama	4	143,589
Philippines	5	183,138
Russia	1	84,044
Singapore	1	13,346
Sri Lanka	1	36,806
Swaziland	1	5,850
Taiwan	107	6,432,643
Thailand	1	37,492
Turkey	3	753,806
Venezuela	2	22,000
Not shown	8	962,436
Search warrant (United States)	65	2,457,601
Total	479	28,675,554

Textile seizure statistics for fiscal year 1988:

	Domestic value	Seizures
October 1987	$6,316,961	119
November 1987	4,113,203	86
December 1987	3,370,511	82
January 1988	3,961,414	64
February 1988	3,518,830	54
March 1988	3,150,134	71
April 1988	5,950,324	78
May 1988	7,654,209	102
June 1988	5,976,680	87
July 1988	2,656,845	48
August 1988	5,122,879	81
September 1988	5,122,879	81
Fiscal year 1988 to date	56,914,869	953

Source: U.S. Customs.

THE VICTIMS OF CHERNOBYL

Mr. MOYNIHAN. Mr. President, on Saturday, April 26, 1986, a series of blasts in reactor No. 4 at Chernobyl Nuclear Power Station contaminated the region and permanently disrupted the lives of tens of thousands of Ukrainians. Those closest to the reactor were moved, leaving homes and belongings behind. Others—perhaps, more tragically—remained. The full consequences are yet unknown.

Bearing in mind the pace of post cold war events, I rise today to remind my colleagues of the victims of Chernobyl. We must not forget.

Mr. President, I ask unanimous consent that a most informative New York Times magazine article, "Chernobyl: Five Years Later the Danger Persists," be printed in the RECORD at this time.

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

CHERNOBYL: FIVE YEARS LATER—THE DANGER PERSISTS

(By Felicity Barringer)

Eight-year-old Sasha Danilkin left the hospital late last summer and came home to the wooden cottages and muddy roads of Tarasovka, a farming village in southeastern Byelorussia. Since then, the scar left after doctors in Minsh removed his cancerous gland has faded. His energy has returned. In the light snow of a February afternoon, Sasha chases his sisters around a decrepit green cart.

Watching him, his mother, Nadezhda, says over and over, "See how healthy he is." Although Sasha's thyroid received a large dose of radioactive iodine in the days after the explosion at the Chernobyl nuclear-power plant in April 1986, his mother claims the accident has not affected her life. In a high-volume, preemptory tone that turns a sentence into a declaration, she repeats: "We knew every-

thing. We were protected. We were told what to do. Our officials took care of us."

Then, for a moment, Nadezhda Danilkina's strident optimism subsides. "Why could they not do more for the children?" she asks. "Why could they not at least protect the children?"

The moment passes as abruptly as it came. She repeats her earlier words like a mantra. "We were told everything. All of our needs have been secured. Look how healthy he is."

Five years after the Chernobyl disaster spewed at least 50 tons of volatile radioactive particles—10 times the fallout at Hiroshima—across Byelorussia, western Russia and the Ukraine, Nadezhda Danilkina clings furiously to the remnants of the old illusion: that the consequences could be controlled, that the harvest could be made safe, the food clean and the future secure.

She craves such assurances, but she knows her son's future is uncertain. In the days after the accident, his thyroid gland received a dose of 200 rads from radioactive iodine—in terms of cancer risk, the equivalent of thousands of chest X-rays. Four years later, a malignant tumor developed. The cancer has metastasized to his lymph nodes.

While the worst of the radiation danger passed within weeks of the accident, while the iodine 131 and other short-lived particles died out, there is still significant residual gamma radiation from cesium particles. In many villages like Tarasovka, which is about 95 miles northeast of the reactor, the radioactivity will linger for a generation.

In Tarasovka, there is only one way to reduce the risk: pack up and leave. Nadezhda Danilkina's neighbor across the street and another neighbor two doors down have moved out. But the Danilkin family has nowhere to go.

In 1986, when the Chernobyl myths were being made, I was a correspondent for The New York Times in Moscow. Those were days of martial metaphors, harking back to the suffering and triumphs of World War II. Radiation was the enemy; insidious, invisible, stubborn, powerful. But the firemen who extinguished the blaze, the helicopter pilots who dropped sand, lead and boron to smother the smoldering remnants of the reactor, the soldiers who cleaned up the territory and the scientists directing the activity were a powerful army. People had to be moved—about 135,000 from what came to be known as the Zone, the area within an 18-mile radius of the reactor. But their health would be monitored. They would be safe.

I returned in February, nearly five years after the accident, to find the region littered with the remnants of those illusions. Instead I found anger, cynicism, doubt and fear. Far more land was poisoned than can ever be cleaned—or evacuated. Far more people are eligible for resettlement than will be moved. Far more illness is evident than Soviet officials ever predicted. Far more clean food, far more medical care, far more money is needed than a country staggered by other troubles can give.

The numbers of those at risk of radiation-related illness are numbing: 600,000 workers were involved in the cleanup, and many were exposed to high doses of radiation. Some 200,000 people have been evacuated from contaminated areas, many after receiving between 20 and 100 rads (units of measurement of absorbed radiation), a nonlethal dose that nonetheless increases the risk of developing cancer. An additional 2,000 still occupy areas where the contamination measures, on average, 40 curies (units of measurement of radioactivity) per square kilometer—up to 300 times the background levels in Byelorussia. Perhaps 75,000 more, like Nadezhda Danilkina, occupy regions where the levels are lower but still several times that of normal background radiation.

It was mid-1989 when Byelorussian and Ukrainian leaders revealed how much was left undone. The nation was then transfixed by its experiment in quasi-democratic elections. Ethnic violence was flaring in the Caucasus and Central Asia. There was little energy left to help the new Chernobyl victims; there were few resources.

Reckoning with these truths and uncertainties has left the region crippled, environmentally, economically and psychologically. Many of those with the most marketable skills, like teachers and doctors, have moved away from cities where radiation lingers. The exodus, local Communist Party officials say, worsens the existing economic disruptions.

Those who can't, or won't, flee the contaminated areas live in places they are told people should not live, and eat food they are told they should not eat. With a thousand different versions of the truth in the newspapers and in official statements, people believe whatever story best fits their fears.

Back at the time of the accident, all I remember is that they told me there was radiation, recalled 9-year-old Tamara Klatsman, a patient at the Radiation Medicine Clinic in the Minsk suburb of Aksakovshchina. "Radiation. Radiation. Simply that. An invisible thing." Doctors have found abnormalities in her thyroid; her dose of radioactive iodine was in excess of 200 rads. Tamara, from the town of Svetlogorsk, 75 miles north of Chernobyl, was 5 when the reactor exploded. "We first didn't know there was an accident," she said. "Then we thought some kind of machine had exploded. Or just everything had exploded. We didn't know."

The children of Svetlogorsk were not alone. The nuclear experts who were working at Chernobyl, running a low-power experiment on that April night in 1986, also knew less than they thought. The wishful thinking that has characterized the five-year history of Chernobyl began within minutes of the series of blasts in the hall of reactor No. 4 at 1:24 A.M. on Saturday, April 26.

From the first, senior engineers in the control room refused to believe what had happened. Grigory Medvedev, one of the nuclear-power engineers sent from Moscow to investigate the accident, described the scene vividly in his 1989 work, "Chernobyl Notebook," published in translation this month by Basic Books under the title, "The Truth About Chernobyl."

According to his account, a few seconds before the explosions, a panicked engineer named Aleksandr Akimov watched "in amazement" as the dials on his control panel began to glow, "as if they were red hot." Moments later he sent two young engineers to the reactor hall a few hundred yards away. Their job was to lower by hand the control rods that had jammed before the blast.

When they got there, there were no control rods left to lower. The reactor lid, weighing tons, was canted crookedly above absurdly twisted girders and a mass of searing, intensely radioactive fuel burning blue and red.

They surveyed the scene for a minute or two—long enough to have their skin turn brown from lethal doses of radiation—and returned to report that the reactor had been destroyed. Their superiors in the control room refused to believe them. The two young men, like 29 others, including Akimov, would perish of radiation sickness within 10 weeks. Two plant workers died in the fire and explosion.

Grigory Medvedev's account, which includes verbatim statements of witnesses in the plant at the time, reports that the plant's director, Viktor Bryukhanov, and chief engineer Nikolai Fomin were called at their homes, where they were asleep, and told there had been an accident but that the reactor was intact. They passed the lie on to Moscow. Later that morning, Fomin, who had gone to the scene, sent a third engineer, Anatoly Sitnikov, to check on the reactor. Sitnikov, too, reported the destruction of the reactor and was ignored. Like the others, he received a massive dose of radiation and died in agony.

These refusals to accept the truth had two results: a delay of days in finding a workable way to quench the radioactive volcano, and a delay of 36 hours in evacuating residents of the small high-rise city of Pripyat, just two and a half miles away. As they had refused to believe the explosion had destroyed the reactor, Bryukhanov and Fomin also refused to believe the plant's radiation monitors, whose needles were registering radioactivity off the scale.

"The radiation situation is within normal limits," Bryukhanov informed members of the investigating commission headed by Boris Shcherbina, a deputy prime minister, in the early hours of Saturday morning. According to Medvedev's account, later that day Bryukhanvo did ask Shcherbina's assistant for permission to evacuate Pripyat. Shcherbina's orders were: "Don't start a panic."

On that Saturday, a bright sunny day, there were soccer games in Pripyat. Women gardened. Children played in the sand. Weddings were held. Finally, late Saturday night, Shcherbina gave way to the pleadings of civil-defense officers, and agreed to evacuate Pripyat.

On Sunday afternoon, the city's population of nearly 50,000—plant workers, nuclear engineers, construction workers and their families—boarded 1,100 buses and left. Most thought they would soon return.

Militiamen and soldiers, like Yevgeny Zhuk, whom I met on the streets of Khoiniki this February, were called in to keep order. But the radiation didn't dissuade thieves. "A week after the accident, you could buy a radioactive television at the market in Gomel for a bottle of vodka," recalled my guide Vladimir Tsarenko, a television newsman from Gomel, 80 miles northeast of Chernobyl. As fast as cleanup workers could bury radioactive cars and ambulances, Zhuk added, they were dug up and stripped, the parts taken away for resale. Zhuk shook his head as he spoke, leaning on a cane and smiling sadly.

Zhuk, now 24, was one of the soldiers put to work controlling access to the zone. His comrades buried chunks of radioactive graphite blown out of the reactor, plowed under radioactive topsoil, chopped down contaminated trees and built a "permanent" sarcophagus that is already obsolete. The 600,000 workers, many of them conscripts like Zhuk, were shuttled in and out of fields pulsating with the radioactive elements strontium, cesium, and plutonium.

They came to be called likvidatory, a name drawn from words spoken by Mikhail S. Gorbachev: "Work to liquidate the consequences of the accident now remains the immediate task." Like the village children, more and more of the likvidatory are falling sick.

But, according to Zhuk, whose legs are stiff and whose knees give him constant pain, "the local doctors, they send us away. They want nothing to do with us. I have become a person of no use to anyone."

Gorbachev's immediate response to the Chernobyl disaster was 43 hours of silence. But the enormity of the situation forced his hand: two days after the accident, the radioactive cloud set off alarms in Sweden, compelling him to respond. The first comment was a terse five-sentence announcement by the official Tass news agency on April 28. But 16 days later, Gorbachev went on national television. Although he larded his account of the tragedy with attacks on supposed Western gloating, he spoke with an unusual degree of candor.

In 1986, this was a refreshing contrast with traditional Soviet stone-walling. Western observers viewed Gorbachev's statement as a watershed for his policy of glasnost. But by 1991, the remarks have come to seem breathtakingly inadequate. For the past two years, a reinvigorated national legislature, the Supreme Soviet, has made Chernobyl its first crusade as the country experiments with its ability to question and denounce Gorbachev and his inner circle. The opportunity to ask questions, limited as it may be, has still allowed the Supreme Soviet's commission investigating Chernobyl to uncover two high-level secret government orders: one from 1987 classifying as secret any information on the extent of radiation contamination, and one from 1988 decreeing that no medical diagnosis may connect an illness with radiation exposure. Chernobyl has become a symbol of how closed the openness really was.

"What we had was the prototype of a new policy: limited glasnost. That's still the policy," says Yuri Shcherbak, a doctor and journalist who was galvanized by his own findings about Chernobyl to become a leader of the Ukrainian opposition ecological party Green World. Formed in 1988, when the Ukrainian population began to realize the extent of the deception, Green World is, like its Western counterparts, fervently antinuclear. It is also anti-Communist—its adherents form a vocal minority of the new Ukrainian Rada, or Parliament.

Indeed, Chernobyl was more a turning point for nationalism than for glasnost. Byelorussia and the Ukraine, non-Russian Slavic republics, were once ponderous, predictable supporters of Moscow—unlike the restive, independence-minded Baltic republics or the fiery peoples of the Caucasus. No more. The disaster and its aftermath have been catalysts for political upheaval along the southwestern edge of the Soviet Union.

In the Supreme Soviet, there is a thirst for accountability. Aleksei Yablokov, a scientist who is now vice chairman of the Supreme Soviet's committee on the environment, is leading a parliamentary investigation of the actions of officials like Yuri Izrael, head of the State Committee on Hydrometeorology and Environmental Protection, and Leonid Ilyin, chairman of the National Committee for Radiological Safety.

The parliamentary commission seeks to determine if the silence and lies of the early years resulted from arrogant ignorance or a policy of deceit. Recognizing the limits of parliamentary power—"not everybody obeys the summons of a parliamentary commission," Yablokov says wryly—he has welcomed a parallel investigation by the federal prosecutor's office. The prosecutor is looking for criminal liability.

But where are the victims, on whose behalf so many now speak? One must start looking in the fields and woodlands of western Russia, Byelorussia and the Ukraine, where villages rise up like tiny islands in a vast and empty plain. Along their muddy streets, people wait with angry stoicism as the men with the clicking Geiger counters come and go.

Soviet and American maps trace the current levels of contamination, the active remnants of a far larger group of short-lived radioactive particles that rained down on millions of people in the days immediately following the accident. By far the largest area of persistent contamination was made by cesium 137, one of the longest-lived radioactive elements emitted in the Chernobyl explosion. It was carried on wind high above the ground, and fell where the rain did, along a broad swath of territory from the central Ukraine north across eastern Byelorussia—70 percent of the fallout on Soviet territory landed on Byelorussia. Strontium 90 and plutonium are also long-lived, although they did not spread as far. Altogether, some 13,100 square miles of agricultural land, dotted with small cities, are contaminated with radioactivity at levels of five or more curies per square kilometer. Cesium contamination forced farmers to destroy produce as far away as Lapland, in northern Sweden, and Italy and Wales.

Across the southwestern edge of the Soviet Union, and as far east as Orel, a day's drive south of Moscow, more than four million Soviet citizens live on ground that, while generally clean, has scattered pockets where the radiation is 5 to 20 times the normal background radiation for this area.

"The first clear health effect was essentially on the thyroid," says Zhores Medvedev, a prominent biologist now living in London (no relation to the engineer Grigory Medvedev), who has written a detailed study of the 1986 accident, "The Legacy of Chernobyl."

Thyroid cancer is extremely rare among children. In the United States, according to the Centers for Disease Control, it is almost unknown in people under the age of 25. Yet health officials in Byelorussia reported 19 cases of malignant thyroid cancers in children, including Sasha Danilkin, in 1990. In the Ukraine, there were 21 cases.

The woodlands region of southern Byelorussia and the northern Ukraine have long been known as a "goiter belt," notorious for a lack of iodine in the environment, and for the resulting thyroid abnormalities. Still, health officials say childhood thyroid cancer had never been seen here. But when the accident happened, they say, the children's thyroids, thirsty for any sort of iodine, greedily absorbed the damaging radioactive iodine isotopes that permeated the air for more than two weeks. While no individual case of cancer can be linked to radiation exposure with certainty, most Western experts believe it likely that Sasha Danilkin and other children struggling with thyroid cancer owe their disease to Chernobyl.

Doctors still worry about external doses of radiation, but today, five years later, they are more concerned about the internal doses in people who consume tainted milk, grain and meat.

Both the Ukraine and Byelorussia have established supply lines to get clean produce to the people living in areas where contamination exceeds 15 curies per square kilometer. In Byelorussia, sale of produce from such regions is now punishable under the criminal code. In theory, good food goes in and no bad food comes out.

In practice it doesn't work that way. Refrigerated train cars filled with radioactive meat have turned up in Georgia in the south and Karelia in the north. In Leningrad, Yablokov says, city officials found they had bought tons of mushrooms that they had to discard as radioactive waste. In the contaminated villages I visited—escorted by either Byelorussian government officials or members of the Ukrainian Green World party—everyone said they ate food from their own gardens.

The quarrels among experts who speak only to one another leave the village people feeling like guinea pigs. "We were given dosimeters at work. We wore them for a month. Then they took them away from us and no one told us what dose we received," said Vera Zborovskaya, a 30-year-old combine operator in the Byelorussian village of Dubrovnoye, about 35 miles north of the reactor.

"All these counters, they lie, they lie," cried a querulous group of portly grandmothers, crowding around her in the local bread store, kerchiefed heads wagging and metal teeth flashing.

"I have two children," Zborovskaya said. "I can't get them checked." Her 10-year-old daughter, Oksana, has developed abnormalities in her thyroid gland. Every six months or so, Oksana, like other children in "periodic control zones" is taken away for a month, to the "clean" regions in the north, east or west. "When they come back, I am told they are sick. But here, no one checks their health. There is no doctor here anymore. In Bragin, they put a stamp on a piece of paper and said the kids were examined. They didn't examine them.

But indifference from medical personnel is nothing new. In a country that has few material comforts and public amenities to offer its citizens at the best of times these small areas have the bare minimum—if that.

Roads are narrow and pocked with potholes. Telephones and indoor toilets are a rare luxury. Interiors are warmed by whitewashed peasant ovens (though modern cookstoves are common) that double as hearths and whose broad shelves serve as sleeping nooks. Even barebones Soviet-made cars are a luxury; trucks and motorcycles with sidecars are more common. In some villages, horse-drawn carts with rubber car or tractor tires make their way past women drawing water from wells.

"Our children go to schools here, but there's no heat," said Zborovskaya. "Then they come home and play in the streets. Clearly it's dangerous, since they want us to move out of here. If it's necessary to move out of here, they should have done it right away."

"They," for Zborovskaya, are an amalgam of officials. She doesn't differentiate between the management of her kolkhoz, or collective farm; the regional Communist Party officials in the district center of Bragin to whom they are answerable; the oblast—or county—Party officials in Gomel; the republican government and the associated ministries in Minsk, or the federal Government in Moscow.

There has been talk of resettlement for more than a year; the construction ministry in Minsk cannot come up with the necessary bricks and mortar. "I've seen the place you're to be moved to," my guide, Vladimir Tsarenko, told her. "It's an empty field." Some residents have left, but Vera Zborovskaya and about 90 others stay on.

"I worked as a combine operator this past summer," she said. "We were sent to work in the places left empty when people were resettled. If I refused to go there, I would be

punished. There are no people there, but I am forced to go to work. I cannot check the dose I get. To what end do I harvest contaminated wheat? We feed the cattle with it."

As we drove northward from the Bragin District that evening, a grime-coated caravan of yellow buses passed us, heading southward through the dusk. Tsarenko swiveled his head to look at the blurred facade of metal windows and children's faces.

"They're kids, going back," he said. "The health officials take them away from the contaminated areas for a month at a time, a couple of times a year. They eat clean food, breathe clean air." In a clean environment, the theory goes, the effects of exposure to low-level radiation will be purged from their systems. Then they are taken back home.

In the crowded halls of the Diagnostic Center for Radiation Medicine in Minsk, mothers, their hair covered by scarves, hold the hands of children wearing dark, knitted tights. Young men sit on benches, elbows on knees, eyes downward. Their complaints are the same as those found in any other clinic: listlessness, stomach pains, heart troubles, sore joints or bones. It would be an unremarkable assembly of aches were the patients not likvidatory and residents of contaminated regions.

They are taken to small examining rooms, sometimes given whirlpool baths, sometimes checked out with a British-made whole body scanner that shows the amount of cesium contamination in their bodies.

On the day of my visit to the clinic, the director, Valery Rzheutsky, ticked off on his fingers the illnesses he sees among the exposed population.

"In first place are the diseases of the gastrointestinal tract and the kidneys. This is obviously connected with the intake of radionuclides in people's food. There is an incease, a significant increase." Next in line, he said, come thyroid abnormalities—not necessarily harmful in themselves, but often an indication of future problems. The thyroid, the body's metabolic pacemaker, helps regulate growth and development in children. Rzheutsky describes, in addition, an increase in circulatory system diseases, which are often stress-related.

Reports of childhood leukemia cases sound the loudest warning. An increase in childhood leukemia rates would be a rough indicator of the eventual increase in solid tumors among adults experiencing the same exposure. The Ukrainian Health Minister, Yuri Spizhenko, a blunt and popular figure who replaced the widely distrusted Anatoly Romanenko, said that leukemia rates in the contaminated regions were up sharply in 1990. American experts, including Marvin Goldman, a biologist at the University of California at Davis, say they expect the increase began about two years after the accident (though they don't yet have all the data) and will peak between 1991 and 1993. They say the appearance of other cancers will follow in 5 to 10 years.

Both Rzheutsky and Spizhenko demurred when asked to provide specific figures on leukemia. Rzheutsky said a special delegation from Moscow had taken his only copy of the data. Spizhenko said, "I don't have the figures in my head." Similarly, both were willing to talk about what they saw as an increase in reproductive anomalies—including birth defects, miscarriages and delivery complications—but gave no statistics.

There is sharp divergence among Western experts about the eventual Chernobyl toll. Goldman says the Soviet Union will see between 1,000 and 7,500 new cancers in the next 50 years, a rate he says will be undetectable against a backdrop of hundreds of thousands of cancers that will have occurred anyway. But John Gofman, professor emeritus of biophysics at the University of California at Berkeley, estimates the Chernobyl toll in the Soviet Union will be between 50,000 and 250,000 deaths.

Whatever the number in the Soviet Union, both men agree it will be equaled outside the country, where the doses were lower but the exposed population was far greater.

The effort to get reliable health data is a source of continuing frustration to Westerners working with the Soviets. "They need good epidemiological studies," says Marvin Goldman, who has been working with Soviet health officials. Still, it is clear that people in contaminated zones are living in mine fields.

Morever, with more illness have come fewer doctors. The exodus of doctors from the contaminated regions has left those remaining carrying a heavy workload. "In the woodland regions, we used to have 60 or 70 percent of the doctors we needed. Now we have 30 percent," said Spizhenko. The medical centers in Minsk and Kiev organize periodic visits by a busload of specialists.

"This kind of medicine needs to be very sophisticated," Spizhenko added. "But our doctors are diagnosing things by eye, by ear, by touch, the way they did 100 years ago. We need ultra-sound equipment. We have almost no blood analyzers."

His litany of want echoes Rzheutsky's. The health ministries in Minsk and Kiev and the clinics themselves need donated equipment. But they do not suggest donations be made through charitable or governmental organizations in Moscow. Of the millions of rubles sent to the "Chernobyl Account" in 1986, newspapers in Moscow report, nearly half went to the Ministry of Atomic Energy.

Some charitable efforts have had an impact. German doctors gave money to the Aksakovshchina endocrinology clinic, outside of Minsk, which allowed them to get some medicine that was in short supply. The Children of Chernobyl Relief Fund, a New Jersey-based organization just sent $3 million worth of medicine and medical equipment to a hospital in Lvov. Project HOPE, with the help of the United States Government, recently delivered medicine to hospitals in or near contaminated areas.

Thomas Cochran, a senior scientist at the Natural Resources Defense Council, has established a joint project, collaborating with a Minsk factory that produces handheld dosimeters. Cochran's group donates them to local science teachers who will take courses in their use.

In the West, Chernobyl may evoke powerful feelings of sympathy, but not everyone in the Soviet Union is so moved. For most Soviet citizens, Chernobyl is just one of many environmental disasters—including the contamination, as extensive as Chernobyl's, from the 1957 explosion of a nuclear-waste dump near Chelyabinsk, in the Ural Mountains. But because Chernobyl has a certain cachet, its victims get more aid than some others. And the hard-currency donations from Westerners have aroused envy.

The Parliaments in Minsk and Kiev have passed their own laws concerning the government's obligations to the Chernobyl victims. Although Moscow had established a lifetime "safe" limit of absorbed radiation in a person's lifetime, the Minsk and Kiev legislatures have established that a person has the right to compensation after being exposed to just one-fifth of that amount in his or her lifetime. The cost of this will come to an estimated 3 billion rubles annually for the Ukraine, 3.7 billion rubles annually for Byelorussia, money they hope to get from Moscow. Shcherbak says calculations indicate that before the end of the century, the total cost of Chernobyl will reach 250 billion rubles—the equivalent of about half of current annual expenditures for the entire nation. Among other problems, the concrete and steel sarcophagus that was to entomb the reactor for eternity is already showing extensive wear. In February, the plant's current director confirmed that a new sarcophagus must be constructed.

While the Government struggles to define what is "safe" and how to make people safe, some pay no heed. "I was born here," said Tatyana Leonenka, who came back to her home in Krasnaya Gora two years ago. "I lived here during the war. I lived here till they resettled me. I was not happy there."

"I've been back two years," said her neighbor, 74-year-old Vasily Osipenko. "I'm healthier here than I was where they evacuated us. There's no danger here. I drink, I eat my bread, I keep a cow, I drink her milk, I have pigs."

Between the extremes—those who fear everything and those who fear nothing—people wait. The 5,000 people of Narodichi, 50 miles west of the reactor, are still slowly being moved out. They only recently found out that radioactivity levels on their streets ranged from 15 curies to more than 40 curies per square kilometer.

The village of Nozdrishche is already empty. On the outskirts, authorities have built a barbed-wire fence. It curves between an apple orchard and a hayfield. A sign at the gate warns, "Danger—Radioactive Zone."

The fence offers a pretense of demarcation. The apples on one side are bad, the hay on the other is good. But the fence is rusted, the lock broken. The gate hangs open. Through it, headed toward the distant reactor, a stream of footprints is etched in wet and muddy snow.

Now, in the confusion of a decentralized Soviet Union, the old illusions spawned by the Government are disappearing, but homemade myths arise in their stead. Even if the truth is eventually known, there is little hope it will overtake the stories. In a country of storytellers, Chernobyl has become everyone's story.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,231th day that Terry Anderson has been held captive in Lebanon.

TRIBUTE TO PERRY HUBBARD

Mr. HEFLIN. Mr. President, I rise today to pay tribute to an outstanding Alabamian, a truly great lawyer, and an extraordinary law professor, Perry Hubbard of Tuscaloosa, AL, who recently passed away.

Perry Hubbard was born in Tarrant, AL in 1921. He attended the University of Alabama at Tuscaloosa. Upon completion of his bachelor of science degree in commerce and business administration, he enrolled in the University of Alabama School of Law where his

scholarship was recognized by selection to the forerunner of the Order of the Coif, then known as the Farrah Order of Jurisprudence. After graduation, Perry remained in Tuscaloosa with his lovely wife, Margaret Cannon.

As a young lawyer he became associated with one of the truly outstanding law firms of Alabama—Lemaistre, Clement, and Gewin. This law firm produced a Federal Fifth Circuit Court of Appeals judge and a comptroller of the currency. Perry soon was recognized as one of the outstanding practitioners in the State, a reputation that continued throughout his career. At the time of his death, he was the senior partner in the distinguished law firm of Hubbard, Waldrop, Reynolds, Davis, and McLiwain. He was a lawyer's lawyer, and many attorneys from all over the State turned to him for counsel and association.

His attainments as an attorney and his scholarship attracted the attention of the law school of the University of Alabama where he was asked to be an adjunct professor. He taught at the law school for over 40 years and brought an unusual insight to law students, as many learned from him the nuts and bolts of the practical tools of a law practice. He is remembered by his students for his toughness and demanding expectations. Students came away from his classes with a feel of what it is like to be a practicing, hands-on attorney.

Due to his vast knowledge of the law, Perry Hubbard was asked to be a member of the Advisory Committee on Appellate Rules for both the Fifth Circuit Court of Appeals and the Alabama Supreme Court, where I had the honor and privilege to work with him. He was also a member of the Commerce Executives Club at the University of Alabama, and was a recipient of the University's Tutwiler Award for outstanding service to the university and to the State. He was also very active in his church and the YMCA, where he served several positions of leadership.

Perry Hubbard will be missed dearly by his wife, his children, Perry, Jr., Carolyn, Kathryn, and Edward, as well as his friends, and his students. The State of Alabama is a better place because of the generous contributions Perry Hubbard made to his fellow persons.

A TRIBUTE TO CPL. FREDDIE STOWERS

Mr. THURMOND. Mr. President, I rise today to pay tribute to a true hero, the late Cpl. Freddie Stowers of South Carolina. Corporal Stowers was posthumously awarded the Medal of Honor yesterday in a moving White House ceremony which I was privileged to attend.

Yesterday's ceremony made Corporal Stowers the only black ever to be awarded the Medal of Honor for service in World War I or World War II. Corporal Stowers was killed in the line of duty 73 years ago, and the medal was awarded for "conspicuous gallantry and intrepidity at the risk of his life above and beyond the call of duty."

Mr. President, South Carolina is proud of the contribution of Cpl. Freddie Stowers. He was an outstanding example of courage, determination, and fighting spirit, and he richly deserved this distinguished award.

I would like to take this opportunity to extend my congratulations and best wishes to Corporal Stowers' family, especially his two lovely sisters, Mrs. Mary Bowen of Greenville, SC, and Mrs. Georgianna Palmer of Richmond, CA, on this great honor.

I ask unanimous consent that articles from the Greenville News and the Washington Post be inserted in the RECORD immediately following my remarks.

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

[From the Greenville (SC) News, Apr. 25, 1991]

BUSH PAYS TRIBUTE TO BLACK SOLDIER WHO LED CHARGE

(By Jim DuPlessis)

WASHINGTON.—President Bush presented the Medal of Honor Wednesday to the late Cpl. Freddie Stowers of Sandy Springs, the first black soldier from World War I to receive the nation's highest award for valor in combat.

Stowers' two surviving sisters, Mary Bowen of Greenville and Georgianna Palmer of Richmond, Calif., received the award for Stowers in the East Room of the White House.

Stowers earned the citation Sept. 28, 1918 when he led a squad that destroyed a German machine gun position during the Meuse-Argonne campaign in France, according to the Army. Although he was mortally wounded, Stowers led his squad on toward another entrenched machine gun, which they took after Stowers fell.

"On that September day, Freddie Stowers was alone, far from family and home," Bush said. "He had to be scared, his friends died at his side, but he vanquished his fear and fought, not for glory, but for a cause larger than himself, the cause of liberty."

More than 20 of Stowers' relatives attended the ceremony from across the nation and one, Staff Sgt. Douglas Warren of the New York National Guard, was flown in from the Persian Gulf.

Mrs. Bowen and Mrs. Palmer were seated on either side of First lady Barbara Bush. Defense Secretary Dick Cheney, Gen. Colin Powell, Vice President Dan Quayle, Sen. Strom Thurmond and Rep. Liz Patterson also attended.

Before Stowers' award, no black soldier in either World War I or World War II had received the Medal of Honor. Complaints from members of Congress, who said the lack of awards was due to racism during World War I, led the Army in 1988 to begin researching the records of black soldiers, Army officials said.

Although the investigation of World War I records is complete, World War II records are still under study, Army Undersecretary John Shannon said.

"History has a way of correcting itself," he said.

Stowers was born about 1897 in the Anderson County community of Sandy Springs, the fourth child of Wiley and Annie Stowers, according to the 1910 census. By 1910, his mother had borne 12 chidren, but three had died.

John W. Stowers, a nephew of Freddie Stowers living in Anderson, said the little he knows about the family came from his father, John, who was about three years younger than Freddie. He recalled being told the family worked on large farms outside Anderson and that an uncle died in World War I.

Stowers, 63, who served in the Army Engineers during the Korean War, said he found it incredible that the exploits of an uncle he never knew had been "raised up."

"It's a great thing," he said. "He died for our country."

Stowers joined the Army Oct. 4, 1917 in Williamston, leaving behind his wife, Pearl, and daughter, Minnie Lee, in Sandy Springs. He was assigned to one of the few black regiments that was given a combat role in the war, the 371st Infantry.

Although 400,000 of the 4.35 million Americans in the military during the war were black, only about 40,000 blacks served in the infantry, said an Army spokesman, Lt. Col. Jack Horne.

There were 78 Medals of Honor awarded for World War I by October 1920, six of them to South Carolina soldiers, according to the History of South Carolina edited by Yates Snowden and published that same year.

In addition, 89 South Carolinians had received the Distinguished Service Cross, including six members of the 371st.

Private Burton Holmes of Company C died earning a Distinguished Service Cross on Hill 188 on Sept. 28, the same day Stowers died, according to Snowden's research. He had something else in common with Stowers: He was from Pendleton, a town near Sandy Springs.

Besides Stowers, three other black soldiers in World War I were recommended for the Medal of Honor. The other three were instead given the Distinguished Service Cross, according to Army research.

Horne, the Army spokesman, said the research that led to Stowers medal did not show any uneven treatment of blacks in the awarding of medals of valor. Instead, he said, it was racism that kept most blacks serving in menial non-combat roles.

[From the Washington Post, Apr. 25, 1991]

AT LAST, A BLACK BADGE OF COURAGE

(By Donnie Radcliffe)

The family of Cpl. Freddie Stowers never knew he was a hero. Yesterday, President Bush made Stowers a one-of-a-kind hero: the only black soldier ever to receive the Medal of Honor in either World War I or World War II.

The recognition was 73 years late because of what the Army now concedes was "a mistake." For the long-dead soldier's relatives, the honor was better late than never.

"Yes, I think so," said Stowers's sister, Georgiana Palmer, 88, of Richmond, Calif. She and her sister, Mary Bowens, 77, of Greenville, S.C., received their brother's posthumous medal "for conspicuous gallantry and intrepidity at the risk of his life above and beyond the call of duty" from President Bush at the White House.

"He had to be scared; his friends died at his side. But he vanquished his fear and fought not for glory, but for a cause larger than himself—the cause of liberty," said Bush, describing the 21-year-old Sandy Springs, S.C., soldier's bravery during an attack in the Champagne Merne region west of Paris.

"Today, as we pay tribute to this great soldier, our thoughts continue to be with the men and women of all our wars who valiantly carried the banner of freedom into battle," Bush continued. "They, too, know America would not be the land of the free if it were not also the home of the brave."

The last day of Stowers's life was Sept. 28, 1918, when he led a squad from Company C from the new all-black 371st Infantry Regiment against the Germans.

"Only a few minutes after the fighting began, the enemy stopped firing and enemy troops climbed out of their trenches onto the parapets of the trench, held up their arms and seemed to surrender," Bush told an audience in the East Room that also included Stowers's great-great-nephew, Staff Sgt. Douglas Warren of the 101st Airborne, flown from Saudi Arabia for the occasion.

As Bush recounted that day, "The relieved American forces held their fire, stepped out into the open. As our troops moved forward, the enemy jumped back into their trenches and sprayed our men with a vicious stream of machine gun and mortar fire. The assault annihilated well over 50 percent of Company C. And in the midst of this bloody chaos, Corporal Stowers took charge and bravely led his men forward, destroying their foes."

Although mortally wounded during the attack, Stowers continued to advance, urging his men forward with him until he died. He was buried in the Meuse-Argonne American Cemetery in France and later, according to the Army, was recommended for the Distinguished Service Cross, which his commanding officer subsequently upgraded to Medal of Honor.

Although 127 Medals of Honor were awarded to other U.S. servicemen during World War I, nothing ever came of Stowers's nomination. His family, including his wife and daughter who are now dead, never were told of his heroic deeds.

"Somehow the recommendation got misplaced," Undersecretary of the Army John Shannon said yesterday, denying that the recommendation may have been "misplaced" because Stowers was black.

But Bush told the crowd yesterday that in 1987 then-Rep. Joe Dioguardi and the late Rep. Mickey Leland discovered the Stowers case while conducting other research. "And the Army took up the case," he added.

Bush said that last November the secretaries of the Army and Defense recommended that Cpl. Stowers receive the Medal of Honor, "and I accepted their recommendation enthusiastically."

But according to published reports in 1988, there has been criticism by an Albany, N.Y. historian, Leroy Ramsey, that the U.S. military had neglected to award the Medal of Honor to any of the 1.5 million black soldiers serving in the two world wars. Then-Defense Secretary Frank Carlucci ordered a review, acknowledging the possibility of racial discrimination.

Yesterday, Shannon, a retired Army colonel who described himself as "a soldier who's black—23 years a soldier," said he did not suspect any such racial "monkey business." He said the Army has contracted outside help to search its archives "to determine whether mistakes were made. We found one in Freddie's case, and we'll continue to search to see if we find others."

Shannon, who served in Vietnam, said that while he "personally wondered" why no blacks had been medal recipients in either World War I or II, "being a soldier, I could understand how that could happen. . . . History has a way of correcting itself, particularly with Mother Army."

Georgiana Palmer said she was 14 years old when her brother, one of six children, enlisted in the Army in October 1917 and six months later was sent to France. Like others in his family, he worked on a farm growing cotton and "anything that could be raised," she told reporters after the ceremony.

"He was a nice boy," she said. "He never gave his father any trouble."

Shannon said he flew to Richmond and Greenville to personally interview Stowers's sisters to determine whether the soldier had ever received another award in recognition of his battlefield gallantry. Had that been the case, Stowers would have been ineligible for the Medal of Honor.

Both women shared the stage with Bush and First Lady Barbara Bush, looking out over an audience that included Stowers's relatives, military brass and several redjacketed members of the Tuskegee Airmen of World War II.

"Oh, I felt so happy," Georgiana Palmer said later. "I didn't think that would ever happen to me."

James Bryson, 65, of Rockville, one of the Tuskegee Airmen, said that while the posthumous medal to Stowers "acknowledges the error," nothing will ever "rectify" the Army's mistake.

"It's hard for me to imagine that there were no black men in World War II that didn't deserve the Medal of Honor," Bryson said.

TRIBUTE TO REPRESENTATIVE PAT HARRIS

Mr. THURMOND. Mr. President, I rise today to pay tribute to South Carolina Representative Pat Harris, who recently celebrated his 80th birthday. Representative Harris is a man of intellect, honor, and dedication, and he has served South Carolina well and proudly.

During his 22 years in the General Assembly, Pat Harris has earned quite a reputation. First and foremost, he is known as a fine legislator and a man of great ability. He has represented his district with both skill and determination, and he is universally respected for his accomplishments.

He is also widely known as a man of great compassion. Pat always has time to give advice to a friend or to help out a constituent in trouble, and his colleagues and friends regard him as one of the kindest men they know.

However, one of Representative Harris' most endearing qualities is an irrepressible sense of humor. He can always be depended upon to liven the moment with a joke or story from his vast repertoire, and it is this ability which has made him one of the most popular legislators in our State capital.

Mr. President, I wish Representative Harris well as he enters his 81st year. I am confident that he will continue to serve his constituents with the energy and imagination which characterize all his endeavors, and I look forward to our continuing friendship.

I ask unanimous consent that an article and an editorial from the Anderson Independent be inserted in the RECORD following my remarks.

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

[From the Anderson (SC) Independent, Apr. 19, 1991]

HAPPY BIRTHDAY, MR. PAT

Anderson legislator Pat Harris is 80 years young today. We'd like to add our congratulations to the many he has already received.

It's not everyone who gets a day proclaimed in his honor by the governor, but then there aren't many Pat Harrises out there.

Mr. Pat, as he's known statewide, has served Anderson County well and faithfully for many years. He's been honest, accessible and effective, a combination that's hard to beat. We're proud to know he is representing this county in the General Assembly.

Happy Birthday, Mr. Pat, and we hope you will have many more.

[From the Anderson (SC) Independent, Apr. 20, 1991]

400 WISH HARRIS HAPPY BIRTHDAY

(By Scott Wyman)

CLEMSON.—Some remembered his humorous side, when he tried to outlaw toad licking.

Others recalled his humaneness, his concern for the mentally ill and the aged.

More than 400 people, from the state's top dignitaries to city employees, gathered Thursday night at Clemson's Ramada Inn mainly to honor the man—Rep. Pat Harris—on his 80th birthday.

The soft-spoken Anderson legislator has collected many friends in his 22 years in the General Assembly, building tremendous political clout. Few who gathered at Clemson were even in office when his career in public service began.

Gov. Carroll Campbell began honors at the birthday party by presenting Rep. Harris with the state's highest award, the Order of the Palmetto. Earlier this week the governor declared today Pat Harris day.

"I've known Pat Harris for 20 years, and he is one of the most responsible men in state government I've had the privilege of knowing," Gov. Campbell said. "He is a caring individual and goes out of his way to help people. I'm just glad I could say thank you."

The governor was joined by most of the state's constitutional officers, many current and former legislators and county and city officials in recognizing Rep. Harris, U.S. Sens. Strom Thurmond and Fritz Hollings had planned to attend, but were kept in Washington, D.C. by a lengthy legislative session.

In their tributes to him, his friends honed in on Rep. Harris' characteristic wit.

They recalled how he tells people he is too old to buy green bananas because he doesn't have time to let them ripen. They remembered him twisting with a belly dancer at a fundraiser last year.

"Rep. Pat Harris has slept in the House of Representatives since 1969," said Rep. Marion Carnell, of Ware Shoals, the only member of the House to serve longer than Rep. Harris. "Pat is number two in senility in the House. I mean seniority."

State Sen. John Drummond, of Greenwood, Rep. Harris' longtime roommate while in Columbia, said he promised to lay off the jokes at the dinner, but wondered what would happen to his friend's ego.

Rep. Harris' friends said that humor they loved to remember has been the key to the Anderson Democrat's political success.

In recent years, he has gained the Upstate a psychiatric hospital and a veterans nursing home.

Rep. Harris tried to take the kidding in stride, saying he was ready for the party for his 81st birthday.

"This is a lot of fun," he said. "I think we'll have another one."

TRIBUTE TO THOMAS BOBO

Mr. HEFLIN. Mr. President, I rise today to recognize Dr. Thomas Bobo for the outstanding recognition he recently received. Dr. Bobo serves as the superintendent of the Montgomery County school system and was recently selected by the Alabama PTA as Alabama's outstanding school superintendent.

I have been working with Dr. Bobo from here in Washington for over 12 years and know him to be a conscientious and hard-working individual. He has worked well with the entire Alabama delegation and has been very effective in securing Federal funds for the Montgomery County school system. He is very persuasive and has the strength of his convictions to back his efforts.

Thomas Bobo has worked in the Montgomery County school system for 33 years and was named superintendent in 1986. He has testified before several congressional committees as an advocate for Federal funds for both elementary and secondary education. He has been especially effective in working with chapters 1 and 2 of the Eduction Consolidation Act and in protecting the School Lunch Program in the Agriculture Committee. Over the years, Dr. Bobo has been one of the strongest advocates for increased impact aid for schools which are affected by the presence of military bases and other Government installations.

Thomas Bobo believes strongly in the important role which the PTA can play in each school. He has given parents a voice in almost all levels of planning for the school system and gave the Montgomery County PTA Council an office for the first time in 68 years.

Mr. President, Thomas Bobo is very deserving of the PTA's selection of him as Alabama's outstanding superintendent. He is a hard-working and devoted individual who honestly has the best interests of the children in mind with all his actions. The Montgomery County school system is fortunate to have a leader of his caliber and I join them in congratulating him on his success.

TRIBUTE TO THE UNIVERSITY OF ALABAMA GYMNASTICS TEAMS

Mr. HEFLIN. Mr. President, I rise today to pay tribute to the University of Alabama women's gymnastics team which recently won the NCAA Women's Gymnastics Championship. The Crimson Tide won the title in front of a home crowd at Coleman Coliseum in Tuscaloosa, AL.

This year is the second time in 4 years that the Alabama women's gymnastics team has won the national championship with the first title coming in 1988. Much of the success of the team can be attributed to the hard work of the gymnasts and the talent and dedication of their coach, Sarah Patterson. She has coached the team for 13 years and has taken the Crimson Tide to the final meet in 9 years of the last 10 years. The team has placed sixth or better in each of those years and fourth or better in each year since 1985. She has truly established a dynasty in the world of collegiate gymnastics. Her coaching abilities were recognized when she was recently chosen as the coach of the year for 1991. Mrs. Patterson also received the award in 1988.

Although Alabama finished a close second to Georgia in the Southeastern Conference Championships, they won each of their meets in the regular season. A great testament to the talent assembled on this team is the fact that 7 of the team members won 12 all-American awards in the championships. The gymnasts and the events in which they won all-American honors are as follows: Gina Basile—balance beam; Dana Dobransky—balance beam, floor exercise; Dee Dee Foster—all-around, vault, uneven bars, balance beam, floor exercise; Katherine Kelleher—vault; Kim Masters—vault; Shea McFall—vault; Kara Stilp—floor exercise. In addition, Kim Masters finished eighth and Dee Dee Foster finished second overall.

In addition to their athletic accomplishments, the University of Alabama women's gymnastics team placed Dana Dobransky, Kathrine Kelleher, Shea McFall, and Tina Rinker on the Southeastern Conference academic honor roll.

As an alumni of the University of Alabama and U.S. Senator for the State, I am extremely proud of the women's gymnastics team and of Sarah Patterson. They bring great credit to the university, to the State, and to themselves. Congratulations.

FIVE YEARS AFTER CHERNOBYL

Mr. KASTEN. Mr. President, 5 years ago the world awoke to one of the worst environmental horrors we have ever experienced, the Chernobyl accident.

Unfortunately even today we still do not know how bad that accident was. In fact, the collection of data on environmental contamination in the Soviet Union has been very sketchy, and that data has not been released even to local scientists.

One of the enduring tragedies of this accident is that we do not know how bad the contamination is, what its distribution is, and what effect it is having on our ecosystem.

The Chernobyl accident was one of the events that shook us into realizing how fragile our environment is. The entire world watched and worked to fight this horrible accident.

But we need to do more. I have been working with a number of environmentalists and scientists in this country and in the Soviet Union to promote a better understanding of this environmental catastrophe.

While the radioactive contamination caused by Chernobyl is but one example of the many environmental problems demanding the Soviet Union's—and the world's—attention, the fifth anniversary of this tragedy merits special commemoration. Although the tremendous scale of the disaster is now becoming clear, 5 years after the accident the full extent of the consequences have still not been determined, and much information remains undisclosed.

After operators at the Chernobyl nuclear powerplant performed their deadly experiment on April 26, 1986, radioactive debris was spewed across the countryside and into a wide area of Eastern and Western Europe. At least 31 people were killed and hundreds injured as an immediate consequence of the accident, and medical experts predict tens of thousands more will die prematurely from cancer caused by the radiation. Seventy percent of the fallout on Soviet territory landed on Byelorussia, and according to scientists, nearly one-fifth of all the arable land in that republic is contaminated by excessive radioactivity.

Immediately after the accident, the actual figures of external radiation and environmental contamination were not published. Moreover, as Zhores Medvedev points out, "members of the public—even research laboratories which were not directly concerned with the postaccident decontamination measures—were forbidden to use radiation monitoring equipment." While distribution of foodstuffs from contaminated areas has been officially forbidden, because of food shortages, violations of the rules are increasingly common. Increases in the rates of many kinds of radiation-related illnesses are also being reported.

It is not surprising, then, that public anxiety about contamination of food, drinking water, and arable land is tremendously high, and that government assertions of safety do little to quell the mistrust. I would like to draw your attention today to an initiative that

will do much to help the people of Byelorussia, both in terms of public health and public anxiety.

The Natural Resources Defense Council [NRDC] is cooperating with several groups in the United States and Byelorussia to help citizens take matters into their own hands. Hand-held radiation detectors, produced by an enterprise in Minsk, are being distributed among secondary school science teachers in the most contaminated areas. The teachers will take part in a 5-day training course—not only to learn how to use the instruments, but, more importantly, how to translate the measurements into health risks. For the first time, a wide network of people will have access to a reliable, nongovernment means of assessing the safety of their food and land. The first course is scheduled for May 13–17.

The NRDC project is but one of several fine projects through which interested U.S. citizens can aid victims of the Chernobyl disaster. For more information about this and other opportunities to help, call or write NRDC.

UNANIMOUS CONSENT AGREEMENT—NOMINATIONS TO THE OFFICE OF INSPECTOR GENERAL

Mr. FORD. Mr. President, as if in executive session, I ask unanimous consent that nominations to the Office of Inspector General, excepting the Office of Inspector General for the Central Intelligence Agency, be referred during the 102d Congress in each case to the committee having substantive jurisdiction over the department, agency, or entity, and if and when reported in each case, then to the Committee on Governmental Affairs for not to exceed 20 days.

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

DESIGNATING MAY 1991 AS U.S. SAVINGS BOND MONTH

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Joint Resolution 135, a joint resolution designating May 1991 as U.S. Savings Bond Month, introduced earlier today by Mr. GRAHAM, Mrs. KASSEBAUM, Mr. HOLLINGS, Mr. NUNN, Mr. SANFORD, Mr. LAUTENBERG, Mr. DOMENICI, Mr. DIXON, Mr. JEFFORDS, Mr. COCHRAN, Mr. THURMOND, Mr. MACK, Mr. MURKOWSKI, Mr. DURENBERGER, Mr. DECONCINI, Mr. PACKWOOD, Mr. AKAKA, Mr. BURNS, Mr. DODD, Mr. BOREN, Mr. SIMON, Mr. CHAFEE, Mr. HELMS, Mr. COHEN, Mr. LEVIN, Mr. PRESSLER, Mr. GLENN, Mr. RIEGLE, Mr. MOYNIHAN, Mr. SYMMS, Mr. WALLOP, and Mr. JOHNSTON.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 135) designating May 1991 as "United States Savings Bond Month."

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. GRAHAM. Mr. President, today I have introduced legislation designating May 1991 as U.S. Savings Bond Month.

On April 30, 1941, President Franklin D. Roosevelt asked this Nation to enter "one great partnership for America" and buy Defense Bonds to help finance our Nation's defense efforts. After the United States entered World War II, these bonds became known as war bonds and subsequently savings bonds.

May 1, 1991 marks the 50th anniversary of the U.S. savings bond. Savings bonds are the most widely used savings vehicle in the United States. Since the program's inception, more than $300 billion have been invested in savings bonds, and their popularity continues to grow. Last year alone, Americans purchased in excess of $7 billion, saving the Treasury more than $500 million in debt costs.

Since December 31, 1989, savings bonds have had a new feature. For low- and middle-income taxpayers savings bonds are tax-free if used to pay tuition fees at educational institutions. Thus savings bonds will help millions of Americans finance a college education.

Fifty years ago, savings bonds helped this country fight World War II. Today this program allows Americans to invest in their futures as well as the future of the entire country.

I am pleased to be a part of the effort to commemorate the 50th anniversary of U.S. savings bonds.

Mrs. KASSEBAUM. Mr. President, I am pleased today to support the efforts of my colleague from Florida in introducing a joint resolution to designate May 1991 as U.S. Savings Bond Month.

The rate of private savings in the United States continues to lag behind several of the world's other economic powers. I believe that a high rate of savings is the key to maintaining a sound economy.

Fifty years ago, President Franklin Roosevelt asked Americans to buy defense bonds to help finance the Second World War. The descendants of those bonds became U.S. saving bonds, and today they continue to be the most widely used savings vehicle in the Nation. Last year alone, Americans invested more than $7 billion in these bonds and, as a result, saved the Treasury—and, therefore, the taxpayers—more than $500 million in debt costs.

May 1, 1991, will mark the 50th anniversary of the savings bond. The U.S. Treasury supports efforts to commemorate that event by designating May as U.S. Savings Bond Month, and I am pleased to be a part of that effort.

Mr. DOMENICI. Mr. President, May 1, 1991, marks the 50th anniversary of the U.S. savings bond. I am rising today to recognize the impact that savings bonds have had on the development of our Nation, the incentives they have created for Americans to save, and the mutual trust—between America and Americans—that the U.S. savings bond signifies.

Since our Nation's founding, the sale of U.S. securities has been utilized to carry out the wishes of a unified nation. In 1776, private citizens purchased $27 million in Government bonds in order to finance the Revolution. These bonds were purchased on faith—faith in freedom—without any assurance that the notes would have future value.

This faith was justified. For 200 years the credibility of the U.S. resolve to back Government securities has not been compromised. Each obligation has been paid off in full and on time.

Subsequently, the United States has grown into the greatest democracy in the world. As a nation, we have pooled our resources and beliefs. U.S. savings bonds have been a tool well utilized to promote the collective interests of the people. Just as importantly, however, savings bonds have offered a simple, no risk, incentive to save.

There is a direct link between the savings rate of a nation and the growth of the economy. Investment in long-term growth and confidence in the long-term stability of a nation is a necessary component to that nation's success.

The virtue of thrift, an integral aspect of the U.S. savings bond program, is a part of the wisdom that Benjamin Franklin imparted to America early in its national existence. By setting aside a portion of annual output, the United States acquired the means to push back the frontier, settle the vast central part of the country, forge the instruments of production that enabled the Nation to attain one of the highest standards of living known in the world, and to protect its national interests far beyond its borders.

In the middle 1930's, following the great depression, American's incentives to save, as well as their confidence in financial institutions were shaken. The introduction of the savings bond, specifically patterned to the needs of the ordinary citizen, broadened the base of the public debt by attracting the funds of small savers.

The first U.S. security, the "Series A," was issued in 1935. It was available in popular, low-priced denominations ranging from $25 to $1,000. Since that time, over $300 billion has been invested in U.S. savings bonds and their popularity continues to grow.

U.S. savings bonds have financed exciting national projects—from the purchase of the Louisiana Territory to the

building of the Panama Canal; from the acquisition of Alaska to the completion of the first transcontinental railroad—as well as paying for the heavy costs of our Nation's wars.

Today, savings bonds continue to build security and fulfill dreams. Series EE and HH securities are offered in amounts ranging from $50 up to $10,000. The securities may be purchased at your bank or can be automatically purchased, in small amounts, under the payroll savings plan.

For low- and middle-income Americans, savings bonds are tax-free if used to pay for a college education. In this way savings bonds will help millions of Americans finance a college education, again benefiting the future of our Nation as a whole.

Government securities are designed to offer the opportunity for every American to share in the costs and benefits of the Democratic way of life outlined in the U.S. Constitution. "We the People" is at the heart of each U.S. savings bonds.

Last year, Americans saved the Treasury more than $500 million in debt costs by purchasing over $7 billion in savings bonds. Additionally, savings bonds encourage Americans, as a result of owning stock in their country, to actively participate in United States policy.

The U.S. savings bond is easy to purchase and contains safeguards that protect every investor, large and small. Whether theft, loss, or destruction—your U.S. savings bonds are safe and secure.

Fifty years ago, President Franklin D. Roosevelt invited America to join him in "one great partnership" to help finance the Nation's defense effort. At that time, Americans joined hearts and hands to defeat Hitler. What resulted in addition to this victory, was the birth of the most widely held security in the world.

The PRESIDING OFFICER. The joint resolution 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 joint resolution.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution and its preamble are as follows:

S.J. RES. 135

Whereas it is important to strengthen the national economy by increasing the savings rate of Americans by all possible means;

Whereas, in its 50 year history, the United States Savings Bond Program has fostered new savings by Americans, bringing increased growth to local communities and the national economy;

Whereas United States Savings Bonds have served many of the citizens of this nation by helping them learn how to save or by reinforcing their savings habits;

Whereas many employers participate in the Payroll Savings Plan, affording employees an easy, convenient method to save, creating financial well-being for the employees and their families;

Whereas United States Savings Bonds have proven to be an effective debt-management tool, reducing debt service costs by approximately $70 million per billion dollars sold, or by more than a half billion dollars in 1990; and

Whereas it is appropriate to recognize, on the occasion of its 50th anniversary, the benefits to the national economy that the United States Savings Bonds Program has contributed, and continues to contribute through the 1991 United States Savings Bond campaign: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of May 1991, is designated as "United States Savings Bond Month". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe United States Savings Bond Month with appropriate programs, ceremonies, and activities.

Mr. FORD. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

DESIGNATING MAY 1991 AND MAY 1992 AS ASIAN/PACIFIC AMERICAN HERITAGE MONTH

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 173, a joint resolution to designate May 1991 and May 1992 as Asian/Pacific American Heritage Month, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 173) to designate May 1991 and May 1992 as "Asian/Pacific American Heritage Month."

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 173) was ordered to a third reading, was read the third time, and passed.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

ADDITIONAL USE OF LAND IN MERCED COUNTY, CA

Mr. FORD. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 72, S. 545, a bill to authorize the additional use of land in Merced County, CA.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 545) to authorize the additional use of land in Merced County, California.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Without objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 89

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. BUMPERS, proposes an amendment numbered 89, on page 3, line 6, strike "northeast", and insert in lieu thereof "northwest".

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 89) 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. 545

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

SECTION 1. AUTHORIZATION OF ADDITIONAL USE.

(a) Subject to the requirements of this Act, the county of Merced, California (hereinafter in this Act referred to as the "county") is authorized to permit use of the land described in section 3 (hereinafter in this Act referred to as the "land") for the purposes of an elementary school, notwithstanding the restrictions on use of such land otherwise applicable under the terms of conveyance of such land to the county by the United States.

(b) Except as specified in this Act, this Act shall not increase or diminish the authority or responsibility of the county with respect to the land.

SEC. 2. USE OF LAND FOR ELEMENTARY SCHOOL.

(a) The authority of the county under this Act shall be limited to the authorization of use of the land for an elementary school serving children without regard to their race, creed, color, national origin, physical or mental disability, or sex, operated by a nonsectarian organization on a nonprofit basis and in compliance with all applicable requirements of the laws of the United States and the State of California.

(b) If the county permits use of the land as an elementary school, the county shall include information concerning such use in the biennial reports of the Secretary of the Interior required under the terms of the conveyance of the land to the county by the United States.

(c) Any violation of the provisions of this Act shall be deemed to be breach of the conditions and covenants under which the land was conveyed to the county by the United States, and shall have the same effect, as

provided in the deed, whereby the United States conveyed the land to the county.

SEC. 3. LAND DESCRIPTION.

The land referred to in section 1 is the south 15 acres of the 40 acres located in the northwest quarter of the southwest quarter of section 20, township 7 south, range 13 east, Mount Diablo base line and Meridian of Merced County, California, declared to be surplus property by the United States in action 9-D-Calif-1028 and conveyed to the county by deed recorded in volume 1941 at page 441 of the official records of Merced County, California.

Mr. FORD. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

ORDER FOR STAR PRINT

Mr. FORD. Mr. President, I ask unanimous consent that a star print be made of the legislative activities report of the Senate Labor Committee, Senate Report 102-39, to reflect the changes I now send to the desk.

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

THE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration, en bloc, of Calendar Nos. 70 and 71; that the committee amendments, where appropriate, be agreed to; that the bills be deemed read a third time and passed; and that the motions to reconsider be laid upon the table, en bloc.

Mr. President, I further ask unanimous consent that consideration of these items appear individually in the RECORD with any statements appearing thereon at the appropriate place as though read.

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

EXPANSION OF BOUNDARIES OF SAGUARO NATIONAL MONUMENT

The Senate proceeded to consider the bill (S. 292) to expand the boundaries of the Saguaro National Monument, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Saguaro National Monument Expansion Act of 1991".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that the area generally to the south of the Rincon unit of the Saguaro National Monument contains—

(1) prime Sonoran desert habitat including an exceptionally rich area of Saguaro cactus and palo verde uplands;

(2) an outstanding riparian corridor of large Arizona sycamores and cottonwoods;

(3) important archaeological and cultural sites; and

(4) important habitat for the desert tortoise, gila monster, javelina, and other species of reptiles, mammals, and birds.

(b) PURPOSE.—The purpose of this Act is to authorize the addition of approximately 3,540 acres to the Rincon unit of the Saguaro National Monument in order to protect, preserve, and interpret the monument's resources, and to provide for the education and benefit of the public.

SEC. 3. DEFINITIONS.

As used in this Act, the term—

(1) "expansion area" means the approximately 3,540 acres to be added to the monument pursuant to this Act;

(2) "monument" means the Saguaro National Monument; and

(3) "Secretary" means the Secretary of the Interior.

SEC. 4. EXPANSION OF MONUMENT BOUNDARIES.

(a)(1) IN GENERAL.—The monument boundaries are hereby revised to include the approximately 3,540 acres of lands and interests in land as generally depicted on the map entitled "Saguaro National Monument Enhanced Boundary", numbered 151/91,001-D, and dated September 1990.

(2) The map referred to in paragraph (1) shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(b) ACQUISITION OF LANDS.—The Secretary is authorized to acquire lands and interests in lands within the monument boundary by donation, purchase with donated or appropriated funds, exchange, or transfer from another Federal agency, except that lands or interests therein owned by the State of Arizona or any political subdivision thereof may be acquired only by donation or exchange.

(c) ADMINISTRATION.—Lands and interests in lands acquired pursuant to this Act shall be administered as part of the monument and shall be subject to all laws applicable to the monument.

(d) ADMENDMENT TO GENERAL MANAGEMENT PLAN.—Within one year after the date of enactment of this Act, the Secretary is directed to amend the monument's general management plan with respect to the use and management of the expansion area.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

Mr. DECONCINI. Mr. President, prior to the Senate considering S. 292, a bill to expand the boundaries of Saguaro National Monument, I want to, in the interest of full disclosure, make the body aware of the fact that I belong to a partnership that owns property in the vicinity of Saguaro National Monument. Therefore, I have not been involved in any aspect of the consideration of this legislation in order to avoid any potential misperceptions of a conflict of interest on my part. Accordingly, I will abstain on any vote on the consideration of S. 292. If there is a nonrecorded vote, I request that the record reflect that I abstained from voting on this matter.

Mr. JOHNSTON. Mr. President, on April 23, the Committee on Energy and Natural Resources filed the report to accompany S. 292, the Saguaro National Monument Expansion Act of 1991.

At the time this report was filed, the Congressional Budget Office had not submitted its budget estimate regarding this measure. The committee has since received this communication from the Congressional Budget Office, and I ask unanimous consent that it be printed in the RECORD.

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

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 24, 1991.

Hon. J. BENNETT JOHNSTON, JR.,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 292, The Saguaro National Monument Expansion Act of 1991, as ordered reported by the Senate Committee on Energy and Natural Resources on April 18, 1991. Assuming appropriation of the necessary sums, we estimate that the federal government would spend $16 million to $21 million to implement the bill during fiscal years 1991 and 1992. An additional $200,000 to $300,000 annually would be needed in subsequent years for operating expenses, including payments in lieu of taxes. This bill would not affect direct spending or receipts, and therefore would not affect pay-as-you-go scoring under section 252 of the Budget Enforcement Act of 1990.

S. 292 would modify the boundaries of the Saguaro National Monument to incorporate an additional 3,500 acres in Arizona. The bill would authorize the National Park Service (NPS) to acquire the added property by purchase, donation, or exchange, except that publicly owned property could be acquired only by donation or exchange. Section 5 would authorize the appropriation of whatever sums are necessary to carry out the bill's purposes.

While no formal appraisals of the affected areas have been conducted, CBO estimates that the total cost to purchase all privately owned property at the site would range from $15 million to $20 million. Some portion of these costs may be avoided if the federal government is able to acquire some property by exchange rather than purchase. Additional one-time planning and development costs are not expected to exceed $1 million. Assuming that the necessary amounts are appropriated, most of these expenses would be incurred during fiscal year 1992.

Enactment of this bill would not affect the budgets of state and local governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis, who can be reached at 226-2860.

Sincerely,

ROBERT D. REISCHAUER,
Director.

Mr. MCCAIN. Mr. President, the Senate is considering Senate bill 292 which I introduced earlier this year. This legislation seeks to enlarge and improve the beautiful Saguaro National Monument, located in Tucson, by incorporating adjacent lands of outstanding beauty and superior ecological values.

The expansion plan embodied in the legislation was developed by a coalition of conservation organizations and the affected landowners. This group worked together in a spirit of cooperation and good faith and the expansion plan they developed enjoys unanimous support in Arizona. It was at the request of the coalition, with the support of the Pima County Board of Super-

visors and the city of Tucson, that I first introduced this bill last year. Although the House passed the measures last October, the 101st Congress adjourned before further action could be taken.

Mr. President, the people of Arizona value the outstanding natural resources with which we have been blessed. Saguaro National Monument is one of our finest natural treasures. As stated in the authorizing legislation of 1933, the monument was established to preserve and protect "the exceptional growth of various species of cactuses including the majestic saguaro cactus," helping to preserve this spectacular and well-known symbol of Arizona. The monument is a favorite visiting spot for those seeking to experience our unique desert environment, to enjoy recreational opportunities or simply to get away from it all.

Enactment of Senate bill 292 would authorize the addition of 3,500 acres to the Rincon unit of the monument, an area of 63,000 acres. The proposed addition contains outstanding natural features and would add significantly to the character and integrity of the current monument. The land hosts healthy multiaged saguaro stands which would add ecological diversity to the present unit and is prime habitat for numerous species of reptiles, mammals, and birds typical of the Sonoran desert. Additionally, the area contains important archaelogical and cultural sites.

The bill authorizes the Secretary of the Interior to acquire the land through donation, exchange, or purchase with donated or appropriated funds. The legislation was drafted, in the normal fashion, to provide the Secretary with the widest degree of discretion in acquiring the land. This will enable the Secretary to choose the appropriate timing and means of acquisition in accordance with existing priorities and resources. Considering the fiscal condition of the Federal Government and the limited resources within the Land and Water Conservation Fund, I would certainly expect the exchange option to be the favored means of acquisition.

Previously, Park Service officials have expressed some concern about the plan, citing their desire for an official boundary study before moving forward with expansion. It is critical to understand that the Saguaro expansion area has been extensively studied by respected and distinguished professionals including Dr. Bill Shaw who is with the University of Arizona's School of Renewable and Natural Resources and who is currently working on a contract with the National Park Service; and Dr. Steve Carruthers, a private environmental consultant. Their work should fully answer any questions there might be about the additional acreage.

Again, I would like to thank and congratulate the Saguaro National Monument boundary review negotiating team which has labored so diligently on the expansion plan. Specifically I would like to recognize Russ Butcher of the National Parks and Conservation Association, Dan Campbell and Peter Warren of the Arizona Nature Conservancy, Pat Egbert of the X9 Ranch, Frank Gregg, Ron Hilliard, Mike McNulty, Chris Monson of Rocking K Development, Jim Nathanson of the Pima Trails Association, Jim Norton of the Wilderness Society, Ken Rait of the Sierra Club, Mark Raming, Doug Shakel, Bill Shaw, Luther Probst of the Conservation Association, Arlan Colton and Doug Koppinger of Arizona Open Land Trust, and the others whose time, consideration and care have been so invaluable. They have set an example of cooperation and teamwork and I congratulate them.

I would also like to thank the Senate Energy Committee and the Subcommittee on Public Lands, particularly Senator BUMPERS and Senator WALLOP for holding a hearing on this issue and for their interest and support. Arizona appreciates the committee's interest and assistance on the public lands issues which affect our State so profoundly.

Mr. President, passage of this legislation is important to Arizona and to our National Monument System. We are blessed with a rich natural heritage, a heritage we are very proud of and fiercely determined to protect. As Arizona's population grows it is particularly vital that we preserve natural areas and provide recreational opportunities within or in close proximity to our urban centers. Enactment of the Saguaro National Monument Expansion Act will help us meet that important responsibility to this and to future generations.

As we consider this legislation, Mr. President, I can't help thinking about my friend and my colleague, MORRIS UDALL who announced his plans to retire after 30 years of distinguished service. No one has done more for our natural heritage than Mo. What he means to Arizona and America is well beyond my poor power to express.

On this occasion, however, I would just like to say thank you, Mo Udall, for your vision, for your principles and for gracing the life of our Nation with your service. May those who enjoy Saguaro National Monument and who find refreshment and renewal within its borders, think of you.

I thank all Senators.

The PRESIDING OFFICER. Without objection the unanimous consent request of the acting majority leader is so ordered. The bill is deemed read a third time and passed.

The bill (S. 292), as amended, was passed as follows:

S. 292

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 "Saguaro National Monument Expansion Act of 1991".

SEC. 2 FINDINGS AND PURPOSE.

(a) FINDINGS.–The Congress finds that the area generally to the south of the Rincon unit of the Saguaro National Monument contains–

(1) prime Sonoran desert habitat including an exceptionally rich area of Saguaro cactus and palo verde uplands;

(2) an outstanding riparian corridor of large Arizona sycamores and cottonwoods;

(3) important archaeological and cultural sites; and

(4) important habitat for the desert tortoise, gila monster, javelina, and other species of reptiles, mammals, and birds.

(b) PURPOSE.–The purpose of this Act is to authorize the addition of approximately 3,540 acres to the Rincon unit of the Saguaro National Monument in order to protect, preserve, and interpret the monument's resources, and to provide for the education and benefit of the public.

SEC. 3. DEFINITIONS.

As used in this Act, the term—

(1) "expansion area" means the approximately 3,540 acres to be added to the monument pursuant to this Act;

(2) "monument" means the Saguaro National Monument; and

(3) "Secretary" means the Secretary of the Interior.

SEC. 4. EXPANSION OF MONUMENT BOUNDARIES.

(a)(1) IN GENERAL.–The monument boundaries are hereby revised to include the approximately 3,540 acres of lands and interests in land as generally depicted on the map entitled "Saguaro National Monument Enhanced boundary", numbered 151/91,001—D, and dated September 1990.

(2) The map referred to in paragraph (1) shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(b) ACQUISITION OF LANDS.–The Secretary is authorized to acquire lands and interests in lands within the monument boundary by donation, purchase with donated or appropriated funds, exchange, or transfer from another Federal agency, except that lands or interests therein owned by the State of Arizona or any political subdivision thereof may be acquired only by donation or exchange.

(c) ADMINISTRATION.–Lands and interests in lands acquired pursuant to this Act shall be administered as part of the monument and shall be subject to all laws applicable to the monument.

(d) ADMENDMENT TO GENBERAL MANAGEMENT PLAN.–Within one year after the date of enactment of this Act, the Secretary is directed to amend the monument's general management plan with respect to the use and management of the expansion area.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

ADDITION TO MORRISTOWN NATIONAL HISTORICAL PARK

The bill (S. 363) to authorize the addition of 15 acres to Morristown National Historical Park, was considered, ordered to be engrossed for a third read-

ing, deemed read the third time, and passed; as follows:

S. 363

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

SECTION 1. ADDITION TO PARK.

The Act entitled "An Act to authorize the addition of lands to Morristown National Historical Park in the State of New Jersey, and for other purposes", approved September 18, 1964 (16 U.S.C. 409g), is amended by striking "600" each place it appears and inserting "615".

Mr. JOHNSTON. Mr. President, on April 23, the Committee on Energy and Natural Resources filed the report to accompany S. 363, a bill to authorize the addition of 15 acres to Morristown National Historical Park.

At the time this report was filed, the Congressional Budget Office had not submitted its budget estimate regarding this measure. The committee has since received this communication from the Congressional Budget Office, and I ask unanimous consent that it be printed in the RECORD.

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

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 24, 1991.

Hon. J. BENNETT JOHNSTON, JR.,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 363, a bill to authorize the addition of 15 acres to Morristown National Historical Park, as ordered reported by the Senate Committee on Energy and Natural Resources on April 18, 1991.

S. 363 would authorize the National Park Service (NPS) to purchase an additonal 15 acres for the Morristown National Historical Park in New Jersey. The additional acreage is estimated to cost $585,000, the amount provided for this purpose in the Department of the Interior and Related Agencies Appropriations Act, 1991. Enactment of S. 363 would enable the NPS to purchase the land in fiscal year 1991. Subsequent expenditures to manage, develop and operate the new property are not expected to be significant.

This bill would not affect direct spending or receipts, and therefore would not affect pay-as-you-go scoring under section 252 of the Budget Enforcement Act of 1990. The enactment of S. 363 would have no impact on the budgets of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis, who can be reached at 226-2860.

Sincerely,

ROBERT D. REISCHAUER.

Mr. LAUTENBERG. Mr. President, I rise to support S. 363 which authorizes the addition of 15 acres to the Morristown National Historical Park.

Mr. President, Morristown National Historical Park was created in 1933 to preserve lands and artifacts associated with the 1779-80 winter encampments of Gen. George Washington and the Continental Army. It was at Morristown that General Washington received news of Benedict Arnold's treason at West Point. Furthermore, the Park Service recognizes the campsites at the park's Jockey Hollow division as one of the largest collections of winter encampment troop remains to survive anywhere.

Mr. President, last year, at my request, Congress provided $585,000 so that the National Park Service could acquire the Sterling North property and include it as part of the Jockey Hollow division of Morristown NHP. This acquisition is a good investment for the Federal Government for it preserves both an important piece of our Nation's history and a critical piece of our environment. The property not only was a major campsite for the Continental Army during the winter of 1779-80, but it also contains Primrose Brook which plays a major role in the ecology of the Great Swamp National Wildlife Refuge.

Mr. President, this acquisition is supported by numerous environmental groups in my State and the Washington Association of New Jersey, which has direct, legal ties to the park. The Park Service in stating its support for this project states that it "possesses great potential for preserving archaeological resources and for providing historical information on the winter encampment of the Continental Army."

As I stated earlier Mr. President, Congress has already granted my request for funding for this acquisition. I am grateful to Senator BRADLEY for the assistance he has provided by introducing this authorizing legislation that expands the park's boundaries and allows the Park Service to spend the money on this acquisition.

AUTHORIZING USE OF THE CAPITOL GROUNDS

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 138, a concurrent resolution to allow the use of the Capitol grounds on May 1, 1991, now at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 138) authorizing the presentation of a program on the Capitol grounds in connection with National Physical Fitness and Sports Month.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 138) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

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

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I ask unanimous consent that Senate Concurrent Resolution 29 be returned to the calendar.

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

MESSAGES FROM THE HOUSE

At 11:43 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 following joint resolutions, without amendment:

S.J. Res. 98. Joint resolution to express appreciation for the benefit brought to the Nation by Amtrak during its 20 years of existence; and

S.J. Res. 102. Joint resolution designating the second week in May 1991 as "National Tourism Week."

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 31. Concurrent resolution providing for a conditional recess or adjournment of the Senate from Thursday, April 25, 1991, or Friday, April 26, 1991, until May 6, 1991, or Tuesday, May 7, 1991.

The message further announced that the House has passed the following bills and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 427. An act to disclaim any interests of the United States in certain lands on San Juan Island, Washington, and for other purposes;

H.R. 690. An act to authorize the National Park Service to acquire and manage the Mary McLeod Bethune Council House National Historic Site, and for other purposes;

H.R. 749. An act to authorize the Secretary of the Interior to accept a donation of land for addition to the Ocmulgee National Monument in the State of Georgia;

H.J. Res. 154. Joint resolution designating the month of May 1991, as "National Foster Care Month"; and

H.J. Res. 173. Joint resolution to designate May 1991 and May 1992 as "Asian/Pacific American Heritage Month."

The message also announced that the House has agreed to the following concurrent resolution; in which it requests the concurrence of the Senate:

H. Con. Res. 138. Concurrent resolution authorizing the presentation of a program on the Capitol Grounds in connection with National Physical Fitness and Sports Month.

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker has signed the following enrolled bill and joint resolutions:

H.R. 598. An act 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, to authorize collective bargaining over conditions of employment for health care employees of

the Department of Veterans Affairs, and for other purposes;

S.J. Res. 98. Joint resolution to express appreciation for the benefit brought to the Nation by Amtrak during its 20 years of existence; and

S.J. Res. 102. Joint resolution designating the second week in May 1991 as "National Tourism Week."

The enrolled bill and joint resolutions were subsequently signed by the President pro tempore [Mr. BYRD].

MEASURES REFERRED

The following bills and joint resolutions were read the first and second times by unanimous consent, and referred as indicated:

H.R. 427. An act to disclaim any interests of the United States in certain lands on San Juan Island, Washington, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 690. An act to authorize the National Park Service to acquire and manage the Mary McLeod Bethune Council House National Historic Site, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 749. An act to authorize the Secretary of the Interior to accept a donation of land for additional to the Ocmulgee National Monument in the State of Georgia; to the Committee on Energy and Natural Resources.

H.J. Res. 154. Joint resolution designating the month of May 1991, as "National Foster Care Month"; to the Committee on the Judiciary.

H.J. Res. 173. Joint resolution to designate May 1991 and May 1992 as "Asian/Pacific American Heritage Month."

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-1001. A communication from the Chief of the Forest Service, Department of Agriculture, transmitting, pursuant to law, the Wildlife Rehabilitation Report for lands administered by the Department of Agriculture for calendar year 1990; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1002. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, Presidential certifications for Pakistan under the Foreign Operations, Export Financing, and Related Program Act of Fiscal Years 1991; to the Committee on Appropriations.

EC-1003. A communication from the Secretary of Defense, transmitting, pursuant to law, a report on Allied Contributions to the Common Defense; to the Committee on Armed Services.

EC-1004. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation to authorize the transfer, by foreign military sale, of a specified naval landing ship dock to the Government of Mexico; to the Committee on Armed Services.

EC-1005. A communication from the Assistant Secretary of the Army (Research, Development, and Acquisition), transmitting a draft of proposed legislation to authorize the use of annual Department of Defense appropriations for payments under equipment operation and equipment maintenance contracts that cross fiscal years; to the Committee on Armed Services.

EC-1006. A communication from the Chairman of the National Credit Union Administration, transmitting, pursuant to law, the annual report of the National Credit Union Administration for 1990; to the Committee on Banking, Housing, and Urban Affairs.

EC-1007. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the consolidated annual report on the community development programs administered by the Department for 1991; to the Committee on Banking, Housing, and Urban Affairs.

EC-1008. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the annual report on the administration of the Interstate Land Sales Full Disclosure Act for 1991: to the Committee on Banking, Housing, and Urban Affairs.

EC-1009. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on the Dire Emergency Supplemental Appropriations for fiscal year 1991; to the Committee on the Budget.

EC-1010. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on pay-as-you-go calculations; to the Committee on the Budget.

EC-1011. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on pay-as-you-go calculations; to the Committee on the Budget.

EC-1012. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report on implementation of the Coast Guard Environmental Compliance and Restoration Program for fiscal year 1990; to the Committee on Commerce, Science, and Transportation.

EC-1013. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the 1991 report on the activities of the National Space Grant College and Fellowship Program; to the Committee on Commerce, Science, and Transportation.

EC-1014. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report concerning the establishment of a plan for closing existing gaps in radar coverage along the coastline of the United States and the Gulf of Mexico and the coastline of the southeastern United States on the Atlantic Ocean; to the Committee on Commerce, Science, and Transportation.

EC-1015. A communication from the Assistant Secretary of Energy (Fossil Energy), transmitting, pursuant to law, a report regarding recommended sites for the storage of the additional 250 million barrel increment of the Strategic Petroleum Reserve; to the Committee on Energy and Natural Resources.

EC-1016. A communication from the Assistant Secretary of Energy (Fossil Energy), transmitting, pursuant to law, a report entitled "Report to the Congress on Candidate Sites for Expansion of the Strategic Petroleum Reserve to One Billion Barrels"; to the Committee on Energy and Natural Resources.

EC-1017. A communication from the Director of the Office of Civilian Radioactive Waste Management, transmitting, pursuant to law, the annual report on the activities of the Office of Civilian Radioactive Waste Management for calendar year 1990; pursuant to P.L. 97-425, referred jointly to the Committee on Environment and Public Works.

EC-1018. A communication from the Chairman of the Inland Water ways Users Board, transmitting, pursuant to law, the annual report on the activities of the Board for calendar year 1990; to the Committee on Environment and Public Works.

EC-1019. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report on the leadership of the Citizens Democracy Corps; to the Committee on Foreign Relations.

EC-1020. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting a draft of proposed legislation to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that Act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and redesignate that Act as the Defense Trade and Export Control Act, to authorize appropriations for international cooperation programs for fiscal years 1992 and 1993, and for other purposes; to the Committee on Foreign Relations.

EC-1021. A communication from the Head of the Personnel Benefits Section, Naval Military Personnel Command, transmitting, pursuant to law, the annual report on the Navy Nonappropriated Fund Retirement Plan of Employees of Civilian Morale, Welfare and Recreation; to the Committee on Governmental Affairs.

EC-1022. A communication from the Commissioner of Navajo and Hopi Indian Relocation, transmitting a draft of proposed legislation to reauthorize appropriations for the Navajo and Hopi Relocation Commission; to the Select Committee on Indian Affairs.

EC-1023. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on health services provided under an agreement between the Indian Health Service and the Department of Veterans Affairs; to the Select Committee on Indian Affairs.

EC-1024. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to extend the authorizations of appropriations under the Native American Programs Act of 1974; to the Select Committee on Indian Affairs.

EC-1025. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to amend section 914 of title 17, United States Code, regarding interim protection orders; to the Committee on the Judiciary.

EC-1026. A communication from the Special Counsel, transmitting, pursuant to law, the annual report of the Office of Special Counsel under the Freedom of Information Act for calendar year 1990; to the Committee on the Judiciary.

EC-1027. A communication from the Assistant Attorney General (Legislative Affairs), transmitting a draft of proposed legislation to facilitate undercover "sting" investigations involving traffickers and receivers of stolen and counterfeited property; to the Committee on the Judiciary.

EC-1028. A communication from the Secretary of Labor, transmitting a draft of proposed legislation to provide for the Commis-

sioner of Labor Statistics to be classified as Executive Level IV, and for other purposes; to the Committee on Labor and Human Resources.

EC-1029. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the twenty-fourth annual report of the United States-Japan Cooperative Medical Science Program; to the Committee on Labor and Human Resources.

EC-1030. A communication from the President of the United States Institute of Peace, transmitting, pursuant to law, the audit of the Institute's accounts for fiscal year 1990; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 279. A bill to amend the Motor Vehicle Information and Cost Savings Act to require new standards for corporate average fuel economy, and for other purposes (Rept. No. 102-48).

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 119. A bill for the relief of Fanie Pohily Mateo Angeles (Rept. No. 102-49).

S. 159. A bill for the relief of Maria Erica Bartski (Rept. No. 102-50).

S. 295. A bill for the relief of Mary P. Carlton and Lee Alan Tan (Rept. No. 102-51).

S. 464. A bill for the relief of John Gabriel Robledo-Gomez Dunn (Rept. No. 102-52).

By Mr. PELL, from the Committee on Foreign Relations:

Report to accompany the bill (S. 100) to set forth United States policy toward Central America and to assist the economic recovery and development of that region (Rept. No. 102-53).

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. INOUYE:

S. 932. A bill to include the Territory of American Samoa in the Supplemental Security Income Program; to the Committee on Finance.

By Mr. METZENBAUM:

S. 933. A bill to provide fair funds to consumers of natural gas who are found to have been overcharged; to the Committee on Energy and Natural Resources.

By Mr. BUMPERS:

S. 934. A bill to amend the Internal Revenue Code of 1986 to increase to 50 percent and extend for 1 year the deduction for health insurance for self-employed individuals; to the Committee on Finance.

By Mr. KOHL:

S. 935. A bill to amend title 11, United States Code, to provide that certain liens under a marital property settlement may not be exempted; to the Committee on the Judiciary.

By Mr. BAUCUS:

S. 936. A bill to amend the Internal Revenue Code of 1986 to reduce compliance costs and administrative burdens in connection with foreign taxes, and for other purposes; to the Committee on Finance.

By Mr. LOTT:

S. 937. A bill to suspend temporarily the duty on mandelic acid; to the Committee on Finance.

S. 938. A bill to suspend temporarily the duty on phenyl hydrazine; to the Committee on Finance.

By Mr. DURENBERGER (for himself and Mr. CHAFEE):

S. 939. A bill to amend the Solid Waste Disposal Act to establish a ground water protection policy; to the Committee on Environment and Public Works.

By Mr. LIEBERMAN:

S. 940. A bill to provide for the economic growth and industrial revitalization of the United States by establishing tax-exempt industrial recapitalization funds for manufacturing industries, by providing investment and savings incentives, and by purposes; to the Committee on Finance.

By Mr. INOUYE:

S. 941. A bill to provide for the establishment of a National Center for Youth Development within the Cooperative Extension Service to conduct activities to improve community-based adolescent health promotion and education in rural areas, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. HOLLINGS (for himself, Mr. THURMOND, Mr. SANFORD, and Mr. HELMS):

S. 942. A bill to amend the natural resource development program of the Small Business Act to require that priority be given to planting trees under the program on State lands devastated by disaster or where tree loss is causing environmental damage; to the Committee on Small Business.

S. 943. A bill to amend the America the Beautiful Act of 1990 to target tree planting funds for those areas devastated by disaster or where tree loss is causing environmental damage; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. REID:

S. 944. A bill to provide for accountability with regard to environmental compliance and to provide notice and an opportunity to comment on designations of special use airspace; to the Committee on Environment and Public Works.

By Mr. GLENN:

S. 945. A bill to require the Secretary of Energy to conduct a fuel cell research and development program, to establish a national transportation fuel blend requirement, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. STEVENS (for himself and Mr. PRYOR):

S. 946. A bill to amend title 39 to reduce the time to consider changes in postal rates; to the Committee on Governmental Affairs.

S. 947. A bill to amend title 39 to provide judicial standing to the Postal Rate Commission; to the Committee on Governmental Affairs.

S. 948. A bill to amend title 39 to increase the information available to the Postal Rate Commission; to the Committee on Government Affairs.

S. 949. A bill to amend title 39 to provide for reasonable classes and rates for mail and postal services; to the Committee on Governmental Affairs.

By Mr. STEVENS:

S. 950. A bill to prohibit geographic discrimination in secondary mortgage market operations; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DECONCINI:

S. 951. A bill to provide financial assistance for programs for the prevention, identification, and treatment of elder abuse, neglect, and exploitation, to establish a National Center on Elder Abuse, and for other purposes; to the Committee on Labor and Human Resource.

By Mr. BRYAN:

S. 952. A bill to authorize construction of a National Weather Service facility by the Administrator of the National Oceanic and Atmospheric Administration; to the Committee on Commerce, Science, and Transportation.

By Mr. ROTH (for himself, Mr. GARN, and Mr. SANFORD):

S. 953. A bill to modify the Qualified Thrift Lender Test, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 954. A bill to amend the Internal Revenue Code of 1986 to modify the determination of eligible basis in difficult development areas for the low-income housing credit; to the Committee on Finance.

By Mr. COHEN (for himself and Mr. GRASSLEY):

S. 955. A bill to amend the Federal Deposit Insurance Act to require States in which the failure of State savings associations has involved a disproportionately large share of the thrift resolution costs, including costs incurred by the Resolution Trust Corporation, to pay a State thrift deposit insurance premium as a condition of future Federal deposit insurance; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. PELL (by request):

S. 956. A bill to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that Act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and redesignate that Act as the Defense Trade and Export Control Act, to authorize appropriations for international cooperation programs for fiscal years 1992 and 1993, and for other purposes; to the Committee on Foreign Relations.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 957. A bill to direct the Secretary of the Interior to conduct a study of the feasibility of including Revere Beach, located in the City of Revere, Massachusetts, in the National Park System; to the Committee on Energy and Natural Resources.

By Mr. THURMOND (for himself, Mr. WARNER, Mr. BENTSEN, Mr. HOLLINGS, Mr. LOTT, and Mr. SANFORD):

S. 958. A bill to amend title 32, United States Code, to authorize Federal support of State defense forces; to the Committee on Armed Services.

By Mr. WARNER (for himself and Mr. ROBB):

S. 959. A bill to establish a commission to commemorate the 250th anniversary of the birth of Thomas Jefferson; to the Committee on the Judiciary.

By Mr. STEVENS (for himself, Mr. INOUYE, Mr. MURKOWSKI, and Mr. AKAKA):

S. 960. A bill to amend chapter 57 of title 5, United States Code, to provide that reimbursement for certain travel expenses related to relocation of Federal employees shall apply to all stations within the United States; to the Committee on Governmental Affairs.

By Mr. CHAFEE:

S. 961. A bill to require that Federal buildings be managed in a manner that will im-

prove energy conservation and efficiency, and for other purposes; to the Committee on Environment and Public Works.

By Mr. INOUYE:

S. 962. A bill to make permanent the legislative reinstatement, following the decision of Duro against Reina (58 U.S.L.W. 4643, May 29, 1990), of the power of Indian tribes to exercise criminal jurisdiction over Indians; to the Select Committee on Indian Affairs.

S. 963. A bill to confirm the jurisdictional authority of tribal governments in Indian country; to the Committee on Indian Affairs.

By Mr. McCAIN:

S. 964. A bill to establish a Social Security Notch Fairness Investigatory Commission; to the Committee on Finance.

By Mr. MOYNIHAN (for himself, Mr. SYMMS, Mr. BURDICK, Mr. CHAFEE, and Mr. LAUTENBERG):

S. 965. A bill to amend title 23 United States Code and for other purposes; to the Committee on Environment and Public Works.

By Mr. HARKIN (for himself, Mr. PACKWOOD, Mr. HATFIELD, Ms. MIKULSKI, Mr. SIMON, Mr. CRANSTON, and Mr. LIEBERMAN):

S. 966. A bill to amend the Public Health Service Act to provide for the development and operation of centers to conduct research with respect to contraception and centers to conduct research with respect to infertility, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DECONCINI:

S. 967. A bill providing for 14-year extension of the patent for the badge of American Legion Auxiliary; to the Committee on the Judiciary.

S. 968. A bill providing for a 14-year extension of the patent for the badge of the Sons of the American Legion; to the Committee on the Judiciary.

S. 969. A bill providing for a 14-year extension of the patent for the badge of the American Legion; to the Committee on the Judiciary.

By Mr. GRASSLEY:

S. 970. A bill to reduce the column 1-general rate of duty on piperonyl butoxide [PBO]; to the Committee on Finance.

By Mr. DECONCINI (for himself and Mr. GORTON):

S. 971. A bill to promote the development of microenterprises in developing countries; to the Committee on Foreign Relations.

By Mr. BRADLEY (for himself, Mr. JOHNSTON, and Mr. KERREY):

S. 972. A bill to amend the Social Security Act to add a new title under such act to provide assistance to States in providing services to support informal caregivers of individuals with functional limitations; to the Committee on Finance.

By Mr. ADAMS (for himself, Mr. GRAHAM, Mr. PRYOR, Mr. BURDICK, and Mr. DODD):

S. 973. A bill to amend the Older Americans Act of 1965 to provide congregate nutrition services and intergenerational activities in elementary school facilities, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ADAMS (for Mr. PRYOR (for himself, Mr. BRADLEY, Mr. BURDICK, Mr. GRAHAM, Mr. HATFIELD, Mr. HEFLIN, Mr. KOHL, Mr. REID, Mr. SHELBY, Mr. WALLOP, Mr. INOUYE, Mr. DECONCINI, Mr. SANFORD, Mr. COHEN, Mr. GORTON, Mr. ROCKEFELLER, Mr. STEVENS, Mr. GLENN, Mr. BREAUX, Mr. RIEGLE, Mr. McCAIN, Mr. JOHNSTON, and Mr. PRESSLER):

S. 974. A bill to improve the Older Americans Act of 1965, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BAUCUS (for himself and Mr. CHAFEE):

S. 975. A bill to amend section 9508 of chapter 98 of subchapter A of the Internal Revenue Code; to the Committee on Finance.

By Mr. BAUCUS (for himself, Mr. CHAFEE, and Mr. BURDICK):

S. 976. A bill entitled the "Resource Conservation and Recovery Act Amendments of 1991"; to the Committee on Environment and Public Works.

By Mr D'AMATO (for himself and Mr. MOYNIHAN):

S. 977. A bill to require the Secretary of Housing and Urban Development to promulgate regulations requiring smoke detection devices in residential dwelling units financed or assisted by any Department of Housing and Urban Development program; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SYMMS (for himself, Mr. CRAIG, Mr. MACK, and Mr. HELMS):

S. 978. A bill to amend the Internal Revenue Code of 1986 to deposit all highway-related taxes in the highway trust fund; to the Committee on Finance.

By Mr. BINGAMAN (for himself, Mr. JOHNSTON, and Mr. DOMENICI):

S. 979. A bill to provide for strong Department of Energy support of research and development of technologies identified in the most recent national critical technologies report as critical to United States economic prosperity and national security, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 980. A bill to provide for a coordinated Federal research and development program to ensure continued United States technological leadership in the development of advanced materials, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. PELL:

S. 981. A bill to amend the Internal Revenue Code of 1986 with respect to the public financing of Presidential elections campaigns; to the Committee on Finance.

By Mr. CHAFEE:

S. 982. A bill to amend the Solid Waste Disposal Act to clarify the Environmental Protection Agency's authority to regulate hazardous waste recycling, and for other purposes; to the Committee on Environment and Public Works.

By Mr. McCONNELL (for himself, Mr. THURMOND, Mr. GRASSLEY, Mr. SPECTER, Mr. GORTON, Mr. PACKWOOD, Mr. McCAIN, and Mr. COATS):

S. 983. A bill to provide a cause of action for victims of sexual abuse, rape, and murder, against producers and distributors of pornographic material; to the Committee on the Judiciary.

By Mr. BOREN:

S. 984. A bill entitled the "International Pollution Deterrence Act of 1991."

By Mr. SIMON (for himself and Mrs. KASSEBAUM):

S. 985. A bill to assure the people of the Horn of Africa the right to food and the other basic necessities of life and to promote peace and development in the region; to the Committee on Foreign Relations.

By Mr. LUGAR:

S.J. Res. 131. Joint resolution designating October 1991 as "National Down Syndrome Awareness Month;" to the Committee on the Judiciary.

By Mr. LAUTENBERG (for himself, Mr. WARNER, Mr. BIDEN, Mr. BRADLEY, Mr. BROWN, Mr. BUMPERS, Mr. BURDICK, Mr. BURNS, Mr. CHAFEE, Mr. COCHRAN, Mr. CONRAD, Mr. CRAIG, Mr. CRANSTON, Mr. D'AMATO, Mr. DASCHLE, Mr. DECONCINI, Mr. DODD, Mr. DOLE, Mr. DURENBERGER, Mr. EXON, Mr. FOWLER, Mr. GLENN, Mr. GORE, Mr. GORTON, Mr. GRAHAM, Mr. HATCH, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KASTEN, Mr. KENNEDY, Mr. KERRY, Mr. LEVIN, Mr. LIEBERMAN, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. PACKWOOD, Mr. PELL, Mr. PRESSLER, Mr. REID, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANFORD, Mr. SARBANES, Mr. SASSER, Mr. SEYMOUR, Mr. SHELBY, Mr. SPECTER, and Mr. THURMOND):

S.J. Res. 132. Joint resolution to designate the week of October 13, 1991, through October 19, 1991, as "National Radon Action Week;" to the Committee on the Judiciary.

By Mr. HOLLINGS (for himself, Mr. KENNEDY, Mr. DODD, Mr. ADAMS, Mr. SHELBY, Mr. GLENN, Mr. JEFFORDS, Mr. PRYOR, Mr. SEYMOUR, Mr. BREAUX, Mr. PELL, and Mr. GORE):

S.J. Res. 133. Joint resolution in recognition of the 20th anniversary of the National Cancer Act of 1971 and the over 7 million survivors of cancer alive today because of cancer research; to the Committee on Labor and Human Resources.

By Mr. BENTSEN:

S.J. Res. 134. Joint resolution designating May 22, 1991, as "National Desert Storm Reservists Day;" to the Committee on the Judiciary.

By Mr. GRAHAM (for himself, Mrs. KASSEBAUM, Mr. HOLLINGS, Mr. NUNN, Mr. SANFORD, Mr. LAUTENBERG, Mr. DOMENICI, Mr. DIXON, Mr. JEFFORDS, Mr. COCHRAN, Mr. THURMOND, Mr. MACK, Mr. MURKOWSKI, Mr. DURENBERGER, Mr. DECONCINI, Mr. PACKWOOD, Mr. AKAKA, Mr. BURNS, Mr. DODD, Mr. BOREN, Mr. SIMON, Mr. CHAFEE, Mr. HELMS, Mr. COHEN, Mr. LEVIN, Mr. PRESSLER, Mr. GLENN, Mr. RIEGLE, Mr. MOYNIHAN, Mr. SYMMS, Mr. WALLOP, and Mr. JOHNSTON):

S.J. Res. 135. Joint resolution designating May 1991 as "United States Savings Bond Month;" considered and passed.

By Mr. RIEGLE (for himself and Mr. SMITH):

S.J. Res. 136. Joint resolution to authorize the display of the POW-MIA flag on flagstaffs at the national cemeteries of the United States, and for other purposes; to the Committee on Veterans' Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. KASSEBAUM (for herself and Mr. SIMON):

S. Res. 115. Resolution expressing the sense of the Senate regarding the emergency humanitarian and political situation in Somalia; to the Committee on Foreign Relations.

By Mr. ROTH (for himself, Mr. DASCHLE, Mr. PACKWOOD, Mr. McCAIN, Mr. SYMMS, Mr. MURKOWSKI, Mr. BOREN, Mr. MOYNIHAN, Mr. DAN-

FORTH, Mr. GRAHAM, Mr. GORTON, Mr. HEFLIN, Mr. DOLE, Mr. COHEN, Mr. DODD, Mr. RUDMAN, Mr. SANFORD, Mr. JOHNSTON, Mr. ROCKEFELLER, Mr. WALLOP, Mr. GORE, Mr. INOUYE, Mr. LIEBERMAN, Mr. COCHRAN, Mr. GRASSLEY, Mr. SIMON, Mr. LUGAR, Mr. COATS, Mr. HELMS, Mr. DIXON, Mr. MACK, and Mr. DURENBERGER):

S. Res. 116. Resolution to express the sense of the Senate in support of Taiwan's membership in the General Agreement on Tariffs and Trade; to the Committee on Finance.

By Mr. DOLE (for himself, Mr. BOREN, Mr. CONRAD, Mr. GRASSLEY, and Mr. HARKIN):

S. Res. 117. Resolution to express the sense of the Senate that the administration should expeditiously and prudently act upon the Soviet Union's request for agricultural export credit guarantees from the United States to facilitate the sale of food and feed products in accordance with the emergency needs of the Soviet people, provided certain conditions are met; ordered held at the desk.

By Mr. MCCAIN (for himself, Mr. DOLE, Mr. GRAMM, Mr. LUGAR, Mr. COHEN, Mrs. KASSEBAUM, Mr. MURKOWSKI, Mr. BROWN, Mr. ROBB, Mr. GORE, Mr. CRANSTON, Mr. PELL, Mr. DODD, Mr. KERRY, Mr. KERREY, and Mr. BIDEN):

S. Res. 118. Resolution commending the agreement for the establishment of an American POW-MIA office in Hanoi, Vietnam, and recommending that such office be authorized to serve as a liaison between the families of Americans missing in action and the Government of Vietnam; to the Committee on Foreign Relations.

By Mr. DIXON:

S. Con. Res. 32. Concurrent resolution to grant the President appropriations line item review authority and to establish a question hour for Executive officials in the Senate and the House of Representatives.

By Mr. BURNS:

S. Con. Res. 33. Concurrent resolution expressing the sense of the Congress that employers resume normal business travel and tourism-related businesses intensify efforts to promote travel both to and within the United States; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. INOUYE:

S. 932. A bill to include the Territory of American Samoa in the Supplemental Security Income Program; to the Committee on Finance.

INCLUSION OF AMERICAN SAMOA UNDER THE SUPPLEMENTAL SECURITY INCOME PROGRAM

• Mr. INOUYE. Mr. President, I am introducing an amendment to the Social Security Act, which will include American Samoa under the Supplementary Security Income Program to provide basic assistance for 1,600 aged and disabled individuals residing in American Samoa.

Many of the men and women I seek to help have been caught between two systems. When Social Security went into effect in American Samoa, this group of people was nearing retirement and did not contribute enough to qualify for minimum benefits. The territorial retirement system did not begin until 1971, and many of these people had already left the work force or had so little time remaining that they were excluded from benefits under this system.

The Commonwealth of the Northern Mariana Islands [CNMI] was included under the Supplementary Security Program in 1976. Puerto Rico, Guam, and the Virgin Islands presently participate in a similar program under the Social Security Act, the Aid to the Aged and Blind or Disabled [AABD]. This has been fortunate for their handicapped and needy elderly citizens.

However, the Territory of American Samoa is the only insular possession of the United States that is not included in any Social Security Program to specifically serve the needs of its elderly and disabled population. American Samoa does not even receive aid for families of dependent children or food stamp benefits. The elderly and handicapped individuals, approximately 1,600 people, have no personal resources and nowhere to turn. The territorial government is severely strained financially at the present time to meet all its needs. This measure will help relieve the critical needs of these elderly and handicapped persons.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD. I urge my colleagues to support this important measure.

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

S. 932

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

SECTION 1. EXTENSION OF SUPPLEMENTAL SECURITY INCOME BENEFITS PROGRAM TO AMERICAN SAMOA.

(a) IN GENERAL.—The 7th sentence of section 1101(a)(1) of the Social Security Act (42 U.S.C. 1301(a)(1)) is amended by inserting "and title XVI (as in effect pursuant to the amendment made by section 301 of the Social Security Amendments of 1972)" before "also".

(b) CONFORMING AMENDMENTS.—

(1) Section 1614(e) of such Act (42 U.S.C. 1382c(e)) is amended by inserting ", American Samoa," before "and".

(2) Section 1614(a)(1)(B)(ii) of such Act (42 U.S.C. 1382c(a)(1)(B)(ii)) is amended by inserting "or national" after "citizen".

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall take effect on January 1, 1992.•

By Mr. METZENBAUM:

S. 933. A bill to provide fair refunds to consumers of natural gas who are found to be overcharged; to the Committee on Energy and Natural Resources.

NATURAL GAS RATEPAYERS RELIEF ACT

• Mr. METZENBAUM. Mr. President, I rise to introduce the Natural Gas Ratepayers Relief Act of 1991.

The legislation has one principal objective: to create new refund rights for consumers of natural gas who are overcharged. In 1988 Congress enacted the Regulatory Fairness Act that expanded Federal Energy Regulatory Commission [FERC] authority to order refunds for overcharges to electric consumers. My bill extends the same protection and ensures the same fairness to consumers of natural gas.

My bill may look familiar because section 10004 of S. 341, the National Energy Security Act of 1991, as introduced by Senators JOHNSTON and WALLOP, contained in part, a similar ratepayer refund provision. I was pleased to see my colleagues include a proconsumer refund provision in their bill. Unfortunately, ratepayer refund provision was dropped last week during markup on the bill.

I introduce my bill today to reintroduce a measure of protection for consumers of natural gas. Unfortunately, today ratepayers, shippers, and producers often pay interstate natural gas transportation rates that are higher than those ultimately determined to be just and reasonable by the FERC.

The authority to order refunds is possibly the single most important means by which regulators can protect consumers and shippers of natural gas. FERC and the courts have concluded that FERC's existing refund authority under the Natural Gas Act is severely limited. Refunds can only be ordered where the pipeline seeks a rate increase above that previously authorized by FERC. But the central issue of many rate cases today is how much lower, not higher, pipeline rates should be in order to be just and reasonable. Rates should be lower given lower interest costs, additional depreciation, and higher volumes.

My bill would expand FERC's ability to order refunds in two important ways. First, the bill would create a level playing field in rate cases by eliminating the refund floor. It permits FERC to order refunds below the preexisting rate, when that rate is found to be no longer just and reasonable. This provision was included in S. 341, the National Energy Security Act of 1991, until last week when it was eliminated in markup.

Right now pipelines have no refund obligation if a pipeline proposes rates that are equal or less than those that were previously approved by the Commission, even where it is proven that the new rates should have been significantly lower. Without the threat of a refund, pipelines have every incentive to continue to collect high rates and drag their heels in pipeline rate proceedings. Since rate cases typically take several years before a final decision is reached, pipelines reap millions of dollars to which they might not be entitled with impunity. If they choose to settle a case, they can do so on terms that are unfavorable to consumers; they have little incentive to settle while they collect overcharges. The

bottom line is the pipeline always wins. My bill redresses this inequity.

Second, my bill authorizes the same protection we gave to electric consumers 3 years ago. Currently, under some circumstances, gas consumer refunds are permitted but only from the date of a final decision, which can be years after a complaint is filed. During the years it takes to try the case, the pipeline collects—and keeps—its higher-than-justified rates. Under my bill, refunds are authorized for overcharges going back to 60 days after a complaint is filed with the Commission. This puts years of overcharges back into the pockets of consumers. This provision is identical to a proconsumer measure enacted into law in 1988 for electricity consumers. I think consumers of natural gas deserve the same protection.

Both of these provisions enjoy widespread support among consumers, local distribution companies, and shippers of natural gas on interstate pipelines. The pipelines themselves are understandably opposed to strengthening refund rights; they want to keep the overcharges they have collected.

My bill would also require by statute what has previously been required by regulation: To ensure that rates reflect current actual cost of providing service, pipelines would be required to file a rate case at least every 3 years. FERC has been changing its regulations in a manner which eliminates the 3 years filing requirement. This is a very modest requirement that should not be eliminated by changes in regulations.

In 1989 I offered a similar refund measure as an amendment to natural gas legislation then moving through the Senate. Forty-three of my colleagues supported my amendment. Some who did not support the bill said they could not because there had not been a hearing on it. Some were concerned with its impact on producers and others in the industry. Senator WIRTH, chairman of the Senate Energy Subcommittee on Energy Regulation and Conservation has previously agreed to hold a public hearing on the bill. I thank him for his commitment and interest in this important bill.

We will have a hearing that will clearly demonstrate that the bill will benefit consumers as well as local gas companies and yes, even producers. I know that some may express skepticism that this Senator would propose a bill that natural gas producers would support. The skeptics will be surprised when we hold our hearing.

I thank the 43 of my colleagues who supported my effort in 1989 and trust that this time we will succeed in passing this measure. Mr. President I ask unanimous consent that the text of my bill be printed in the RECORD following these remarks.

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

S. 933

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 "Natural Gas Ratepayers Relief Act of 1991".

SEC. 2. REFUNDS FOR OVERCHARGES.

(a) AMENDMENT OF SECTION 4(e) OF THE NATURAL GAS ACT.—The third and fourth sentences of section 4(e) of the Natural Gas Act (15 U.S.C. 717c(e)) are amended to read as follows: "Where rates or charges are thus made effective, the Commission may, by order, require the natural-gas company to furnish a bond, to be approved by the Commission, to refund any amounts ordered by the Commission, to keep accurate accounts in detail of all amounts received, specifying by whom and in whose behalf such amounts were paid, and, upon completion of the hearing and decision, to order such natural-gas company to refund, with interest, the portion of such rates or charges by its decision found not justified. At any hearing involving a rate or charge sought to be changed, the burden of proof to show that the changed rate or charge is just and reasonable shall be upon the natural-gas company, and the Commission shall give to the hearing and decision of such questions preference over other questions pending before it and decide the same as speedily as possible.".

(b) AMENDMENT OF SECTION 4 OF THE NATURAL GAS ACT.—Section 4 of the Natural Gas Act (15 U.S.C. 717d) is amended by adding at the end thereof the following new subsection:

"(f) Any natural-gas company subject to the jurisdiction of the Commission shall file tariff sheets restating its rates to establish new base tariff rates at least 30 days before the expiration of 36 months after the effective date of any previously approved base tariff rates.".

(c) AMENDMENT OF SECTION 5 OF THE NATURAL GAS ACT.—Section 5 of the Natural Gas Act (15 U.S.C. 717d) is amended by—

(1) redesignating subsection (b) as subsection (c); and

(2) inserting the following new subsection after subsection (a):

"(b) At the conclusion of a proceeding under this section, the Commission shall order the natural-gas company to make refunds of such amounts as have been paid, for the period subsequent to the refund effective date, in excess of those that would have been paid under the just and reasonable rate, charge, classification, rule, regulation, practice, or contract that the Commission orders to be thereafter observed and in force. The refunds shall be made, with interest, to persons who have paid the rates or charges that were the subject of the proceeding. The Commission shall establish the refund effective date. In the case of a hearing instituted on complaint, the refund effective date shall not be earlier than the date that is 60 days after the date of filing of the complaint or later than 150 days after the expiration of such 60-day period.".

(d) EFFECTIVE DATE.—(1) The amendments made by this section shall not apply to a proceeding under the Natural Gas Act commenced before the date of enactment of this Act.

(2) A proceeding to which the amendments made by this section does not apply by reason of paragraph (1) may be withdrawn and refiled without prejudice.

(e) STUDY.—(1) Not earlier than 3 years and not later than 4 years after the date of enactment of this Act, the Commission shall perform a study of the effect of the amendments to the Natural Gas Act made by this Act.

(2) The study required by paragraph (1) shall analyze—

(A) the impact, if any, of such amendments on the cost of capital paid by natural gas companies;

(B) any change in the average time taken to resolve proceedings under sections 4 and 5 of the Natural Gas Act; and

(C) such other matters as the Commission may deem appropriate in the public interest.

(3) Upon completion the study required by paragraph (1) shall be submitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives.•

By Mr. BUMPERS:

S. 934. A bill to amend the Internal Revenue Code of 1986 to increase to 50 percent and extend for 1 year the deduction for health insurance for self-employed individuals; to the Committee on Finance.

HEALTH INSURANCE DEDUCTION EQUITY ACT

• Mr. BUMPERS. Mr. President, I rise today to reintroduce legislation to provide for some equity for America's millions of self-employed individuals.

Under current law self-employed individuals may deduct 25 percent of the costs of their health insurance. But, we all know that under current law employers may deduct the full cost of the health insurance they provide to their employees and the owner of an incorporated business may do the same. In many cases these companies do not charge their employees for any part of the cost of this health insurance and pass the benefits to the employees as a tax-free fringe benefit.

But a self-employed person, including a sole proprietor or a partner in a small firm, can deduct only 25 percent of the costs of his or her health insurance.

This is inequitable. And the answer is to increase the deduction available to the self-employed, not to diminish the tax status of health insurance costs for everyone else.

This issue arose during the debate on the tax reform legislation and the Senate bill provided for a 50-percent deduction for self-employed individuals. Senate Report 99-313, pages 665-666. The committee report states the argument in favor of expanding the deduction very forcefully:

The Committee believes the present-law rules relating to the exclusion from income for benefits under employer accident or health plans create unfair distinctions between self-employed individuals (the owners of unincorporated businesses) and the owners of corporations. The ability to exclude health benefits to the extent provided by a corporate employer creates tax incentives for incorporation that the Committee believes leads to inefficient tax-driven decision making.

More importantly, the Committee is aware that access to employer health plans is low-

est with small employers (particularly small, self-employed employers). The need for adequate health coverage is so important that the Committee believes it is essential to encourage a narrowing of the gap in health coverage. The Committee concludes that a partial exclusion for health plans maintained by self-employed individuals will accomplish this goal.

I couldn't state the rationale for my bill any better.

The Finance Committee report estimated that a 50-percent deduction for the health insurance premiums of the self-employed would cost $255 million in the first year, $348 in the second, $373 in the third, $424 in the fourth and $481 in the fifth. The 5-year cost was projected to be $1.881 billion.

In the end the Congress voted for a 25-percent exclusion and that is what we have now. Unfortunately, when it voted for this exclusion, the Congress set an expiration date of 1 year and we have voted for 1-year extensions of this—and many other provisions—ever since. These 1-year extensions subject self-employed individuals to a great deal of uncertainty each year.

The current deduction is due to expire at the end of this year and extending it permanently at the current 25-percent rate is projected by the Joint Tax Committee to cost $205 million the first year and $1.798 billion over 5 years. JCX-4-91. Earlier the joint committee had projected that a permanent extension of this deduction would cost $300 million the first year and $2.2 billion over 5 years (JCS-2-91) and that a 1-year extension would cost $300 the first year and $400 million over 5 years (JCS-1-91), but these estimates have been superseded by the lower estimate of $205 million the first year for a permanent extension of the deduction. We don't have a new estimate for the revenue impact of a 1-year extension, but based on the new estimate for a permanent extension the revenue impact would be $205 million the first year and $292.5 million over 5 years.

I would be happy to provide a permanent 100-percent exclusion for the health insurance costs of the self-employed. But, that is clearly impossible given the current budget situation and the high cost. Two years ago I proposed that we enact a permanent 80-percent deduction, S. 1507 introduced on August 3, 1989, and that proposal was then projected to cost $7.4 billion over 5 years.

This year I am proposing that we provide for a 50-percent deduction and only extend the deduction for 1 more year. This is something we can afford now. It would cost approximately $585 million to do this over 5 years, rather than $292.5 million with a 25-percent deduction. We can then decide on a year-by-year basis whether to extend the new 50-percent deduction.

I have picked the 50-percent deduction because this is what the Finance Committee proposed in 1986. If it proposed it once, it is realistic to think that it might do so again. So, that's where we should begin.

This is not my preferred solution, but given the fact that the Finance Committee and Ways and Means Committee seem determined to keep this deduction—and many others—on a 1-year leash, I think it is a realistic proposal that we can actually enact into law given the constraints of the budget.

An $292.5 million additional price tag is high by any standards. But, in the context of the other expiring tax breaks it is not out of proportion. Making all of the expiring tax incentives permanent, including the research and experimentation tax credit, is projected to cost $22.7 billion over 5 years. A 1-year extension of all of these expiring tax incentives would cost something like $12.8 billion over 5 years. In this context a $292.5 million additional price tag may be manageable.●

By Mr. KOHL:

S. 935. A bill to amend title 11, United States Code, to provide that certain liens under a marital property settlement may not be exempted; to the Committee on the Judiciary.

PROPERTY SETTLEMENT FAIRNESS ACT

Mr. KOHL. Mr. President, I rise today to introduce legislation which will clarify a provision of the Bankruptcy Code—one which could harm thousands of divorcees each year. It is caused by a loophole in our laws which, in some jurisdictions, has been interpreted to enable a divorced spouse to circumvent the terms of his or her settlement agreement by nullifying a homestead lien. Simply put, my bill will ensure that a former spouse cannot use the Bankruptcy Code as a shield for avoiding the obligations arising out of a divorce.

The compelling need for this legislation is nowhere better illustrated than in the case of Jean Farrey, a resident of Appleton, Wisconsin. Ms. Farrey's 20-year marriage to Gerald Sanderfoot ended with a divorce in 1986. As part of the property settlement, the trial court judge divided their marital estate in half, awarded Mr. Sanderfoot the family's home and, to ensure Mr. Sanderfoot's obligation, gave Ms. Farrey a lien on the house to the extent of $29,000. However, 3 months later, before paying off the lien, Mr. Sanderfoot filed for bankruptcy. Ultimately, the Seventh Circuit—over a strenuous dissent from Judge Posner—held that section 522(f)(1) of the Bankruptcy Code allowed Mr. Sanderfoot to avoid the lien.

Ms. Farrey was left with nothing to show for her share of the marital estate, but Mr. Sanderfoot, upon his discharge from bankruptcy, will receive title to the entire house, free from judicial liens. The interplay between Federal bankruptcy law and State law causes this unfair result, and my proposal would right this wrong in future cases of this kind.

In reaching its decision, the Seventh Circuit relied on the express language of the Bankruptcy Code. The majority expressed dismay over the harsh result, but reasoned that it had no authority to second-guess Congress' policy judgments. Indeed, the Court specifically urged Congress to re-examine the language of section 522(f)(1). The Eighth and Tenth Circuits, however, reached a contrary result. Recognizing the equitable nature of bankruptcy proceedings, these Courts looked beyond the language of that section and relied on its purpose and legislative history.

Last month, the Supreme Court heard the Farrey versus Sanderfoot case, and I hope that it will reach a fair conclusion by reversing the Seventh Circuit. But if the Supreme Court feels constrained by the language of the Bankruptcy Code and upholds the appellate court, we need to clarify the law legislatively.

My proposal serves three purposes. First, it removes one spouse's incentive to file for bankruptcy as a way of avoiding a judicial lien on the family home. Second, it gives the States the ultimate authority to provide for the full, fair and final disposition of property in a divorce. Third, it makes clear that the Bankruptcy Code complements, and does not collide with, State divorce law. However, the bill is carefully limited in scope: It only applies to liens imposed on a principal marital residence under the terms of a separation agreement or divorce decree.

Mr. President, a property division which is theoretically "equal" at the time of the divorce may become grossly inequitable a short time later if the debtor-spouse can avoid the lien by filing for bankruptcy. Though the purpose of our bankruptcy laws is to allow the debtor to get a fresh start, debtors should not be entitled to start afresh with an ex-spouse's money. That is the straightforward purpose of this legislation: To ensure fairness in divorce decrees and property settlement agreements. And that is why I believe my bill will soon become law.

I ask unanimous consent that the full text of the measure be entered into the RECORD immediately following this statement.

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

S. 935

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 "Property Settlement Fairness Act of 1991".

SEC. 2. NONEXEMPTION OF CERTAIN MARITAL PROPERTY SETTLEMENT LIEN.

Section 522(f)(1) of title 11, United States Code is amended by inserting ", except any lien on a marital principal residence under

the terms of a separation agreement or divorce decree in connection with the division of property" before the semicolon.

By Mr. BAUCUS:

S. 936. A bill to amend the Internal Revenue Code of 1986 to reduce compliance costs and administrative burdens in connection with foreign taxes, and for other purposes; to the Committee on Finance.

FOREIGN TAX SIMPLIFICATION ACT

• Mr. BAUCUS. Mr. President, I rise to introduce the Foreign Tax Simplification Act of 1991, a bill to reduce the compliance costs and administrative burdens which U.S. taxpayers engaged in international trade face under U.S. tax law.

Experience over the last 4 years with the reforms we enacted in 1986 has made it clear that some of the rules we adopted are more complicated and difficult than they need to be to meet our policy objectives. As a result, American taxpayers operating internationally must go to great trouble and expense to comply with complex rules which in the end may produce little or no revenue for the Government.

I am advised that compliance in the areas addressed by this legislation currently entails thousands of weeks of work with all the attendant financial expense that such a process would require. In turn, the Government then audits all of these calculations and adjustments in order to determine that taxpayers are complying with the applicable law—going to great effort and expense to audit provisions which again produce little or no additional revenue for the Government.

My intent is not to reduce the amount of tax which corporations pay, nor to undo any of the basic decisions which were reached in the Tax Reform Act of 1986. What my bill will do is to make the Internal Revenue Code more cost effective by cutting the costs of filing and auditing tax returns for taxpayers with international operations. Simplifying the law for U.S. taxpayers will help to make them more competitive with foreign companies.

First, this legislation amends section 263A to exempt foreign corporations not doing business in the United States from the requirement that the uniform capitalization rules [UNICAP] be applied in determining their earnings and profits. No change is suggested for U.S. companies operating overseas, or for foreign corporations operating in the United States.

U.S. multinationals incur significant costs both at the head office and at the affiliate level to bring foreign earnings and profits into conformity with U.S. tax principles for purposes of computing the deemed-paid foreign tax credit and other required reporting.

Determining the UNICAP adjustments to book earnings and profits requires the capitalization of costs to inventory or other property and the capitalization of interest expense to assets which are different from both foreign country local requirements and also from U.S.-audited financial statements. Foreign-based multinationals do not incur these compliance costs because they are not subject to UNICAP rules.

In recognition of the complexity of applying UNICAP to foreign subsidiaries, the IRS has provided some relief. Even these simplified approaches, however, have their own uncertainties and complexities, and do not address the basic problem that UNICAP has no relevance to a foreign corporation not conducting business in the United States.

Furthermore, the revenue generated by applying the UNICAP rules to foreign subsidiaries is small in relation to the administrative burden. None of these UNICAP adjustments will affect the U.S. shareholder's taxable income until it receives—or is deemed to receive—a dividend from the foreign subsidiary.

Second, this legislation would correct a mistake in the provisions which were intended to subject passive investors to current U.S. tax on their portfolio dividends and interest, and their passive rents and royalties. As now written, the law erroneously snares active operating companies which were never intended to be included.

The result of this mistake is that U.S. taxpayers waste an enormous amount of time and effort analyzing foreign financial statements and filing paperwork with the IRS. In addition, it is a real trap for the unwary who do not have access to sophisticated tax and accounting advice. The taxpayers we originally intended to cover by the provision will still be subject to the amended language.

Third, this legislation would reduce the complexity caused by the present rule that dividends from each foreign corporation in which U.S. parent companies do not own a controlling interest are required to be put into a separate foreign tax credit category or basket. This means that U.S. companies have to allocate their head office expenses to hundreds of separate baskets of income—an expensive and time consuming process.

My bill would permit taxpayers to look through dividends from such companies and put the income into baskets according to the type of income being distributed—just as is done by U.S. corporations with dividends from their controlled foreign corporations. For example, a dividend from a shipping company would go in the shipping basket and a dividend from a manufacturing company would go in the general basket.

In recognition of the difficulties sometimes experienced in getting financial data from foreign companies, the current multiple foreign tax credit baskets for dividends from noncontrolled corporations would be collapsed into one basket for all dividends from such companies where the taxpayer did not elect look-through treatment. Compliance would be much easier than under present law because complex allocations of head office expense would be cut from literally hundreds of baskets to three or four.

Fourth, this legislation would ensure that foreign tax credits claimed on foreign income would be translated in U.S. dollars at the same rate as the income, thereby preserving the correct foreign effective tax rate. Present law requires that each payment to each foreign income tax collector be translated into U.S. dollars at the spot rate on the date of such payment.

Since many companies make thousands of payments each year, the workload is enormous. Under my bill there would often be only one translation required, per country, per year. This was the law both for dividends and for subpart F inclusions for more than 50 years, and it worked well. This was also the rule adopted by the Senate in 1986.

The last element of this legislation, while it amounts to a technical correction, will also reduce the compliance burden of taxpayers. In 1986, we intended to provide a de minimis rule that would exempt foreign corporations with small amounts of separate limitation income from having to analyze their accounts and divide their income, expenses, and taxes among the various baskets.

Unfortunately the rule we wrote incorporated by reference the definitions of subpart F income, instead of the definitions of separate limitation income that we should have used. My bill would provide that companies with less than $1 million of income in the separate baskets would simply put all of their income, expenses and taxes into the general limitation basket, the same de minimis test we use for subpart F.

Mr. President, we live in an increasingly interdependent world in which capital and labor are relatively free to move. The emerging democracies of Eastern Europe and the struggling economies of the Third World, as well as our traditional competitors in Europe and Asia are actively courting foreign investors to improve growth and the standard of living of their people.

If we are going to have a constructive debate moving forward we need to be mindful though of the need for revenue neutrality. Any serious discussion involving U.S. tax policy has to accept that cardinal rule.

Revenue constraints may deter us from making major substantive changes at this time to make our companies more competitive, but there is no reason why we should not make it

easier for taxpayers to prepare their tax returns and for the Government to audit them by revising rules which create substantial workload without producing commensurate revenue for the Government. We cannot afford to do less.

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. 936

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 TAX CODE.

(a) SHORT TITLE.—This Act may be cited as the "Foreign Tax Simplification Act of 1991".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. LIMITED APPLICATION OF UNIFORM CAPITALIZATION RULES TO FOREIGN PERSONS.

(a) IN GENERAL.—Section 263A(c) (relating to exceptions) is amended by adding at the end thereof the following new paragraph:

"(7) FOREIGN PERSONS.—This section shall not apply to any foreign person except to the extent necessary for the computation of taxable income under sections 871(b)(2) and 882(a)(2) for purposes of the taxes imposed by sections 871(b)(1) and 882(a)(1)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to costs incurred after December 31, 1990, in taxable years ending after such date.

SEC. 3. DEFINITION OF PASSIVE FOREIGN INVESTMENT COMPANY.

(a) DETERMINATION BASED ON GROSS RECEIPTS NOT GROSS INCOME.—Paragraph (1) of section 1296(a) (defining passive foreign investment company) is amended by striking "gross income" and inserting "gross receipts".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years of foreign corporations ending after December 31, 1990.

(2) TRANSITION RULE.—If, for the 1st taxable year to which the amendment made by this section applies, a foreign corporation which was a passive foreign investment corporation for any preceding taxable year is not such a corporation for such 1st taxable year by reason of such amendment, section 1297(B)(1) of the Internal Revenue Code of 1986 shall not apply to such 1st taxable year and subsequent taxable years solely by reason of such corporation being a passive foreign investment corporation before such 1st taxable year.

SEC. 4. APPLICATION OF SEPARATE FOREIGN TAX CREDIT LIMITATION FOR NONCONTROLLED SECTION 902 CORPORATIONS.

(a) IN GENERAL.—Section 904(d) (relating to separate application of section with respect to certain categories of income) is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6) and by inserting after paragraphs (3) the following new paragraph:

"(4) LOOK-THRU IN THE CASE OF NONCONTROLLED SECTION 903 CORPORATIONS.—

"(A) IN GENERAL.—If the taxpayer elects the application of this paragraph for any non-controlled section 902 corporation for any taxable year, any dividend paid out of the earnings or profits of such corporation (as defined in paragraph (2)(E) shall be treated as income in a separate category in proportion to the ratio of—

"(i) the portion of the earnings and profits attributable to income in such separate category, to

"(ii) the total amount of earnings and profits.

"(B) ELECTION.—An election under subparagraph (A) shall be made on or before the due date (including extensions) for filing the taxpayer's return for the taxable year for which the election is made."

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (E) of section 904(d)(1) is amended by inserting "for which an election under paragraph (4) is not made for the taxable year" before the comma at the end thereof.

(2) Clause (iii) of section 904(d)(2)(C) is amended by adding at the end thereof the following new sentence:

"Subclause (II) shall not apply to a noncontrolled section 902 corporation with respect to which the taxpayer elects to have paragraph (4) apply for the taxable year."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 5. EXCHANGE RATE FOR FOREIGN TAXES SAME AS FOR INCOME EXCLUSION.

(a) IN GENERAL.—Paragraph (1) of section 986(a) (relating to foreign taxes) is amended to read as follows:

"(1) IN GENERAL.—For purposes of determining the amount of the foreign tax credit—

"(A) any foreign income taxes shall be determined in the functional currency of the foreign corporation or qualified business unit, and translated into dollars using the appropriate exchange rate, and

"(B) any adjustment to the amount of foreign income taxes shall be translated into dollars using—

"(i) except as provided in clause (ii), the appropriate exchange rate, or

"(ii) in the case of any refund or credit of foreign income taxes with respect to which a credit or deduction was allowed, the exchange rate used to determine the amount of such credit or deduction."

(b) APPROPRIATE EXCHANGE RATE.—Section 989(b) (defining appropriate exchange rate) is amended by adding at the end thereof the following new sentence: "For purposes of this subpart, the appropriate exchange rate for any foreign taxes attributable to earnings and profits, dividends, amounts, and qualified business units described in paragraph (1), (2), (3), or (4) shall be the same as the rate prescribed under the applicable paragraph."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 6. LOOK-THRU RULES FOR CONTROLLED FOREIGN CORPORATIONS NOT TO APPLY TO SEPARATE CATEGORIES WITH DE MINIMIS AMOUNTS.

(a) IN GENERAL.—Section 904(d)(3)(E) (relating to look-thru applies only where subpart F applies) is amended to read as follows:

"(E) LOOK-THROUGH APPLIES ONLY WHERE SEPARATE CATEGORY INCOME NOT DE MINIMIS—

"(i) IN GENERAL.—If the aggregate gross income in all separate categories of a foreign corporation for the taxable year is less than the lesser of—

"(I) 5 percent of gross income, or

"(II) $1,000,000, no part of its gross income for such taxable years shall be treated as income in a separate category, except that this sentence shall not apply to any income which (without regard to this sentence) would be treated as financial services income.

"(ii) PASSIVE INCOME.—Soley for purposes of applying subparagraph (D), passive income of a foreign corporation shall not be treated as income in a separate category if the requirements of section 954(b)(4) are met with respect to such income."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1990.●

By Mr. LIEBERMAN:

S. 940. A bill to provide for the economic growth and industrial revitalization of the United States by establishing tax-exempt industrial recapitalization funds for manufacturing industries, by providing investment and savings incentives, and by promoting worker training and research and development, and for other purposes; to the Committee on Finance.

ECONOMIC GROWTH ACT

● Mr. LIEBERMAN. Mr. President, I am introducing legislation today, the Economic Growth Act of 1991, which I hope will help make America more competitive in the global economy.

The Federal Government has a critical leadership role to play in shaping our national economy. What I am attempting to do is shape that role in a way that is most beneficial both to the business community and to society as a whole. This is not a question of ideology or industrial policy. The fundamental question that Government and business must answer as it forges a working partnership is what works. How can Government help the American business community compete and create jobs.

My bill attempts to help us meet the competitiveness challenge by laying the groundwork for a new partnership between business and Government, a partnership that would not be intrusive but supportive of the effort of American business to be more globally competitive abroad and to create more high value jobs at home.

The bill does this in two fundamental ways: by encouraging savings and investment, and by supporting the research and particularly the development efforts of U.S. firms.

There are five titles in the bill. The first title establishes an industrial recapitalization fund [IRF] for manufacturing firms. This program would enable manufacturing firms to put their annual depreciation allowances into tax free accounts for a period of 5 years. They would be permitted to withdraw money from this account, tax free, for a period of 10 years, as long as the money is used for investment in new plant and equipment, promoting

both manufacturing growth and modernization.

The IRF is really a business IRA, an account that combines both investment and savings for manufacturing firms. The emphasis on both is key to the ability of American manufacturing firms to compete.

Title II of the bill would give a capital gains tax break for new stock offerings by manufacturing firms. The rate would be 21 percent for equities held for 3 years and 15 percent for those held for 6 years. It would apply to stock held by both corporations and individuals. This kind of targeted approach to a capital gains tax cut is the best way to direct investment to where it is needed the most: Our high technology and manufacturing firms now facing a very tough global marketplace. It would enhance their ability to obtain low-cost, long-term patient capital.

We must also increase our personal savings rate if our economy is to grow. Other provisions in title II complement the idea of broadening existing eligibility for IRA's by creating a checkoff on income tax returns that would ask the IRS to deposit any tax refund into an individual's IRA. This simple concept is premised on the fact that the one time in the year most individuals have a lump sum of money available is when they get back their tax refund. An IRA checkoff on the tax return makes it easier and more likely to deposit that return into an investment and savings account, rather than spending it.

Title III of the bill helps U.S. firms with their R&D efforts by making the R&D tax credit permanent, by making the tax credit for employer-sponsored math and science education programs permanent, and by expanding the applied research portion of the R&D tax credit to promote development and to help companies bring new products to market.

Title IV of the bill expands antitrust exemptions to enable firms to join together to develop high-technology products without fear of antitrust per se violations. If American firms are going to compete in a global economy, they are going to have to be able to work together. The provision is based on a bill that recently passed the House.

Title V of the bill is intended to complement the far-reaching bill that was introduced in the last Congress by Senators GLENN and LEVIN and House Majority Leader DICK GEPHARDT and Representative MEL LEVINE, S. 1978, the Trade and Technology Act of 1989. That bill would, among other things, create a civilian counterpart to the Defense Advanced Research Projects Agency [DARPA].

My bill does three things: It provides a statutory basis for the existing Defense Advanced Research Projects Agency [DARPA], it creates a National Technology Policy Council, and it establishes a national advanced technology fund. By writing DARPA into law and by making the head of DARPA an Assistant Secretary of Defense, we protect its current mission and elevate its position within DOD. Since DARPA is one of the most effective and successful government agencies dealing with high-technology issues, a better-defined role is not only useful but necessary.

The Technology Council would be a group of technology experts—wise men and women—from the private sector charged with the responsibility of examining what our technology policy is and what it should be. The Council would set priorities for Government technology support and would help define the priorities and goals of DARPA and the technology fund.

The technology fund would, in effect, act as a civilian DARPA. It would support high-technology and innovative projects in the civilian economy in the same way that DARPA does for the defense industry. Over time, the fund would become self-sufficient through a return and recapture of Government support funds. If we are to compete with Japan and the nations of the European Community, we must stand firmly behind American high-technology companies; a strengthened DARPA, a Technology Policy Council, and a technology fund are three good ways of achieving that goal.

We have a choice to make about our economic future: will we accept the status quo and just hope for the best or will we forge ahead and accept the challenge put to us by Japan and Europe? We can and will prosper as a nation if we recognize our problems and work together: business and Government. The business community must do its part by making changes of its own to meet the challenges of a global economy and a domestic educational deficit, but we in Government must do what we can to make sure that our Government supports and promotes the best competitive efforts of American business.

At the end of the day, to paraphrase the poet William Henley, "We are the master of our fate, the captain of our soul." We can offer our children the promise of a bright economic future if we chose to do so. As far as I am concerned the choice is obvious: We must once again take charge of our economic destiny. The purpose of this bill is to help us to do precisely that. We must focus on what works and not what is politically and ideologically correct as we help America grow.

I ask unanimous consent that the bill and a summary of the bill be printed in the RECORD following my statement.

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

S. 940

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 "Economic Growth Act of 1991".

TITLE I—INDUSTRIAL RECAPITALIZATION FUNDS

SEC. 101. ESTABLISHMENT OF INDUSTRIAL RECAPITALIZATION FUNDS.

(a) IN GENERAL.—Subchapter F of chapter 1 of the Internal Revenue Code of 1986 (relating to exempt organizations) is amended by adding at the end thereof the following new part:

"PART VIII—INDUSTRIAL RECAPITALIZATION FUNDS

"Sec. 529. Industrial recapitalization funds.
"Sec. 530. Taxability of funds.
"Sec. 530A. Definitions; records and reports.

"SEC. 529. INDUSTRIAL RECAPITALIZATION FUNDS.

"(a) ESTABLISHMENT OF FUNDS.—Each eligible taxpayer may establish an industrial recapitalization fund (hereafter in this part referred to as a 'fund').

"(b) ELIGIBLE TAXPAYER.—For purposes of this section, the term 'eligible taxpayer' means any person—

"(1) substantially all of the activities of which consist of the active conduct of the trade or business of manufacturing, and

"(2) more than 50 percent of the stock or other ownership interests of which is held by United States persons (as defined in section 7701(a)(30)).

"(c) DEPOSIT REQUIREMENTS.—

"(1) IN GENERAL.—Amounts may be deposited into a fund during each of the taxable years in the 5-taxable year period beginning with the taxable year in which the fund is established.

"(2) LIMITATION ON AMOUNT OF DEPOSITS.—The amount which may be deposited into a fund for any taxable year shall not exceed the sum of—

"(A) amounts allowable as a deduction to the taxpayer under section 167 (or as amortization in lieu of depreciation) for such taxable year with respect to eligible plant and equipment; plus

"(B) the net proceeds from the sale or other disposition of any such eligible plant and equipment, or insurance or indemnity attributable to any such eligible plant and equipment.

"(3) CREDITS.—In addition to amounts which may be deposited into a fund, the fund shall be credited each taxable year with the receipts from the investment or reinvestment of amounts held in such fund.

"(4) NO DEPOSIT FROM LOAN PROCEEDS.—No amount may be deposited into a fund from the proceeds of any indebtedness incurred or continued to make such deposit.

"(d) REQUIREMENTS AS TO INVESTMENTS.—

"(1) IN GENERAL.—Except as provided in this subsection, amounts in a fund shall be kept in the depository or depositories specified by the Secretary, and shall be subject to such trustee and other fiduciary requirements as may be specified by the Secretary.

"(2) ASSETS.—Assets in a fund may be invested only in interest-bearing securities issued by the United States Government; except that, if the Secretary consents thereto, a percentage (not in excess of 60 percent) of the assets of the fund may be invested in the stock of domestic corporations. Such stock shall—

"(A) be currently fully listed and registered on an exchange registered with the

Securities and Exchange Commission as a national securities exchange, and

"(B) be stock which would be acquired by prudent men of discretion and intelligence in such matters who are seeking a reasonable income and the preservation of their capital.

"(3) EXCESS EQUITY INVESTMENTS.—If at any time the fair market value of the stock in a fund is more than the percentage of the assets in the fund specified under paragraph (2), any subsequent investment or withdrawal from the fund shall be made in such a way as to tend to restore the fund to a situation in which the fair market value of the stock does not exceed such agreed percentage.

"(4) PREFERRED STOCK.—For purposes of this subsection, if the common stock of a corporation is described in paragraph (2)(A) and if the preferred stock of such corporation would be so described but for the fact that it cannot be listed and registered as required because it is nonvoting stock, such preferred stock shall be treated as described in paragraph (2)(A).

"(e) WITHDRAWALS.—

"(1) IN GENERAL.—Only qualified withdrawals may be made from a fund.

"(2) QUALIFIED WITHDRAWALS.—For purposes of this section, the term 'qualified withdrawal' means a withdrawal for—

"(A) the acquisition, construction, reconstruction, modernization, or refurbishment of eligible plant and equipment,

"(B) the payment of the principal on indebtedness incurred in connection with the acquisition, construction, reconstruction, modernization, or refurbishment of eligible plant and equipment; or

"(C) the payment of expenditures for job training programs for employees of the eligible taxpayer maintaining the fund which are approved by the Federal Government or any State, or local government, or any agency or instrumentality thereof.

"SEC. 530. TAXABILITY OF FUNDS.

"(a) NONTAXABILITY OF FUND.—Except as otherwise provided in this section, a fund is exempt from taxation under this subtitle.

"(b) TAX TREATMENT OF ELIGIBLE TAXPAYERS.—

"(1) DEDUCTION FOR DEPOSITS.—There shall be allowed as a deduction for any taxable year the amount an eligible taxpayer deposits into a fund under section 529(c)(2)(A).

"(2) NONREALIZATION OF GAIN.—Gain from a sale, exchange, or other disposition described in section 529(c)(2)(B) shall not be includible in the gross income of an eligible taxpayer to the extent of the amount of such gain deposited into the fund.

"(3) EARNINGS OF FUND.—For purposes of this subtitle—

"(A) gross income of an eligible taxpayer shall not include earnings (including gains and losses) of the fund,

"(B) the earnings and profits of such taxpayer shall be determined without regard to the assets and earnings of the fund, and

"(C) the assets and earnings of the fund shall not be taken into account in applying section 531 to such taxpayer.

"(c) ESTABLISHMENT OF ACCOUNTS.—

"(1) IN GENERAL.—Within a fund established pursuant to this part, 3 accounts shall be maintained—

"(A) the capital account,

"(B) the capital gain account, and

"(C) the ordinary income account.

"(2) CAPITAL ACCOUNT.—The capital account shall consist of—

"(A) amounts deposited into the fund under section 529(c)(2)(A),

"(B) amounts referred to in section 529(c)(2)(B) other than that portion thereof which represents gain not taken into account by reason of subsection (b)(2),

"(C) the percentage applicable under section 243(a)(1) of any dividend received by the fund with respect to which the person maintaining the fund would (but for subsection (b)(3)(B)) be allowed a deduction under section 243, and

"(D) interest income exempt from taxation under section 103.

"(3) CAPITAL GAIN ACCOUNT.—The capital gain account shall consist of—

"(A) amounts representing capital gain—

"(i) on assets held in the fund for more than 1 year, or

"(ii) excluded from gross income under subsection (b)(2) which is attributable to assets held more than 1 year, reduced by

"(B) amounts representing capital losses on assets held in the fund for more than 1 year.

"(4) ORDINARY INCOME ACCOUNT.—The ordinary income account shall consist of—

"(A)(i) amounts representing capital gain—

"(I) on assets held in the fund for 1 year or less, or

"(II) excluded from gross income under subsection (b)(2) which is attributable to assets held for 1 year or less, reduced by

"(ii) amounts representing capital losses on assets held in the fund for 1 year or less,

"(B) interest (not including any tax-exempt interest referred to in paragraph (2)(D)) and other ordinary income (not including any dividend referred to in subparagraph (C)) received on assets held in the fund, and

"(C) the portion of any dividend referred to in paragraph (2)(C) not taken into account under such paragraph.

"(5) NO LOSSES ALLOWED.—Except on termination of a fund, capital losses referred to in paragraph (3)(B) or in paragraph (4)(B)(ii) shall be allowed only as an offset to gains referred to in paragraph (3)(A) or (4)(B)(i), respectively.

"(d) TAX TREATMENT OF QUALIFIED WITHDRAWALS.—

"(1) IN GENERAL.—Any qualified withdrawal from a fund shall be treated—

"(A) first as made out of the capital account,

"(B) second as made out of the capital gain account, and

"(C) third as made out of the ordinary income account.

"(2) ORDINARY INCOME ACCOUNT WITHDRAWAL.—If any portion of a qualified withdrawal for eligible plant and equipment is made out of the ordinary income account, the basis of such plant and equipment shall be reduced by an amount equal to such portion.

"(3) CAPITAL GAIN ACCOUNT WITHDRAWAL.—If any portion of a qualified withdrawal for eligible plant and equipment is made out of the capital gain account, the basis of such plant and equipment shall be reduced by an amount equal to such portion.

"(4) WITHDRAWALS TO REPAY LOANS.—If any portion of a qualified withdrawal to pay the principal on any indebtedness described in section 529(e)(2)(B) is made out of the ordinary income account or the capital gain account, then an amount equal to the aggregate reduction which would be required by paragraphs (2) and (3) shall be applied, in the order provided in regulations, to reduce the basis of plant and equipment owned by the eligible taxpayer maintaining the fund. Any amount of a withdrawal remaining after the application of the preceding sentence shall be treated as a nonqualified withdrawal.

"(5) GAIN ON DISPOSITION.—If any property the basis of which was reduced under paragraph (2), (3), or (4) is disposed of, any gain realized on such disposition, to the extent it does not exceed the aggregate reduction in the basis of such property under such paragraphs, shall be treated as an amount referred to in subsection (e)(4)(A) which was withdrawn on the date of such disposition. Subject to such conditions and requirements as may be provided in regulations, the preceding sentence shall not apply to a disposition where there is a redeposit in an amount determined under such regulations which will, insofar as practicable, restore the fund to the position it was in before the withdrawal.

"(e) TAX TREATMENT OF NONQUALIFIED WITHDRAWALS.—

"(1) IN GENERAL.—Except as provided in subsection (f), any withdrawal from a fund which is not a qualified withdrawal shall be treated as a nonqualified withdrawal.

"(2) TREATMENT OF WITHDRAWALS.—Any nonqualified withdrawal from a fund shall be treated—

"(A) first as made out of the ordinary income account,

"(B) second as made out of the capital gain account, and

"(C) third as made out of the capital account.

"(3) ORDER OF WITHDRAWALS.—For purposes of this subsection, items withdrawn from any account shall be treated as withdrawn on a first-in-first-out basis; except that—

"(A) any nonqualified withdrawal for research, development, and design expenses incident to new and advanced eligible plant and equipment, and

"(B) any amount treated as a nonqualified withdrawal under the second sentence of subsection (d)(4),

shall be treated as withdrawn on a last-in-first-out basis.

"(4) SPECIAL RULES.—For purposes of this subtitle—

"(A) any amount referred to in paragraph (2)(A) shall be included in income as an item of ordinary income for the taxable year in which the withdrawal is made,

"(B) any amount referred to in paragraph (2)(B) shall be included in income for the taxable year in which the withdrawal is made as an item of gain realized during such year from the disposition of an asset held for more than 1 year, and

"(C) for the period on or before the last date prescribed for payment of tax for the taxable year in which the withdrawal is made—

"(i) no interest shall be payable under section 6601 and no addition to the tax shall be payable under section 6651,

"(ii) interest on the amount of the additional tax attributable to any item referred to in subparagraph (A) or (B) shall be paid at the applicable rate (as defined in paragraph (5)) from the last date prescribed for payment of the tax for the taxable year for which such item was deposited in the fund, and

"(iii) no interest shall be payable on amounts referred to in subparagraphs (A) and (B) of paragraph (3).

"(5) RATE OF INTEREST.—For purposes of paragraph (4)(C)(ii), the applicable rate of interest for any nonqualified withdrawal shall be the rate established under section 6621(a)(2).

"(6) DEEMED WITHDRAWALS.—

"(A) IN GENERAL.—The applicable percentage of any amount which remains in a fund as of the close of the 10th, 11th, or 12th tax-

able year following the taxable year in which an agreement was entered into shall be treated as a nonqualified withdrawal in accordance with the following table:

"If the amount remains in the fund at the close of the—	The applicable percentage is:
10th taxable year ...	20 percent
11th taxable year ...	60 percent
12th taxable year ...	100 percent.

"(B) EARNINGS.—The earnings of a fund for any taxable year (other than net gains) shall be treated for purposes of this paragraph as an amount remaining in the fund for such taxable year.

"(C) BINDING CONTRACTS.—For purposes of subparagraph (A), an amount shall not be treated as remaining in a fund as of the close of any taxable year to the extent there is a binding contract at the close of such year for a qualified withdrawal of such amount with respect to an identified item for which such withdrawal may be made.

"(D) EXCESS BALANCES.—If the Secretary determines that the balance in a fund exceeds the amount which is appropriate to meet the fund's program objectives, the amount of such excess shall be treated as a nonqualified withdrawal under subparagraph (A) unless such person develops appropriate program objectives within 3 years to dissipate such excess.

"(7) DETERMINATION OF TAX.—

"(A) IN GENERAL.—In the case of any taxable year for which there is a nonqualified withdrawal (including any amount so treated under paragraph (6)), the tax imposed by chapter 1 shall be determined—

"(i) by excluding such withdrawal from gross income, and

"(ii) by increasing the tax imposed by chapter 1 by the product of the amount of such withdrawal and the highest rate of tax specified in section 11.

With respect to the portion of any nonqualified withdrawal made out of the capital gain account during a taxable year to which section 1201(a) applies, the rate of tax taken into account under the preceding sentence shall not exceed 34 percent.

"(B) WITHDRAWAL OF AFTER-TAX AMOUNTS.—If any portion of a nonqualified withdrawal is properly attributable to deposits (other than earnings on deposits) made by the taxpayer in any taxable year which did not reduce the taxpayer's liability for tax under this subtitle for any taxable year preceding the taxable year in which such withdrawal occurs—

"(i) such portion shall not be taken into account under subparagraph (A), and

"(ii) an amount equal to such portion shall be treated as allowed as a deduction under section 172 for the taxable year in which such withdrawal occurs.

"(C) EXCLUDED AMOUNTS.—Any nonqualified withdrawal excluded from gross income under subparagraph (B) shall be excluded in determining taxable income under section 172(b)(2).

"(f) CORPORATE REORGANIZATIONS.—Under regulations, if a transfer of a fund occurs from one person to another person in a transaction to which section 381 applies, such transfer shall not constitute a nonqualified withdrawal. However, if the transaction results in the transfer to a corporation with respect to which the requirements of this part are not met, all amounts in the fund shall be treated as having been withdrawn in a nonqualified withdrawal at the time of the transaction.

"SEC. 530A. DEFINITIONS; RECORDS AND REPORTS.

"(a) ELIGIBLE PLANT AND EQUIPMENT.—For purposes of this part, the term 'eligible plant and equipment' means any plant and equipment which is used as an integral part of the active conduct of the trade or business of manufacturing.

"(b) RECORDS AND REGULATIONS.—

"(1) RECORDS.—Each person maintaining a fund under this part shall keep such records and shall make such reports as the Secretary shall require.

"(2) REGULATIONS.—The Secretary shall prescribe such rules and regulations as may be necessary or appropriate to carry out the provisions of this part.

"(c) REPORTS.—

"(1) IN GENERAL.—The Secretary shall, within 120 days after the close of each calendar year, provide to the Congress a written report with respect to the funds under this section.

"(2) CONTENTS OF REPORT.—Each report under paragraph (1) shall set forth the number of persons—

"(A) establishing a fund during such calendar year,

"(B) maintaining a fund as of the last day of such calendar year,

"(C) terminating a fund during such calendar year, or

"(D) making any withdrawal from or deposit into (and the amounts thereof) a fund during such calendar year."

(b) CONFORMING AMENDMENT.—The table of parts for subchapter F of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new item:

"PART VIII—INDUSTRIAL RECAPITALIZATION FUNDS.".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

TITLE II—INVESTMENT INCENTIVES

Subtitle A—Investment in Stock of Manufacturers

SEC. 201. RESTORATION OF CAPITAL GAINS EXCLUSION FOR CERTAIN STOCK OF MANUFACTURERS.

(a) TAXPAYERS OTHER THAN CORPORATIONS.—Part I of subchapter P of chapter 1 of the Internal Revenue Code of 1986 is amended by adding after section 1201 the following new section:

"SEC. 1202. DEDUCTION FOR CAPITAL GAINS ON STOCK OF MANUFACTURERS HELD MORE THAN 3 YEARS.

"(a) GENERAL RULE.—If for any taxable year a taxpayer other than a corporation has a qualified net capital gain, there shall be allowed as a deduction from gross income an amount equal to the sum of—

"(1) 32 percent of the 3-year gain, plus

"(2) 51.5 percent of the 6-year gain.

"(b) QUALIFIED NET CAPITAL GAIN.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified net capital gain' means the lesser of—

"(A) the net capital gain for the taxable year, or

"(B) the net capital gain for the taxable year determined by taking into account only gain or loss from qualified stock with a holding period of at least 3 years at the time of the disposition.

"(2) 3-YEAR GAIN.—The term '3-year gain' means the lesser of—

"(A) the net capital gain for the taxable year, or

"(B) such gain determined by taking into account only gain or loss from qualified stock with a holding period of at least 3 years but less than 6 years.

"(3) 6-YEAR GAIN.—The term '6-year gain' means the lesser of—

"(A) the net capital gain for the taxable year, reduced by the 3-year gain, or

"(B) the net capital gain for the taxable year determined by taking into account gain or loss from qualified stock with a holding period of at least 6 years.

"(3) QUALIFIED STOCK.—

"(A) IN GENERAL.—The term 'qualified stock' means stock which—

"(i) is issued by a qualified business after the date which is 6 months after the date of the enactment of this section,

"(ii) is first acquired (whether directly or through an underwriter) by the taxpayer, and

"(iii) is not issued in redemption of (or otherwise exchanged for) stock not issued during the period described in clause (i).

"(B) QUALIFIED BUSINESS.—For purposes of subparagraph (A)—

"(i) ACTIVE TRADE OR BUSINESS REQUIREMENT.—A corporation shall not be treated as a qualified business unless—

"(I) during the 5-year period ending on the date of issuance described in subparagraph (A) (or if shorter, its period of existence) substantially all of the activities of such corporation consisted of the active conduct of the trade or business of manufacturing, and

"(II) immediately after such date substantially all of the activities of such corporation consist of such active conduct.

"(ii) EXCEPTION FOR PERSONAL SERVICE CORPORATIONS.—The term 'qualified business' shall not include a personal service corporation (within the meaning of section 269A(b)(1)).

"(c) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction under subsection (a) shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.".

(b) CORPORATIONS.—Section 1201 of the Internal Revenue Code of 1986 is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) DEDUCTION FOR NET CAPITAL GAIN.—

"(1) IN GENERAL.—If for any taxable year a corporation has a qualified net capital gain—

"(A) there shall be allowed as a deduction from gross income an amount equal to the sum of—

"(i) 25 percent of the 3-year gain, plus

"(ii) 46.5 percent of the 6-year gain, and

"(B) paragraph (2) of subsection (a) shall be applied as if it read as follows:

'(2) a tax equal to the sum of—

'(A) 18.2 percent of the 6-year gain, plus

'(B) 25.5 percent of the 3-year gain, plus

'(C) 34 percent of the net capital gain, reduced by the amounts taken into account under subparagraphs (A) and (B).

"(2) QUALIFIED NET CAPITAL GAIN.—For purposes of this subsection, the terms 'qualified net capital gain', '3-year gain', and '6-year gain' have the meanings given such terms by section 1202(b).".

(c) MAXIMUM 15 PERCENT RATE.—Section 1(h) of the Internal Revenue Code of 1986 is amended to read as follows:

"(h) MAXIMUM CAPITAL GAINS RATE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if a taxpayer has a net capital gain for any taxable year, then the tax im-

posed by this section shall not exceed the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

"(i) taxable income reduced by the amount of the net capital gain, or

"(ii) the amount of taxable income taxed at a rate below 28 percent, plus

"(B) a tax of 28 percent of the amount of taxable income in excess of the amount determined under subparagraph (A).

"(2) SPECIAL RULE WHERE TAXPAYER HAS QUALIFIED NET CAPITAL GAIN.—

"(A) IN GENERAL.—If a taxpayer has qualified net capital gain for any taxable year, then the tax imposed by this section shall not exceed the lesser of—

"(i) the amount determined under paragraph (1), or

"(ii) the sum of—

"(I) the amount determined under paragraph (1) without taking into account qualified net capital gain for purposes of subparagraphs (A) and (B) thereof, plus

"(II) 15 percent of the 6-year gain, plus

"(III) 21 percent of the 3-year gain.

"(B) QUALIFIED NET CAPITAL GAIN.—For purposes of this paragraph, the terms 'qualified net capital gain', '3-year gain', and '6-year gain' have the meanings given such terms by section 1202(b).".

(d) TREATMENT AS PREFERENCE ITEM FOR MINIMUM TAX.—Section 57(a) of the Internal Revenue Code of 1986 (relating to items of tax preference under the alternative minimum tax) is amended by adding at the end thereof the following new paragraph:

"(8) CAPITAL GAINS ON SALE OF CERTAIN STOCK.—An amount equal to the deduction for the taxable year determined under section 1201(b) or 1202.".

(e) CONFORMING AMENDMENTS.—

(1) Section 62(a) of such Code is amended by adding after paragraph (12) the following new paragraph:

"(14) LONG-TERM CAPITAL GAINS.—The deduction allowed by section 1202.".

(2) Subparagraph (B) of section 170(e)(1) of such Code is amended by inserting "(or, in the case of qualified stock under section 1202(b)(2), 68 percent (49.5 percent in the case of 6-year gain) of)" before "the amount of gain".

(3) Section 172(d)(2) of such Code (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from sales or exchanges of capital assets; and

"(B) the deduction for long-term capital gains provided by section 1202 shall not be allowed.".

(4) Subparagraph (B) of section 172(d)(4) of such Code is amended by inserting ", (2)(B)," after "paragraph (1)".

(5)(A) Section 220 of such Code (relating to cross reference) is amended to read as follows:

"SEC. 220. CROSS REFERENCES.

"(1) For deduction for long-term capital gains in the case of a taxpayer other than a corporation, see section 1202.

"(2) For deductions in respect of a decedent, see section 691.".

(B) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out "reference" in the item relating to section 220 and inserting "references".

(6) Paragraph (4) of section 642(c) of such Code is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to deduction for excess of capital gains over capital losses). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income).".

(7) Paragraph (3) of section 643(a) of such Code is amended by adding at the end thereof the following new sentence: "The deduction under section 1202 (relating to deduction for excess capital gains over capital losses) shall not be taken into account."

(8) Paragraph (4) of section 691(c) of such Code is amended by striking out "1(h), 1201, and 1211" and inserting in lieu thereof "1(h), 1201, 1202, and 1211, and for purposes of section 57(a)(8)".

(9) Clause (iii) of section 852(b)(3)(D) of such Code is amended by striking out "66 percent" and inserting "the rate differential portion (within the meaning of section 904(b)(3)(E))".

(10) The second sentence of paragraph (2) of section 871(a) of such Code is amended by inserting "such gains and losses shall be determined without regard to section 1202 (relating to deduction for qualified net capital gains) and" after "except that".

(11) Section 904(b)(3)(E) of such Code is amended by striking out "1201(a)" in clause (iii)(II) thereof and inserting "1201 (a) or (b)".

(12) Section 1402(i)(1) of such Code is amended to read as follows:

"(1) IN GENERAL.—In determining the net earnings from self-employment of any options dealer or commodities dealer—

"(A) notwithstanding subsection (a)(3)(A), there shall not be excluded any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from section 1256 contracts or property related to such contracts, and

"(B) the deduction provided by section 1202 shall not apply.".

(13) Section 1445(e)(1) of such Code is amended by striking out "34 percent (or, to the extent provided in regulations, 28 percent)" and inserting "34 percent (or, to the extent provided in regulations, the alternative tax rate determined under section 904(b)(3)(E)(iii))".

(14) The table of sections for part I of subchapter P of chapter 1 of such Code is amended by inserting after the item relating to section 1201 the following new item:

"Sec. 1202. Deduction for capital gains on stock of manufacturers held for more than 3 years.".

(15)(A) The heading for section 1201 of such Code is amended by inserting "; Deduction for Gain on Qualified Stock" after "Corporations".

(B) The item relating to section 1201 in the table of sections for part I of subchapter P of chapter 1 of such Code is amended by inserting "; deduction for gain on qualified stock" after "corporations".

SEC. 202. EFFECTIVE DATE.

The amendments made by this subtitle shall apply to stock issued after the date which is 6 months after the date of the enactment of this Act.

Subtitle B—Savings Incentives

SEC. 211. DESIGNATION OF OVERPAYMENTS TO INDIVIDUAL RETIREMENT ACCOUNTS.

(a) IN GENERAL.—Subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to returns and records) is amended by adding at the end thereof the following new part:

"PART IX—DESIGNATION OF OVERPAYMENTS FOR INDIVIDUAL RETIREMENT ACCOUNTS

"Sec. 6097. Amounts for individual retirement accounts.

"SEC. 6097. AMOUNTS FOR INDIVIDUAL RETIREMENT ACCOUNTS.

"(a) IN GENERAL.—With respect to each taxpayer's return for the taxable year of the tax imposed by chapter 1, such taxpayer may designate that any portion of any overpayment of such tax for such taxable year be paid over to an individual retirement account established and maintained on behalf of the taxpayer.

"(b) JOINT RETURNS.—In the case of a joint return showing an overpayment, each spouse may designate any portion of such overpayment under subsection (a).

"(c) MANNER AND TIME OF DESIGNATION.—A designation under subsection (a) may be made with respect to any taxable year only at the time of filing the return of the tax imposed by chapter 1 for such taxable year. Such designation shall be made on the first page of the return and shall include any accompanying form the Secretary determines necessary to adequately identify the individual retirement account (and the trustee thereof) to which the overpayment is to be transferred.

"(d) TRANSFERS OF ACCOUNTS.—The Secretary shall transfer any portion of any overpayment designated under subsection (a) to the trustee of the individual retirement account designated by the taxpayer under subsection (a).

"(e) OVERPAYMENTS TREATED AS REFUNDED.—For purposes of this title, any overpayment of tax designated under subsection (a) shall be treated as being refunded to the taxpayer as of the last date prescribed for filing the return of tax imposed by chapter 1 (determined without regard to extensions) or, if later, the date the return is filed.".

(b) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 61 of such Code is amended by adding at the end thereof the following new item:

"PART IX—DESIGNATION OF OVERPAYMENTS TO INDIVIDUAL RETIREMENT ACCOUNTS.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of enactment of this Act.

TITLE III—INCENTIVES FOR RESEARCH AND EDUCATIONAL ASSISTANCE

SEC. 301. RESEARCH CREDIT.

(a) CREDIT MADE PERMANENT.—

(1) IN GENERAL.—Section 41 of the Internal Revenue Code of 1986 (relating to credit for increasing research activities) is amended by striking subsection (h).

(2) CONFORMING AMENDMENT.—Section 28(b)(1) of the Internal Revenue Code of 1986 is amended by striking subparagraph (D).

(b) CREDIT TO APPLY TO RESEARCH TO BRING PRODUCTS TO MARKET.—

(1) IN GENERAL.—Subparagraph (A) of section 41(d)(3) of the Internal Revenue Code of 1986 is amended by striking "or" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", or", and

by adding at the end thereof the following new clause:

"(iv) the development and improvement of commercial products.".

(2) CERTAIN RESTRICTIONS REPEALED.—Section 41(d)(4) of such Code is amended by striking subparagraphs (A) and (B).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 302. EXCLUSION FOR EDUCATIONAL ASSISTANCE PROGRAMS.

(a) EXCLUSION MADE PERMANENT.—Section 127 of the Internal Revenue Code of 1986 (relating to educational assistance programs) is amended by striking subsection (d).

(b) RESTRICTIONS RELATING TO EDUCATION AT THE GRADUATE LEVEL.—Section 117(d)(5) of such Code (relating to application of section to otherwise taxable employer-provided educational assistance) is amended by inserting "or who is pursuing a program leading to an advanced academic or professional degree in engineering, science, or mathematics" after "such organization".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

TITLE IV—AMENDMENTS TO NATIONAL COOPERATIVE RESEARCH ACT OF 1984

SECTION 401. SHORT TITLE.

This Act may be cited as the "National Cooperative Production Amendments of 1991".

SEC. 402. AMENDMENTS.

(a) SHORT TITLE.—Section 1 of the National Cooperative Research Act of 1984 (15 U.S.C. 4301 note) is amended by striking "National Cooperative Research Act of 1984" and inserting "National Cooperative Research and Production Act of 1991".

(b) DEFINITION.—Section 2(a)(6) of the National Cooperative Research Act of 1984 (15 U.S.C. 4301(a)(6)) is amended—

(1) in the matter preceding subparagraph (A) by striking "research and development";

(2) in subparagraph (B) by inserting "or production" after "engineering";

(3) in subparagraph (C) by—

(A) striking "for experimental and demonstration purposes, including the experimental production and" and inserting ", including the development,"; and

(B) inserting ", and production or implementation" after "testing";

(4) in subparagraph (D) by—

(A) inserting ", development, or production" after "research"; and

(B) striking "or" after "information,";

(5) in subparagraph (E)—

(A) by striking "(E)" and inserting "(F)"; and

(B) by striking "and (D)" and inserting "(D), and (E)";

(6) by inserting after subparagraph (D) the following:

"(E) the production of any product, process, or service, or"; and

(7) in the matter following subparagraph (F) by inserting after "research," the first place it appears the following: "development, or production,".

(c) EXCLUSIONS.—Section 2(b) of the National Cooperative Research Act of 1984 (15 U.S.C. 4301(b)) is amended—

(1) in the matter preceding paragraph (1) by striking "research and development";

(2) in paragraph (1)—

(A) by inserting "production," after "prices,", and

(B) by striking "conduct the research and development that is" and inserting "carry out";

(3) in paragraph (2)—

(A) by striking "or marketing" the first place it appears and inserting ", marketing, or distribution";

(B) by striking "or marketing of" and inserting ", marketing, or distribution of any product, process, service, or";

(C) by striking "such as patents and trade secrets,"; and

(D) by inserting "(including patents and trade secrets)" after "proprietary information"; and

(4) in paragraph (3) by striking "other research and development activities" and inserting "any other joint venture activity".

(d) RULE OF REASON STANDARD.—Section 3 of the National Cooperative Research Act of 1984 (15 U.S.C. 4302) is amended by adding at the end the following: "For the purpose of determining a properly defined, relevant market, the worldwide capacity of suppliers to provide a product, process, or service shall be considered.".

(e) TECHNICAL AMENDMENTS.—(1) Section 3 of the National Cooperative Research Act of 1984 (15 U.S.C. 4302) is amended by striking "research and development" each place it appears.

(2) Section 4 of the National Cooperative Research Act of 1984 (15 U.S.C. 4303) is amended in subsections (a)(1), (b)(1), (c)(1), and (e) by striking "research and development" each place it appears.

(3) Section 5(a) of the National Cooperative Research Act of 1984 (15 U.S.C. 4304(a)) is amended in the matter preceding paragraph (1) by striking "research and development".

(4) Section 6 of the National Cooperative Research Act of 1984 (15 U.S.C. 4305) is amended—

(A) in the heading by striking "RESEARCH AND DEVELOPMENT",

(B) in the first sentence of subsection (a) by striking "this Act" and inserting "the National Cooperative Production Amendments of 1991", and

(C) in subsections (a), (d)(2), and (e) by striking "research and development" each place it appears.

(f) APPLICATIONS OF AMENDMENTS.—The National Cooperative Research Act of 1984 (15 U.S.C. 4301 et seq.) is amended by adding at the end the following:

"APPLICATION OF AMENDMENTS RELATING TO PRODUCTION OF PRODUCTS, PROCESSES, AND SERVICES

"SEC. 7. The amendments to this Act made by the National Cooperative Production Amendments of 1991 shall not apply with respect to any activity in connection with the production of a product, process, or service by a joint venture if at any time substantially all such activities are not conducted within the United States or its territories.".

TITLE V—ADVANCED RESEARCH AND DEVELOPMENT

SEC. 500. SHORT TITLE.

This title may be cited as the "National Advanced Research and Development Act of 1991".

Subtitle A—Declaration Of Policy

SEC. 501. FINDINGS.

Congress makes the following findings:

(1) The national security, industrial leadership, and general welfare of the United States require the maintenance of a strong technology base to support production of weapons and weapon systems, manufacturing technology, and technologically-advanced products and services.

(2) The national security of the United States requires that adequate provision be made for research in and development of basic and applied technology relating to weapons and weapon systems and military operations necessary for the defense of the United States.

(3) The Federal Government has no department or agency to evaluate effectively advances in technology or technological development or to assess the impact of such advances or development upon the industrial base of the United States.

(4) Similarities in civilian and defense production processes result in parallel advances in technology developed from such production.

(5) Provision should be made for the effective exchange of technological information between the civilian and defense sectors.

(6) The general welfare and security of the United States require that the unique capabilities in science and engineering of the Defense Advanced Research Projects Agency of the Department of Defense be directed toward—

(A) conducting advanced general and applied research and development projects for the Department of Defense;

(B) conducting prototype projects that embody technology having the potential for incorporation into joint defense programs, programs supporting deployed units of the Armed Forces of the United States (including unified combatant commands and specified combatant commands), and selected projects for military departments; and

(C) conducting activities that support and assist the development of technology having potential future application in civilian and defense production.

(7) Adequate provision should be made for adapting the results of Government-sponsored advanced technological and industrial research and development to commercial applications.

(8) Cooperation between the Government and the civilian sector is essential to revitalizing the industrial base of the United States and establishing and maintaining the industrial competitiveness of the United States.

(9) Access to mid- to long-term capital by advanced technology entities would greatly facilitate development by the civilian sector of products and services incorporating advanced technologies.

(10) An educated workforce with technological expertise is essential to the national security and economic well-being of the United States.

(11) Greater efforts must be made to encourage the teaching and study of mathematics, science, and engineering at all levels in the Nation's educational system.

Subtitle B—Defense Advance Research Projects Agency

SEC. 521. ESTABLISHMENT OF A DEFENSE ADVANCED RESEARCH PROJECTS AGENCY.

(a) IN GENERAL.—Chapter 8 of title 10, United States Code, is amended—

(1) by redesignating subchapter II and section 201 as subchapter III and section 221 of such subchapter, respectively; and

(2) by inserting after subchapter I the following new subchapter II:

"Subchapter II—Defense Advance Research Projects Agency

"Sec.
"201. Definitions.
"202. Defense Advanced Research Projects Agency.
"203. Agency functions.
"204. Authority of Assistant Secretary.
"205. Cooperative agreements and other arrangements.
"206. Pay bonuses.

"207. Use of appropriations.
"208. Authority to conduct research projects for other departments and agencies; interagency cooperation.
"209. Revolving fund.

"§ 201. Definitions

"In this chapter:

"(1) The term 'Agency' means the Defense Advanced Research Projects Agency.

"(2) The term 'Assistant Secretary' means the Assistant Secretary of Defense for Advanced Research.

"(3) The term 'Fund' means the Defense Advanced Research Projects Revolving Fund established by section 209 of this title.

"§ 202. Defense Advanced Research Projects Agency

"There is established in the Department of Defense an agency to be known as the Defense Advanced Research Projects Agency. The Assistant Secretary of Defense for Advanced Research shall be the head of the Agency.

"§ 203. Agency functions

"It shall be the function of the Agency—

"(1) to conduct advanced research and development projects for the Department of Defense;

"(2) to oversee planning within the Department of Defense for research and development relating to advanced technology;

"(3) to support and assist the development of technology having potential future application in both defense and civilian production;

"(4) to conduct advanced technology demonstration projects;

"(5) to coordinate the exchange of technological information between the military departments and Defense Agencies;

"(6) to support continuing research and development of advanced technologies by industrial, academic, and governmental and nongovernmental entities;

"(7) to monitor on a continuing basis the research and development being conducted on advanced technologies by private industry in the United States; and

"(8) to promote continuing development of a technological industrial base in the United States.

"§ 204. Authority of Assistant Secretary

"(a) AUTHORITY.—In carrying out the functions of the Agency, the Assistant Secretary may—

"(1) notwithstanding section 3324(b) of title 31, enter into, perform, and guarantee contracts, leases, grants, and cooperative agreements with any agency or instrumentality of the United States or with any person;

"(2) use the services, equipment, personnel, or facilities of any other department or agency of the Federal Government, upon the consent of the head of the department or agency, with or without reimbursement, and cooperate with public and private agencies and instrumentalities in the use of such services, equipment, and facilities;

"(3) supervise, administer, and control the activities within the Agency and within the Office of Secretary of Defense relating to patents, inventions, trademarks, copyrights, and royalty payments, and matters connected therewith; and

"(4) appoint one or more advisory committees to consult with and advise the Assistant Secretary.

"(b) TRANSFER OF TECHNOLOGY.—The Assistant Secretary may transfer to the domestic civilian sector technology developed by or with the support of the Agency if the Assistant Secretary determines that the technology may have potential application in civilian production.

"§ 205. Cooperative agreements and other arrangements

"(a) IN GENERAL.—In carrying out the functions of the Agency, the Assistant Secretary may enter into cooperative agreements and other arrangements with any person, any department, agency, or instrumentality of the United States, any unit of State or local government, any educational institution, or any other entity.

"(b) AUTHORITY TO REQUIRE PAYMENT; DISPOSITION OF FUNDS.—(1) A cooperative agreement or other arrangement entered into under subsection (a) may include a provision that requires a person or other entity to make payments to the Department of Defense (or any other department or agency of the Federal Government) as a condition for receiving assistance from the Agency under the agreement or other arrangement.

"(2) The amount of any payment received by the Federal Government pursuant to a provision referred to in paragraph (1) may be credited to the Fund in such amount as may be specified by the Assistant Secretary.

"(c) NONDUPLICATION AND OTHER CONDITIONS.—The Assistant Secretary shall ensure—

"(1) that the authority under this section is used only when the use of standard contracts or grants is not feasible or appropriate; and

"(2) to the maximum extent practicable, that a cooperative agreement or other arrangement entered into under this section—

"(A) does not provide for research that duplicates research being conducted under other programs carried out by the Department of Defense; and

"(B) requires the other party to the agreement or arrangement to share the cost of the project or activity concerned.

"§ 206. Pay bonuses

"(a) IN GENERAL.—(1) The Assistant Secretary shall provide by regulation for payment to employees of the Agency—

"(A) awards for exceptional achievement; and

"(B) recruitment and retention bonuses.

"(2) Awards for exceptional achievement under paragraph (1)(A) may not exceed $20,000 in the case of any employee in any year.

"(3) Recruitment and retention bonuses under paragraph (1)(B) may not exceed $20,000 in the case of any employee in any year and payment thereof shall be conditioned upon the employee entering into an agreement with the Agency to serve in the Agency not less than one year for each $10,000 of bonus paid to the employee.

"(b) BONUS FUND.—To the extent authorized in appropriation Acts, the Assistant Secretary may utilize not more than $2,000,000 a year in money from the Fund to pay for awards and bonuses authorized by subsection (a).

"§ 207. Use of appropriations

"Unless otherwise authorized by law, funds appropriated to the Department of Defense may not be used to finance any research study or project conducted or assisted by the Agency unless the Assistant Secretary determines that the study or project relates to an existing or potential military mission or function.

"§ 208. Authority to conduct research projects for other departments and agencies; interagency cooperation

"(a) GENERAL AUTHORITY.—The Agency may conduct research projects for departments and agencies of the Federal Government other than the Department of Defense on a reimbursable basis.

"(b) AUTHORITY OF OTHER DEPARTMENTS AND AGENCIES TO CONTRACT WITH AGENCY.—Any other department or agency of the Federal Government may contract with the Agency to carry out authorized research projects of that department or agency.

"(c) INTERAGENCY COOPERATION.—In carrying out its function under this subchapter, the Agency shall cooperate with the National Technology Policy Coordinating Council and the National Advanced Technology Fund.

"§ 209. Revolving fund

"(a) CREATION OF REVOLVING FUND.—There is established in the Treasury of the United States a revolving fund to be known as the "Defense Advanced Research Projects Revolving Fund". The Fund shall consist of such amounts as may be appropriated or credited to it from time to time.

"(b) EXPENDITURES FROM THE FUND.—Amounts in the Fund shall be available, as provided in appropriations Acts, to carry out the purposes of this subchapter.

"(c) LOANS; GRANTS.—(1) The Assistant Secretary may use the Fund for the purpose of making loans or otherwise providing financial support necessary to carry out the purposes of this subchapter.

"(2) Loans made under this section shall bear interest at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the loan is made) to be 3 per cent less than the current market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the periods for which the loans are made.

"(3) Repayments on loans made under this section and the proceeds from any other agreement entered into by the Assistant Secretary under this subchapter shall be credited to the Fund.

"(d) MANAGEMENT OF FUND.—(1) The Secretary of the Treasury shall manage the Fund established by this section and, after consultation with the Assistant Secretary, report to Congress each year on the financial condition and the results of the operation of the Fund during the preceding fiscal year and on the expected condition and operations of the Fund during the next five fiscal years.

"(2) The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States.".

(b) TABLE OF SUBCHAPTERS.—The table of subchapters at the beginning of such chapter is amended by striking out the matter relating to subchapter II and inserting in lieu thereof the following:

"II. Defense Advanced Research Projects Agency 201
"III. Miscellaneous Defense Agency Matters ..... 221".

SEC. 522. ADDITIONAL ASSISTANT SECRETARY OF DEFENSE.

Section 136 of title 10, United States Code, is amended—

(1) in subsection (a), by striking "eleven" and inserting in lieu thereof "twelve"; and

(2) in subsection (b), by adding at the end the following new paragraph:

"(5) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Advanced Research. He shall have as his principal duty the overall supervision of advanced research projects of the Department of Defense. The Assistant Secretary of Defense for Advanced Research shall have experience in a scientific or engineering discipline and management experience in the field of advanced research and development.".

SEC. 523. REQUIREMENT FOR AUTHORIZATION OF APPROPRIATIONS.

Section 114 of title 10, United States Code, is amended by adding at the end the following new subsection (f):

"(f) In each budget submitted by the President to Congress under section 1105 of title 31, amounts requested for the Defense Advanced Research Projects Agency and the Fund shall be set forth separately from other amounts requested for the Department of Defense.".

SEC. 524. CONTINUED EFFECT OF EXISTING RULES AND REGULATIONS; REFERENCES TO DARPA.

(a) EXISTING RULES, REGULATIONS, ETC.—Any rule, regulation, instruction, directive, or other document applicable to the Defense Advanced Research Projects Agency of the Department of Defense as in effect on September 30, 1991, that is not inconsistent with the provisions of subchapter II of chapter 8 of title 10, United States Code (as added by section 521), shall remain applicable to the Agency until revoked or modified by the Assistant Secretary of Defense for Advanced Research.

(b) REFERENCES TO DARPA.—Any reference in any law, regulation, directive, or other document to the Defense Advanced Research Projects Agency as in effect on September 30, 1991, shall be deemed to refer to the agency established by subchapter II of chapter 8 of title 10, United States Code, as added by section 521.

SEC. 525. TRANSFER OF PERSONNEL, PROPERTY, AND ALLOCATIONS OF APPROPRIATIONS.

All personnel employed in connection with, and all assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to the Defense Advanced Research Projects Agency on September 30, 1991, shall be transferred to the Defense Advanced Research Projects Agency established by subchapter II of chapter 8 of title 10, United States Code (as added by section 521). Unexpended funds transferred pursuant to this section shall be used for the purposes provided in such subchapter, as so added.

SEC. 526. EMPLOYEES.

Subject to the availability of appropriations therefor, the Defense Advanced Research Projects Agency established by subchapter II of chapter 8 of title 10, United States Code (as added by section 521), may employ not more than 200 employees to discharge the responsibilities of the Agency. Such employees shall be of the various classifications provided for in chapter 51 of title 5, United States Code.

SEC. 527. REPORT TO CONGRESS.

Not later than September 30, 1992, the Assistant Secretary of Defense for Advanced Research shall submit to Congress recommendations for such legislation as the Assistant Secretary determines necessary or desirable to carry out more effectively the purposes of subchapter II of chapter 8 of title 10, United States Code, as added by section 521.

SEC. 528. CONFORMING AMENDMENTS.

(a) TITLE 10.—(1) Section 2371 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 139 of such title is amended by striking out the item relating to section 2371.

(b) TITLE 5.—Section 5315 of title 5, United States Code, is amended by striking out

"Assistant Secretaries of Defense (11)."

and inserting in lieu thereof

"Assistant Secretaries of Defense (12).".

SEC. 529. EFFECTIVE DATE; INCUMBENT DIRECTOR.

(a) EFFECTIVE DATE.—The amendments made by sections 521, 522, 523, and 528 shall take effect October 1, 1991.

(b) INCUMBENT DIRECTOR.—The person holding the position of Director of the Defense Advanced Research Projects Agency of the Department of Defense on September 30, 1991, may serve as acting Assistant Secretary of Defense for Advanced Research, without the advice and consent of the Senate, until such time as an Assistant Secretary is appointed, but in no event may any person serve as acting Assistant Secretary under authority of this subsection for more than one year.

SEC. 530. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out this subtitle and the amendments made by this subtitle.

Subtitle C—National Technology Policy Coordinating Council

SEC. 531. ESTABLISHMENT.

(a) ESTABLISHMENT.—There is established in the Department of Commerce a council to be known as the National Technology Policy Coordinating Council (hereafter in this subtitle referred to as the "Council").

SEC. 532. FUNCTION.

(a) IN GENERAL.—It shall be the function of the Council to act as a forum for the study and discussion of how the Federal Government and the private sector can effectively utilize advanced technology to help meet the economic and security needs, improve the industrial competitiveness, and improve the general welfare of the United States.

(b) SPECIFIC DUTIES.—In carrying out its function under subsection (a), the Council shall—

(1) study the potential of particular advanced technologies for development and production and assess priorities for providing Federal support for such technologies;

(2) study the interrelationship between government policy decisions and the development of technology by civilian entities;

(3) study means and methods for improving the industrial base of the United States;

(4) advise and make recommendations to Congress, the National Advanced Technology Fund, the Defense Advanced Research Projects Agency, and other departments and agencies concerned with advanced technological research and development regarding the national policy of the United States on the development of technology;

(5) evaluate the potential for technology development by consortia and other cooperative entities in the United States;

(6) solicit comments and recommendations from private businesses, industry associations, and other entities regarding policies for federally-funded research and development programs;

(7) study the effectiveness of the support provided by Federal laboratories and other Federal research and development organizations in promoting the utilization of developing technology by the private sector;

(8) assess the effect of foreign ownership and control of industry in the United States on the technological industrial base and the national security of the United States;

(9) assess the impact of the transfer of technology between nations on the availability of investment capital and the location of jobs and production capacity in the United States;

(10) assess the impact of the United States educational system and labor market on advanced technology industries;

(11) study the benefits of international cooperation on the development of technology in various industries in the United States; and

(12) study obstacles within industrial organizations that receive research and development funds from the Federal Government that obstruct or impede the utilization of technology in industrial production.

SEC. 533. MEMBERS.

(a) MEMBERS.—The Council shall consist of 15 voting members as follows:

(1) Eleven members appointed by the President, by and with the advice and consent of the Senate, five of whom shall be professional engineers or scientists having knowledge or experience regarding advanced technologies, and six of whom shall have substantial experience in conducting or administering research and development activities in industry or academia. Not more than three such members shall be full-time employees of the Federal Government.

(2) Four members appointed one each by—

(A) the Majority Leader of the Senate;

(B) the Minority Leader of the Senate;

(C) the Speaker of the House of Representatives; and

(D) the Minority Leader of the House of Representatives.

Each member appointed pursuant to this paragraph shall have knowledge or experience regarding advanced technologies or have substantial experience in conducting or administering research or development activities in industry or academia.

(b) EX OFFICIO MEMBERS.—(1) There shall be six ex officio members of the Council as follows:

(A) The Assistant Secretary of Commerce for Technology.

(B) The Assistant Secretary of Defense for Advanced Technology.

(C) The Administrator of the National Aeronautics and Space Administration, or the Administrator's designee.

(D) The Director of the National Science Foundation, or the Director's designee.

(E) The Director of the Office of Technology Assessment, or the Director's designee.

(F) The Director of the Office of Science and Technology Policy, or the Director's designee.

(2) Ex officio members may participate in the deliberations of the Council but shall have no vote.

(c) COMPENSATION OF MEMBERS.—A member of the Council may not be paid compensation for service performed as a member of the Council.

(d) TRAVEL EXPENSES.—Members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57, title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Council.

(e) TEMPORARY EMPLOYEES.—The Council may accept, on temporary or intermittent assignment, and with or without reimburse-

ment, the services of employees of academic institutions, industry associations, and private firms. Such employees shall be considered special Government employees for the purposes of section 208 of title 18, United States Code.

SEC. 534. CHAIRMAN.

The President shall designate one of the members of the Council to serve as chairman.

SEC. 535. EXECUTIVE DIRECTOR.

The Council shall have an Executive Director who shall be appointed by the Chairman. The Executive Director, subject to the supervision and direction of the Chairman, shall exercise all powers and discharge all duties assigned to the Executive Director by the Council and shall exercise authority and control over all personnel and facilities employed by or detailed to the Council.

SEC. 536. COUNCIL AUTHORITY.

In carrying out its function under this subtitle, the Council may—

(1) make, promulgate, issue, rescind, and amend rules and regulations governing its operation and the exercise of the powers vested in it by law;

(2) appoint such advisory committees as the Council considers appropriate to assist the Council in carrying out its functions under this subtitle;

(3) obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code;

(4) contract for such studies, surveys, analyses, the collection of data, and other activities as may be necessary to carry out its function under this subtitle; and

(5) appoint and fix in accordance with the provisions of chapter 33 of title 5, United States Code, the compensation of such officers and employees as may be necessary to carry out the function of the Council, except not more than five scientific, engineering, or administrative personnel may be appointed without regard to such laws and the compensation of such personnel fixed, notwithstanding any other law, at a rate for level V of the Executive Schedule under section 5316 of title 5, United States Code.

SEC. 537. SUPPORT FOR COUNCIL ACTIVITIES.

(a) INTERAGENCY COOPERATION.—(1) The Council may secure directly from any department or agency of the Federal Government information necessary to enable the Council to carry out its function under this subtitle. Upon request of the Chairman, the head of any such department or agency shall furnish such information to the Council.

(2) Any department or agency of the Federal Government (including the Defense Advanced Research Projects Agency established by subtitle B of this title) is authorized to provide to the Council, with or without reimbursement, any supplies, services, equipment and facilities, personnel, and resources necessary for the Council to carry out its function under this subtitle. The Council may accept such supplies, services, equipment, facilities, personnel, and other resources for such purpose.

(3) In carrying out its function under this subtitle, the Council shall coordinate activities of the Council with other economic councils and organizations of the Federal Government so as to avoid unnecessary duplication of effort by the Council and such councils and organizations.

(b) COOPERATION WITH NATIONAL ADVANCED TECHNOLOGY FUND.—In carrying out its function under this subtitle, the Council shall cooperate with the National Advanced Technology Fund (established by subtitle D of this title) and, to the maximum extent practicable, shall conduct such studies or analyses as may be requested by the Fund.

SEC. 538. REPORT.

Not later than one year after the date of the enactment of this title, and annually thereafter, the Council shall submit to the President, the Congress, and the National Advanced Technology Fund (established by subtitle D of this title) a report addressing the relative priority of the funding allocations made for federally-sponsored research and development, including a review of past allocation priorities and proposals for future allocation priorities.

SEC. 539. AUTHORIZATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this subtitle.

Subtitle D—National Advanced Technology Fund

SEC. 541. NATIONAL ADVANCED TECHNOLOGY FUND.

There is established in the Treasury of the United States a trust fund to be known as the National Advanced Technology Trust Fund (hereafter in this subtitle referred to as the "Technology Trust Fund"), consisting of such amounts as may be appropriated or credited to that fund.

SEC. 542. ADMINISTRATOR AND DEPUTY ADMINISTRATOR.

(a) FUND ADMINISTRATOR.—The Technology Trust Fund shall be administered by an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall exercise the powers and duties provided for in this subtitle.

(b) DEPUTY ADMINISTRATOR.—The Technology Trust Fund shall have a Deputy Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Administrator shall perform such duties and exercise such powers as the Administrator may prescribe. The Deputy Administrator shall act for and exercise the powers of the Administrator during the absence or disability of the Administrator.

(c) EMPLOYMENT LIMITATION.—The Administrator and Deputy Administrator, while so serving, shall not engage in any business or employment other than the administration of the Technology Trust Fund.

SEC. 543. DUTIES OF ADMINISTRATOR.

(a) IN GENERAL.—In carrying out this subtitle, and to the maximum extent practicable, the Administrator shall—

(1) adhere to the funding priorities established by the National Technology Policy Coordinating Council (established by subtitle C of this title);

(2) carry out funding arrangements through the Defense Advanced Research Projects Agency, the National Institute of Standards and Technology, and other research and development entities of the Federal Government;

(3) consult with the National Technology Policy Coordinating Council regarding the activities of consortia and cooperative entities engaged in advanced technology programs in order to determine the effectiveness of such entities in supporting national goals relating to the development of technology;

(4) consult with other departments and agencies of the Federal Government that support Small Business Innovative Research programs for the purposes of identifying potential candidates for financial support from the Technology Trust Fund;

(5) sponsor or participate in national, regional, and industry association conferences and symposia and disseminate information concerning activities of the Technology Trust Fund;

(6) consistent with technology priorities and national goals and strategies, manage the Technology Trust Fund with the long-term objective of creating a self-perpetuating source of funds to support research and development relating to advanced technologies; and

(7) tailor funding arrangements to the particular circumstances involved by considering—

(A) other sources of funding,

(B) the allocation of intellectual property rights among the parties or related entities,

(C) the technical risks of the research involved,

(D) the relevance of technological research and development to Government needs and requirements,

(E) the opportunity to recapture, or obtain a return on, the Government's financial expenditures, and

(F) the relevance of the research and development activities supported by the Technology Trust Fund to achieving national goals and strategies.

(b) AUTHORITY OF OTHER FEDERAL AGENCIES.—When acting on behalf of the Technology Trust Fund, another Federal agency or instrumentality may exercise the same authority provided the Administrator under section 544(2). Such authority shall be exercised in a manner consistent with paragraph (7) of subsection (a).

SEC. 544. AUTHORITY OF THE ADMINISTRATOR.

In carrying out this subtitle, the Administrator may—

(1) issue, rescind, and amend rules and regulations to govern the operation of the Technology Trust Fund;

(2) enter into contracts, grants, cooperative agreements, and other arrangements with any person, with any State, territory or possession, with any agency or instrumentality of the United States, any educational institution, or any other entity, under such terms as the Administrator considers appropriate to carry out the provisions of this subtitle;

(3) obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code;

(4) appoint and fix in accordance with chapter 33 of title 5, United States Code, the compensation of such officers and employees as may be necessary to carry out this subtitle, except that not more than 10 scientific, engineering or administrative personnel may be appointed without regard to such laws and their compensation fixed, notwithstanding any other law, at a rate not to exceed the rate for level V of the Executive Schedule under section 5316 of title 5, United States Code;

(5) make and guarantee loans; and

(6) receive proceeds, reimbursements, or payments from any entity supported by the Technology Trust Fund or from any entity participating in a cooperative or joint funding arrangement with the Administrator.

SEC. 545. EXPENDITURES FROM TECHNOLOGY TRUST FUND.

Amounts in the Technology Trust Fund shall be available, as provided by appropriations Acts, for the following purposes:

(1) To support advanced basic and applied technological research and development having the potential to contribute substantially to strengthening the industrial base and im-

proving the industrial competitiveness of the United States.

(2) To support advanced basic and applied research and development of technology products in the United States for the purpose of—

(A) maintaining the industrial base and competitiveness of the United States; and

(B) reducing substantially environmental and health risks associated with industrial production.

SEC. 546. SUPPORT FOR FUND ACTIVITIES.

Any department or agency of the Federal Government (including the Defense Advanced Research Projects Agency established by subtitle B of this title) may provide the Technology Trust Fund, with or without reimbursement, any supplies, services, equipment, facilities, personnel, and other resources to allow the Technology Trust Fund to carry out its function under this subtitle. The Technology Trust Fund may accept such supplies, services, equipment, facilities, personnel, and other resources as may be necessary to carry out its function under this subtitle.

SEC. 547. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such funds as may be necessary to carry out this subtitle.

BILL SUMMARY

TITLE I—INDUSTRIAL RECAPITALIZATION FUND

Establish a business IRA. Briefly put, a manufacturer can put a tax deductible amount equal to his annual depreciation allowance in an interest bearing account each year for a period of five years. Funds from the account can be withdrawn for a period of ten years without penalty, as long as the money is used for the purchase of new plant and equipment or job training for the firm's workers. Normal depreciation is still permitted.

TITLE II—INVESTMENT INCENTIVES

Subtitle A—Capital Gains tax cut

This is a targeted proposal, covering new issues from manufacturing firms. It gives a 21% rate for such stock held for three years and 15% for stock held for six years for individuals. There is a similar competitive rate for corporations.

Subtitle B—Savings Incentives

This provision would provide a check off on an individual (whether filing jointly or separately) income tax return, to enable the individual to have the IRS deposit any or all of a tax refund in an individual's already existing IRA.

TITLE III—INCENTIVES FOR RESEARCH AND FOR EDUCATIONAL ASSISTANCE

This title makes the R&D tax credit permanent. It also expands the credit to include applied research, putting more of an emphasis on development, that is, bringing products to production. It also makes the exclusion for employer sponsored education programs permanent.

TITLE IV—ANTITRUST AMENDMENT TO ALLOW JOINT PRODUCTION

This title expands antitrust exemptions to allow a "rule of reason" antitrust test instead of "per se" test to apply to joint production efforts between firms. This proposal would help firms that need to pool capital resources to get new products into production. It represents an alternative to the merger movement. Joint R&D efforts are already given similar antitrust coverage.

TITLE V—ADVANCED TECHNOLOGICAL RESEARCH AND DEVELOPMENT

This title provides the Defense Advanced Research Production Agency (DARPA) with a statutory charter keeping its functions the same. It makes clear that DARPA retains the ability to undertake "dual use" civilian and defense research. In addition, it sets up a National Technology Policy Council that will be housed for administrative purposes in the Department of Commerce. The Council will consist of scientists and engineers appointed by the President and Congress whose responsibility it will be to look into advanced technology issues and U.S. competitiveness and to offer recommendations as to what U.S. technology support policy should be, as well as to establish priorities for technology support. The final section of the bill would set up a fund that would act like a civilian DARPA to promote civilian technology projects based on priorities set by the Council. This new program would be a revolving fund that over time would be self financing.●

By Mr. INOUYE:

S. 941. A bill to provide for the establishment of a National Center for Youth Development within the Cooperative Extension Service to conduct activities to improve community-based adolescent health promotion and education in rural areas, and for other purposes; to the Committee on Labor and Human Resources.

COMPREHENSIVE ADOLESCENT HEALTH CARE PROMOTION AND EDUCATION ACT

● Mr. INOUYE. Mr. President, I am introducing legislation today to establish a National Center for Action within the Cooperative Extension Service to conduct activities to improve community-based adolescent health promotion and education in rural areas.

Mr. President, growing awareness has been focused on the challenges facing American school age youth in maintaining their health, challenges from drug abuse to physical abuse. Many of these health risks can be diminished or prevented through education and health promotion.

Ensuring a healthy population of adolescents who will make the transition into a healthy and productive adulthood is essential for the future of this Nation. This attention, however, has been focused primarily on youth in urban and suburban areas, this despite the fact that rural adolescents fare worse in comparison to nonrural youth.

In a recent study, it was found that 17.7 percent of nondisabled rural high school students were estimated to be substance abusers compared to 10.1 percent of their nonrural counterparts. Low self-esteem and depression are more common among rural elementary schoolchildren than among urban and suburban children. Rural preschoolers fare worse than nonrural children in relation to the incidence of child abuse—12.7 percent of rural preschoolers are considered to be victims of child abuse compared with 11.9 percent of urban and 9.6 percent of suburban preschoolers.

Greater attention and resources must be focused on the health needs of rural adolescents who are at greater health risk than their urban and suburban peers. This legislation will provide for health care education and promotion services focused on rural adolescents through the direction of a National Center for Action. The center will be located at a land grant university, knowledgeable in the unique healthcare needs of the rural population. These actions will help ensure a healthy adolescent population to make the transition into a healthy and productive adulthood.

I request unanimous consent that the text of my bill be printed in the RECORD.

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

S. 941

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 "Comprehensive Adolescent Health Care Promotion and Education Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) school age youth in rural America are facing extraordinary challenges in maintaining their health enabling them to make a successful transition to adulthood;

(2) in a national study of at-risk students conducted by the National Rural Development Insititute, it was was reported that rural youth fared worse than non-rural youth in 34 of 39 comparisons;

(3) 17.7 percent of non-disabled rural high school students were estimated to be substance abusers, compared to 10.1 percent of the students in non-rural districts;

(4) 12.3 percent of non-disabled rural elementary school children were found to be suffering depression and low self-esteem, compared to 10 percent of urban and 8.5 percent of suburban elementary school children;

(5) 25.7 percent of non-disabled rural high school students were considered sexually active, compared to 22.5 percent of urban and 20.9 percent of suburban high school students; and

(6) 12.7 percent of rural preschoolers without disabilities were considered to be victims of child abuse, compared to 11.19 percent of urban and 9.6 percent of suburban preschoolers.

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

(1) provide for the establishment within the Cooperative Extension Service of a National Center for Youth Development that shall be responsible for implementing and administering a program of adolescent health promotion and education in rural areas;

(2) provide for the creation of Federal, State and local partnerships to enhance adolescent health promotion and education in rural areas; and

(3) make internship available for certain health personnel to improve adolescent health.

SEC. 3. ESTABLISHMENT OF CENTER FOR YOUTH DEVELOPMENT.

(a) IN GENERAL.—The Secretary of Agriculture shall establish, as part of the Cooperative Extension Service, a National Health Promotion and Education Center for Youth Development (hereafter referred to in this Act as the "Center"), in accordance with subsection (b).

(b) LOCATION AND SELECTION.—The Center established under subsection (a) shall be located at a land-grant university—

(1) that has demonstrated a working and programming relationship with health care and educational institutions and agencies;

(2) that has agreed to provide technical and other assistance to State and local entities providing services under this Act;

(3) that is selected by the Secretary of Agriculture after an opportunity is provided to engage in a competitive bidding process; and

(4) which shall provide the overall administrative leadership and support for the Center.

(c) FUNCTIONS.—The Center, utilizing State and local Cooperative Extension Services offices, shall—

(1) collaborate with appropriate Federal, State and local entities to promote, support and staff rural adolescent health promotion programs through the development and administration of several subcenters to be located at sites determined appropriate by the Center;

(2) establish programs to provide community-based adolescent health promotion and education in rural areas through the collaborative efforts of State, county, and community-based entities;

(3) identify land-grant university campus-based adolescent health promotion and education resources;

(4) promote coordination in the delivery of health services, health education, mental health support services, family participation and advocacy services, and media-based health promotion and research services targeted at adolescent health promotion that are provided through State and local entities in rural areas;

(5) utilize the faculty and student expertise of health related and health-serving colleges that are part of land-grant universities to provide training in health promotion and education at the community level through health-serving agencies, schools, and youth serving organizations;

(6) identify, train and support volunteers participating in rural adolescent health promotion and education activities;

(7) coordinate and provide for the delivery of health education and health promotion programming services provided in rural areas under this Act;

(8) serve as the link between the Extension Service, public health care agencies, educational institutions, and other community-based organizations serving rural areas by identifying local adolescent health problems and determining appropriate health promotion and education responses; and

(9) conduct such other activities as the Secretary of Agriculture, in consultation with the Secretary of Education and the Secretary of Health and Human Service, determines appropriate to carry out the purposes of this Act.

(d) INTERNSHIP.—The Center shall establish a program under which internships may be provided to health care students attending, or desiring to attend, schools of nursing, public health, health education, medical schools, schools of clinical psychology, and schools offering degrees in clinical social work to enable such students to avail themselves of educational and clinical or workrelated health care opportunities that support adolescent health promotion and education.

(e) APPLICATIONS.—In implementing the programs established under this Act, the Center shall establish application procedures to ensure that entities receiving assistance under such programs are providing services or performing functions that are consistent with the purposes of this Act.

SEC. 4. REPORT.

Not later than 3 years after the date of enactment of this Act, the Secretary of Agriculture, acting through the Center, shall prepare and submit to the appropriate committees of Congress, a report concerning the programs that are provided with assistance under this Act and the status of each sum program.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act in each of the fiscal years 1992 through 1994.

SEC. 6. REGULATIONS.

The Secretary of Agriculture shall promulgate regulations necessary to carry out this Act.•

By Mr. HOLLINGS (for himself, Mr. THURMOND, Mr. SANFORD, and Mr. HELMS):

S. 942. A bill to amend the natural resource development program of the Small Business Act to require that priority be given to planting trees under the program on State lands devastated by disaster or where tree loss is causing environmental damage; to the Committee on Small Business.

S. 943.A bill to amend the America the Beautiful Act of 1990 to target tree planting funds for those areas devastated by disaster or where tree loss is causing environmental damage; to the Committee on Agriculture, Nutrition, and Forestry.

LEGISLATION TO PROMOTE THE PLANTING OF TREES

• Mr. HOLLINGS. Mr. President, today I am introducing two pieces of legislation to promote the planting of trees in those areas of the country that are the most in need.

The two bills will give priority under two programs, the Small Business Administration's tree planting program and the America the Beautiful initiative, to areas that have been devastated by disaster or that have suffered tree loss due to environmental damage.

Last year Congress provided $15 million for SBA to give to States for the purpose of purchasing trees from small business nurseries to plant on public lands. In addition, the 1990 farm bill established the America the Beautiful national tree trust, which will solicit private contributions and distribute them to organizations and localities that are fostering volunteer efforts to plant and maintain trees. The America the Beautiful Act also authorizes the Secretary of Agriculture to implement rural and community tree planting programs.

Following Hurricane Hugo in September of 1989, the media understandably focused on the people of South Carolina, for the storm wrought much human suffering. But even as South Carolinians have rebuilt their homes and businesses, little national coverage has been given to the ecological damage caused by the hurricane.

Mr. President, our Nation celebrated Earth Day on Monday, but I bet few Americans can name the largest forestry disaster in modern American history. Ask someone who lives in the stretch of the Carolinas that runs from Charleston to Charlotte. Hurricane Hugo destroyed more timber than the eruption of Mount St. Helens, the Yellowstone fires of 1988, Hurricane Frederick, and Hurricane Camille combined.

The forests are still a shocking sight to those of us who have long enjoyed the abundance of greenery in South Carolina. The storm snapped pine trees in two, leaving only sheared stumps 15 to 20 feet in height. I have heard many natives of the area comment that our forests now look like nothing more than clusters of giant toothpicks.

The storm felled 6.7 billion board feet of timber, an amount that, if salvageable, could have built over 660,000 houses. Available manpower, rail access, and mill capacity were overwhelmed by the amount of timber on the ground, and pine beetles and blue stain fungi quickly attacked most of the downed pine that was not removed immediately. Most significantly, the 140-mile-per-hour winds of Hugo bent, broke, and splintered most wood beyond use. To date, less than 15 percent has been salvaged. The result of the storm's brute force was a financial calamity: $1.04 billion in losses in South Carolina, $62.1 million in North Carolina.

Mr. President, the forests of South Carolina are in a state of environmental calamity, too. The Low Country is virtually a tinderbox, and thousands of acres have already been lost to fires. The wildlife habitats of several endangered species, including the red-cockaded woodpecker, were almost completely destroyed, particularly in the Francis Marion National Forest, and the soil has suffered increased erosion in the damaged areas across the State.

Urban areas did not escape the devastation either, as trees lining streets and gracing public parks took the brunt of the storm. The efforts on behalf of local residents to replant trees have been tremendous, and it is my hope that the Federal Government can chip in to replant trees on public lands through the America the Beautiful Program and the SBA program.

Last year, Congress provided $3 million under the Emergency Reforestation Program to provide reforestation assistance to private timber owners

with small land holdings. This program has been very successful so far, but the needs of the timber owners are still great, and our public lands deserve further attention as well. It will be at least a full generation before the land fully recovers, and the Federal Government should make every effort to facilitate Mother Nature's slow process.

The bills I am introducing today are companion legislation to bills introduced in the House of Representatives by Representative LOUISE SLAUGHTER, whose hometown of Rochester, N.Y. suffered a forestry disaster in March of this year when a severe freeze killed tens of thousands of trees. Giving priority to areas hit by hurricanes, freezes, and other disasters under the American the Beautiful and SBA programs will send a strong signal of the Federal Government's commitment to addressing these forestry disasters.●

By Mr. REID:

S. 944. A bill to provide for accountability with regard to environmental compliance and to provide notice and an opportunity to comment on designations of special use airspace; to the Committee on Environment and Public Works.

AIRSPACE PROTECTION ACT

Mr. REID. Mr. President, I am introducing legislation today that will have many benefits and no side effects:

First, this bill will reduce air traffic congestion and potential flight hazards.

Second, this bill will reduce fuel usage and flight time for civilian aircraft.

Third, this legislation will protect the environment and help preserve sensitive ecosystems.

Fourth, this legislation will reduce noise and other hazards from jet overflights.

The name of this legislation is the Airspace Protection Act of 1991. Let me tell you how it came to be.

More than 1 million square miles of U.S. airspace falls within some kind of military control as special use airspace. This is an area approximately the size of Texas, California, and Alaska—combined.

In Nevada, 40 percent of the total airspace is controlled by the military, and they want even more.

Large portions of the airspace in North Carolina, California, Texas, Florida, and other States are controlled by the military.

This appetite for airspace will not decline, even though the Department of Defense is planning to reduce the size of our military forces by nearly 25 percent in order to meet new budget realities and to respond to changing military threats throughout the world.

Mr. President, I am proud to be a strong backer of our military. I supported the use of military force in the Persian Gulf from the very beginning. Many service men and women who served in the war trained in Nevada. Nevadans are proud of the role we played and will always be trained and prepared.

The legislation I am introducing will allow us to meet all of our future military needs, while also balancing the need for civilian airspace needs and environmental protection.

Withdrawal of such large amounts of airspace for military use severely affects those who live nearby—and presents a potential danger to the environment as well as innocent bystanders.

Excessive amounts of such airspace also restrict commercial and private aircraft from passing through. This requires costly detours, increases aviation fuel use, and increases delays in an already saturated air traffic system.

I voice these concerns not because I oppose the military's airspace needs, but because I disagree with their methods of withdrawing airspace from the public. Those affected have not been included in the decisionmaking process. There is also no accountability to ensure that airspace designations are in compliance with the National Environmental Policy Act of 1969.

I am proud to contribute to a strong national defense, and I am glad that Nevada has provided the military with superb facilities and airspace. Other States have also made such sacrifices.

In return for this support, the military should provide Americans with the chance to participate in decisions that affect our way of life. We want to participate in the airspace designation and withdrawal process.

Today I am introducing the Airspace Protection Act of 1991. This bill will require that existing military special use airspace and future designations be reviewed by the Federal Aviation Administration to ensure that such designations are justified.

My bill would fulfill these goals and result in a number of benefits:

First, air traffic congestion and potential flight hazards would be decreased.

Second, unneeded or unused military special use airspace would be returned to nonmilitary users, thereby reducing fuel usage and flight time for civilian aircraft.

Third, potential environmental damage could be avoided by reducing the potential impact of such hazards as unexploded ordnance on sensitive ecosystems.

Fourth, the number of persons affected by military overflights would be reduced and noise and other hazards to persons and property on the ground would be minimized.

To achieve these benefits, the bill includes a number of provisions:

First. Public notice would be required in advance of any special use airspace designation. State government leaders and officials, commercial airlines and general aviation airspace users, environmentalists, farmers and ranchers, small businesses, and individual citizens would all have an opportunity to participate in the process. This would ensure that special use airspace actions proposed by the military would not be rubber-stamped by the FAA.

Second. The military and the FAA would be held jointly responsible for ensuring that proposed special use airspace actions were in full compliance with the National Environmental Policy Act of 1969.

Third. The FAA would be required to reassess periodically existing special use airspace and then terminate those designations that can no longer be justified. A private 1987 study for the Navy, called Project Blue Air, found that controlled special use airspace was used only 22 percent of the reserved time. In fact, the airspace was often used for unintended purposes. The bill also requires the FAA to solicit and consider user complaints when making such evaluations.

In 1988, the GAO issued a report entitled, FAA Needs to Improve its Management of Special Use Airspace. The GAO found that the lack of FAA initiative led to the inefficient and inappropriate use of airspace.

Although the FAA has modified its organizational structure and taken other steps to address the deficiencies in the GAO report, it has still failed to exercise the proper initiative and leadership as the steward of the Nation's airspace. My bill will correct that flaw and provide the FAA with the mandate it needs to exercise such stewardship.

There is a flaw in the process if the military reserves airspace and then does not use it. My bill would correct that flaw and hold the military accountable. Our military is vitally important, but so is the need to reduce civilian air traffic congestion and to protect the environment. These are safety and health issues.

The legislation proposed today would create a greatly needed network of communication, accountability, and cooperation between the military, the Federal Government, and the American people. I encourage my colleagues to support this measure, and ask unanimous consent that the text of the bill appear in the CONGRESSIONAL RECORD after my statement.

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

S. 944

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 "Airspace Protection Act of 1991".

SEC. 2. DEFINITIONS.

As used in this Act—

(1) "special use airspace" is defined in accordance with regulations promulgated by the Federal Aviation Administration;

(2) "expansion of a special use airspace" means any increase in the physical dimensions of, or substantial changes in operations within, a special use airspace previously designated; and

(3) "designated" or "designation" means allocated, awarded, set aside, granted, or otherwise made available, and such term includes the expansion of a special use airspace.

SEC. 3. NOTIFICATION.

(a) NOTICE.—(1) Effective upon the date of enactment of this Act, in the administration of the provisions of section 102 of the National Environmental Policy Act of 1969, and the laws and regulations of the United States relating to the designation of special use airspaces, the Secretary of Transportation, acting through the Federal Aviation Administration, shall ensure that written notice, including an opportunity to comment on any such proposed special use airspace designation, shall be provided to—

(A) the Governor of any State over which airspace is sought to be designated as special use airspace;

(B) the head of an Indian tribe on any Indian lands, if such lands are likely to be affected by any such designation;

(C) the Secretary of the Interior, if such designation includes airspace above any unit of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, the National Trails System, or the National Wilderness Preservation System administered by the Department of the Interior; and

(D) each group of users of such airspace.

(2) The provisions of paragraph (1) shall include military special use airspace, including but not limited to, prohibited areas, restricted areas, military operation areas, airspace for military training, research, development, testing and evaluation.

(b) PUBLICATION.—In addition to the notice required under subsection (a), notice of any significant proposed designation, including notice of an opportunity to submit written comments, shall be published in newspaper of general circulation (rather than legal papers) within the affected area.

(c) HEARING.—Upon the request of any Governor made within 30 days following the receipt of proposed designation of an airspace pursuant to subsection (a), the Secretary of Transportation, in consultation with any appropriate head of a Federal department or agency, shall hold a public meeting and consider oral and written comments prior to making a determination with respect to such designation. The notice provided pursuant to subsection (a) shall advise the Governor of the right to request a public meeting and the 30-day time limit.

SEC. 4. SECRETARY OF DEFENSE, SECRETARY OF TRANSPORTATION, AND FEDERAL AVIATION ADMINISTRATION RESPONSIBILITY.

(a) PROCEDURES.—The Secretary of Defense, and the Secretary of Transportation (acting through the Federal Aviation Administration), in consultation with the Council on Environmental Quality, shall, no later than 90 days after the date of the enactment into law of this section, jointly adopt procedures to assure that designations of special use airspace are in compliance with the National Environmental Policy Act of 1969.

(b) REVIEW PROCEDURES.—The Secretary of Transportation, acting through the Federal Aviation Administration, shall establish procedures for the review of each special use airspace designation not less than every 36 months. Such procedures shall include provision for the collection and consideration of complaints and other data relative to special use airspace. If in the course of any such review, which shall include consideration of "cumulative impacts" as defined in section 1508.7 of title 40 of the Code of Federal Regulations, it is determined that the use of such airspace cannot justify the continued designation of such special use airspace, such designation shall be terminated or modified by the Secretary.

By Mr. GLENN:

S. 945. A bill to require the Secretary of Energy to conduct a fuel cell research and development program, to establish a national transportation fuel blend requirement, and for other purposes; to the Committee on Energy and Natural Resources.

ENERGY ALTERNATIVE FUELS POLICY ACT

• Mr. GLENN. Mr. President, I rise today to introduce the Energy Alternative Fuel Policy Act of 1991. Mr. President, it is critical to our national security, our continued economic growth and our competitiveness abroad for our Nation to have a comprehensive energy policy that decreases overreliance on imported oil.

The purpose of my legislation is to mandate the increased use of nonpetroleum vehicle fuels and to develop fuel cell technology for commercial use. Title I of my legislation authorizes the appropriation of $50 million annually for 3 years for research and development of fuel cells. This title also directs the Secretary of Energy to utilize a system of competitive grants to develop this technology.

The Secretary of Energy will carry out this program jointly with colleges and universities, private industry, and Federal and State entities through a combination of grants, cooperative agreement, contracts and interagency agreements. The Federal share of the cost of each research or development project funded under this program will not exceed 50 percent of the cost of the project.

Mr. President, fuel cells can potentially provide the range advantages of an internal combustion engine, but with clean and quiet operation using nonpetroleum based fuels. Because the fuel cell is an energy conversion device, it provides a new and exciting option for the efficient conversion of renewable fuels to electricity. Fuel cell technology offers great promise for reducing the use of petroleum in the transportation sector which now accounts for almost two-thirds of all U.S. oil consumption.

I have long believed that we must develop a vehicle that is adequately matched to consumers' needs. Mr. President, approximately 80 percent of all travel is within a 20-mile range of one's home. With the research capability we have in this country, there is no reason why fuel cell technology cannot be perfected for commercial use. We just need to direct our research dollars into this area.

The fuel cell can provide a pollution free power source to meet this need.

Title II of my legislation requires that by the year 2000, 10 percent of the Nation's motor fuel must be derived from nonpetroleum sources. This requirement will be phased in to avoid supply and distribution problems. Fully implemented, this title will reduce the Nation's dependence on foreign oil by over 10 billion gallons.

Mr. President, several years ago on a cross country driving trip, I had the opportunity to personally observe the availability of ethanol and other nonpetroleum fuel blends. West of the Mississippi, an ethanol/gasoline mix was offered at virtually every stop. It is clear that these fuels are already playing a significant role in utilizing our abundant agricultural commodities and in substituting other nonpetroleum based fuels for gasoline in some parts of the country. This alternative fuel needs to be available nationwide. In order to ensure the development of the necessary infrastructure, however, my legislation will phase in the mandated alternative fuels requirement.

The implementation plan for this title also includes a system of renewable fuel credits. The system permits credits to those whose usage exceeds the 10 percent requirement. In addition, trading will also be allowed to further facilitate the implementation of the national transportation fuel blend requirement.

Mr. President, the energy policy we develop will touch the lives of every American now as well as the lives of future generations. We need an energy policy with a long-term goal, not a short-term fix. We need an energy policy that recognizes the fragility of our environment and the limitation of nonrenewable resources. I believe that this legislation is an important step toward reaching those objectives, and I urge my colleagues to join me in supporting it.

I ask unanimous consent for the bill to be printed in the RECORD at this point.

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

S. 945

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 "Energy Alternative Fuels Policy Act of 1991".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) adoption of a sound energy policy is essential to the protection of the economic health of the United States and the national security of the citizens of the United States;

(2) fuel cells can potentially provide the range advantages of an internal combustion

engine, but with clean and quiet operation using nonpetroleum-based fuels;

(3) new energy-efficient technologies and alternative fuel technologies need to be encouraged;

(4) since 1985, United States oil imports have increased while domestic production has decreased; and

(5) the sharp drop in world oil prices has discouraged investment in alternative energy sources and energy-efficiency technologies.

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

(1) develop an efficient and effective cost-sharing research program for fuel cells and alternative fuels;

(2) provide alternative to petroleum;

(3) increase fuel flexibility;

(4) reduce pollution;

(5) decrease the reliance of the United States on foreign supplies of energy;

(6) establish a program to encourage the development of alternative fuels in passenger vehicles; and

(7) require that 10 percent of the motor transportation fuel of the United States be derived from nonpetroleum sources.

SEC. 3. FUEL CELL RESEARCH, DEVELOPMENT, AND COMMERCIALIZATION PROGRAM.

The Federal Nonnuclear Energy Research and Development Act of 1974 is amended by inserting after section 4 (42 U.S.C. 5903) the following new section:

"SEC. 4A. FUEL CELL RESEARCH, DEVELOPMENT, AND COMMERCIALIZATION PROGRAM.

"(a) IN GENERAL.—The Secretary shall award grants to pay for the Federal share of—

"(1) conducting advanced research and development into improved fuel cell technology; and

"(2) promoting early commercial application of fuel cell systems for vehicles.

"(b) COOPERATION.—To the extent practicable, the Secretary shall carry out the program jointly with colleges and universities, private industry, and Federal and State entities through a combination of grants, cooperative agreements, contracts, and interagency agreements.

"(c) FEDERAL SHARE.—The Federal share of the cost of each research or development project funded under this program shall be a percentage determined by the Secretary, except that the Federal share may not exceed 50 percent of the cost of the project.

"(d) REPORT.—Not later than 1 year after the date of the enactment of this section, and annually thereafter, the Secretary shall prepare and submit to Congress a progress report that—

"(1) evaluates whether fuel cells can provide compact, efficient, and cost-effective power;

"(2) evaluates potential problems with commercialization of fuel cells;

"(3) describes environmental advantages and disadvantages of fuel cell technologies; and

"(4) offers recommendations for carrying out the program established under this section.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $50,000,000 for each of the fiscal years 1992 through 1996.".

SEC. 4. NATIONAL TRANSPORTATION FUEL BLEND REQUIREMENT.

Title III of the Energy Policy and Conservation Act is amended by adding at the end the following new part:

"PART K—NATIONAL TRANSPORTATION FUEL BLEND REQUIREMENT

"SEC. 400AAA. NATIONAL TRANSPORTATION FUEL BLEND REQUIREMENT.

"(a) IN GENERAL.—The Secretary shall take such actions as are necessary to ensure, to the extent practicable, that, by the year 2000, at least 10 percent of the motor transportation fuel of the United States shall be derived from nonpetroleum sources.

"(b) IMPLEMENTING PLAN.—

"(1) IN GENERAL.—The Secretary shall establish an implementing plan to carry out this section.

"(2) FUEL MARKETERS AND FLEET OWNERS.—The implementing plan shall require that fuel marketers sell, and owners of fleets use, specified quantities of motor transportation fuel derived from nonpetroleum sources. The fuel may be blended with other fuel derived from petroleum sources.

"(3) RENEWABLE FUEL CREDITS.—

"(A) IN GENERAL.—The implementing plan shall include a system of renewable fuel credits that grants persons subject to the requirements of paragraph (2) an appropriate number of credits for selling or using more than the applicable quantity of motor transportation fuel derived from nonpetroleum sources.

"(B) TRADING.—Under such terms and conditions as the Secretary determines to be appropriate, a person granted credits may transfer some or all of the credits to another person to enable the person to comply with the requirements of paragraph (2).

"(4) PHASE-IN SCHEDULE.—The implementing plan shall include a schedule for phasing in the national transportation fuel blend requirement established by this section in order to avoid supply and distribution problems.".●

By Mr. STEVENS (for himself and Mr. PRYOR):

S. 946. A bill to amend title 39 to reduce the time to consider changes in postal rates; to the Committee on Governmental Affairs.

S. 947. A bill to amend title 39 to provide judicial standing to the Postal Rate Commission; to the Committee on Governmental Affairs.

S. 948. A bill to amend title 39 to increase the information available to the Postal Rate Commission; to the Committee on Governmental Affairs.

S. 949. A bill to amend title 39 to provide for reasonable classes and rates for mail and postal services; to the Committee on Governmental Affairs.

POSTAL LEGISLATION

Mr. STEVENS. Mr. President, the U.S. Postal Service provides a vital function to the American business community, to our government, and to each and every American. It is the one government function which reaches out and touches all Americans almost every day. As we are well aware, the Postal Service is of vital importance to the citizens of each of our States. In my State, for example, many citizens would be cutoff from any meaningful contact with the rest of the country were it not for the Postal Service. It is unquestionably crucial that the U.S. Postal Service remain a strong, financially viable enterprise.

The U.S. Postal Service is now in the middle of the administrative and judicial process which stemmed from the last postal rate case. We have all heard from those who are unhappy with the new postal rates, and perhaps even from those who are pleased with those new rates. As a result of this last rate case, the Postmaster General has suggested that the ratemaking process needs to be revised. In fact, the Board of Governors of the Postal Service has commissioned a study of the ratemaking process, and a prominent Washington based think tank plans to hold a seminar on this subject.

I could not agree more with the need to revise the ratemaking process. I am one of the few Members of Congress who was here in 1969 and 1970 when we developed and passed the Postal Reorganization Act of 1970. One of the defects that we discovered early on with this new experiment in a quasi-government corporation was the time and expense involved in setting postal rates. We modified the process once, by trimming the time involved.

After subsequent rate cases, it appears that this was not enough. Rate cases, although confined under law to 10 months, have taken on a new disturbing trend of time spent in reconsideration and court cases after the Postal Rate Commission has made their recommendation.

The proposal I am offering today, I hope, will provide the flexibility I think we all agree is needed in establishing proper postal rates to meet changing economies and competition. They do so by reducing the time involved in setting rates, and more important, reducing the cost incurred by all parties, including the Postal Service, in the rate case process.

Without question, rate setting is one of the keys to the success of the Postal Service survival. If we cannot solve the problem we will, I believe, be forced to reevaluate the entire concept embodied in what is now known as the U.S. Postal Service. We may have to look seriously at either reestablishing in the excutive branch the U.S. Post Office Department, or privatizing the mail delivery system altogether.

My purpose today is not to discuss the merits or disposition of the last rate case. Those are issues for the Postal Rate Commission, the Governors of the Postal Service, and the courts to resolve. I am not attempting to second guess the study commissioned by the Board of Governors, but it is time we laid out for inspection a series of legislative proposals that will get the ball rolling on this issue.

For years, I have believed that the rate making process takes far too long. Thus, today I am introducing a series of bills which will correct some deficiencies I see in the current framework for setting postal rates in the United States. But more important, if enacted,

these bills would reduce the time necessary to complete a rate case. I believe this effort is consistent with numerous complaints regarding the lengthy process from almost all segments of the mailing industry, and from the Postmaster General.

As I mentioned, the intent of these bills is to reduce the time involved in these long, drawn-out cases and thereby allowing greater flexibility to the Postal Service with regard to competition as well as a reduction in costs to all parties. Each rate case costs the taxpayer millions and yet does nothing to improve service or salaries, or to reduce the costs of the Postal Service. These long cases not only add to the cost of each stamp, but also add to the cost of doing business for all users of the Postal Service. It has been estimated that the third class mailing industry alone spent $8 to $10 million on the last two cases. Remember, that figure represents only one party and one class of mail out of the four classes of mail.

The length of time involved in a case simply must be reduced. And at the same time, we must protect the rights of the various components of the mailing community so they can help ensure that one class of mail does not wind up subsidizing another class of mail users.

The first bill I am introducing provides for a reduction in the time which the Commission has to issue its decision on a Postal Service rate request. Current law provides that the Commission must issue its decision within 10 months of the date the Postal Service filed its rate request.

At a minimum, this bill reduces that time limit 15 percent to 8½ months, or 265 days. In doing this, I have sought to prevent any infringement on the procedural and due process rights of all interested persons, mail users, and the Postal Service. A close examination of the process shows that the Commission must provide 1 month of the 10 month process for interested parties to file their intent to intervene in the proceeding. If this process were quickened, Postal Service witnesses could take the witness stand much earlier, and thus allow a reduction in the time limit afforded the Commission.

The bill accomplishes this by requiring the Postal Service to announce its intent to file a rate case, and to file annually information on the postal revenues, volumes, costs and billing determinants. This information would allow parties and the Commission to be better prepared before the Postal Service actually files a request for new rates. The bill also requires that the Service provide information to the Commission at least 30 but not more than 60 days before a request is filed on the current financial condition of the Service. This information would allow the Commission and the parties to begin analysis for a rate request before the actual filing. It must also provide readily available information to the Commission and the public not less than 30 days before the Service files its request. The information to be provided falls into two distinct categories. First, the Service must notify the public generally of:

First, the anticipated change in total revenues;

Second, the classes of mail and types of services whose rates and fees will be increased or decreased;

Third, changes in the methods of attributing costs previously approved by the Commission which are expected to be proposed in this request;

Fourth, significant classification and rate design changes expected to be included in a rate filing; and

Fifth, any expected proposals to change the method of attribution of costs previously approved by the Commission.

Second, the Service must provide a statement for the year whose data will form the basis of the Service's rate request, of the costs, the revenues by class, and the volumes by class including billing determinants. This information provides the base year data from which the Postal Service, the Commission, and the parties make projections for the revenue needs of the Postal Service, and thus, the rates needed.

This information would be readily available to the Postal Service 30 days before it files a rate request with the Commission. The Service must know what the anticipated revenue need will be and what classes would be expected to have a rate increase or decrease. The information need not contain what the increase or decrease will be, just whether the rates for that class will change. Moreover, within 30 days of a rate filing the Service should know what changes, if any, it expects to propose to attributable cost methodologies. This information would be subject to change based upon final approval by the Board of Governors, of course, but the provision of the information will put mailers on notice that a rate request will be made shortly and that their particular rate may be increased or decreased. The mailer will then have the responsibility to prepare for possible intervention in the case, knowing that proceedings at the Postal Rate Commission will get under way quickly.

The detailed cost, revenue, and volume information for the historic year upon which the rate request is based should be easily available to the Service 30 days before a rate case is filed. If it were not readily available, the Service could not have future projections and prepared testimony ready for presentation to the Governor for approval. The filing of the historic data would not require the Service to "tip its hand" on its request. The projections, including revenue from each class and its volumes, would not be made public at that time. The public would only have before it the starting point and would have to await the actual filing for the end point. The Service and the Board of Governors would not be precluded from any specific proposal in the filing due to the release of these data. With regard to the prefiled information, no confidential data would be required to be filed.

The Commission and the parties could begin to analyze the historic data so that Commission staff and parties' witnesses will "hit the ground running" when the Service files. This should help quicken the process and give the Service an earlier response to its rate requests. Moreover, each party, including the Postal Service, would maintain the procedural structure commonly granted in Postal Rate Commission proceedings; full discovery; full cross examination; full time for rebuttal; full briefing, including initial and reply briefs; and oral argument.

The bill also provides that the Commission should establish the most expeditious as possible time table for discovery in these proceedings. This should reduce the time needed for discovery in a rate proceeding.

Finally, the Commission cannot issue any rules concerning the filing of any of this information without giving due consideration to avoiding excessive paperwork burdens on the Postal Service. I expect that the Service will adequately argue its position with the Commission in the course of the rulemaking proceeding.

The second bill I am introducing would provide standing to the Postal Rate Commission in any appeal to the U.S. Court of Appeals of a decision by the Governors of the Postal Service whether it be to allow under protest, reject, or modify a recommended decision of the Postal Rate Commission. Under current law, any party may appeal the decision of the Governors to accept, allow under protest, or modify a Postal Rate Commission recommendation in a Court of Appeals of the United States, except the Rate Commission itself. In any proceeding, the case is captioned "The Party versus the United States Postal Service." It is the Postal Service and not the Rate Commission which appears as representative of the Government of the United States in these appeals. In the case of the Postal Service allowing under protest a Commission decision, the party suing and the Postal Service may be on the same side in the court case. The Postal Service may not agree at all with the position and reasoning behind the decision of the Postal Rate Commission. The Rate Commission therefore must depend on intervenors in the court case arguing in favor of the Commission's decision.

In order to have the court receive the full breadth of argument in an appeal,

it only makes sense to allow the Commission to have standing as a party in the case. This change would place upon the Postal Rate Commission the duty to defend its decision in an appeal before a U.S. Court of Appeals. The court will have clearly before it all the arguments for and against a Commission decision and the subsequent Governor's decision. The appropriate designation would enable the court to render a fair decision after hearing all the merits fully argued. I believe that this improvement will result in a better court decision. This bill does not grant the Postal Rate Commission authority to initiate an appeal against the Postal Service for a decision made by the Governors. This merely allows the Rate Commission standing as an entity if such an appeal is filed. This will not increase any burden on any court, it will just grant the Commission the authority to explain and argue for its own decision.

Another bill I am introducing today will provide a mechanism for the Postal Rate Commission to obtain information from the U.S. Postal Service pertaining to cases before it. This bill is practically identical to the corresponding part of H.R. 4159, by Congressman MCCLOSKEY, introduced in the 101st Congress. Obtaining adequate information upon which to base a decision is a necessity. In the world of postal rates and fees, the U.S. Postal Service is the provider of the service and holder of virtually all the information necessary to establish rates and fees. Moreover, the Postal Service has the sole authority over the information gathering system. In this way, the Postal Service controls all the information and determines precisely what information will be made available. In many ways, this situation poses problems for both the parties and the Postal Rate Commission in any rate case initiated by the Postal Service. The Postal Service controls the timing of the rate case, the initial proposal in the rate case, and all the information upon which any rates may be based. Fortunately, from what I understand, there was little conflict over production of information during the last rate proceeding. However, because of persistent attacks by senior postal officials on the postal rate-making process, the Commission, and even on the competence and credibility of these congressionally approved Commissioners, it is questionable whether or not such cooperation can be expected in the future. Thus, the potential for conflict, confusion, frustration, and anger remains. It may well be that different information is needed. The Postal Service may provide all the information available to it yet still lack information on important areas, concerns, and issues. The Commission's ability to obtain needed information will, I believe, enhance cooperation and eliminate foot dragging by the Postal Service and, most importantly, help reduce the time involved in rate cases.

With this authority the Postal Rate Commission could obtain more issue-specific information from the Postal Service to resolve areas of concern to the Commission and to parties appearing before the Commission. This authority would be a problem-solving power. Many times in the past, further data from the Postal Service have resolved the issues of previous cases accurately and without great conflict from any of the parties. Hopefully, this bill would provide a tool which helps the Commission resolve quickly, accurately, and without conflict, issues that continue to arise in case after case. Again, one of the purposes for this bill is to help eliminate conflict, resolve issues, streamline procedures, and cut the time needed in the rate-making process. If data are available, issues are more easily resolved. It is my understanding that in the most recent rate case, a significant study and data collection effort by the Postal Service in transportation reduced the area of conflict in costing of postal transportation. It is my hope that this data collection system will continue and will eliminate future conflicts. This is a cost-saving effort that will help the Postal Service and all the various parties.

The authority granted to the Rate Commission is not unbridled. There will be a check on the Postal Rate Commission. The Commission must prescribe regulations to ensure safeguards for privileged and confidential information after consultation with the Postal Service. The Commission must always use proper rate-making procedures as established in the Administrative Procedures Act. Moreover, any information requested must pertain directly to an issue in a proceeding before the Commission. These requests cannot be fishing expeditions. This provides to the Postal Service protection against Postal Rate Commission abuses.

The final bill I am introducing today would grant the Postal Rate Commission final decision authority. The current statute provides that the Commission, after holding administrative trial-type hearings, will recommend decisions to the Governors of the Postal Service. The Governors then review the recommendations of the Postal Rate Commission and can accept, reject, allow under protest, or in certain instances, modify those recommendations. Those Governors hold no hearings, receive written comments from all intervenors, and are briefed by the Postal Service management which participated in the case before the Postal Rate Commission. In the same rate proceeding, the Governors issued three separate decisions. First, the Governors rejected almost all classification recommendations of the Postal Rate Commission which were not proposed by the Postal Service. Second, the Governors allowed under protest, the Public Automation Rate of 27 cents and sought judicial review of the Commission recommendation in the Court of Appeals for the U.S. District of Columbia Circuit. Finally, the Governors allowed, under protest, the remainder of the Commission's recommendations and resubmitted those recommendations to the Commission for reconsideration.

The results of those three separate decisions are three separate suits in the U.S. Court of Appeals for the U.S. District of Columbia. The parties are protesting the rejections and the allowance under protest of the Commission recommended rates. And the Governors are in the courts suing the Postal Rate Commission over the Public Automation Rate of 27 cents. All these actions add up to an even longer delay in final resolution of the rate case.

After reconsideration of this rate case by the Postal Rate Commission, the Commission will issue another recommended decision upon reconsideration. The Governors may reject that decision, allow it under protest, or accept it. That may well produce another round of appeals to a U.S. Court of Appeals. Eventually, the Governors most likely will accept or modify a Commission recommended decision upon reconsideration. That decision of the Governors may also be appealed to a Court of Appeals of the United States. The current process, with intermediate decisions by the Governors of the Postal Service, which may be appealed to a Court of Appeals, provided for numerous rounds of administrative decision-making and numerous rounds of judicial decisionmaking. Granting the Rate Commission final decision authority would establish a regulatory process which is very similar to what happens with the regulations of other monopolies in the United States.

My bill would provide one special provision for the Governors of the Postal Service. A decision of the Postal Rate Commission would go to the Governors of the Postal Service who may submit for reconsideration any issues for that decision. The Commission would then be required promptly to consider or reconsider the Governors' position and then issue a supplemental decision. That decision could be appealed by the Postal Service or any other party through the U.S. Court of Appeals. This would provide protection to all the parties, including the Postal Service, from any Commission abuse or failure to follow procedures of the record before it.

As already mentioned, the Postal Service is in the courts with three separate cases based upon the three separate decisions of the Governors in the current postal rate proceedings. In all likelihood, there will be at least one

further appeal once a final determination on the current rate request is made. Granting the Postal Rate Commission final decision authority would reduce to one court suit any appeals on the administrative rate setting decision. This should provide a reduction in court time, and time spent by the parties and the Postal Service in the Court of Appeals. This bill would streamline the process after the Commission issues its decision and place the procedural framework more in line with the traditional regulation of monopolies in this country.

Mr. President, I ask unanimous consent to have each of the four bills mentioned printed at the end of my remarks. I do want to note that I am working on other postal legislation which may be introduced after further review.

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

S. 946

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

SECTION. 1. Subsection (a) of Section 3622 of title 39, United States Code, is amended by adding at the end thereof the following:

"The Postal Service shall file with the Commission, at the time of the Postal Service filing of its request, all workpapers and Library References which will be used and/or which will support the evidence presented by each Postal Service witness. Moreover, not less than 30 days nor more than 60 days before making a request under this section the Postal Service shall—

"(1) publish notice of intent to file a request, which notice shall specify (A) the anticipated change in total revenues, (B) the classes of mail and types of postal service whose rates and fees would be increased or decreased, as the case may be, under any suggestions for rate adjustments expected to be filed, (C) in detail, any changes in the methods of attributing costs previously approved by the Commission which are expected to be proposed in the request, (D) the classes of mail and types of postal service which significant changes in classification or rate or fee design will be proposed, and (E) such other information reasonably necessary to an informed judgment as to the probable scope and nature of the issues as the Commission may require; and

"(2) file with the commission, and subsequently make available to persons who shall have given notice of intent to participate, a statement in a form prescribed by the Commission, covering that year for which the data will form the basis of the request, and setting forth (A) the costs of the Postal Service, including attributable costs by a class of mail and type of mail service in which presentation it shall reflect costing methods as employed by the Commission in its latest applicable rate decision and also shall reflect alternatively the attribution methodology changes noted in subparagraph (1) above, (B) the revenues of the Postal Service analyzed by class of mail and type of mail service, (C) the volumes of the Postal Service by class of mail and type of mail service, and including billing determinants (D) forecasts of postal volumes, revenues and costs at prefiled rates, and (E) such other information as the Commission may prescribe."

"In establishing rules governing the form of notice and the statement provided for by this section, the commission shall give due consideration to avoidance of excessive paperwork burdens upon the Postal Service."

SEC. 2(a) Paragraph (b)(3) of section 3624 of title 39, United States Code, is amended to read as follows:

"(3) discovery, under the most expeditious schedule possible, from both the Postal Service and the parties to the proceedings;"

(b) Paragraph (c)(1) of section 3624 of title 39, United States Code is amended to read as follows:

"(c)(1) Except as provided by paragraph (2) of this subsection, in any case in which the Postal Service makes a request under section 3622 for a recommended decision by the Commission on changes in a rate or rates of postage or in a fee or fees for postal services, the Commission shall assign a filing date to such request. Such filing date shall be either (i) 30 days after the Postal Service shall have complied with the requirements of section 3622 (a)(1) and (2), or (ii) the day on which the request is actually filed, if the Postal Service has complied with section 3622 (a) (1) and (2) at least 30 days prior to such day. The Commission shall transmit its recommended decision to the Governors under subsection (d) of this section nc later than 265 days after such filing date. The Commission may provide for the filing with it by interested persons, at any time between the publication of notice under section 3622 (a)(1) and the filing date, of a notice of intent to participate, and for expeditious grant to such persons of party status.

(b) Paragraph (c)(2) of section 3624 of title 39, United States Code is amended by inserting the phrase "or by failing to fully comply with section 3622 (a)" after the phrase "lawful order of the Commission" and is further amended by striking the phrase "10-month period" and substituting therefor the phrase "265-day period".

SEC. 3. Title 39, United States Code is amended by adding a new section 3686, as follows:

§ 3686. Periodic Filing of Postal Service Data

The Postal Service shall file annually with the Postal Rate Commission non-confidential data for each fiscal year which sets forth (A) the cost of the Postal Service, including attributable costs by class of mail and type of mail service, presented according to the costing methods as employed by the Commission in its latest applicable rate decision, (B) the revenues of the Postal Service analyzed by class of mail and type of mail service, (C) the volumes of the Postal Service by class of mail and types of mail service, and including billing determinants, and (D) such other information as the Commission may prescribe."

S. 947

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

SECTION 1. Section 3628 of title 39, United States Code, is amended by adding, after the first sentence thereof, the following sentence:

"The Commission shall have the right to intervene as a party in any such appeal from a decision of the Governors to reject or modify a recommended decision or to allow a recommended decision under protest and return it to the Commission for reconsideration and a further recommended decision."

S. 948

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

SECTION 1. (a) Section 3624 of title 39, United States Code, is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following:

"(c)(1) The Commission may secure from the Postal Service information necessary to enable the Commission to carry out its functions under this subchapter (including any functions under section 3662 which it is required to perform in accordance with this subchapter). Upon request of the Commission, whether on its own behalf or on behalf of any party to a proceeding conducted under or in conformity with provisions of this subchapter, the Postal Service shall furnish such information to the Commission.

"(2) The Commission, in consultation with the Postal Service, shall prescribe regulations to carry out this subsection. The regulations shall include provisions to ensure appropriate safeguards for any privileged or confidential information."

(b) Section 3624(d)(1) of title 39, United States Code (as so redesignated by subsection (a)) is amended by striking "Commission," and inserting "Commission (including a request for information under subsection (c) in connection with the Commission's consideration of a request made by the Postal Service under section 3622),".

(c)(1) Section 3624(d) of title 39, United States Code, as so redesignated by subsection (a), is amended in paragraph (1) by striking "subsection (d)" and inserting "subsection (e)".

(2) Section 3641 of title 39, United States Code, is amended—

(A) in subsection (a), by striking "3624(c)" and inserting "3624(d)"; and

(B) in subsection (d), by striking "3624(d)" and inserting "3624(e)".

S. 949

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

SECTION 1. Section 3621 of title 39, United States Code, is amended by deleting the first sentence thereof and substituting the following: "There shall be established reasonable and equitable classes of mail and reasonable and equitable rates of Postage and fees for postal services in accordance with the provisions of this chapter."

SEC. 2. Section 3622 of title 39, United States Code, is amended by—

(a) in subsection (a) thereof, deleting the phrase "submit a recommended decision" and substituting therefor the phrase "render a decision"; and

(b) in subsection (b) thereof, deleting the phrase "make a recommended decision" and substituting therefor the phrase "render a decision".

SEC. 3. Section 3623 of title 39, United States Code, is amended by—

(a) deleting subsection (a) and redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively;

(b) revising subsection (a), as so redesignated, to read as follows:

"(a) The Postal Service may from time to time request that the Commission render, or the Commission on its own initiative may render, a decision on changes in the mail classification schedule."; and

(c) in subsection (b), as so redesignated, deleting the phrase "make a recommended de-

cision" and substituting therefor the phrase "render a decision".

SEC. 4. Section 3624 of title 39, United States Code, is amended by—

(a) in subsection (a) thereof, deleting the phrase "recommended a decision" and substituting therefor the phrase "render a decision";

(b) revising subsection (c) (1) thereof to read:

"(c) (1) Except as provided by paragraph (2) of this subsection, in any case in which the Postal Service makes a request under section 3622 of this title for a decision by the Commission on changes in a rate or rates of postage or in a fee or fees for postal services the Commission shall render its decision no later than 10 months after receiving any such request from the Postal Service."; and

(c) Revising subsection (d) thereof to read:

"(d) A decision of the Commission rendered under this section shall include a statement specifically responsive to the criteria established under section 3622 or 3623, as the case may be."

SEC. 5. Section 3625 of title 39, United States Code, is amended to read as follows:

"§ 3625. Reconsideration; effective date

"(a) Within 30 days of the rendering of a decision by the Commission under section 3624 of this title, the Governors of the Postal Service may request the Commission to reconsider its decision. Such request shall be in writing and shall specify the areas in which the Governors disagree with the decision. The Commission shall promptly reconsider such decision, employing such further hearing or other procedures as are necessary to address the areas of disagreement identified by the Governors, and at the conclusion of such reconsideration shall issue a supplemental decision.

"(b) The record of the Commission's hearings, the Commission's decision, any request for reconsideration under subsection (a), the record of any Commission proceedings on reconsideration, and any supplemental decision by the Commission shall be made generally available at the time the decision or supplemental decision, as the case may be, is issued.

"(c) The Board of Governors shall determine the date on which the new rates, fees, or changes in the mail classification schedule made under this subchapter shall become effective."

SEC. 6. Section 3628 of title 39, United States Code, is amended to read as follows:

"A decision or supplemental decision of the Commission may be appealed to any court of appeals of the United States, within 15 days of its issuance, by an aggrieved party who appeared in the proceedings under section 3624(a) of this title. The court shall review the decision, in accordance with section 706 of title 5, and chapter 158 and section 2112 of title 28, except as otherwise provided in this section, on the basis of the record before the Commission. The court may affirm the decision or order that the entire matter be returned for further consideration, but may not modify the decision nor suspend the effectiveness of the changes or otherwise prevent them from taking effect until final disposition of the suit by the court. No court shall have jurisdiction to review a decision by the Commission under this chapter except as provided in this section."

SEC. 7. (a) Section 3641 of title 39, United States Code, is amended by—

(1) in subsection (a) thereof, deleting the phrase "transmit a recommended decision on a change in rates of postage or in fees for postal services to the Governors" and substituting therefore the phrase "render a decision on a change in rates of postage or in fees for postal services";

(2) in subsection (d) thereof, deleting the phrase "transmits its recommended decision to the Governors under section 3624(d) of this title" and substituting therefor the phrase "renders its decision"; and

(3) revising subsection (e) thereof to read:

"(e) If the Postal Rate Commission does not render a decision on a request for a change in the mail classification schedule within 90 days after the Postal Service has submitted such request, the Postal Service, upon 10 days' notice in the Federal Register, may place into effect temporary changes in the mail classification schedule in accordance with proposed changes under consideration by the Commission. Any temporary changes shall be effective for a period ending not later than 30 days after the Commission has rendered its decision."

SEC. 8. Section 3662 of title 39, United States Code, is amended by deleting the phrase "issue a recommended decision" and substituting therefor the phrase "render a decision".

By MR. STEVENS:

S. 950. A bill to prohibit geographic discrimination in secondary mortgage market operations; to the Committee on Banking, Housing, and Urban Affairs.

FAIR ACCESS TO HOUSING ACT

Mr. STEVENS. Mr. President, a number of States, particularly Alaska, are being unfairly denied access to the national mortgage capital markets. Reports have reached me that Alaskans are being blocked from these markets and cannot raise mortgage capital regardless of the underlying strength of any given mortgage.

I ask unanimous consent to insert into the RECORD a copy of a resolution by the Alaska Mortgage Bankers Association. This resolution states that some national mortgage bankers will not purchase FHA or VA loans because they are originated in Alaska. The resolution also states that some mortgage insurers will not issue mortgage insurance policies because they are originated in Alaska.

This discrimination is contrary to the intent of Congress when it enacted legislation setting up the secondary mortgage markets. Such markets were originally designed to improve the distribution of investment capital available for home mortgage financing.

Mr. President, I have a copy of the testimony of Mr. James Crawford, past president of the Alaska Mortgage Bankers Association, describing the problems mortgage bankers from Alaska have in gaining access to the secondary mortgage markets. I ask unanimous consent to insert this statement into the RECORD.

Today, I am introducing legislation to ban the practice of excluding mortgages from the secondary markets because of bias against the location of the property securing the mortgage. I hope my colleagues will take a careful look at this proposal, and I ask unanimous consent that the text 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. 950

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 "Fair Access to Housing Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that—

(1) a primary Congressional goal in establishing the Federal National Mortgage Association, the Government National Mortgage Association, and the Federal Home Loan Mortgage Corporation was to improve the distribution of mortgage capital and to increase access to mortgage capital for citizens in all 50 states; and

(2) evidence is mounting that certain States are being unfairly denied access to mortgage markets, and restriction of such access is unrelated to the soundness of the underlying loans being offered to the mortgage markets.

SEC. 3. GOVERNMENT NATIONAL MORTGAGE ASSOCIATION.

Section 306(g)(1) of the National Housing Act (12 U.S.C. 1721(g)(1)) is amended by inserting after the first sentence the following: "The Association shall not guarantee any securities issued by an issuer, or backed by mortgages pooled in a manner, that arbitrarily discriminates on the basis of the location of the property securing the mortgage.".

SEC. 4. FEDERAL NATIONAL MORTGAGE ASSOCIATION.

Section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) is amended by inserting after the first sentence the following: "The corporation shall not purchase, service, sell, lend on the security of, or otherwise deal with conventional mortgages that have been insured by a private mortgage insurer, or that have been originated by a private mortgage company, that arbitrarily discriminates on the basis of the location of the property securing the mortgage.".

SEC. 5. FEDERAL HOME LOAN MORTGAGE CORPORATION.

Section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) is amended by adding at the end the following: "The Corporation shall not purchase or make commitments to purchase mortgages originated by any institution or entity that arbitrarily discriminates on the basis of the location of the property securing the mortgage.".

RESOLUTION OF THE MEMBERSHIP OF THE ALASKA MORTGAGE BANKERS ASSOCIATION

Whereas Alaska Mortgage Bankers Association member firms have difficulty attracting secondary markets to our state.

Whereas some national mortgage bankers will not purchase FHA or VA loans because they are originated in Alaska.

Whereas some mortgage insurers will not issue mortgage insurance policies because they are originated in Alaska.

Whereas Alaskans are experiencing a diminished capacity to participate in national funding programs and believe that Alaska is being redlined.

Whereas a charter goal of the national mortgage associations, the Federal National Mortgage Association and Government Na-

tional Mortgage Association is to assist the secondary mortgage market and whereas the Federal Home Loan Mortgage Corporation was created to spur the development of the conventional secondary market.

Be it resolved that the Alaska Mortgage Bankers Association supports action by the Alaska Congressional Delegation which would amend Fannie Mae, Ginnie Mae and Freddie Mac enabling statutes to clarify that discrimination based on location is in fact a specific violation.

TESTIMONY OF JAMES M. CRAWFORD

I appreciate the opportunity to provide testimony to the Committee as it considers the secondary mortgage market. I am the President and Chief Executive Officer of City Mortgage Corporation, a mortgage origination and servicing company serving the State of Alaska. I am also a former Chairman of the Legislative Affairs Committee of the Alaska Mortgage Bankers Association. My testimony today is on behalf of City Mortgage Corporation.

City Mortgage Corporation is a small independent mortgage company which originates mortgage loans to provide housing for residents of the State of Alaska. When a family seeks to obtain a mortgage from us we determine if they are eligible for one of the mortgage products presently available. We process their application and attempt to obtain a commitment from a secondary mortgage market to purchase their mortgage upon closing. We do not have the capital to underwrite the mortgages that we originate. In this situation City Mortgage is similar to a number of other independent mortgage companies around the country who depend on the secondary mortgage market as a principal source of capital to meet local housing needs. Therefore I am very familiar with the secondary mortgage markets and how those markets serve the needs of home buyers.

The availability of ample, competitive secondary markets to purchase loans we originate is crucial to our business. However, our situation is not unique. A number of larger institutions that may have the capital to hold loans frequently sell mortgages that they originate into the secondary market in an effort to avoid the expense of continued mortgage loan servicing or to free up capital for other purposes.

Over the years the federally-chartered entities, The Government National Mortgage Association (GNMA), the Federal National Mortgage Association (FNMA) and the Federal Home Loan Mortgage Corporation (FHLMC) which supervise and coordinate the secondary markets have been very effective at distributing mortgage capital across the country. Obviously, competition in the secondary mortgage markets affects the price of products we can offer our customers. With increased competition rates and charges decrease. Customers can then pay higher prices for housing helping to stabilize housing prices.

GNMA, FNMA and FHLMC enjoy a unique status. FNMA and FHLMC are federally chartered corporations. All three entities are exempt from taxation. GNMA, of course, is an agency of the federal government and has the ability to issue loan guarantees which are backed by the full faith and credit of the United States.

These agencies enjoy this unique relationship because of the purposes they were to accomplish. GNMA and FNMA were intended to:

"Provide supplementary assistance to the secondary market for home mortgages by providing a degree of liquidity for mortgage investments, thereby improving the distribution of investment capital available for home mortgage financing", 12 U.S.C. 1716(a) and to "provide special assistance . . . for the financing of (1) selected types of home mortgages originated under special housing programs . . . for segments of the national population which are unable to obtain adequate housing under established home financing programs, and (2) home mortgages generally as a means of retarding or stopping any decline in mortgage lending and home building activities which threatens materially the stability of a high level national economy." 12 U.S.C. 1716(b).

They do so by establishing standards for loans which are eligible to be pooled into various types of mortgage-backed securities. Secondary mortgage markets issue securities backed by eligible loans. Investors purchase the securities, thereby providing the capital for mortgage loans.

Unfortunately, the Congressionally mandated purposes are being frustrated. A significant number of mortgage-backed securities issuers have arbitrarily and unreasonably discriminated against significant portions of the housing market. This has reduced the availability of capital and competition among secondary markets, increased prices and harmed affected real estate markets. Those areas in need of investment capital for home mortgage financing are being deprived of it by this discrimination.

In the last few years it has been increasingly difficult for mortgage originators in Alaska to locate secondary mortgage market firms which will purchase our mortgages. My firm has contacted well over 100 companies which purport to buy mortgages nationwide but which refuse to buy loans from Alaska. By way of example, in December when I was in Washington, I looked through the Washington, D.C. Yellow Pages under mortgages. Four firms advertised national lending programs. Ahmanson Mortgage Company claimed to be "The nation's mortgage lender." 1989-90 Washington, D.C. Yellow Pages at 1193. Fairland Mortgage Co. advertised, "We purchase mortgages nationwide." *Id.* at 1193. Nationwide Lending Group's name says it all, *id.* at 1191, and Segal Mortgage Company advertises, "We buy mortgages nationwide." Subsequently, we have contacted each of these companies and offered to sell mortgages. All stated they would not buy mortgage loans in Alaska.

The attachments show further that repeated efforts to locate markets to purchase our loans have been frustrated. *See* Exhibit A. It must be noted that we are offering to sell FHA loans which are 100% insured by the U.S. Government. The loans meet all the requirements established by GNMA, FNMA or FHLMC.

Those markets have made a unilateral decision not to purchase loans from Alaska. As a result, we in Alaska are the victims of blatant discrimination. This discrimination deprives Alaskans of the benefits of the nationwide flow of capital that was intended at the creation of these programs.

This problem has become severe enough that the Alaska Mortgage Bankers Association has passed a resolution seeking correction. *See* attached Exhibit B. The Association consists of all segments of the mortgage origination business in Alaska, including large commercial banks, smaller financial institutions, and independent mortgage bankers.

It is true that the decline in oil prices in 1985 and the resulting economic slump in Alaska has increased the number of nonperforming loans. But the vast majority of Alaskans are not delinquent in their mortgage loans. New loans from Alaska are performing well. Individual borrowers may be having some difficulties but generally the Alaskan housing market is an appropriate place to invest. Many secondary mortgage buyers have written Alaska off, apparently based on rumor or speculation. They have apparently decided that it is not wise to purchase loans from Alaska.

This practice has had the same effect that the now-prohibited practice of "redlining" had on the availability of mortgage lending in parts of American cities. Mortgage loans are unavailable or available only at higher prices. Housing prices remain depressed by the higher mortgage rates. Fewer people qualify for the higher rates. The federal government has recognized that discrimination on the basis of location is inappropriate in the context of "redlining." The regulations of the Federal Home Loan Bank Board specify that, "These restrictions are intended to prohibit use of unfounded or unsubstantiated assumptions regarding the effect upon loan risk of the . . . physical of economic characteristics of an area." 12 C.F.R. 531.8(c)(7).

Alaska is a relatively small housing market with a population estimated to be slightly in excess of 500,000. Alaska has far fewer people than many of the neighborhoods in urban areas to which anti-redlining prohibitions apply. Of course, Alaska's 500,000 people are spread over a much larger area. They nonetheless are entitled to the same protection against geographical discrimination as the residents of large cities.

A home buyer in California, New York, Florida or the other states not subject to this discrimination will deal with a mortgage originator who has the ability to sell to dozens if not hundreds of potential secondary mortgage buyers. Alaskans have many fewer options.

It is not our intention that companies which serve a relatively discrete area of the nation should be compelled to purchase mortgages far from their business operations. But those who purport to be country wide or to serve home buyers nationwide must serve all of the states without arbitrary discrimination.

Our dispute is not with the management of GNMA, FNMA or FHLMC. They have generally served the needs of America's home buyers well. These agencies have frequently, through special arrangements, provided assistance to Alaskans seeking to purchase homes. But they have fallen short in preventing those who issue mortgage-backed securities from discriminating against discrete states or regions. Alaskans do not desire that poor quality loans be placed into the market. What we ask is that the criteria employed to determine qualified loans be applied across the United States so that a home buyer in Alaska has the same opportunity to compete for mortgage financing as a home buyer in the rest of the country. Alaskans should not be systematically and arbitrarily excluded from eligibility for mortgages. The present system which allows such discrimination is as unfair as a system which allows such discrimination in Watts or Bedford-Styvesant or Liberty City.

I understand that similar problems are experienced by mortgage originators in other states such as Wyoming, Oklahoma, Arizona and Louisiana where the energy depression has adversely affected local companies. If so, the problem is more widespread than simply Alaska.

The bottom line is very simple. Those who enjoy the benefits of participating in the mortgage-backed securities market and who purport to participate in that market on a nationwide basis should be required to consider loans on the basis of the buyer and the property, not on an unfair preconceived discriminatory opinion of the geographic location of the properties. I request that the Committee adopt legislation which would prohibit GNMA, FNMA and FHLMC from the guaranteeing and/or authorizing the issuance of mortgage-backed securities by issuers who engage in unfair, arbitrary geographic discrimination.

By Mr. DECONCINI:

S. 951. A bill to provide financial assistance for programs for the prevention, identification, and treatment of elder abuse, neglect, and exploitation, to establish a National Center on Elder Abuse, and for other purposes; to the Committee on Labor and Human Resources.

CLAUDE PEPPER OLDER AMERICANS ABUSE PREVENTION AND TREATMENT ACT

• Mr. DECONCINI. Mr. President, I rise today to introduce a most important piece of legislation for millions of Americans who are at risk of being victims of abuse—physical and emotional abuse, financial abuse, and extreme neglect. As best we know today, an estimated 1.5 million older Americans are abused every year. This is a dramatic increase from a decade ago—a 50-percent rise in the last 10 years.

What this means is that 1 out of every 20 older Americans is abused every year, most by sons and daughters and many at the hands of nursing home caregivers or con artists. The abuse can range from theft of a Social Security check to violent physical abuse, including rape and murder. The situation is, as Claude Pepper has stated, "a national disgrace."

Just talk to adult protective services around the country, and you find that the number of elder abuse cases is staggering. Forty percent of all reported abuse in the United States is adult abuse, and in 7 out of 10 of these cases the victim is a senior citizen. What is even more frightening is the fact that most of these cases go unreported. Ten years ago, one out of every five cases of elder abuse was reported; today only one of every eight cases is, even though many States have mandatory reporting laws. Mr. President, we had a better track record a decade ago. And the tragic fact is this: The numbers are skyrocketing, yet they are only the tip of the iceberg.

Last year, the House Select Committee on Aging came out with a landmark report on the problem. In that report, the committee detailed substantiated cases of abuses. In California, a 76-year-old woman was held prisoner in her own home by her alcoholic husband. When she fell and broke her hip, her husband refused to take her to a hospital, to call for an ambulance, or to provide any medical care at all. For an entire year, whenever she needed to use the bathroom, she was forced to drag her body from her bed across the floor. A year after she broke her hip, she was found near death by State investigative authorities. She had rat bites to her leg, and those bites had become infected. She was delirious with a high fever and covered with cockroaches. Her leg had to be amputated.

In Texas, a 68-year-old woman was found by social workers tied to her wheelchair with electrical cords and sheets. She had been beaten by her daughter, who had also allowed her own 8-year-old daughter to whip her grandmother. When investigators found the brother of an appeals judge in Ohio, his right foot was covered with maggots. He had recognized that he had a problem and had tried to clean his own wounds, using Comet.

In Massachusetts, a 20-year-old man was convicted of the first-degree murder of his grandmother. He had repeatedly beaten her over the head with a decanter and stabbed her with a knitting needle. After the murder, the grandson stole his dead grandmother's car and jewelry. Today he is serving a life sentence in State prison.

The cases go on and on. And the one indisputable conclusion they all reach is this: In a country that is second to none, senior citizens should not—they must not—live out their golden years in situations such as these. As Claude Pepper has stated, this is indeed a national disgrace.

"The moral test of government," Hubert Humphrey once said, "is how that government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life—the sick, the needy, and the handicapped." When it comes to elder abuse, Mr. President, this Nation is flunking Hubert Humphrey's litmus test of government.

It has been 13 years since Claude Pepper coined the phrase "elder abuse." Thanks to Chairman Pepper, we may have paid more public attention to the problem in those 13 years, but the fact remains we have not provided the necessary funds for the solution. Since 1980, the social services block grant—the principal tool we have for protective services—has been cut by one-third. In the 1987, amendments to the Older Americans Act, Congress provided for a new program of elder abuse identification and prevention as well as increased authorities for State ombudsmen in this important area. But again, it was the same old story. We authorized the programs, but we just did not have adequate dollars to fund them.

The consequences have been disastrous. The States initially were encouraged by the possibility of Federal financial assistance. As a result, over the last decade they began modifying their elder abuse laws and procedures in order to comply with anticipated Federal mandates, which included mandatory reporting provisions. We can see these changes. Today, four-fifths of the States—42 States and the District of Columbia—have mandatory provisions in place. By contrast, only 16 States had adult protective service laws with these provisions prior to 1980.

While we have given lipservice to the problem of elder abuse, we have not been moved to action. The anticipated Federal dollars simply have not come. Without Federal assistance the majority of the States—hard pressed by their own tight budgets—have failed to finance their own efforts to address the disgrace of elder abuse. Some States such as Louisiana have stopped providing elder abuse protective service altogether. In States which do offer protective services for the elderly, we have seen, on average, a drop of about 40 percent from the 1980 level of State funding for this purpose.

This is how bad it is. Ten years ago, the proportion of State budgets spent on adult protective services averaged 6.6 percent. Today that contribution has dropped to less than 4 percent—and this at a time when the number of elder abuse cases is skyrocketing.

Let me give you an idea of how this translates when it comes to actual dollars. According to information compiled by the House Select Committee on Aging, in 1989 Arizona's budget for child protective services per child in the State was $32.92. By contrast, Arizona spent only 22 cents per elderly resident for elderly protective services that year. Just 5 years earlier, in 1984, the amount Arizona spent on protective services per elderly resident was $6.12—27 times the 1989 amount per elderly resident. Twenty-seven times that amount. Tragically, this funding pattern is not the exception, but the rule in most States. This is the bottom line: At a time when elder abuse cases are on the rise, Congress and the States are doing less—and in all too many cases, significantly less.

Mr. President, there is an urgent need for a coordinated national effort to confront the disgrace of elder abuse. Today, I am introducing in the Senate the Claude Pepper Older Americans Abuse Prevention and Treatment Act of 1991, legislation patterned after the Prevention, Identification, and Treatment of Elder Abuse Act of 1991, sponsored by Representative MARY ROSE OAKAR in the House of Representatives. The legislation would create a National Center on Elder Abuse under the auspices of the Administration on Aging within the Department of Health and Human Services. The center would compile, publish, and disseminate information on elder abuse to communities across the country. It would make a complete study of the problem nationwide; conduct research into its

causes and prevention; and develop and maintain an information clearinghouse on all programs showing promise of success for the prevention, identification, and treatment of elder abuse, neglect, and exploitation.

In addition, the bill would provide Federal matching funds to States with elder abuse programs in place and distribute moneys for new programs to States that meet certain conditions, such as protecting confidentiality of records, requiring mandatory reporting, and providing immunity from prosecution to persons reporting suspected cases of elder abuse. We are asking an authorization for appropriations of $10 million for fiscal year 1992.

Testimony before the House Select Committee on Aging by elder abuse experts, congressional leaders, and State officials reveals almost universal agreement that the enactment of legislation for seniors similar to the successful 1974 Child Abuse Prevention and Treatment Act is ultimately the most necessary legislative solution to begin to address the problem of elder abuse in this country. This bill is analogous to that landmark 1974 act.

The first case of child abuse in the United States was reported around the turn of the century. From the time of that first report, it took us 70 years to pass a child abuse bill. I hope that we can move faster on an elder abuse bill. Tragically, for some senior citizens, their lives may depend on it.

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. 951

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 "Claude Pepper Older Americans Abuse Prevention and Treatment Act of 1991."

SEC. 2. DEFINITIONS.

For purposes of this Act:

(1) The term "abuse" means—

(A) the willful infliction of—

(i) injury;

(ii) unreasonable confinement;

(iii) intimidation; or

(iv) cruel punishment with resulting physical harm or pain or mental anguish; or

(B) the willful deprivation by a caretaker of goods or services that are necessary to avoid physical harm, mental anguish, or mental illness.

(2) The term "Center" means the National Center on Elder Abuse, established in section 3.

(3) The term "elder" means any person who has attained the age of 60 years.

(4) The term "caretaker" means an individual who has the responsibility for the care of an elder, either voluntarily, by contract, by receipt of payment for care as a result of family relationship, or by order of a court of competent jurisdiction.

(5) The term "exploitation" means the illegal or improper act or process of a caretaker using the resources of an elder for monetary or personal benefit, profit, or gain.

(6) The term "neglect" means the failure to provide for oneself the goods or services that are necessary to avoid physical harm, mental anguish, or mental illness, or the failure of a caretaker to provide such goods or services.

(7) The term "physical harm" means bodily pain, injury, impairment, or disease.

(8) The term "Secretary" means the Secretary of Health and Human Services.

SEC. 3. NATIONAL CENTER ON ADULT ABUSE.

(a) ESTABLISHMENT.—The Secretary shall establish a program within the Administration on Aging, to be known as the National Center on Elder Abuse.

(b) FUNCTIONS.—The Secretary, through the Center, shall—

(1) compile, publish, and disseminate a summary annually of recently conducted research on elder abuse, neglect, and exploitation;

(2) develop and maintain an information clearinghouse on all programs, including private programs, showing promise of success, for the prevention, identification, and treatment of elder abuse, neglect, and exploitation;

(3) compile, publish, and disseminate training materials for personnel who are engaged or intend to engage in the prevention, identification, and treatment of elder abuse, neglect, and exploitation;

(4) provide technical assistance (directly or through grant or contract) to public and nonprofit private agencies and organizations to assist the agencies and organizations in planning, improving, developing, and carrying out programs and activities relating to the special problems of elder abuse, neglect, and exploitation;

(5) conduct research into the causes of elder abuse, neglect, and exploitation, and into the prevention, identification, and treatment of elder abuse, neglect, and exploitation; and

(6) make a complete study and investigation of the national incidence of elder abuse, neglect, and exploitation, including a determination of the extent to which incidents of elder abuse, neglect, and exploitation are increasing in number or severity.

(c) GRANTS AND CONTRACTS.—

(1) IN GENERAL.—The Secretary may carry out functions under subsection (b) of this section either directly or by way of grant or contract. The Secretary shall promulgate regulations setting forth criteria for programs receiving funding under this subsection and shall review programs funded under this subsection to determine whether such programs comply with such criteria. The Secretary shall, not later than 30 days after the date of any determination by the Secretary that a program fails to comply with such criteria, terminate funding for such program.

(2) RESEARCH PRIORITIES.—The Secretary shall establish research priorities for making grants or contracts under subsection (b)(5) and, not later than 60 days before the date on which the Secretary establishes such priorities, publish in the Federal Register for public comment a statement of such proposed priorities.

(d) STAFF AND RESOURCES.—The Secretary shall make available to the Center such staff and resources as are necessary for the Center to carry out effectively the functions of the Center under this Act.

SEC. 4. DEMONSTRATION PROGRAMS AND PROJECTS.

(a) ELDER ABUSE, NEGLECT, AND EXPLOITATION.—

(1) GRANTS OR CONTRACTS.—The Secretary, acting through the Center, is authorized to make grants to, and enter into contracts with, public agencies or nonprofit organizations (or combinations of the agencies or organizations) for demonstration programs and projects designed to prevent, identify, and treat elder abuse, neglect, and exploitation.

(2) USE OF GRANTS OR CONTRACTS.—Grants made or contracts entered into under this subsection may be used—

(A) for the development and establishment of training programs for professional and paraprofessional personnel, in the fields of health, law, gerontology, social work, and other relevant fields, who are engaged in, or intend to work in, the field of prevention, identification, and treatment of elder abuse, neglect, and exploitation;

(B) for the establishment and maintenance of centers, serving defined geographic areas, staffed by multidisciplinary teams of personnel trained in the special problems of elder abuse, neglect, and exploitation cases, to provide a broad range of services related to elder abuse, neglect, and exploitation, including direct support and supervision of sheltered housing programs, as well as providing advice and consultation to individuals, agencies, and organizations that request such services; and

(C) for furnishing services of teams of professional and paraprofessional personnel who are trained in the special problems of elder abuse, neglect, and exploitation cases, on a consulting basis, to small communities where such services are not available.

(3) APPLICATION.—To be eligible to receive a grant or enter into a contract under this subsection, an agency or organization shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(b) STATE PROGRAMS.—

(1) GRANTS.—The Secretary, acting through the Center, is authorized to make grants to the States for the purpose of assisting the States in developing, strengthening, and carrying out programs for the prevention and treatment of elder abuse, neglect, and exploitation.

(2) QUALIFICATIONS.—To be eligible to receive assistance under this subsection, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including information demonstrating that the State—

(A) has in effect a State elder abuse, neglect, and exploitation law that includes provisions for immunity for persons reporting instances of elder abuse, neglect, and exploitation, from prosecution arising out of such reporting, under any State or local law;

(B) provides for the mandatory reporting of known and suspected instances of elder abuse, neglect, and exploitation;

(C) provides that receipt of a report of known or suspected instances of elder abuse, neglect, or exploitation an investigation shall be initiated promptly to substantiate the accuracy of the report, and, on a finding of abuse, neglect, or exploitation, steps shall be taken to protect the health and welfare of the abused, neglected, or exploited elder;

(D) has throughout the State, in connection with the enforcement of elder abuse, neglect, and exploitation laws and with the reporting of suspected instances of elder abuse, neglect, and exploitation, such administra-

tive procedures, such personnel trained in the special problems of elder abuse, neglect, and exploitation prevention and treatment, such training procedures, such institutional and other facilities (public and private), and such related multidisciplinary programs and services as may be necessary or appropriate to assure that the State will deal effectively with elder abuse, neglect, and exploitation cases in the State;

(E) provides for methods to preserve the confidentiality of records in order to protect the rights of the elder;

(F) provides for the cooperation of law enforcement officials, courts of competent jurisdiction, and State agencies providing human services with respect to special problems of elder abuse, neglect, and exploitation;

(G) provides that an elder participate in decisions regarding the welfare of the elder, and provide that the least restrictive alternatives are available to the elder who is abused, neglected, or exploited;

(H) agrees to pay, with funds from non-Federal sources, 50 percent of the cost of the program for which assistance under this subsection is made available;

(I) provides that the aggregate of support for programs or projects, related to elder abuse, neglect, and exploitation, assisted by State funds shall not be reduced below the level provided during the 12 months preceding the date of the enactment of this Act, and sets forth policies and procedures designed to assure that Federal funds made available under this Act for any fiscal year will be so used as to supplement and, to the extent practicable, increase the level of State funds that would, in the absence of Federal funds, be available for such programs and projects; and

(J) provides a State clearinghouse for dissemination of information to the general public with respect to—

(i) the problems of elder abuse, neglect, and exploitation;

(ii) the facilities; and

(iii) prevention and treatment methods available to combat instances of elder abuse, neglect, and exploitation.

(c) CONSTRUCTION LIMITATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), assistance provided pursuant to this section shall not be available for construction of facilities.

(2) RENTAL OR REPAIR.—The Secretary is authorized to supply assistance under this section for the lease or rental of facilities where adequate facilities are not otherwise available, and for repair or minor remodeling or alteration of existing facilities.

(d) DISTRIBUTION OF ASSISTANCE.—The Secretary shall establish criteria designed to achieve equitable distribution of assistance under this section among the qualifying States, among geographic areas of the Nation, and among rural and urban areas. To the extent possible, citizens of each qualifying State shall receive assistance from at least one project under this section.

SEC. 5. AUTHORIZATION.

There are authorized to be appropriated to carry out this Act $10,000,000 for fiscal year 1992 and such sums as may be necessary for each of the subsequent fiscal years.

SEC. 6. EFFECTIVE DATE.

This Act shall take effect on January 1, 1992.●

By Mr. BRYAN:

S. 952. A bill to authorize construction of a National Weather Service facility by the Administrator of the National Oceanic and Atmospheric Administration; to the Committee on Commerce, Science, and Transportation.

NATIONAL WEATHER SERVICE RELOCATION

● Mr. BRYAN. Mr. President, I am introducing today legislation to allow the National Weather Service to locate its authorized and funded weather service facility in Northern Nevada on the campus of the Desert Research Institute [DRI]. This is a simple measure cutting through two bureaucratic prohibitions to bring about a result strongly desired by both the Weather Service and DRI.

The Weather Service needs to find space in the Reno area to house a number of missions. The Service has grown out of its existing space at the Reno Airport. Northern Nevada is also slated to receive a Next Generation Weather Radar [NEXRAD] as part of the nationwide upgrade of our radar network. The ideal location for the NEXRAD radar is on top of Virginia Peak, a mountain east of the City of Reno. From this peak, there is a direct line of sight to the proposed location on the campus of DRI.

The Desert Research Institute is pleased to offer the land to the Service. Unfortunately, the Department of Commerce is prohibited from constructing a building on land it does not own. The land in question was given by the Bureau of Land Management [BLM] to the University of Nevada system—of which DRI is a part—by a patent which prohibits the University from every selling it.

This law does not amend or alter the land patent. Instead, it authorizes the National Oceanic and Atmospheric Administration to enter into an agreement to locate on the DRI land without acquiring full ownership. The law gives the administrator the maximum flexibility to develop a proposal that provides maximum benefit to both the Weather Service and DRI.

The bill also authorizes the administrator to reimburse the Institute the cost of providing an access road and utilities to the site. Finally, the bill authorizes the administrator to collocate the regional climate center in the facility. The Wester Regional Climate Center is funded by NOAA but operated by DRI. Collocating these two facilities should greatly benefit the scientists working there. To the extent that the costs of the facility authorized by this bill exceed the original budgeted costs of the NEXRAD facility already scheduled to go into the Reno area, I will work closely with the administrator to develop a new budget and will work with the Appropriations Committee to provide the funds.

In short, this bill authorizes the Weather Service to build a facility already authorized and funded, in the best possible location in Northern Nevada. I urge its immediate passage.●

By Mr. ROTH (for himself, Mr. GARN, and Mr. SANFORD):

S. 953. A bill to modify the Qualified Thrift Lender Test, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

QUALIFIED THRIFT LENDER TEST MODIFICATION

● Mr. ROTH. Mr. President, today I am introducing legislation to cure one of the major defects in the last Congress' savings and loan legislation, the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 or FIRREA. That defect is the restrictive qualified-thrift-lender test. This test is an asset composition test imposed on institutions to measure their thriftness. It is a test of faith in residential home mortgages.

When the Senate first considered the FIRREA legislation in 1989, I voiced strong objection to the effort to make the QTL test more restrictive. Failure to meet the QTL test was not the cause of the industry's problems. The more restrictive QTL test, designed to make even healthy thrifts fail, was hardly the cure. The amendment's rationale was that if the bill was going to bury the dead thrifts, it should bury the healthy heretics, too. Believing that the more restrictive QTL test was a formula for disaster, I opposed adoption of the FIRREA conference report. Then and now, I still believe that the QTL test retards profitability and thus repels new capital.

I do not criticize the new QTL test because I am soft on the thrift industry. It is because I am soft on the taxpayer. And the best thing for the taxpayer is to create a healthy thrift industry so that depositors do not face the risk of default. Thus, for the taxpayers' sake, the best policy is to invite capital to flow into this industry. But we make the invitation unattractive if we create new tougher tests of housing purity and limit investment options.

The fact is that the thrift industry needs new capital. Currently, the FIRREA law requires it. But where will it come from? Will volunteers come in from the sidelines when their investment choices are so limited? Just as I feared, they have not come forward in any sufficient numbers; in fact, just the opposite has happened. As the New York Times reported last year:

> The stay-away investors say many of the problems stem from the bailout legislation. They point to provisions that they say make it difficult to earn enough to justify the risk of buying a savings and loan—for instance, higher deposit insurance premiums and restrictions stating that 70 percent of an institution's loans must be home mortgages.

If we want to phase out the thrift industry, I suspect that there is a kinder, gentler way to do it than to give them a fresh start but stack the deck against them. The path that FIRREA took with the revised QTL test will ulti-

mately be a more expensive one for the taxpayer.

In my view, the fundamental philosophical rationale of the FIRREA law was flawed. Investment restrictions do not attract investors. By choking off the supply of voluntary capital, the taxpayer is left to shoulder the burden of meeting depositor obligations. And that is simply the wrong answer.

Chairman Seidman of the FDIC, responding to a question from Senator GARN, the late Senator HEINZ, and Senator SANFORD on what should be done legislatively to enhance the flow of new capital into the thrift industry concluded:

> Altering or abandoning the QTL test is one legislative change that might enhance the flow of capital to the thrift industry . . . interest rate risk in the thrift industry has always been high, and the QTL test only adds to the risk. The effect of the QTL test is to diminish the franchise value of the thrifts.

The QTL test also violates one of the fundamentals of banking—avoiding concentration or protecting against loss from concentration in the loan portfolio. Comptroller Clarke speaking before the American Bankers Association last year put it best:

> Concentration in lending to any industry or market segment—real estate, shipping, energy, agriculture, what have you—increases the exposure of the lending institutions to downturns in the business of those borrowers. It's like putting all, or most of your eggs, in one basket. Nothing may happen to the basket but if something does, your eggs are in greater peril than if you spread them around to other baskets in the first place.

While it is entirely the prerogative of the Congress to seek to subsidize or encourage certain activities, such as home ownership and financing, the QTL test is clearly not the most efficient way, from an economic or financial standpoint, to achieve this objective. To the extent the QTL requirement reduces the attractiveness of some thrifts to investors, it also increases the initial costs of resolving the thrift problem. And that is the main point of my legislation. The 70-percent QTL test will increase the cost of resolving the thrift problem. It doesn't help thrifts, It doesn't help housing and it doesn't help the taxpayer.

The stricter QTL test enacted in FIRREA affected thrifts in two different ways. First, it raised the percentage of a thrift's portfolio that had to be invested in housing-related assets from 60- to 70-percent. Second, it tightened the definition of which assets qualified. It was commonly viewed that the 60-percent requirement before FIRREA was closer to a 50-percent requirement. Thus the effect of FIRREA was to raise the requirement from 50- to 70-percent.

The legislation I am introducing today would reduce the 70-percent requirement down to 50 percent. I chose not to repeal the FIRREA provisions in total because that would have reinstated the loose definition of QTL assets that was criticized by some members of the Banking Committee as an imprecise formulation. Rather it is my purpose to confront the question of the level of QTL test directly rather than rekindle former arguments about the definition.

My intention is not to strip savings associations of their thriftness, but to increase their value in the eyes of those who might to able to buy them or invest in them. If we do not make thrifts more attractive to investors, the industry will deteriorate, and a valuable provider of home mortgages will be lost. The present test—intended to promote housing—is counterproductive.

The second change made by my bill is to allow domestic residential real estate loans to be included as qualified thrift investments. Inadvertently, I believe, Congress permitted only loans for domestic residential housing to be included when it rewrote the definition. The difference is that it appears that residential land loans are excluded. In many parts of the country it is common for the prospective homeowner to buy his lot first and then go about selecting a builder. The land loan would appear not to be covered by the present language which is limited to housing. My bill would correct this error.

Third, my bill would include as a qualified thrift asset any loans held by the savings association that were made to purchase any asset from the Resolution Trust Corporation. In my opinion, salvaging th· thrift industry is housing related in view of the special role of thrifts in promoting housing. Moreover, I believe that thrifts have a special obligation to help clean up their own mess. RTC assets have plummeted in price and have bottomed out. Loans to purchase such devalued assets should not pose unusual risks for savings associations.

Finally, one reason why RTC assets are not moving is the lack of available financing. This change would help address that problem.

Mr. President, the S&L problem, indeed, required quick congressional action. While Congress reacted quickly, it did not act wisely. The QTL test was one of the major mistakes made in enacting FIRREA. Someday Congress will have to face that fact. I hope this bill hastens that day.

Mr. President, I ask unanimous consent that the text of my bill be printed at the conclusion of my remarks.

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

S. 953

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 10(m) of the Home Owner's Loan Act (as it will be in effect after the effective date of the amendment made by section 303 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989) is amended—

(1) by striking "70" and inserting "50";

(2) in paragraph (4)(c)(ii)(I), by inserting "real estate or" after "residential"; and

(3) in paragraph (4)(c)(ii)—

(A) by redesignating subclauses (II) through (V) as subclauses (III) through (VI); and

(B) by inserting after subclause (I) the following:

"(II) The aggregate amount of loans held by the savings association that were made to purchase any asset from the Resolution Trust Corporation."•

By Mr. AKAKA:

S. 954. A bill to amend the Internal Revenue Code of 1986 to modify the determination of eligible basis in difficult development areas for the low-income housing credit; to the Committee on Finance.

LOW-INCOME HOUSING TAX CREDIT

Mr. AKAKA. Mr. President, I rise today to introduce legislation that would improve the utilization of the low-income housing tax credit in difficult development areas, like Hawaii.

As I have stated repeatedly on the floor of the Senate and to my colleagues in other settings, Hawaii has long experienced a housing crisis. While many parts of the United States have seen real estate values decline, Hawaii continues to enjoy a prosperous real estate market. But, a consequence of this prosperity is that many working people and those who are economically disadvantaged cannot own a home.

In large measure, the solutions for this problem need to be found in Hawaii. Toward this end, I recently sponsored a seminar in Hawaii to discuss the Cranston-Gonzalez National Affordable Housing Act. The seminar, cosponsored by the Federal Home Loan Bank of Seattle, brought together over 250 people actively involved in producing more affordable housing in Hawaii—State and local government officials, lenders and for-profit and nonprofit developers. We met with housing experts to begin the process of implementing the act's programs in Hawaii. I am happy with the amount of activity that the seminar has spawned and will be proud if it leads to more effective use of available Federal housing programs to build more housing.

Although I believe a great deal of action needs to be taken back home, we in Washington can do more to foster the development of needed housing. The legislation I am introducing today will do just that.

The low-income housing tax credit has helped build housing in Hawaii. The program encourages the production of low-income housing by offering a credit or reduction in tax liability each year for 10 years for the owners or developers of such housing. In order to

receive the credit, a project must have a minimum of either 20 percent of its units occupied by low-income households under 50 percent of area median income, or 40 percent of its units occupied by households with incomes under 60 percent of area median income. Owners must agree to abide by the low-income use restrictions for at least 15 years and in some cases 30 years or longer. Since 1988, 286 units have been built for low-income people in Hawaii with the assistance of the credit.

Because the tax credit helps affordable housing to be built, I am pleased to cosponsor legislation introduced by Senator MITCHELL to permanently extend the credit, which will expire at the end of this year.

Unfortunately, the credit is not working in Hawaii as effectively as it could.

The State of Hawaii has been unable to allocate any of its 1990 or 1991 tax credits. This is due in part to the lack of incentive provided by the credit in light of Hawaii's high development costs. In 1989, a housing unit required 4,587 dollars' worth of Federal credits to be constructed in Hawaii—whereas, nationwide the figure was $2,552. Today, the disparity can only be greater. The problem with the credit is that a single project in high cost development areas often cannot get enough tax credits to make it economically feasible.

The legislation that I am introducing today will help solve this problem. It would permit projects in difficult development areas throughout the country to include the adjusted basis of the land upon which a building stands in the determination of the credit.

Difficult development areas are identified by the Department of Housing and Urban Development based upon a comparison of incomes with housing costs. In Hawaii, the islands of Hawaii, Kauai, and Maui as well as several census tracts on Oahu have been designated as difficult development areas. All total, difficult development areas exist in 38 States and territories.

Presently, eligible basis for purposes of the credit is ordinarily the same as the adjusted basis used for purposes of depreciation. In the case of buildings located in designated difficult development areas, eligible basis is increased to 130 percent of what it would otherwise be. But still, this has not been enough assistance to build housing in many difficult development areas.

The legislation I am introducing today would not increase the total amount of credits available to a State. But, the change would increase the credits available to a particular project—thereby making individual projects more feasible.

In addition to the change contained in this legislation, I believe we need to look at how the low-income housing tax credit is distributed among the States. Presently, each State's allocation is made pursuant to a State limit, or cap, of $1.25 per resident. State allocation agencies, like the Hawaii finance and Development Corp., then grant all or part of the allowable tax credits requested to eligible individuals, corporations, partnerships and nonprofit entities.

Although this system of distribution is equitable, it does not necessarily result in the construction of the most housing where the need is greatest. States now receive tax credit allocations regardless of statewide poverty levels, unemployment rates, or the availability of existing affordable housing. I do not think this is right, nor do I think the current system is the best way to spend limited Government resources.

The General Accounting Office agrees. In a report on the low-income housing tax credit program issued last year, the GAO concluded that "the program could be more effective if credit allocations to the States were based on relative need." This is not to say that those projects are not meritorious or needed. It is just that other, more pressing housing needs are probably not being met because of the current distribution formula.

I plan on contacting the GAO to request their recommendations for alternatives to the present per capita allocation system.

I hope the Senate acts to extend the low-income housing tax credit permanently. I also hope that my colleagues will support responsible reforms of the credit to increase its effectiveness.

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. 954

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

SECTION 1. DETERMINATION OF ELIGIBLE BASIS IN DIFFICULT DEVELOPMENT AREAS FOR THE LOW-INCOME HOUSING CREDIT MODIFIED.

(a) ELIGIBLE BASIS IN DIFFICULT DEVELOPMENT AREAS INCLUDES LAND.—Subparagraph (C) of section 42(d)(5) of the Internal Revenue Code of 1986 (relating to special rules for determining eligible basis) is amended by adding at the end thereof the following new clause:

"(v) ELIGIBLE BASIS IN DIFFICULT DEVELOPMENT AREAS INCLUDES LAND.—

"(I) IN GENERAL.—The adjusted basis of any building in a difficult development area shall be determined by taking into account the adjusted basis of the real property upon which such building is located.

"(II) 30 PERCENT CREDIT APPLIED TO LAND.—In determining the credit allowable under this section with respect to that portion of the adjusted basis of a building described in subclause (I) relating to real property, such property shall be considered described in subsection (b)(1)(B)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years after 1990.

By Mr. COHEN (for himself and Mr. GRASSLEY):

S. 955. A bill to amend the Federal Deposit Insurance Act to require States in which the failure of State savings associations has involved a disproportionately large share of the thrift resolution costs, including costs incurred by the Resolution Trust Corporation, to pay a State thrift deposit insurance premium as a condition of future Federal deposit insurance; to the Committee on Banking, Housing, and Urban Affairs.

STATE THRIFT DEPOSIT INSURANCE PREMIUM ACT OF 1991

Mr. COHEN. Mr. President, as we are all too well aware, the costs of the S&L bailout continue to climb to staggering levels. The most recent estimates are that nearly $500 billion will be required to finally resolve this crisis.

In reviewing the manner in which this massive bailout is being carried out, I have been deeply troubled by what I regard as obvious inequities. The vast majority of thrift failures occurred in only a handful of States in one section of the country; the Southwest. In fact, over 70 percent of the costs associated with resolving State-chartered thrifts can be attributed to just one Southwestern State. What I find especially disturbing is that many of these failures resulted from the irresponsible actions of State regulators, who abdicated much of their oversight responsibilities and silently stood by while their thrifts engaged in highly speculative—and I might add, in many instances fraudulent, activity.

As it now stands, those States that vigorously regulated their thrifts are left to foot the bill for those States that permitted these costly excesses and abuses to continue.

For example, the thrifts in my State have traditionally been prudently managed and regulated. Not a single Maine State-chartered thrift has failed or cost the Federal Government a dime of the billions already allocated to bailout thrifts in other States. And yet, it has been estimated that Maine taxpayers will contribute at least $104 million to this effort. That is crucial money leaving my State that would have otherwise been available for investment in Maine's economy, creating more jobs and better business conditions. Instead, that money, along with the increased taxes collected from other States in our region, will flow to strengthen the faltering institutions and economies of the Southwest.

The final ramifications of this disaster are even yet to be realized. The $50 billion that was originally appropriated under the Financial Institutions Reform, Recovery, and Enforcement Act [FIRREA] to fund the bailout has proved woefully inadequate. Far

more thrifts have failed and required Federal assistance then previously estimated, and in order to meet its obligation to insured depositors, the Resolution Trust Corporation has recently been allocated an additional $30 billion. This $30 billion, however, will only keep the bailout effort going until the end of September when FDIC Chairman Seidman predicts that an additional $50 billion will be required to continue the bailout process.

Mr. President, I simply cannot ask my constituents to continue contributing even more of their tax dollars to resolving these thrift failures, without at least trying to inject a greater element of equity and accountability in the present S&L bailout. For this reason, I am very pleased today to be introducing the State Thrift Deposit Insurance Act of 1991. This legislation will make the S&L bailout fairer by adopting a very straightforward and commonsense approach: Those States with a history of excessive S&L losses will pay an added premium in order to continue receiving Federal deposit insurance protection. This concept of basing premiums on risk is used routinely in other areas. For example, drivers with a history of accidents pay a higher auto insurance premium than drivers with a perfect record. I think we can apply this same risk-based approach to the S&L situation. In my view, it just makes sense to require those who shoulder a larger part of the blame for this crisis to contribute a greater share to its resolution.

This legislation is also important because it will strengthen the accountability of State regulatory officials and lessen the possibility of future taxpayer losses. In order to encourage stricter oversight of thrifts, my bill requires that the added premium is to be paid by the State. State regulators must be reminded that the benefit of Federal insurance protection does not come without corresponding duties and responsibilities. This bill will send a clear message to State regulators that future neglect of their oversight responsibilities will not be tolerated by the Federal Government.

Mr. President, the legislation that I am introducing today presents a very straightforward and fair approach to financing the S&L crisis and I believe it will encourage the kind of strict State supervision of S&L's that will prevent similar crisises from recurring. I urge my colleagues to carefully consider the merits of this bill and I hope they will join me in working toward its enactment.

Mr. GRASSLEY. Mr. President, I am very pleased to join my friend from Maine in introducing this bill. I believe it will implant a greater degree of equity and fairness to the obligations of Federal taxpayers in covering the expenses related to the savings and loan debacle.

Only a few weeks ago the Congress was forced to approve $30 billion for the ongoing operation of the Resolution Trust Fund. Unfortunately, this politically bruising issue will have to be revisited again this fall, as this vast sum of money will fund the agency only until September 30 of this year.

Constituents in Iowa, indeed across the country, are angry. They don't understand why the Government can't just sell the properties RTC holds. They don't understand why the "crooks and embezzlers" can't just be forced to repay the funds they defrauded from thrifts under their control. And they certainly don't understand why they, as taxpayers, have to spend yet more money on the S&L "bailout." The S&L debacle illustrates that a fool, especially a greedy fool, and his money are soon parted. But taxpayers are wondering how the Government let these fools get the money in the first place.

While those billions of dollars are committed because of the Federal deposit insurance program, the cause of the bailout can be largely attributed to lax State regulation for State-chartered thrifts. Unfortunately, State thrift regulators in a few States gave S&L owners and operators nearly free rein to invest depositors' money in risky enterprises: from junk bonds to shopping malls to luxury resorts.

As a conservative, I fully support States' rights. But that support does not mean that Federal taxpayers should be obligated to pay for problems caused by lenient State laws and regulations. An editorial from the Des Moines Register refers to the savings and loan bailout as "a vast transfer of wealth" from the Midwest to the Southwest.

While it has been estimated that the State of Texas accounts for 72 percent of the cleanup costs for State-chartered thrifts, Texas taxpayers will contribute only 6 percent to the cleanup operation. Meanwhile, the contribution from the Iowa will amount to four times as much as what will be spent on thrift resolution in my State.

According to an analysis of RTC's asset inventory last October, of 3,118 properties in its possession, only 131, or 4.2 percent, were located in the Northeast/Midwest region. A whopping 50 percent, however, were located in the State of Texas alone.

Iowans especially abhor the drain of tax dollars into the Southwest region. From the letters and comments I receive from my constituents, I can tell that not only are they dismayed, but they also feel a sense of betrayal and injustice that Government officials let this happen.

The inequity seems especially poignant on the heels of the farm crisis of the middle 1980's which forced the closure of 36 Iowa banks. More importantly, however, Iowa banks as a group are now the healthiest in the country—with more banks in Iowa showing profits at the end of 1990 than in any other State. This recovery occurred without a dime of Federal taxpayer assistance.

Our bill recognizes that we cannot hold State governments fully accountable for the costs incurred as a result of financial institutions in their States. But our bill does impose at least a small measure of accountability and equity to the massive thrift bailout into which we are forced.

States with a large history of losses, for which the Resolution Trust Corporation has been forced to inject significantly larger proportions of funds, will be required to pay an additional premium to continue their thrifts' eligibility for Federal deposit insurance. This premium would be paid by the State government, not the individual institutions in that State, into the Savings Association Insurance Fund.

States would not be required to pay the additional funds to SAIF—they could opt out of the Federal deposit insurance fund and either provide their own deposit insurance program or allow thrifts to become federally chartered, and thus subject to Federal regulation.

Senator COHEN was one of the principal sponsors of this legislation in the 101st Congress. I congratulate him for bringing this issue to Congress again this year. I'd also like to note that Iowa's own Congressman JIM LEACH has promoted this proposal in the other body.

By Mr. PELL (by request):

S. 956. A bill to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and redesignate that act as the Defense Trade and Export Control Act, to authorize appropriations for international cooperation programs for fiscal years 1992 and 1993, and for other purposes; to the Committee on Foreign Relations.

INTERNATIONAL COOPERATION ACT

• Mr. PELL. Mr. President, today I introduce at the request of the administration the International Cooperation Act of 1991, a bill to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that act, to amend the Arms Export Control Act and redesignate that act as the Defense Trade and Export Control Act, and to authorize appropriations for international cooperation programs for fiscal years 1992 and 1993.

I reserve my right to support or oppose provisions in this proposed legislation when the authorization for foreign assistance programs is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill, together with the letter of trans-

mittal from the President and the section-by-section analysis prepared by the administration be printed in the RECORD at this point.

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

S. 956

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Cooperation Act of 1991".

SEC. 2. TABLE OF CONTENTS FOR THIS ACT.

The table of contents for this Act is as follows:

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

TITLE I—STATEMENT OF POLICY; ECONOMIC ASSISTANCE PROGRAMS

Sec. 101. Statement of policy.
Sec. 102. Revision of assistance programs.

TITLE II—MILITARY ASSISTANCE RELATED ASSISTANCE AND SALES PROGRAMS

CHAPTER 1—CONSOLIDATION AND REVISION OF ACCOUNTS

Sec. 201. Revision of assistance programs.
Sec. 202. Amendments to Arms Export Control Act.
Sec. 203. Transition rules.

CHAPTER 2—FOREIGN MILITARY SALES PROGRAM

Sec. 221. Arms transfer policy.
Sec. 222. Designation of major non-NATO allies.
Sec. 223. Standardizing congressional review procedures for arms transfers.
Sec. 224. Update of certification thresholds.
Sec. 225. Economic impact on United States of arms sales.
Sec. 226. Enforcement and processing of arms export licensing requirements.
Sec. 227. Fair pricing.
Sec. 228. Presidential authorities.
Sec. 229. Amendments to eliminate obsolete and inconsistent provisions.
Sec. 230. Contract administrative service charges for NATO subsidiary bodies.
Sec. 231. Technical corrections.

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

Sec. 301. Revision of certain private sector programs.

TITLE IV—SPECIAL AUTHORITIES, RESTRICTIONS ON ASSISTANCE, AND REPORTS

Sec. 401. Consolidation and revision of special authorities, restrictions, and reporting requirements.

TITLE V—GENERAL PROVISIONS

Sec. 501. Consolidation and revision of administrative authorities and elimination of obsolete provisions.

TITLE VI—TECHNICAL AND CONFORMING PROVISIONS

Sec. 601. Effective date.
Sec. 602. Savings provisions.
Sec. 603. Retention of certain provisions formerly in the Foreign Assistance Act.
Sec. 604. Conforming amendments.
Sec. 605. Repeal of obsolete provisions.

TITLE VII—SPECIAL ASSISTANCE INITIATIVES

CHAPTER 1—DEVELOPMENT FUND FOR AFRICA

Sec. 701. Development assistance for sub-Saharan Africa.
Sec. 702. Authorization of appropriations for assistance for sub-Saharan Africa.
Sec. 703. Reports and evaluations.

CHAPTER 2—ASSISTANCE FOR EASTERN EUROPE

Sec. 711. United States policy regarding Eastern Europe.
Sec. 712. Basic objectives of assistance.
Sec. 713. Assistance activities.
Sec. 714. Enterprise Funds.
Sec. 715. Program administration.

CHAPTER 3—MULTILATERAL ASSISTANCE INITIATIVE FOR THE PHILIPPINES

Sec. 721. Findings and statement of policy.
Sec. 722. Assistance.
Sec. 723. Report to Congress.
Sec. 724. Authorization of appropriations; authorities.
Sec. 725. Appropriations in future years.
Sec. 726. Donor coordination.

TITLE VIII—PRESIDENTIAL CONTINGENCY FUND

Sec. 801. Authority.

TITLE IX—AUTHORIZATIONS FOR FISCAL YEAR 1993

Sec. 901. Authorizations.

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

The Foreign Assistance Act of 1961 is amended by inserting the following after the enacting clause:

"TABLE OF CONTENTS

"The table of contents for this Act is as follows:

"Sec. 1. Statement of policy.

"TITLE I—ECONOMIC ASSISTANCE

"CHAPTER 1—DEVELOPMENT ASSISTANCE

"Subchapter A—Development Assistance Authorities

"Sec. 1101. Assistance for development needs.
"Sec. 1102. Authorization of appropriations.

"SUBCHAPTER B—OTHER DEVELOPMENT ASSISTANCE PROGRAMS AND AUTHORITIES

"Sec. 1111. Capital and infrastructure assistance.
"Sec. 1112. Development education.
"Sec. 1113. Strengthening the capacity of non-governmental organizations, including research and educational institutions.

"SUBCHAPTER C—OTHER AUTHORITIES AND REQUIREMENTS

"Sec. 1121. Impact of development assistance on environment and natural resources.
"Sec. 1122. Cost sharing.
"Sec. 1123. Assistance limited to economic programs.

"CHAPTER 2—DEVELOPMENT ASSISTANCE CREDIT PROGRAMS

"Sec. 1201. Private sector credit program.
"Sec. 1202. Housing and urban credit program.

"CHAPTER 3—ECONOMIC SUPPORT ASSISTANCE

"Sec. 1301. Assistance under special economic, political, and security conditions.
"Sec. 1302. Authorization of appropriations.
"Sec. 1303. Administration of justice.
"Sec. 1304. Democracy contingency fund.

"CHAPTER 4—INTERNATIONAL NARCOTICS CONTROL

"Sec. 1401. General.
"Sec. 1402. Authority to enter into agreements and provide assistance.
"Sec. 1403. Provisions applicable to assistance under this chapter.
"Sec. 1404. Transfer of funds when countries fail to take adequate steps to halt illicit drug production or trafficking.
"Sec. 1405. Waiver of certain restrictions on assistance.
"Sec. 1406. International narcotics control report.
"Sec. 1407. Determining major drug-transit and major illicit drug producing countries.
"Sec. 1408. Authorization of appropriations.

"CHAPTER 5—OTHER ECONOMIC ASSISTANCE PROGRAMS

"Subchapter A—American Schools and Hospitals

"Sec. 1501. Authority to provide assistance.
"Sec. 1502. Authorization of appropriations.

"Subchapter B—Debt Exchanges for Development

"Sec. 1511. Debt exchange.

"Subchapter C—Reimbursable Programs

"Sec. 1521. Authority to conduct reimbursable programs.
"Sec. 1522. Use of payments.

"CHAPTER 6—INTERNATIONAL DISASTER ASSISTANCE

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

CHAPTER 7—VOLUNTARY CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS AND PROGRAMS

"Sec. 1701. Authority to provide assistance.
"Sec. 1702. Authorization of appropriations.
"Sec. 1703. Condition on contributions to International Organizations.
"Sec. 1704. Withholding of United States proportionate share for certain programs of international organizations.
"Sec. 1705. Contributions to United Nations Relief and Works Agency.
"Sec. 1706. Auditing of accounts of international organizations.

"CHAPTER 8—ADMINISTRATION OF ECONOMIC ASSISTANCE PROGRAMS

"Subchapter A—Operating Expenses

"Sec. 1801. Authorizations of appropriations for operating expenses generally.
"Sec. 1802. Authorizations of appropriations for operating expenses of the Inspector General.
"Sec. 1803. Availability of funds.

"Subchapter B—Evaluation

"Sec. 1811. Evaluation and accountability.

"Subchapter C—Cooperation with Nongovernmental Sector

"Sec. 1821. Voluntary Cooperation in Development.

"TITLE II—MILITARY ASSISTANCE AND RELATED PROGRAMS

"CHAPTER 1—POLICIES REGARDING MILITARY ASSISTANCE

"Sec. 2101. General.
"Sec. 2102. Objectives of military assistance.

"CHAPTER 2—FOREIGN MILITARY FINANCING PROGRAM

"Sec. 2201. Authority to furnish assistance.
"Sec. 2202. Terms of financing.
"Sec. 2203. Eligibility.
"Sec. 2204. Approval of third country transfers.

"Sec. 2205. Drawdown authority.
"Sec. 2206. Grant transfers of excess defenses articles.
"Sec. 2207. Considerations in furnishing assistance.
"Sec. 2208. Civic action in Africa.
"Sec. 2209. Authorization of appropriations.
"CHAPTER 3—STOCKPILING OF DEFENSE ARTICLES FOR FOREIGN COUNTRIES
"Sec. 2301. Restrictions on stockpiling.
"Sec. 2302. Location of stockpiles.
"Sec. 2303. Additions to war reserve stocks.
"CHAPTER 4—OVERSEAS MANAGEMENT OF ASSISTANCE AND SALES PROGRAMS
"Sec. 2401. Authorized functions.
"Sec. 2402. Costs.
"Sec. 2403. Role of chief of mission.
"CHAPTER 5—INTERNATIONAL MILITARY EDUCATION AND TRAINING
"Sec. 2501. Authority to furnish assistance.
"Sec. 2502. Terms of assistance.
"Sec. 2503. Exchange training.
"Sec. 2504. Exemptions.
"Sec. 2505. Authorization of appropriations.
"CHAPTER 6—PEACEKEEPING OPERATIONS
"Sec. 2601. General authority.
"Sec. 2602. Special transfer and drawdown authorities.
"Sec. 2603. Administrative authorities.
"Sec. 2604. Authorization of appropriations.
"CHAPTER 7—INTERNATIONAL TERRORISM
"Sec. 2701. General.
"Sec. 2702. Authority to provide antiterrorism assistance.
"Sec. 2703. Authorities and limitations.
"Sec. 2704. Congressional presentation documents.
"Sec. 2705. Administrative authorities.
"Sec. 2706. Authorization of appropriations.
"TITLE III—OVERSEAS PRIVATE INVESTMENT CORPORATION; TRADE AND DEVELOPMENT AGENCY
"CHAPTER 1—OVERSEAS PRIVATE INVESTMENT CORPORATION
"Sec. 3101. Purpose and policy.
"Sec. 3102. Stock of the corporation.
"Sec. 3103. Organization and management.
"Sec. 3104. Investment insurance, guarantees, financing, and other programs.
"Sec. 3105. Enhancing private political risk insurance industry.
"Sec. 3106. Guidelines and requirements for OPIC support.
"Sec. 3107. Issuing authority, direct investment fund, equity fund, and reserves.
"Sec. 3108. Income and revenues.
"Sec. 3109. General provisions relating to insurance, guaranty, and financing program.
"Sec. 3110. General provisions and powers.
"Sec. 3111. Annual report; maintenance of information.
"Sec. 3112. Definitions.
"CHAPTER 2—TRADE AND DEVELOPMENT AGENCY
"Sec. 3121. Purpose.
"Sec. 3122. Authority to provide assistance.
"Sec. 3123. Director and personnel.
"Sec. 3124. Annual report.
"Sec. 3125. Inspector General.
"Sec. 3126. Funding.
"TITLE IV—SPECIAL AUTHORITIES, RESTRICTIONS ON ASSISTANCE, AND REPORTS
"CHAPTER 1—SPECIAL AUTHORITIES
"Sec. 4101. Authority to transfer between accounts.
"Sec. 4102. Special waiver authority.
"Sec. 4103. Unanticipated contingencies.
"Sec. 4104. Emergency assistance.
"Sec. 4105. Termination expenses.
"Sec. 4106. Exemption of assistance through non-governmental organizations from restrictions.
"Sec. 4107. Exemption of training activities from prohibitions.
"Sec. 4108. Nonapplicability to military assistance of certain Neutrality Act provisions.
"CHAPTER 2—RESTRICTIONS ON ASSISTANCE
"Sec. 4201. Ineligible countries.
"Sec. 4202. Police training.
"Sec. 4203. Countries in arrears on assistance repayments.
"Sec. 4204. Family planning activities.
"Sec. 4205. Competition with United States exports.
"Sec. 4206. Nuclear non-proliferation.
"Sec. 4207. Major illicit drug producing and drug transit countries.
"Sec. 4208. Assistance for elections.
"Sec. 4209. Duties of a noncombatant nature.
"CHAPTER 3—REPORTS AND NOTIFICATIONS TO CONGRESS
"Sec. 4301. Congressional presentation documentation for economic assistance.
"Sec. 4302. Human rights policy and reports.
"Sec. 4303. Annual allocation report.
"Sec. 4304. Notification of program changes.
"TITLE V—GENERAL PROVISIONS
"CHAPTER 1—EXERCISE AND COORDINATION OF FUNCTIONS
"Sec. 5101. Delegations by the President.
"Sec. 5102. Designation of administering agency for title I.
"Sec. 5103. Authority to establish missions abroad.
"Sec. 5104. Presidential findings and determinations.
"CHAPTER 2—ADMINISTRATIVE AUTHORITIES
"Sec. 5201. Allocation of funds and reimbursement among agencies.
"Sec. 5202. Genenal authorities.
"Sec. 5203. Authorized administrative uses of funds.
"CHAPTER 3—SPECIAL REQUIREMENTS AND AUTHORITIES RELATING TO APPROPRIATIONS AND LOCAL CURRENCIES
"Subchapter A—Provisions Relating to Appropriations
"Sec. 5301. Requirement for authorization of appropriations.
"Sec. 5302. Authority for extended period of availability of appropriations.
"Sec. 5303. Reduction in earmarks.
"Subchapter B—Local Currencies
"Sec. 5321. Special accounts for and use of host-country owned local currency.
"Sec. 5322. Use of certain foreign currencies owned by the United States.
"Sec. 5323. Interest on United States-owned foreign currency proceeds.
"Sec. 5324. Use of local currencies.
"Sec. 5325. Interest on local currency accruing to nongovernmental organizations.
"CHAPTER 4—PROCUREMENT AND DISPOSITION OF COMMODITIES AND DEFENSE ARTICLES
"Sec. 5401. Use of private enterprise.
"Sec. 5402. Procurement standards and procedures.
"Sec. 5403. Shipping on United States vessels.
"Sec. 5404. Excess and other available property.
"Sec. 5405. Retention and use of certain items and funds.
"Sec. 5406. Laws relating to contracts and government expenditures.
"Sec. 5407. Transportation charges incurred by the Red Cross or private voluntary organizations.
"CHAPTER 5—PERSONNEL
"Sec. 5501. Statutory officers in economic assistance agency.
"Sec. 5502. Employment of personnel.
"Sec. 5503. Experts, consultants, and retired officers.
"Sec. 5504. Detail of personnel to foreign governments and international organizations.
"Sec. 5505. Chief of economic assistance mission abroad.
"Sec. 5506. Chairman of OECD Development Assistance Committee.
"Sec. 5507. Assignment of DOD personnel to civil offices.
"Sec. 5508. Discrimination against United States personnel providing assistance.
"CHAPTER 6—DEFINITIONS AND MISCELLANEOUS PROVISIONS
"Sec. 5601. Definitions.
"Sec. 5602. Activities under other laws not affected.

TITLE I—STATEMENT OF POLICY; ECONOMIC ASSISTANCE PROGRAMS

SEC. 101. STATEMENT OF POLICY.

The Foreign Assistance Act of 1961 is amended by inserting after the table of contents as added by section 3 of this Act the following:

"STATEMENT OF POLICY

"SECTION 1. STATEMENT OF POLICY.

"Peace and prosperity depend on the United States remaining at the forefront of a world community increasingly receptive to democracy, market economics, and cooperation against aggression.

"To this end, the United States has in the past helped strengthen the capacity of other nations to develop their economies, improve security and build responsible democratic government.

"For over forty years the spectre of international communism weighed heavily on the structures and priorities of United States economic and security assistance. This global threat to world freedom has finally collapsed. In its wake is the spreading worldwide recognition that freedom can only be sustained by governments whose legitimacy rests firmly on the expressed consent of the governed; that are themselves agents and protectors of individual rights; and that are capable of sustaining an environment conducive to equal economic and political opportunity for all citizens.

"The pathway to a more universally democratic world order is fraught with uncertainty, and will be marked by a volatile mix of sharply rising demands for political and cultural self determination, deepening economic interdependence, and the rapid spread of powerful new technologies. The President must therefore be able to deal with many sudden and unforeseen threats and opportunities to the spread and consolidation of democratic values and American leadership and interests.

"Familiar lines between North and South, East and West, are blurred. Conventional boundaries between foreign and domestic affairs, along with traditional definitions of what constitutes political, economic, and security interests are shifting in the transition to a new world order. Traditional arrangements and institutional policy instruments—including those covered by this Act—must be adaptable in a world in flux.

"Fostering economic, military and other forms of cooperation is vital to the success of United States foreign policy and a necessary complement to skillful diplomacy. Humanitarian and related forms of development assistance also will continue to satisfy deep and abiding commitments of the American people to building a more just and compassionate international community. For success in all categories, regional and global strategies and priorities must respond to and shape changing realities.

"To meet major new opportunities and challenges abroad requires substantial improvements in the coherence of foreign assistance programs, administrative simplicity, flexibility and, above all, clarity of purpose. Within our grasp are major opportunities to assist transitions to democracy and economic development, to effect the peaceful resolution of regional conflicts, and to lead important new multilateral initiatives. The United States looks forward to expanding partnerships with those who share our values and interests in building a new and more democratic world order.

"To guide this process it should be the policy of the United States that the financial, material and human resources authorized by this Act should serve five mutually reinforcing goals:

"(1) PROMOTING AND CONSOLIDATING DEMOCRATIC VALUES.—This is the first and preeminent foreign policy challenge of the United States, affecting our long-term national security, economic prosperity and social well-being. Encouraging those who seek to embrace and institutionalize democratic values will be the overarching purpose and criterion producing greater coherence among programs under this Act. Genuine transitions toward democracy, however difficult, cannot be accomplished in isolation from the rest of the world, and there will be rising expectations and justification for some form of United States support. Congress recognizes that human rights have no frontiers and are indivisible. The essential ingredients of democracy—political pluralism confirmed through free and fair elections, an open, accessible, fair, and predictable rule of law, an open and independent media, economic opportunity for all, and respect for internationally recognized human rights—are the basic building blocks of the new world order.

"(2) PROMOTING MARKET PRINCIPLES AND STRENGTHENING COMPETITIVENESS.—Sustainable economic growth and development depend on the pursuit of sound, growth-oriented, and environmentally responsible market based policies which, in turn, will benefit United States economic interests abroad. Helping expand United States business presence in democratizing countries strengthens the local private sector, broadens demand for United States goods and services, opens the way for expanded trade, and raises worldwide living standards. By encouraging market forces through deregulation, privatization, appropriate labor market reforms, and promotion of free trade and investment, reform-minded countries can establish an appropriate complement to building and securing democracy.

"Timely United States financial and technical assistance will seek to accelerate and consolidate market-oriented reforms, while complementary educational and capacity building programs will help build the human capital that is so crucial for modern economies. Continued assistance to strong, adequately funded, multilateral economic institutions also will foster more open and productive local and world markets. A fundamental long-run policy objective is to have countries move from foreign assistance relationships toward mutually beneficial trade and investment partnerships with the United States.

"(3) PROMOTING PEACE.—Security assistance and economic assistance, backed by skillful diplomacy, will continue to be a key tool of American foreign policy. Peace, above all, is a pre-condition for political and economic development. And sustained political and economic development sustains peace. International and regional security is necessary for democracy and free enterprise to flourish.

"United States military assistance remains essential to deterring regional aggression. Substantial and timely financial and material assistance will also be required to enhance United Nations peacekeeping capabilities, to ensure rapid reconstruction and recovery following the resolution of regional conflicts, and to discourage the proliferation of nuclear, chemical, and biological weapons and the spread of advanced missile delivery systems. Economic assistance linked to strategies for broad-based economic growth will contribute to stability within borders and peaceful relationships with neighbors.

"Violent conflicts occurring within—not among—nations, pose new challenges for effectively assisting efforts to resolve local disputes through peaceful means and to achieve national reconciliation. In addition, the unpredictable dangers of new and resurgent tensions that often accompany rising political pluralism—racial, religious, and ethnic conflicts and the denial of human rights—point to the need of allowing the President greater flexibility for using foreign military and economic assistance to advance the cause of peace.

"(4) PROTECTING AGAINST TRANSNATIONAL THREATS.—Environmental degradation, narcotics trafficking, terrorism and other transnational threats, jeopardize the security and economic well being of individuals, nations and the global community in new and invidious ways. Providing timely and substantial assistance for initiatives to overcome these dangers within and among nations is a rising priority. The United States has a special interest in devising and supporting new response strategies with the necessary domestic and international cooperation to render them effective.

"(5) MEETING HUMANITARIAN NEEDS.—Programs of effective humanitarian assistance respond to a wide variety of foreign needs and deeply held American values. Many important United States-sponsored health, child survival, population, and other activities contribute to long-term development by alleviating the suffering of the world's poorest peoples and reflect the humanitarian concerns of the American people. The United States will continue to maintain its unequaled record in responding quickly and substantially to alleviate suffering and the plight of refugees caused by natural or man made disasters. Famine, environmental crises, epidemics, and the flow of refugees caused by civil wars, repression, and unwise economic policies will not be easily eradicated.

"Strategies to advance democratization, economic policy reform, security enhancement, and strategies in response to humanitarian imperatives, should be mutually reinforcing to the maximum extent possible. Country and regional priorities should be set and revised on the basis of progress toward the attainment of one or more of the policy goals, with the advancement of democracy the overall long-term measure of success.

"Bilateral economic, technical, military, and other material assistance, and support for international organizations as provided under this Act will in complementary and coherent fashion advance these five policy goals. And assistance authorized by this Act should be coordinated with the other relevant international activities of the United States Government so as to achieve the goals of this Act.

"All other countries able to contribute will be urged to join in a common undertaking to meet the goals stated in this part. Such cooperation will be essential to sustaining and expanding the revitalization of the United Nations and other international mechanisms. Central to this process must be creative responsibility sharing with the United States' main global partners. Strong and effective multilateralism, particularly among the growing community of democratic nations, will improve the prospects for peace and prosperity regionally and globally.

"Restructuring and reintegrating economic, security and humanitarian assistance to advance the goals outlined in this section will require a transition period. Any new—or changes in existing—bilateral and multilateral partnerships must be based upon sound plans and programs. The interaction of political, social, and economic aspects of nation building are complex and conditioned by local history and cultural traditions. The United States must also continue to be responsive to the efforts of recipient countries to mobilize their own resources and help themselves, as well as to the external and internal pressures which constrain this process. But above all, and to an increasing extent, United States foreign assistance policy will emphasize the strengthening of shared democratic values.

"Adapting the assistance instruments and programs authorized by this Act to support more effectively the policy goals outlined in this section, will require close consultation and cooperation between Congress and the Executive Branch. This process will allow the United States to assess and then to influence the long-term impact of major international changes underway or on the horizon, at this defining moment of history.

SEC. 102. REVISION OF ASSISTANCE PROGRAMS.

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

"TITLE I—ECONOMIC ASSISTANCE

"CHAPTER 1—DEVELOPMENT ASSISTANCE

"Subchapter A—Development Assistance Authorities

"SEC. 1101. ASSISTANCE FOR DEVELOPMENT NEEDS.

"(a) STATEMENT OF POLICY.—The Congress finds that by addressing the interrelated issues of social and human progress, economic growth, and political reform, long-term development provides the foundation on which peace and the promotion of democratic values can flourish. The Congress further finds that, consistent with the goals described in section 1 of this Act, development assistance provided under this Act should—

"(1) recognize that the developing countries themselves hold the key to their own progress;

"(2) promote sustainable growth and development which fosters the participation of individuals in the economic and political processes of their countries and, in particular, recognize and foster the expanded participation of women in the development process; and

"(3) encourage and implement new cooperative relationships with developing countries

based upon shared interests of political and economic freedom through, among other things—

"(A) emphasizing sound economic policies and improved governance as a basis for broad-based growth;

"(B) encouraging income-generating opportunities by training people in necessary skills, and expanding the availability of jobs through, for example, the increased participation of the United States and local private sectors in trade and investment;

"(C) encouraging responsible environmental policies and prudent management of natural resources, ensuring also that economic growth occurs in an environmentally sustainable manner; and

"(D) improving the capacity of individuals and families to better their economic and social well being by mobilizing their resources to stimulate growth and social development.

"(4) be tailored for indivdiual countries to recognize that the needs and problems of each country vary because of their history and differences in their political, economic, and legal systems, their natural and human resources, and their current stage of economic development.

"(b) ALLOCATION OF RESOURCES.—It is the sense of the Congress that the United States, taking into consideration the goals set forth in section 1, should—

"(1) concentrate development assistance in countries which will make the most effective use of that assistance;

"(2) focus its development assistance on those types of assistance activities which the United States can provide most effectively, and which meet the particular economic assistance requirements of a country; and

"(3) not provide development assistance for a program or project in a country if the relevant sector or national economic policies of that country are clearly unfavorable to the substainability or broadest possible impact of the assisted program or project.

"(c) AUTHORIZATION.—The President shall use the authorities of this section to provide assistance, in furtherance of the goals set forth in section 1, to meet development needs in developing countries.

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

"(1) SUPPORT FOR ECONOMIC GROWTH AND DEMOCRATIC DEVELOPMENT.—

"(A) RATIONALE.—

"(i) Broad based, sustainable economic growth is in the interest of the United States because it improves the living standards and quality of life of their citizens, develops international markets to the mutual benefit of United States and developing countries, reduces the dependence of countries on external assistance, and contributes to a stable, peaceful world. Such growth, led by the private sector, is necessary to create the economic base in developing countries that enables the poor to increase their incomes and gain access to productive resources and services. Appropriate government policies, laws, and regulations are required for balanced and sustained growth as well as to ensure fairness and to address the worst aspects of poverty in developing countries.

"(ii) The promotion of democracy throughout the world is in the basic interest of the United States. Democratic development, political pluralism, and respect for internationally recognized human rights are intrinsically linked to economic and social progress. It is in the United States interest and in keeping with our democratic traditions to foster the spread of democratic values, aspirations and universal respect for civil and political liberties.

"(B) USES OF ASSISTANCE.—Assistance may be furnished to—

"(i) enhance the capacity to achieve equitable, broad-based and sustainable economic growth through, among other things, trade, investment, environmental enhancement, agricultural development, commodity imports, and infrastructure activities (including the transportation, energy and telecommunications sectors), support for the private sector, and support for sectoral and national level reforms to stabilize economies and support structural adjustments designed to improve the efficiency with which resources are allocated thus promoting growth and equality of opportunity in the participation in the benefits of growth.

"(ii) promote the increased adherence to internationally recognized human rights and to develop and strengthen democratic values, practices, and institutions through such activities as modernization of national justice systems; strengthening electoral processes; development of the institutional capacity of legislatures; professionalization of the media; strengthening legal codes and training; development of organizational and managerial skills in community groups, labor unions and local government; and improving access of the poor to land and other resources through support for legal reforms to secure land titles.

"(2) ADDRESS HUMANITARIAN ASSISTANCE NEEDS AND GLOBAL PROBLEMS.—

"(A) RATIONALE.—

"(i) It is in the United States interest to assist countries to achieve patterns of growth and development which will reduce poverty and allow all people, especially those with low incomes, to lead economically and socially productive lives. Further, peace and stability in the world cannot be achieved without economic development that also addresses the worst manifestations of poverty.

"(ii) The economic and social well-being and the security of the United States and other countries is affected by the effectiveness with which the world community addresses transnational problems. Responsible management of physical environmental and natural resources is necessary to insure the availability of resources for future generations and to assure that the burdens of improved resource management do not fall disproportionately on the poor. The impact of malaria, acquired immune deficiency syndrome (AIDS), and other communicable diseases threatens devastation to whole populations. Similarly, the cultivation of illicit narcotics is both a product and cause of poverty, and a development problem which must be addressed on a transnational basis.

"(B) USES OF ASSISTANCE.—Assistance may be furnished to support the increased capacity of people to participate in the development process and to address transnational problems. Such assistance may include, among other things, activities to enhance food security, support for the implementation of market oriented policies, primary and adult education, child survival activities, environmentally sound resource management (including environmentally sustainable agriculture), improvements in health and sanitation, support for family planning activities, support for micro and small private enterprises, support for low-income shelter solutions, and development programs (including narcotics awareness programs) that are coordinated with international narcotics control assistance and would help reduce illicit cultivation of narcotic and psychotropic drugs and other controlled substances.

"(e) RELATIONSHIP TO OTHER PROVISIONS OF LAW.—Funds authorized to be appropriated by this section which are used to carry out the activities identified in subsection (d)(2)(B) and subsection (d)(1)(B)(ii) of this section may be made available notwithstanding any provision of law which restricts assistance to foreign countries.

"SEC. 1102. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the President to carry out this subchapter $1,277,000,000 for fiscal year 1992.

"SUBCHAPTER B—OTHER DEVELOPMENT ASSISTANCE PROGRAMS AND AUTHORITIES

"SEC. 1111. CAPITAL AND INFRASTRUCTURE ASSISTANCE.

"In order to achieve sustained economic growth and development, it is crucial that the physical and economic infrastructure requirements of the developing countries be met. The President should ensure the developmental value of capital assistance, monitor the provision of that assistance so as to ensure that these developmental criteria are satisfied, and consider related trade and commercial opportunities for continued United States involvement and participation that furthers the national interests of the United States. In order to support developmentally-sound trade and investment opportunities in the form of capital and infrastructure assistance (including related services), the President may use funds made available for economic assistance under this title for activities consistent with this section.

"SEC. 1112. DEVELOPMENT EDUCATION.

"The President may use funds made available for economic assistance under this title to support development education programs, with emphasis on those conducted by private voluntary organizations and cooperatives, in order to assist in the education of United States citizens about developing countries, the development process, and the importance to the United States of developing countries.

"SEC. 1113. STRENGTHENING THE CAPACITY OF NONGOVERNMENTAL ORGANIZATIONS, INCLUDING RESEARCH AND EDUCATIONAL INSTITUTIONS.

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

"SUBCHAPTER C—OTHER AUTHORITIES AND REQUIREMENTS

"SEC. 1121. IMPACT OF DEVELOPMENT ASSISTANCE ON ENVIRONMENT AND NATURAL RESOURCES.

"(a) STATEMENT OF POLICY.—It is the sense of the Congress that—

"(1) the economic and social well-being and the security of the United States and other countries is affected by how the world's environment and physical resource base are managed, and that consumption patterns, systems of industrial and agricultural production, and the manner of use of natural resources all have an impact on the opportunities for long-term development and growth and survival for all countries;

"(2) environmentally responsible management for physical resources is necessary by both developed and developing countries to

insure their availability for future generations and to assure that the burdens of improved resource management do not fall disproportionately on the poor;

"(3) sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs; and

"(4) economic assistance programs authorized by this title should assist countries to adopt policies and to carry out programs that promote economic growth that is environmentally sound.

"(b) IMPACT ASSESSMENT.—The President, in implementing programs and projects under this chapter and chapter 3 of this title, should take fully into account the impact of such programs and projects upon the environment and natural resources of developing countries. Subject to such procedures as the President considers appropriate, the President should—

"(1) prepare and take fully into account an initial environmental examination of every program or project to determine whether it significantly affects the environment;

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

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

Where appropriate, local technical resources should be used in preparing environmental impact statements and environmental assessments pursuant to this section.

"(c) EXCEPTIONS.—The President should establish exceptions for emergency conditions and for cases in which implementation of procedures described in subsection (b) would be seriously detrimental to the foreign policy interests of the United States.

"(d) RELATIONSHIP TO OTHER PROVISIONS OF LAW.—Funds authorized to be appropriated by this Act which are used to support activities in the enviornment and energy sectors may be made available notwithstanding any provision of law which restricts assistance to foreign countries.

"SEC. 1122. COST SHARING.

"To ensure its commitment to, and the sustainability of development assistance provided under this chapter through the government of a country, such government should bear an appropriate share of the costs of the entire program or project with respect to which the assistance is to be furnished. Such costs may be borne on an 'in kind' basis.

"SEC. 1123. ASSISTANCE LIMITED TO ECONOMIC PROGRAMS.

"(a) IN GENERAL.—Economic assistance provided under this title shall be available for economic programs and may not be used for military or paramilitary purposes.

"(b) EXCEPTION FOR CERTAIN TRAINING.—The provisions of subsection (a) of this section shall not apply to economic assistance involving the participation of military personnel in training activities and conferences consistent with the purposes of section 1101.

"CHAPTER 2—DEVELOPMENT ASSISTANCE CREDIT PROGRAMS

"SEC. 1201. PRIVATE SECTOR CREDIT PROGRAM.

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

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

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

"(b) AUTHORITY.—

"(1) AUTHORITY.—To carry out the policy expressed in subsection (a), the President is authorized—

"(A) to make investments in projects that meet the criteria established pursuant to this subsection; and

"(B) to make loans to, and to issue guarantees assuring against losses incurred in connection with investments in, loans to and guarantees for, projects that meet the criteria established pursuant to this subsection.

"(2) FULL FAITH AND CREDIT.—The full faith and credit of the United States is hereby pledged for the full payment and performance of guarantees issued pursuant to this section.

"(3) TERMS AND CONDITIONS.—

"(A) Unless the President determines otherwise, the authority of this section may not be exercised to extend credit assistance to individual borrowers when the credit subsidy associated with that borrower would exceed 25 percent, using normal criteria for calculating subsidies under the Budget Enforcement Act of 1990.

"(B) The President may issue regulations from time to time with regard to—

"(i) the terms and conditions on which loans and investments will be made and guarantees issued under this section; and

"(ii) the eligibility of beneficiaries.

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

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

"(6) APPLICABILITY OF CERTAIN PROVISIONS.—The authority of this section may be exercised notwithstanding section 5402 of this Act.

"(c) APPROPRIATIONS REQUIREMENT.—New direct loan obligations may be entered into and new guarantee commitments may be issued only to the extent that appropriations of budget authority to cover their costs are made in advance.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the President, $1,367,000, for fiscal year 1992 for administrative expenses necessary to carry out this section, which amount may be transferred to and merged with amounts appropriated pursuant to section 1801.

"SEC. 1202. HOUSING AND URBAN CREDIT PROGRAM.

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

"(1) shelter and other essential urban development services and facilities are among the most fundamental of human needs and a sound urban environment is essential to all societies;

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

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

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

"(b) CREDIT AUTHORITY.—To carry out the policies expressed in subsection (a), the President is authorized to make loans and to issue guarantees assuring against losses incurred in connection with loans or other investments made for projects that meet the criteria set forth in subsection (a) and that promote the goals set forth in section 1.

"(c) TERMS AND CONDITIONS.—

"(1) Unless the President determines otherwise, the authority of this section may not be exercised to extend credit assitance to individual borrowers when the credit subsidy associated with that borrower would exceed 25 percent, using normal criteria for calculating subsidies under the Budget Enforcement Act of 1990.

"(2) The President may issue regulations from time to time with regard to—

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

"(B) the eligibility of beneficiaries.

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

"(1) projects which provide improved home sites to poor families on which to build shelter, and expandable core shelter units on serviced sites;

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

"(3) shelter and urban projects for low income people designed for demonstration or institution building purposes or urban management and local government;

"(4) community facilities and services in support of projects authorized under this section; and

"(5) other urban services and infrastructure of particular importance to urban environment or the needs of the poor.

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

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

"(g) APPROPRIATIONS REQUIREMENT.—New direct loan obligations may be entered into

and new guarantee commitments may be issued only to the extent that appropriations of budget authority to cover their costs are made in advance.

"(h) AUTHORIZATION OF APPROPRIATIONS.—

"(1) There are authorized to be appropriated to the President, $2,500,000, for fiscal year 1992 to pay the cost of guarantees and direct loan obligations authorized by this section.

"(2) There are authorized to be appropriated to the President, $7,000,000, for fiscal year 1992 for administrative expenses necessary to carry out this section, which amount may be transferred to and merged with amounts appropriated pursuant to section 1801.

"CHAPTER 3—ECONOMIC SUPPORT ASSISTANCE

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

"Under special economic, political, or security conditions, the national interest of the United States may require economic support for countries in amounts which could not be justified only under chapter 1 of this title. In such cases, the President is authorized to furnish assistance to countries and organizations in order to promote economic or political stability. Such assistance shall be furnished consistent with the goals set forth in section 1 and, to the maximum extent feasible, the purpose and authorities specified in section 1101.

"SEC. 1302. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the President to carry out section 1301 $3,228,000,000 for the fiscal year 1992.

"SEC. 1303. ADMINISTRATION OF JUSTICE.

"(a) AUTHORITY.—The President may furnish assistance from funds made available to carry out section 1301 to countries and organizations, including national, regional, and international institutions, in order to strengthen the administration of justice in developing countries and emerging democracies.

"(b) PROVISION OF ASSISTANCE.—Assistance under this section may include—

"(1) programs to enhance professional capabilities to carry out investigative and forensic functions conducted under judicial or prosecutorial control;

"(2) programs to assist in the development of academic instruction and curricula for training law enforcement personnel;

"(3) programs to improve the administrative and management capabilities of law enforcement agencies, especially their capabilities relating to career development, personnel evaluation, and internal discipline procedures;

"(4) programs to improve penal institutions and the rehabilitation of offenders; and

"(5) such other programs to support the administration of justice in developing countries and emerging democracies as the President determines to be appropriate.

"(c) RELATIONSHIP TO OTHER LAWS.—Assistance furnished under this section may be made available notwithstanding section 4202 of this Act.

"SEC. 1304. DEMOCRACY CONTINGENCY FUND.

"(a) AUTHORITY TO PROVIDE ASSISTANCE.—The President is authorized to use funds made available to carry out this section to provide assistance for a foreign country if the President determines that a country—

"(1) has recently emerged or is in the process of emerging as a democracy; or

"(2) has recently emerged or is emerging from civil strife and either has a democratically elected government or is making substantial progress toward a democratic form of government.

"(b) PURPOSES OF ASSISTANCE.—Assistance under this section shall be provided—

"(1) in the case of a country described in subsection (a)(1), to encourage and facilitate the process of creating and institutionalizing democracy and to meet economic and political needs; and

"(2) in the case of a country described in subsection (a)(2), to meet the immediate economic and human needs resulting from the civil strife.

"(c) AUTHORITIES FOR ASSISTANCE.—Assistance under this section may be provided under the authorities of this chapter or any other provision of this Act.

"(d) NONAPPLICABILITY OF OTHER PROVISIONS OF LAW.—Assistance may be provided under this section notwithstanding any other provision of law upon notification by the President of the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the President to carry out this section such sums as may be necessary.

"(f) TRANSFER AUTHORITY.—

"(1) The President may use the authority of section 4101 of this Act to transfer funds for use under this section without regard to the 20 percent increase limitation contained in that section.

"(2) The authority of paragraph (1) may not be used if it would cause the amount of unobligated funds available for use under this section to exceed $100,000,000.

"CHAPTER 4—INTERNATIONAL NARCOTICS CONTROL

"SEC. 1401. GENERAL.

"(a) STATEMENT OF POLICY.

"(1) International narcotics trafficking poses an unparalleled transnational threat in today's world, and its suppression is among the most important foreign policy objectives of the United States;

"(2) Under the Single Convention on Narcotic Drugs, 1961, and under the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988, the parties are required to criminalize certain drug related activities, provide appropriately severe penalties, and cooperate in the extradition of accused offenders.

"(3) International narcotics control programs should include, as priority goals, the suppression of the illicit manufacture of and trafficking in narcotic and psychotropic drugs, and the progressive elimination of the illicit cultivation of the crops from which narcotic and psychotropic drugs are derived.

"(4) The international community should provide assistance, where appropriate, to those producer and transit countries which require assistance in discharging these primary obligations.

"(5) Effective international cooperation is necessary to control the illicit cultivation, production, and smuggling of, trafficking in, and abuse of narcotic and psychotropic drugs.

"(b) MULTILATERAL DEVELOPMENT BANKS.—In order to promote international cooperation in combatting international trafficking in illicit narcotics, the United States should use its voice and vote in multilateral development banks to promote the development and implementation in the major illicit drug producing countries of programs for the reduction and eventual eradication of narcotic drugs and other controlled substances, including appropriate assistance in conjunction with effective programs of illicit crop eradication.

"SEC. 1402. AUTHORITY TO ENTER INTO AGREEMENTS AND PROVIDE ASSISTANCE.

"(a) AUTHORITY TO ENTER INTO AGREEMENTS.—In order to promote effective international cooperation, the President is authorized to conclude agreements, including reciprocal maritime agreements, with other countries to facilitate control of the production, processing, transportation, and distribution of narcotics analgesics, including opium and its derivaties, other narcotic and psychotropic drugs, and other controlled substances.

"(b) AUTHORITY TO FURNISH ASSISTANCE.—The President is authorized to furnish assistance under this chapter for the purposes of controlling narcotic and psychotropic drugs and other controlled substances notwithstanding any other provision of law, and is authorized to furnish narcotics-related assistance under other chapters of this title notwithstanding any provision of law that restricts assistance to foreign countries (except section 4201(a)(7)).

"SEC. 1403. PROVISIONS APPLICABLE TO ASSISTANCE UNDER THIS CHAPTER.

"(a) CONTRIBUTION BY RECIPIENT COUNTRY.—To ensure local commitment to the activities assisted under this chapter, the government of a country receiving assistance under this chapter should bear an appropriate share of the costs of any narcotics control program, project, or activity for which such assistance is to be provided. The government of a country may bear such costs on an 'in kind' basis.

"(b) USE OF HERBICIDES FOR AERIAL ERADICTION.—The President, with the assistance of appropriate federal agencies, shall monitor the use of any herbicides provided under this chapter for aerial eradication in order to determine the impact of such use on the environment and on the health of individuals.

"(c) PERMISSIBLE USES OF AIRCRAFT AND OTHER EQUIPMENT.—

"(1) IN GENERAL.—The President shall take all reasonable steps to ensure that aircraft and other equipment made available to foreign countries under this chapter are used only in ways that are consistent with the purposes for which such equipment was made available.

"(2) REPORTS.—In the reports submitted pursuant to section 1406, the President shall discuss any evidence indicating misuse by a foreign country of aircraft or other equipment made available under this chapter, and the actions taken by the United States Government to prevent future misuse of such equipment by that foreign country.

"(d) LEASE OR LOAN.—Any commodity that is made available for narcotics-related assistance under this Act may be provided to a foreign country on a lease or loan basis.

"(e) PROHIBITION ON ASSISTANCE TO DRUG TRAFFICKERS.—The President shall take all reasonable steps to ensure that, except in such circumstances as the President deems appropriate, assistance under this Act is not provided to or through any individual or entity that has been convicted or indicated of a violation of, or a conspiracy to violate, any law or regulation of the United States, a State or the District of Columbia, or a foreign country, relating to narcotic or psychotropic drugs or other controlled substances.

"SEC. 1404. TRANSFER OF FUNDS WHEN COUNTRIES FAIL TO TAKE ADEQUATE STEPS TO HALT ILLICIT DRUG PRODUCTION OR TRAFFICKING.

"Funds allocated under the report required by section 4303 for a country for economic support assistance, foreign military financing, or international military education and training, may be transferred to, and consolidated with, funds made available to carry out this chapter if—

"(1) such assistance is withheld from the country for which it was allocated because of the requirements of section 4201(a)(7) or any other provision of law requiring the withholding of assistance for countries that have not cooperated with the United States or otherwise taken adequate steps to halt illicit drug production and trafficking; and

"(2) such funds are used for assistance for countries that have taken significant steps to halt illicit drug production or trafficking.

"SEC. 1405. WAIVER OF CERTAIN RESTRICTIONS ON ASSISTANCE.

"Section 4203 of this Act and any similar provisions of law that prohibit providing assistance to countries in default on obligations owed to the United States shall not apply to the provision of narcotics-related assistance, including narcotics control assistance under this chapter.

"SEC. 1406. INTERNATIONAL NARCOTICS CONTROL REPORT.

"Not later than March 1 of each year, the President shall transmit to the Speaker of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a comprehensive report on the state of international narcotics production and trafficking, and on United States efforts to prevent the illicit cultivation and manufacture of and trafficking in narcotic and psychotropic drugs and other controlled substances.

"SEC. 1407. DETERMINING MAJOR DRUG-TRANSIT AND MAJOR ILLICIT DRUG PRODUCING COUNTRIES.

"Not later than October 1 of each year, the President shall notify the appropriate committees on the Congress of which countries have been determined to be major illicit drug producing or major drug transit countries for that year.

"SEC. 1408. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the President to carry out this chapter $171,500,000 for the fiscal year 1992.

"CHAPTER 5—OTHER ECONOMIC ASSISTANCE PROGRAMS

"Subchapter A—American Schools and Hospitals

"SEC. 1501. AUTHORITY TO PROVIDE ASSISTANCE.

"(a) GENERAL AUTHORITY.—In order to promote the goals set forth in section 1, the President is authorized to furnish assistance to—

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

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

"(b) DEFINITION OF SCHOOL.—For purposes of subsection (a)(1), the term 'school' includes any institution which provides activities of daily life training, vocational education, and related services to the mentally retarded.

"SEC. 1502. AUTHORIZATION OF APPROPRIATIONS.

"To carry out section 1501, there are authorized to be appropriated to the President $30,000,000 for fiscal year 1992.

"Subchapter B—Debt Exchanges for Development

"SEC. 1511. DEBT EXCHANGE.

"(a) AUTHORITY.—In order to promote the goals set forth in section 1, the President may use funds made available under this title for grants to, or contracts with, nongovernmental organizations to enable those organizations to—

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

"(2) cancel such debt obligation, subject to the approval of the President, to the extent that such country makes available assets or policy commitments to promote any of the goals set forth in section 1.

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

"(c) DEBT OBLIGATIONS OWED TO AGENCIES OF THE UNITED STATES GOVERNMENT.—The purchase or cancellation pursuant to this section of any debt obligation owed to any agency of the United States Government shall be approved by the President.

"SUBCHAPTER C—REIMBURSABLE PROGRAMS

"SEC. 1521. AUTHORITY TO CONDUCT REIMBURSABLE PROGRAMS.

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

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

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

"SEC. 1522. USE OF PAYMENTS.

"Advances and reimbursements received under section 1521 may be credited to the currently applicable appropriation, account, or fund of the agency concerned and shall be available until expended.

"CHAPTER 6—INTERNATIONAL DISASTER ASSISTANCE

"SEC. 1601. STATEMENT OF POLICIES.

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

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

"SEC. 1602. AUTHORITY TO PROVIDE ASSISTANCE.

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

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

"SEC. 1603. AUTHORIZATION OF APPROPRIATONS.

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

"SEC. 1604. BORROWING AUTHORITY.

"(a) AUTHORITY.—In addition to amounts otherwise available to carry out this chapter, up to $50,000,000 in any fiscal year may be obligated against appropriations available to carry out this title for use in providing assistance in accordance with the authorities and general policies of this chapter.

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

"CHAPTER 7—VOLUNTARY CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS AND PROGRAMS

"SEC. 1701. AUTHORITY TO PROVIDE ASSISTANCE.

"Funds appropriated to carry out this chapter may be made available for voluntary contributions on a grant basis to international organizations. Funds appropriated for an international organization may also be made available to undertake activities to support such organizations and their programs.

"SEC. 1702. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the President to carry out this chapter, in addition to funds otherwise available for such purposes, $250,212,000 for fiscal year 1992.

"SEC. 1703. CONDITION ON CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.

"The President is authorized to withhold contributions of funds appropriated to carry out this chapter to any international organization if the President determines that Israel, or such other countries as the President may designate, are being denied their rights to participate in the activities of that organization.

"SEC. 1704. WITHHOLDING OF UNITED STATES PROPORTIONATE SHARE FOR CERTAIN PROGRAMS OF INTERNATIONAL ORGANIZATIONS.

"(a) REQUIREMENT TO WITHHOLD.—Funds authorized to be appropriated by this chapter shall not be available for the United States proportionate share for programs for countries, organizations or projects described in subsection (d).

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

"(c) OBLIGATIONS.—The President—

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

"(2) shall report to the appropriate committees of the Congress the amounts of funds expended by each such organization for the purposes described in subsection (a) and the amount contributed by the United States to each such organization.

"(d) DESIGNATION OF COUNTRIES.—The President may designate, or remove the designation of, such countries, organizations, and projects as he deems appropriate for purposes of subsection (a), and shall so notify Congress. The following countries, organizations, and projects shall be deemed to have been designated by the President upon the date of enactment of this Act: Libya, Iran, Cuba, the Palestine Liberation Organization, and projects whose purpose is to provide benefits to the Palestine Liberation Organization or entities associated with it.

"SEC. 1705. CONTRIBUTIONS TO UNITED NATIONS RELIEF AND WORKS AGENCY.

"The President is authorized to withhold any contributions to the United Nations Relief and Works Agency for Palestine Refugees in the Near East if that Agency does not take all possible measures to assure that no part of the United States contribution is used to furnish assistance to any refugee—

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

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

"SEC. 1706. AUDITING OF ACCOUNTS OF INTERNATIONAL ORGANIZATIONS.

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

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

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

"CHAPTER 8—ADMINISTRATION OF ECONOMIC ASSISTANCE PROGRAMS

"Subchapter A—Operating Expenses

"SEC. 1801. AUTHORIZATIONS OF APPROPRIATIONS FOR OPERATING EXPENSES GENERALLY.

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

"(1) $483,300,000 for fiscal year 1992 for necessary operating expenses of the agency designated under section 5102; and

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

"SEC. 1802. AUTHORIZATIONS OF APPROPRIATIONS FOR OPERATING EXPENSES OF THE INSPECTOR GENERAL.

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

"(1) $37,739,000 for fiscal year 1992 for necessary operating expenses of the Office of the Inspector General of the agency designated under section 5102; and

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

"SEC. 1803. AVAILABILITY OF FUNDS.

"Notwithstanding any other provision of law, the agency designated under section 5102 may obligate and expend funds in advance of appropriations in an amount sufficient to maintain operations at posts abroad for up to three days.

"Subchapter B—Evaluation

"SEC. 1811. EVALUATION AND ACCOUNTABILITY.

"(a) NEED FOR EVALUATION.—In order to effectively and responsibly manage the resources with which it is provided, the agency designated under section 5102 must have a capacity to evaluate objectively the extent of its progress in achieving development results and to derive lessons from its development experience.

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

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

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

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

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

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

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

"(c) ROLE OF EVALUATION.—

"In recognition of the importance of evaluation in determining, among other things, the extent to which programs are fostering the goals set forth in section 1, the President should take steps as the President deems appropriate to ensure that the agency is—

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

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

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

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

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

"Subchapter C—Cooperation with Nongovernmental Sector

"SEC. 1821. VOLUNTARY COOPERATION IN DEVELOPMENT.

"(a) STATEMENT OF POLICY.—It is the sense of the Congress that—

"(1) the sustained participation of United States private voluntary organizations, cooperatives, and credit unions that are engaged in activities that are relevant to the development needs of developing countries serves as an important means of improving the lives of the poor in developing countries and enhances the likelihood that the goals set forth in section 1 will be attained;

"(2) similarly, sustained participation of United States colleges and universities in the economic development programs of the developing countries and the building of indigenous university systems that support the educational, research, and service needs of their societies is vital to their achieving sustainable economic growth and open democratic political systems and, at the same time, supports the internationalization of United States educational institutions by strengthening their faculty and the programs available to their students; and

"(3) such sustained participation would be enhanced through provisions within the agency designated under section 5102 to provide such organizations and institutions with the opportunity to participate in the planning, development and implementation of programs that involve those organizations and institutions.

"(b) PARTNERSHIP RELATIONSHIP.—The President is encouraged to establish a for-

mal, effective, and continuing partnership relationship with private voluntary organizations, cooperatives, and credit unions which have experience in working in developing countries, and with United States colleges and universities, with the objective of enhancing attainment of the goals set forth in section 1. Individuals who are from such organizations and institutions and who have expertise and administrative experience in programs relevant to the development needs of developing countries should be consulted on a regular basis so as to bring their expertise to bear on those objectives.

TITLE II—MILITARY ASSISTANCE AND RELATED ASSISTANCE AND SALES PROGRAMS

CHAPTER 1—CONSOLIDATION AND REVISION OF ACCOUNTS

SEC. 201. REVISION OF ASSISTANCE PROGRAMS.

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

"TITLE II—MILITARY ASSISTANCE AND RELATED PROGRAMS

"CHAPTER 1—POLICIES REGARDING MILITARY ASSISTANCE

"SEC. 2101. GENERAL.

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

"(1) to advance our principal foreign policy objectives—the promotion of democratic values, the promotion of peace, the fostering of economic progress through the encouragement of market forces, and international cooperation in countering transnational dangers such as terrorism and narcotics trafficking—the United States must foster a climate in which all nations can live in security and stability;

"(2) where threats to such a climate arise, through the persistence of regional conflicts, the threat of aggression fostered by military imbalances among neighboring nations, the proliferation of weapons of mass destruction, or through the persistent attempts by armed groups violently to overthrow democratically elected governments, it is in the interest of the United States to address those threats;

"(3) so long as foreign countries lack the resources to meet their security needs without external assistance, military assistance provided by the United States will remain one of the principal instruments available to us to advance our principal foreign policy goals; and therefore

"(4) the provision of military assistance to foreign countries and international organizations under chapter 2, chapter 5 and chapter 6 of this title is an integral element of United States foreign policy.

"(b) The authorities to furnish military assistance that are provided under this title should be exercised to achieve the following objectives:

"(1) To promote democratic values, including support for the consolidation of democracy through the rule of law, free and fair elections, respect for human rights, and the establishment of a relationship between civilian and military sectors appropriate to a democratic system of government.

"(2) to promote peace, by deterring aggression and enhancing the military capability of foreign countries to meet their legitimate security needs, by fostering efforts both to assure the non-proliferation of weapons of mass destruction, and by supporting peacekeeping operations and activities, in particular those sponsored by the United Nations or other international organizations.

"(3) To provide support to foreign countries to meet transnational threats, in particular to combat the flow of illicit narcotics and to combat international terrorism.

"(4) To meet urgent humanitarian needs by encouraging civic action by improving the capability of the armed forces of foreign countries to carry out activities such as planning and implementing economic development projects that benefit the civilian population and providing health care for the people of the country.

"(5) To promote self-defense and defense cooperation by financing the acquisition by friendly countries of United States major defense equipment and other defense articles and defense services, including acquisition through licensed production and coproduction where appropriate.

"(6) To promote the effectiveness of military forces of foreign countries with respect to command, control, communications, intelligence, mobility, training, and logistical support.

"(7) To promote rationalization, standardization, and interoperability of the military forces of foreign countries with the Armed Forces of the United States.

"SEC. 2102. OBJECTIVES OF MILITARY ASSISTANCE.

"The authorities to furnish military assistance that are provided in chapter 2, chapter 5, and chapter 6 of this title should be exercised to achieve the following objectives:

"(1) Promoting self-defense and defense cooperation by financing the acquisition by friendly countries of United States major defense equipment and other defense articles and defense services, including acquisition through licensed production and coproduction.

"(2) Promoting the effectiveness of military forces of friendly countries with respect to command, control, communications, intelligence, mobility, training, and logistical support.

"(3) Promoting rationalization, standardization, and interoperability of the military forces of friendly countries with the Armed Forces of the United States.

"(4) Supporting peacekeeping operations and activities, in particular those sponsored by the United Nations or other international organizations.

"(5) Increasing the awareness of nationals of friendly countries of basic issues involving democratic values and institutions, especially respect for internationally recognized human rights.

"(6) Supporting the establishment in friendly countries of a relationship between civilian and military sectors appropriate to a democratic system of government.

"(7) Providing support for friendly countries to combat the flow of illicit narcotics and to combat international terrorism.

"(8) Enhancing the military capability of friendly countries to meet their security needs.

"(9) Encouraging civic action by improving the capability of the armed forces of friendly countries to carry out activities such as planning and implementing economic development projects that benefit the civilian population and providing health care for the people of the country.

"CHAPTER 2—FOREIGN MILITARY FINANCING PROGRAM

"SEC. 2201. AUTHORITY TO FURNISH ASSISTANCE.

"(a) GENERAL AUTHORITY.—The President is authorized to furnish military assistance to any friendly country or international organization by—

"(1) acquiring from any source and providing by loan or grant any defense article or defense service;

"(2) financing the sale of defense articles or defense services, or providing financing under subsection (b).

"(b) FINANCING PROCUREMENT BY COMMERCIAL LEASING.—Financing may be provided under this section to any country that is a member of the North Atlantic Treaty Organization (NATO) or is a major non-NATO ally for the procurement of defense articles by leasing (including leasing with an option to purchase) from United States commercial suppliers if the President determines that there are foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under the Defense Trade and Export Control Act.

"(c) EXCLUSION OF CERTAIN COSTS FROM CERTAIN SALES.—Sales under the Defense Trade and Export Control Act which are wholly paid from funds—

"(1) which are made available on a grant basis under this chapter, or

"(2) which, prior to the effective date of title II of the International Cooperation Act of 1991, were transferred under the former authority of section 503(a)(3) of this Act or were made available on a nonrepayable or grant basis under the former authority of section 23 of the Defense Trade and Export Control Act,

shall be priced to exclude the costs of salaries of members of the Armed Forces of the United States (other than the Coast Guard) and unfunded estimated costs of civilian retirement and other benefits.

"(d) OBLIGATION OF FUNDS.—

"(1) OBLIGATION UPON APPORTIONMENT.—Funds appropriated to carry out this chapter on a grant basis may be obligated upon apportionment in accordance with paragraph (5)(C) of title 31, United States Code, section 1501(a).

"(2) EXCEPTION.—Funds appropriated to carry out this chapter shall be available to finance the procurement of defense articles and defense services that are not sold by the United States Government only if the country or international organization proposing to make such procurements has first signed a grant agreement with the United States Government specifying the conditions under which such procurements may be financed with such funds.

"(3) DEOBLIGATION OF FUNDS AFTER 3 YEARS.—Any agreement to provide financing under this section should include a provision expressly granting the United States Government the right to deobligate any funds furnished under the agreement that have not been committed for an approved use no later than the end of the 3-year period beginning on the date on which that agreement is entered into.

"(e) LOANS.—

"(1) LIMITATION.—Defense articles may be loaned under this chapter only if—

"(A) there is a bona fide reason for providing such articles on a loan basis rather than a grant basis;

"(B) there is a reasonable expectation that such articles will be returned to the agency making the loan at the end of the loan period unless the loan is then renewed;

"(C) the loan period is of fixed duration not exceeding five years, during which period such article may be recalled for any reason by the United States;

"(D) the agency making the loan is reimbursed for the loan based on any amount that is charged to the appropriation for military assistance under paragraph (2); and

"(E) arrangements are made with the agency making the loan to be reimbursed in the

event the article is lost or destroyed while on loan (which arrangements may include reimbursement from funds available to carry out this chapter), based on the depreciated value of the article at the time of loss or destruction.

"(2) CHARGE TO APPROPRIATION ACCOUNT.—In the case of any loan of a defense article made under this chapter, there shall be a charge to the appropriation for military assistance while the defense article is on loan in an amount based on—

"(A) the out-of-pocket expenses authorized to be incurred in connection with such loan; and

"(B) the depreciation that occurs while such article is on loan.

The provisions of this paragraph shall not apply to any defense article, or portion thereof, acquired with funds available to carry out this chapter, or that is made available under a section of this chapter to which section 5201(d) does not apply. For the purposes of the preceding sentence, the value of the defense articles (in terms of their replacement cost less any depreciation in their value) shall be counted against applicable limitations, such as those contained in section 2205.

"SEC. 2202. TERMS OF FINANCING.

"(a) GRANTS OR CREDITS.—Financing under section 2201(a)(2) may be provided on a grant basis or credit basis, or by providing guarantees.

"(b) CRITERIA FOR DETERMINING TERMS OF ASSISTANCE.—In determining whether such financing will be provided to a foreign country on a grant, credit or guarantee basis, the President shall take into account the following:

"(1) The national security and foreign policy interests of the United States in furnishing such assistance to that country.

"(2) The legitimate national security and self-defense needs of that country, taking into account regional and other threats to its security.

"(3) The economic conditions and circumstances of that country, including its per capita gross national product, debt service ratio, and external debt and rescheduled external debt.

"(c) TERMS AND CONDITIONS.—The President may issue regulations from time to time with regard to the terms and conditions on which financing will be provided under this chapter.

"(d) FINANCING ASSISTANCE.—Funds used to finance the procurement of defense articles and defense services under section 2201(a)(2) shall be disbursed—

"(1) to suppliers (including the United States military departments) on behalf of the recipient country or organization; or

"(2) to the recipient country or organization as reimbursement upon submission of satisfactory proof of payments to suppliers.

"(e) GUARANTIES.—Any guaranties issued under this chapter shall be backed by the full faith and credit of the United States.

"(f) DEBT REPAYMENT.—Funds appropriated to carry out this chapter may be made available to a foreign country to make payments of principal and interest that it owes to the United States in connection with sales of defense articles or defense services on account or credits previously extended to it, or loans previously guaranteed, under this Act or the Defense Trade and Export Control Act (or under any predecessor military sales or foreign assistance legislation).

"SEC. 2203. ELIGIBILITY.

"(a) CONDITIONS.—Financing may not be furnished under this chapter for the procurement of defense articles or defense services by a foreign country, and defense articles or defense services may not otherwise be furnished under this chapter to a foreign country, unless that country has agreed to the following (in addition to such other provisions as the President may require):

"(1) The country will not, without the consent of the President—

"(A) transfer title to, or possession of, any defense articles or defense services so furnished to it to anyone not an officer, employee, or agent of that country,

"(B) use or permit the use of such articles or services for purposes other than those for which furnished.

"(2) The country will maintain the security of such articles or services, and will provide substantially the same degree of security protection afforded to such articles or services by the United States Government.

"(b) INELIGIBILITY.—

"(1) TERMINATION OF ASSISTANCE FOR SUBSTANTIAL VIOLATIONS.—Assistance and deliveries of assistance under section 2201(a)(1) to any country shall be terminated, and new commitments to provide financing under section 2201(a)(2) to that country shall not be made, as hereinafter provided if such country uses defense articles or defense services described in paragraph (2) in substantial violation (either in terms of quantities or in terms of the gravity of the consequences regardless of the quantities involved) of any agreement pursuant to which those defense articles or defense services were furnished—

"(A) by using such articles or services for a purpose not specified in paragraph (3) or, if such agreement provides that such articles or services may only be used for purposes more limited than those specified, for a purpose not authorized under such agreement;

"(B) by transferring such articles or services to, or permitting any use of such articles or services by, anyone not an officer, employee, or agent of the recipient country; or

"(C) by failing to maintain the security of such articles or services.

"(2) DEFENSE ARTICLES AND DEFENSE SERVICES SUBJECT TO REQUIREMENTS.—Paragraph (1) applies with respect to any defense articles or defense services furnished (through financing or otherwise) under this Act, sold or leased under the Defense Trade and Export Control Act, or furnished under any predecessor foreign assistance or military sales legislation.

"(3) USES PERMITTED.—The purposes referred to in paragraph (1) are:

"(A) Internal security.

"(B) Legitimate self-defense.

"(C) Participation in regional or collective arrangements or measures consistent with the Charter of the United Nations, or participation in collective measures requested by the United Nations for the purpose of maintaining or restoring international peace and security.

"(D) Construction of public works or other activities which contribute to the economic and social development of the recipient country.

"(E) Such other purposes as may be provided for in particular provisions of law.

"(4) ACTIONS REQUIRED FOR TERMINATION.—Assistance and deliveries of assistance under section 2201(a)(1) shall be terminated, and new commitments to provide financing under section 2201(a)(2) shall not be made, pursuant to paragraph (1) if—

"(A) the President so determines and reports in writing to the Congress, or

"(B) the Congress so determines by joint resolution.

"(5) REPORTS TO CONGRESS.—The President shall report to the Congress promptly upon the receipt of information that a violation described in paragraph (1) is likely to have occurred.

"(6) PERIOD OF TERMINATION.—Paragraph (1) shall apply until such time as—

"(A)(i) the President determines that the violation has ceased; and

"(ii) the country concerned has given assurances satisfactory to the President that such violation will not recur; or

"(B) the President determines that continued application of this paragraph would have significant adverse impact on United States security.

"SEC. 2204. APPROVAL OF THIRD COUNTRY TRANSFERS.

"(a) IN GENERAL.—In considering a request for approval of any transfer of any weapon, weapons system, aircraft, military vessel, or other implement of war to another country, the President shall not give his consent under section 2203(a)(1) to the transfer unless the United States itself would transfer the defense article under consideration to that country.

"(b) SIGNIFICANT MILITARY EQUIPMENT.—In addition, the President shall not give his consent under section 2203(a)(1) to the transfer of any significant military equipment on the United States Munitions List unless the foreign country requesting consent to transfer agrees to demilitarize such equipment prior to transfer, or the proposed recipient provides a commitment in writing, or the proposed recipient provides a commitment in writing to the United States Government that it will not transfer such equipment if not demilitarized to any other foreign country or person without first obtaining the consent of the President.

"SEC. 2205. DRAWDOWN AUTHORITY.

"(a) UNFORESEEN EMERGENCIES.—If the President determines that—

"(1) an unforeseen emergency exists which requires immediate military assistance to a foreign country or international organization, and

"(2) the emergency requirement cannot be met under the authority of the Defense Trade and Export Control Act or any other law except this section,

the President may direct, for the purposes of this title, the drawdown of defense articles from the stocks of the Department of Defense or defense services of the Department of Defense of an aggregate value not to exceed $100,000,000 in any fiscal year.

"(b) SPECIAL CIRCUMSTANCES.—If the President determines that it is in the national interests of the United States do so, the President may direct the drawdown of defense articles from the stocks of the Department of Defense or of defense services of the Department of Defense, or an aggregate value not to exceed $75 million in any fiscal year, for the purposes and under the authorities of—

"(1) chapter 4 of title I of this Act;

"(2) chapter 6 of title I of this Act; or

"(3) the Migration and Refugee Assistance Act of 1962.

"(c)(1) The President may exercise the authority of this section upon providing notification to the Committees on Foreign Affairs and Appropriations of the House of Representatives and the Committee on Foreign Relations and Appropriations of the Senate. In the case of drawdowns authorized under paragraphs (1) and (3) of subsection (b), notification shall be provided fifteen days in advance, in accordance with procedures applicable to reprogrammings under section 4304.

"(2) CONTINUING INFORMATION.—The President shall keep the Congress fully and currently informed of all defense articles and defense services provided under this section.

"(d) NONAPPLICABILITY OF REQUIREMENT FOR REIMBURSEMENT FROM EXISTING ASSISTANCE FUNDS.—Section 5201(d) does not apply with respect to defense articles and defense services made available under this section.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for defense articles and defense services provided under this section.

"SEC. 2206. GRANT TRANSFERS OF EXCESS DEFENSE ARTICLES.

"(a) AUTHORITY.—Notwithstanding any other provisions of law, the President may

"(1) transfer to countries for which a foreign military financing program was justified in the fiscal year in which the transfer is authorized such excess defense articles as may be necessary to help modernize the defense capabilities of such country;

"(2) in coordinaton with other narcotics-related assistance, transfer excess defense articles to the military or law enforcement forces of a country—

"(A) which is in Latin America or the Caribbean,

"(B) which has a democratic government, and

"(C) whose armed forces do not engage in a consistent pattern of gross violations of internationally recognized human rights, for the purposes of enhancing the ability of such forces to participate in a comprehensive national anti-narcotics program by conducting activities within that country and on the high seas to prevent the production, processing, trafficking, transportation, and consumption of illicit narcotic or psychotropic drugs or other controlled substances;

"(3) transfer nonlethal excess defense articles and small arms to friendly countries and to international organizations and private and voluntary organizations for the purpose of protecting and maintaining wildlife habitats and in developing sound wildlife management and plant conservation programs; and

"(4) transfer excess property of the Coast Guard on the same basis as excess defense articles may be transferred under this section.

"(b) PROVISIONS APPLICABLE TO TRANSFERS FOR ANTI-NARCOTICS PURPOSES.—

"(1) USE OF ARTICLES.—Excess defense articles may be furnished to a country under subsection (a)(2) only if the recipient country ensures that those excess defense articles will be used primarily in support of anti-narcotics activities.

"(2) LIMITATION.—The aggregate value of excess defense articles transferred to any country under subsection (a)(2) in any fiscal year may not exceed $10,000,000.

"(c) GENERALLY APPLICABLE PROVISIONS.—

"(1) TERMS OF TRANSFERS.—Excess defense articles may be transferred under this section without cost to the recipient country.

"(2) LIMITATIONS ON TRANSFERS.—The President may transfer excess defense articles under this section only if—

"(A) they are drawn from existing stocks of the Department of Defense (or the Coast Guard);

"(B) funds available to the Department of Defense (or the Coast Guard) for the procurement of defense equipment are not expended in connection with the transfer;

"(C) the transfer of the excess defense articles will not have an adverse impact on the military readiness of the United States; and

"(D) transferring the articles under the authority of those sections is preferable to selling them, after taking into account the potential proceeds from, and likelihood of, such sales, and the comparative foreign policy benefits that may accrue to the United States as the result of either a transfer or sale.

"(3) NOTIFICATION TO CONGRESS.—

"(A) ADVANCE NOTICE.—The President may not transfer excess defense articles under this section until 15 days after the President has provided notice of the proposed transfer to the committees specified in subparagraph (B). This notification shall include—

"(i) a discussion of the need for the transfer;

"(ii) an assessment of the impact of the transfer on the military readiness of the United States; and

"(iii) the value of the excess defense articles to be tranferred.

"(B) COMMITTEES TO BE NOTIFIED.—Notice shall be provided pursuant to subparagraph (A) to the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives and the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate.

"(4) WAIVER OF REQUIREMENT FOR REIMBURSEMENT OF DOD EXPENSES.—Section 5201(d) does not apply with respect to transfers of excess defense articles under this section.

"(5) TRANSPORTATION AND RELATED COSTS.—

"(A) Except as provided in subparagraph (B), funds available to the Department of Defense (or the Coast Guard) shall not be expended for crating, packing, handling and transportation of excess defense articles transferred under the authority of this section.

"(B) Notwithstanding section 5201(d) or any other provision of law—

"(i) the President may direct the crating, packing, handling and transport of excess defense articles without charge to a country if—

"(I) that country has an agreement providing the United States with base rights in that country;

"(II) that country is eligible for assistance from the International Development Association; and

"(III) the excess defense articles are being provided to that country under the authority of this section; and

"(ii) the President is authorized to transport nonlethal excess defense articles and small arms under subsection (a)(3) without charge on a space available basis.

"SEC. 2207. CONSIDERATIONS IN FURNISHING ASSISTANCE.

"Decisions to furnish assistance under this chapter should take into account whether such assistance will—

"(1) contribute to an arms race:

"(2) increase the possibility of outbreak or escalation of conflict; or

"(3) prejudice the development of bilateral or multilateral arms control arrangements.

"SEC. 2208. CIVIC ACTION IN AFRICA.

"Funds appropriated to carry out this chapter may be used for civic action in Africa, notwithstanding section 4203 of this Act and any similar provisions of law that prohibit providing assistance to countries in default on obligations owed to the United States.

"SEC. 2209. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the President to carry out this chapter $4,640,000,000 for the fiscal year 1992.

"CHAPTER 3—STOCKPILING OF DEFENSE ARTICLES FOR FOREIGN COUNTRIES

"SEC. 2301. RESTRICTIONS ON STOCKPILING.

"(A) REMOVAL FROM STOCKPILING.—Defense articles in the inventory of the Department of Defense which are set aside, reserved, or in any way earmarked or intended for future use by any foreign country may not be made available to or for use by any foreign country unless—

"(1) such transfer is authorized under this Act or the Defense Trade and Export Control Act; and

"(2) the value of such transfer is charged against funds authorized under this Act or against any limitations specified in such legislation, as appropriate, for the fiscal period in which the defense articles are transferred.

"(b) VALUE.—

"(1) DEFINITION.—For purposes of subsection (a), 'value' means acquisition cost plus crating, packing, handling, and transportation costs incurred in carrying out this section.

"(2) LIMITATION.—A defense article transferred from any stockpile which is made available to or for use by any foreign country may not be considered an excess defense article for the purpose of determining the value of that defense article.

"SEC. 2302. LOCATION OF STOCKPILES.

"Except for stockpiles located in the Republic of Korea, Thailand, a country which is a member of the North Atlantic Treaty Organization, a country which is a major non-NATO ally, or such other countries as the President may designate, no stockpile may be located outside the boundaries of a United States military base or a military base used primarily by the United States.

"Sec. 2303. Additions to War Reserve Stocks.

"(a) LIMITATION.—The value of defense articles to be added to those set aside, earmarked, reserved, or intended for use as war reserve stocks for allied or other foreign countries (other than for purposes of the North Atlantic Treaty Organization) in stockpiles located in foreign countries may not exceed in any fiscal year an amount specified in legislation authorizing military assistance programs for that fiscal year.

"(b) AUTHORIZATION OF ADDITIONS.—The value of such additions to stockpiles in foreign countries shall not exceed $129,000,000 for fiscal year 1992.

"CHAPTER 4—OVERSEAS MANAGEMENT OF ASSISTANCE AND SALES PROGRAMS

"SEC. 2401. AUTHORIZED FUNCTIONS.

"(a) IN GENERAL.—In order to carry out responsibilities for the management of international security assistance and sales programs conducted under chapter 2 and chapter 5 and under the Defense Trade and Export Control Act, the President may assign members of the Armed Forces to a foreign country to perform one or more of the following functions:

"(1) Equipment and services case management.

"(2) Training management.

"(3) Program monitoring.

"(4) Evaluation and planning of the host government's military capabilities and requirements.

"(5) Administrative support.

"(6) Promoting rationalization, standardization, interoperability, and other defense cooperation measures.

"(7) Liaison functions exclusive of advisory and training assistance.

"(b) ADVISORY AND TRAINING ASSISTANCE.—Advisory and training assistance conducted by members of the Armed Forces assigned under this chapter shall be kept to an absolute minimum. Advising and training assistance in countries to which members of the Armed Forces are assigned under this chapter should be provided primarily by other personnel who are not assigned under this chapter and who are detailed for limited periods to perform specific tasks.

"SEC. 2402. COSTS.

"The entire costs (excluding salaries of members of the Armed Forces other than the Coast Guard) of overseas management of international security assistance and sales programs under this chapter shall be charged to or reimbursed from funds made available to carry out chapter 2, other than any such costs which are either—

"(1) paid directly for such defense services under section 21(a) of the Defense Trade and Export Control Act, or

"(2) reimbursed from charges for services collected from foreign governments pursuant to section 21(e) and section 43(b) of that Act.

"SEC. 2403. ROLE OF CHIEF OF MISSION.

"Members of the Armed Forces assigned to a foreign country under this chapter shall serve under the direction and supervision of the Chief of the United States Diplomatic Mission to that country.

"CHAPTER 5—INTERNATIONAL MILITARY EDUCATION AND TRAINING

"SEC. 2501. AUTHORITY TO FURNISH ASSISTANCE.

"(a) GENERAL AUTHORITY.—The President is authorized to furnish military education and training to military and related civilian personnel of foreign countries. Such civilian personnel may include foreign governmental personnel of ministries other than ministries of defense if the military education and training would—

"(1) contribute to responsible defense resource management;

"(2) foster greater respect for and understanding of the principle of civilian control of the military;

"(3) improve military justice systems and procedures in accordance with internationally recognized human rights; or

"(4) contribute to cooperation between military and law enforcement personnel in respect of counter-narcotics law enforcement efforts.

"(b) FURNISHING OF ASSISTANCE.—Training and education under this chapter may be provided through—

"(1) attendance at military educational and training facilities in the United States (other than Service academies) and abroad;

"(2) attendance in special courses of instruction at schools and institutions of learning or research in the United States and abroad; and

"(3) observation and orientation visits to military facilities and related activities in the United States and abroad.

"SEC. 2502. TERMS OF ASSISTANCE.

"(a) GRANT ASSISTANCE.—Military education and training under this chapter shall be furnished on a grant basis.

"(b) ASSISTANCE ON CREDIT TERMS.—Whenever feasible military education and training shall be provided on credit terms under chapter 2.

"SEC. 2503. EXCHANGE TRAINING.

"In carrying out this chapter, the President is authorized to provide for attendance of foreign military personnel at professional military education institutions in the United States (other than service academies) without charge, and without charge to funds available to carry out this chapter (notwithstanding section 5201(d)), if such attendance is pursuant to an agreement providing for the exchange of students on a one-for-one, reciprocal basis each fiscal year between those United States professional military education institutions and comparable institutions of foreign countries and international organizations.

"SEC. 2504. EXEMPTIONS.

"Funds appropriated to carry out this chapter may be made available notwithstanding—

"(a) section 4203 of this Act and any similar provisions of law that prohibit providing assistance to countries in default on obligations owed to the United States; and

"(b) section 4204 of this Act, to train (1) senior civilian law enforcement leadership personnel, and (2) law enforcement personnel of any country that has a freely elected democratic government and does not engage in a consistent pattern of gross violations of internationally recognized human rights.

"SEC. 2505. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the President to carry out this chapter $52,500,000 for the fiscal year 1992.

"CHAPTER 6—PEACEKEEPING OPERATIONS

"SEC. 2601. GENERAL AUTHORITY.

"(a) IN GENERAL.—The President is authorized to furnish assistance to foreign countries and international organizations for peacekeeping operations and other programs carried out in furtherance of the national interest of the United States.

"(b) REIMBURSEMENT OF DOD.—Assistance under this chapter may include reimbursement to the Department of Defense for expenses incurred pursuant to section 7 of the United Nations Participation Act of 1945. Such reimbursements may not exceed $5,000,000 in any fiscal year unless a greater amount is specified in authorizing legislation.

"(c) RELATION TO OTHER PROVISIONS.—The authority provided by this chapter to furnish assistance for peacekeeping operations and activities is in addition to any other authority which may be available for that purpose, and assistance provided under this chapter may be made available notwithstanding any provisions of law that restrict assistance to foreign countries.

"SEC. 2602. SPECIAL TRANSFER AND DRAWDOWN AUTHORITIES.

"(a) UNFORESEEN EMERGENCIES.—If the President determines that, as the result of an unforeseen emergency, the provision of assistance under this chapter in amounts in excess of funds otherwise available for such assistance is important to the national interests of the United States, the President may—

"(1) exercise the authority of section 4101 of this Act to transfer funds available to carry out chapter 3 of part I (relating to economic support assistance) for use under this chapter without regard to the 20-percent increase limitation contained in such section, except that the total amount so transferred in any fiscal year may not exceed $15,000,000; and

"(2) in the event the President also determines that such unforeseen emergency requires the immediate provision of assistance under this chapter, and so notifies in writing the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, direct the drawdown of commodities and services, of an aggregate value not to exceed $25,000,000 in any fiscal year, from the inventory and resources of any agency of the United States Government.

"(b) REIMBURSEMENT.—There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for commodities and services provided under this section.

"SEC. 2603. ADMINISTRATIVE AUTHORITIES.

"Except where expressly provided to the contrary, any reference in any law to title I of this Act shall be deemed to include reference to this chapter and any reference in any law to title II of this Act shall be deemed to exclude reference to this chapter.

"SEC. 2604. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the President to carry out this chapter $28,000,000 for the fiscal year 1992.

"CHAPTER 7—INTERNATIONAL TERRORISM

"SEC. 2701. GENERAL.

"(a) TRANSNATIONAL THREAT OF TERRORISM.—Terrorism continues to pose a danger to a stable world order, and to endanger the ability of the people of the United States and the world to live and travel in peace and safety.

"(b) CONSIDERATIONS.—In providing assistance under this Act, the President should take into account the cooperation provided by other countries in connection with matters related to international terrorism, including such matters as whether a country grants sanctuary from prosecution to individuals or groups that have engaged in international terrorism.

"(c) PURPOSES OF ANTITERRORISM ASSISTANCE.—In helping meet the transnational threat posed by terrorism, activities conducted under this chapter would be designed—

"(1) to enahance the antiterrorism skills of friendly countries by provision training and equipment to deter and counter terrorism;

"(2) to strengthen the bilateral ties of the United States with friendly governments by offering concrete assistance in this area of great mutual concern; and

"(3) to increase respect for human rights by sharing with foreign civil authorities modern, humane, and effective antiterrorism techniques.

"SEC. 2702. AUTHORITY TO PROVIDE ANTITERRORISM ASSISTANCE.

"Subject to the provisions of this chapter, the President is authorized to furnish assistance to foreign countries in order to enhance the ability of their law enforcement personnel to deter terrorists and terrorist groups from engaging in international terrorists acts such as bombing, kidnapping, assistance, hostage taking, and hijacking. Such assistance may include advice, training services and the provisions of equipment and other commodities related to bomb detection and disposal, management of hostage situations, physical security, and other matters relating to the detection, deterrence, and prevention of acts of terrorism, the resolution of terrorist incidents and the apprehension of those involved in such acts.

"SEC. 2703. AUTHORITIES AND LIMITATIONS.

"(a) GRANT ASSISTANCE.—Services and commodities may be granted for the purposes of this chapter to eligible foreign countries, subject to reimbursement of the value thereof (within the meaning of section 5601(d)(9)) pursuant to section 5201 of this Act from funds available to carry out this chapter.

"(b) REIMBURSED ASSISTANCE.—

"(1) AUTHORIZATION.—Whenever the President considers it to be consistent with and in furtherance of the purposes of this chapter, any agency of the United States Government is authorized to furnish services and commodities, without charge to funds available to carry out his chapter, to an eligible foreign country, subject to payment in advance of the value thereof (within the meaning of section 5601(d)(9)) in United States dollars by the foreign country.

"(2) PROHIBITION ON USE OF FOREIGN MILITARY FINANCING FOR PAYMENT.—Foreign military financing may not be used for payments under paragraph (1).

"(3) CREDITING OF COLLECTIONS.—Collections under this chapter shall be credited to the currently applicable appropriations, account, or fund of the agency providing such services and commodities and shall be available for the purposes for which such appropriation, account, or fund is authorized to be used.

"(c) HUMAN RIGHTS.—Plans for the development and implementation of the antiterrorism assistance program under this chapter, including determinations of the foreign countries that will be furnished assistance under this chapter and determinations of the nature of assistance to be furnished to each such country should take into account the effect such plans are likely to have on respect for internationally recognized human rights.

"(d) LIMITATIONS.—

"(1) TRAINING BY STATE DEPARTMENT PERSONNEL.—(A) Except as provided in subparagraph (B), employees of the Department of State shall not engage in the training of law enforcement personel.

"(B) Subparagraph (A) does not apply to training (including short term refresher training) or services provided law enforcement personnel by employees of the Bureau of Diplomatic Security with regard to crisis management, facility security, or VIP protection.

"(2) MUNITIONS ITEMS.—(A) Articles on the United States Munitions List may be made available under this chapter only if—

"(i) they are directly related to antiterrorism training under this chapter; and

"(ii) the recipient country is not prohibited by law from receiving foreign military financing or international military education and training.

"(B) No shock batons or similar devices may be provided under this chapter.

"(3) EQUIPMENT TRANSFERS.—(A) Except as provided in subparagraph (B), the value (in terms of original acquisition cost) of all equipment and commodities provided under subsection (a) in any fiscal year may not exceed 25 percent of the funds made available to carry out this chapter for that fiscal year.

"(B) The President may provide equipment and commodities not withstanding subparagraph (A) if the President determines that doing so is important for the purposes of carrying out this chapter.

"(4) ASSISTANCE RELATING TO INTELLIGENCE ACTIVITIES.—Assistance under this chapter shall not include activities authorized by the National Security Act of 1947 (50 U.S.C. 401 and following), the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a and following), and Executive Order 12333, other than limited training in the organization of intelligence for antiterrorism purposes under the provisions of this chapter.

"(5) PERSONNEL COMPENSATION OR BENEFITS.—Funds made available to carry out this chapter may not be used for personnel compensation or benefits.

"(e) INFORMATION EXCHANGE ACTIVITIES.—This chapter does not apply to information exchange activities conducted by agencies of the United States Government under other authority for such purposes.

"SEC. 2704. CONGRESSIONAL PRESENTATION DOCUMENTS.

"The annual congressional presentation documents shall include—

"(a) a list of the countries which received assistance under this chapter for the preceding fiscal year, a list of the countries which are programmed to receive assistance under this chapter for the current fiscal year, and a list of the countries which are proposed as recipients of assistance under this chapter for the next fiscal year;

"(b) with respect to each country listed pursuant to subsection (a) and for each such fiscal year, a description of the assistance under this chapter furnished, programmed, or proposed, including—

"(1) the place where training or other services under this chapter were or will be furnished, the duration of such training or other services, and the number of personnel from that country which were or will receive training under this chapter;

"(2) the types of equipment or other commodities which were or will be furnished under this chapter; and

"(3) whether the assistance was furnished on a grant basis, on an advance payment basis, or on some other basis; and

"(c) a description of the ways in which the provision of such assistance has furthered the objective of enhancing the ability of foreign law enforcement authorities to deter acts of terrorism.

"SEC. 2705. ADMINISTRATIVE AUTHORITIES.

"Except where expressly provided to the contrary, any reference in any law to title I of this Act shall be deemed to include reference to this chapter and any reference in any law to title II of this Act shall be deemed to exclude reference to this chapter.

"SEC. 2706. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the President to carry out this chapter $15,000,000 for fiscal year 1992.".

SEC. 202. AMENDMENTS TO ARMS EXPORT CONTROL ACT.

The Arms Export Control Act is amended as follows:

(1) Section 2(b) is amended by striking out—

(A) "or financing for" in paragraph (1);

(B) "financing" both other places it appears.

(2) Section 3(c) is amended—

(A) in paragraph (1), by striking out "(1)(A) No" and all that follows through "(B) No" and inserting in lieu thereof "(1) No";

(B) in paragraph (1), as amended by subparagraph (A), by striking out "under this Act, or any predecessor Act," and inserting in lieu thereof ", through sale, financing or otherwise, under this Act or the Foreign Assistance Act of 1961 (or under any predecessor military sales or foreign assistance legislation)";

(C) in paragraph (2), by striking out "may" and inserting in lieu thereof "is likely to";

(D) in paragraph (3)(A), by striking out "subparagraph (A)" and all that follows through "such paragraphs," and inserting in lieu thereof "paragraph (1)"; and

(E) in paragraph (3)(B), by striking out "subparagraph (B) of".

(3) Section 3 is amended—

(A) in subsection (d), by striking out "section 505(a)(1) or 505(a)(4)" and inserting in lieu thereof "section 2203(a)(1)"; and

(B) in subsection (e), by striking out "section 505" and inserting in lieu thereof "section 2203(a)(1)".

(4) Section 5(a) is amended by striking out ", and no credits (including participations in credits) or guaranties extended to or for" and inserting in lieu thereof "to".

(5) Section 6 is amended—

(A) by striking out ", no credits or guarantees may be extended,"; and

(B) by inserting "and no foreign military financing may be furnished under the Foreign Assistance Act of 1961" after "this Act".

(6) Section 21 is amended—

(A) by amending subsection (c)(1) to read as follows:

"(A) Members of the Armed Forces assigned or detailed to provide defense services under this Act may not perform duties of a combatant nature, including any duty related to training and advising that may engage United States Armed Forces personnel in combat activities, outside the United States in connection with the performance of those defense services.

"(B) Subparagraph (A) shall not apply, if the President determines, and reports to the Congress, that its application would not be in the national interest of the United States."; and

(B) lin subsection (e)(1)(B)—

(i) by striking out "either from" and all that follows through "nonrepayable basis under"; and

(ii) by inserting in lieu thereof "from either (i) funds made available on a grant basis under chapter 2 of title II of the Foreign Assistance Act of 1961, or (ii) funds which, prior to the effective date of title II of the International Cooperation Act of 1991, were transferred under the former authority of section 503(a)(3) of the Foreign Assistance Act of 1961 or where made available on a nonrepayable basis under the former authority of".

(7) Section 23 is repealed.

(8) Section 24 is amended—

(A) by amending the section caption to read "Provisions Relating to Former Credit and Guaranty Authorities";

(B) in subsection (a), by striking out "The" in the first sentence and inserting in lieu thereof "To the extent necessary to carry out the provisions under the heading "Foreign Military Sales Debt Reform" in title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Public Law 100-202), the";

(C) in subsection (b) by inserting "before the effective date of title II of the International Cooperation Act of 1991" after "section 23"; and

(D) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) The single reserve established under this section for the payment of claims under guaranties issued under the authority of this section may be referred to as the 'Foreign Military Loan Liquidating Account'.

"(d) Any guaranties issued under the authority of this section are backed by the full faith and credit of the United States.".

(9) Section 25(a) is amended—

(A) in paragraph (5)(A) by striking out "military education" and all that follows through "guarantees," and inserting in lieu thereof "and assistance under chapter 2 or chapter 5 of title II of the Foreign Assistance Act of 1961,";

(B) in paragraph (5)(B) by striking out "credits or guaranties under this Act" and

inserting in lieu thereof "financing under chapter 2 of title II of the Foreign Assistance Act of 1961"; and

(C) in paragraph (11)—

(i) by striking out "the Arms Export Control Act" and inserting in lieu thereof "section 23 or 24 of this Act"; and

(ii) by inserting before the semicolon at the end of the paragraph the following: ", and the status of each extension of credit for the procurement of defense articles or defense services under chapter 2 of title II of the Foreign Assistance Act of 1961 with respect to which there remains outstanding any unpaid obligation or potential liability".

(10) Section 25(d), as added by 112(b) of the International Security and Development Corporation Act of 1985, is amended by striking out "under this Act or under section 503(a)(3)" and inserting in lieu thereof "chapter 2 of title II".

(11) Section 31 is repealed.

(12) Section 36(a) is amended—

(A) in paragraph (7), by striking out "8 of part II" and inserting in lieu thereof "or 7 of title II"; and

(B) in paragraph (10), by striking out "section 505(a)(1)(B)" and inserting in lieu thereof "section 2203(a)(12)(A)".

(13) Section 37 is amended—

(A) in the section caption by striking out "Relating to Foreign Military Sales Credits";

(B) in subsection (a), by striking out "section 23" and inserting in lieu thereof "the former authority of section 23 or under the authority of chapter 2 of title II of the Foreign Assistance Act of 1961"; and

(C) in subsection (b), by inserting "the former authority of" after "extended pursuant to".

(14) Section 42 is amended—

(A) in subsection (a), by striking out ", but subject to subsection (b) of this section," in the first sentence and inserting in lieu thereof ";";

(B) by repealing subsections (b) and (c) and redesignating subsections (d) through (f) as subsections (b) through (d), respectively; and

(C) in subsection (b)(1), as so redesignated, by striking out "and guaranties under sections 21, 22, 23, 24," and inserting in lieu thereof "under sections 21, 22,".

SEC. 203. TRANSITION RULES.

(a) DISPOSITION OF CERTAIN PREVIOUSLY PROVIDED MILITARY EQUIPMENT.—The President may waive requirements imposed pursuant to sections 505(a) (4) and (f) of the Foreign Assistance Act of 1961, as in effect before the effective date of this title, with respect to defense articles or related training or other defense services furnished before that date.

(b) COMMITMENT OF PRIOR YEAR MILITARY ASSISTANCE.—If the President at any time notifies Congress that no further sales will be made pursuant to the Defense Trade and Export Control Act after the date of such notification to a specified country under circumstances then prevailing, any uncommitted funds allocated for such country that, prior to the effective date of title II of the International Cooperation Act of 1991, were transferred under the former authority of section 503(a)(3) of the Foreign Assistance Act of 1961 for the purpose of financing such sales may be committed to finance such sales to other eligible countries subject to advance notification to the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and Foreign Affairs of the House of Representatives.

CHAPTER 2—FOREIGN MILITARY SALES PROGRAM

SEC. 221. ARMS TRANSFER POLICY.

(a) ESTABLISHMENT OF NEW POLICY.—The Arms Export Control Act is amended by striking out the first section and section 1 and inserting in lieu of section 1 the following:

"SECTION 1. SHORT TITLE AND STATEMENT OF UNITED STATES ARMS TRANSFER POLICY.

"(a) SHORT TITLE.—This Act may be cited as the 'Defense Trade and Export Control Act'.

"(b) POLICY OBJECTIVES.—The policy of the United States in implementing the authorities of this Act relating to sales and other transfers of defense articles, defense services, and design and construction services should be based upon the following objectives:

"(1) Ensuring that such transfers are fully consistent with the foreign and national security policies of the United States.

"(2) Ensuring that such transfers directly enhance or achieve specific national defense requirements of the recipient country or objectives of mutual concern and contribute to the common defense.

"(3) Promoting defense cooperation through the transfer of United States major defense equipment and other defense articles and defense services, including through licensed production and coproduction.

"(4) Promoting rationalization, standardization, and interoperability of foreign military forces with the Armed Forces of the United States.

"(5) Contributing to the deterrence of aggression and promoting regional security by enabling recipient countries to negotiate peaceful solutions to conflicts with confidence.

"(6) Enabling recipient countries to participate in regional or collective arrangements or other measures consistent with the Charter of the United Nations.

"(7) Enabling recipient countries to participate in collective measures requested by the United Nations.

"(8) Complementing United States efforts to restrain and control the international transfer of defense articles and defense services and to encourage international conventional arms control managements.

"(9) Sustaining and enhancing the viability of the defense industrial base of the United States, by such means as lengthening production runs, reducing unit costs and providing continued employment for defense industry workers.

"(c) MULTILATERAL CONTROLS ON TRANSFERS OF DEFENSE ARTICLES AND DEFENSE SERVICES.—The President should continue to seek, through negotiations with the Soviet Union and other countries that supply or receive defense articles and defense services, the establishment of effective multilateral controls on the transfer of defense articles and defense services.".

(b) CONFORMING AMENDMENTS RELATING TO PURPOSES FOR WHICH DEFENSE ARTICLES MAY BE USED.—

(1) REPEAL OF EXISTING PURPOSE SECTION.—Section 4 of that Act is repealed.

(2) INELIGIBILITY.—Section 3(c) of that Act is amended—

(A) in paragraph (1), as amended by section 202 of this Act, by striking out "authorized under section 4" both times that it appears and inserting in lieu thereof "specified in paragraph (5)"; and

(B) by adding at the end the following:

"(5) The purposes referred to in paragraph (1) are the following:

"(A) Internal security.

"(B) Legitimate self-defense.

"(C) Participation in regional or collective arrangements or measures consistent with the Charter of the United Nations, or participation in collective measures requested by the United Nations for the purpose of maintaining or restoring international peace and security.

"(D) Construction of public works, or other activities which contribute to the economic and social development of the recipient country.

"(E) Such other purposes as may be provided for in particular provisions of law.".

(c) CONFORMING REFERENCES TO ACT.—Any reference to the Arms Export Control Act shall be deemed to be a reference to the Defense Trade and Export Control Act.

SEC. 222. DESIGNATION OF MAJOR NON-NATO ALLIES.

(a) DESIGNATION.—

(1) NOTICE TO CONGRESS.—Chapter 4 of the Defense Trade and Export Control Act is amended by adding at the end the following:

SEC. 48. DESIGNATION OF MAJOR NON-NATO ALLIES.

"(a) NOTICE TO CONGRESS.—The President may—

"(1) designate a country as a major non-NATO ally for purposes of this Act, the Foreign Assistance Act of 1961, or any other provision of law, or

"(2) terminate such a designation, by notifying the Congress in writing.

"(b) INITIAL DESIGNATIONS.—Australia, Egypt, Israel, Japan, and the Republic of Korea shall be deemed to have been so designated by the President as of the effective date of this section, and the President is not required to notify the Congress of such designation of those countries."

"(c) The President is authorized to limit the applicability of a designation or termination under subsection (a) to particular provisions of law if he provides an explanation for doing so in connection with the notification to Congress of such designation or termination.".

(2) DEFINITION.—Section 47 of the Act is amended—

(A) by striking out "and" at the end of paragraph (7);

(B) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following:

"(9) 'major non-NATO ally' means a country which is designated in accordance with section 48 as a major non-NATO ally for purposes of this Act, the Foreign Assistance Act of 1961, or any other provision of law.".

(3) EXISTING DEFINITIONS.—(A) The last sentence of section 21(g) of that Act is repealed.

(B) Section 65(d) of that Act is amended—

(i) by striking out "or major non-NATO", and

(ii) by striking out "or a" and all that follows through "2767a)".

(b) COOPERATIVE TRAINING AGREEMENTS.—Section 21(g) of that Act is amended in the first sentence by striking out "similar agreements" and all that follows through "allies" and inserting in lieu thereof "similar agreements with countries".

SEC. 223. STANDARDIZING CONGRESSIONAL REVIEW PROCEDURES FOR ARMS TRANSFERS.

(a) STANDARDIZED PROCEDURES.—The Defense Trade and Export Control Act is further amended by adding at the end of chapter 4 the following:

"SEC. 49. STANDARDIZED CONGRESSIONAL NOTIFICATION PROCEDURES.

"(a) NOTIFICATION REQUIREMENT.—In any case in which the President is required to submit a certification to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate before—

"(1) under section 3(d), giving his consent to a transfer to a country or international organization;

"(2) under section 36(b), issuing a letter of offer to a country or international organization;

"(3) under section 36(c), issuing a license for the export to a country or international organization;

"(4) under section 36(d), issuing an approval of a commercial technical assistance or manufacturing licensing agreement for or in a country or international organization; and

"(5) under section 62, entering into or renewing an agreement involving the lease under chapter 6, or the loan under chapter 2 of title II of the Foreign Assistance Act to a country or organization, but only if the defense articles to be leased or loaned are either—

"(A) major defense equipment valued (in terms of its replacement cost less any depreciation in value) at $25,000,000 or more, or

"(B) otherwise valued (in terms of its replacement cost less any depreciation in value) at $75,000,000 or more;

the President's consent to a transfer shall not become effective, the letter of offer, license or approval shall not be issued, or the agreement to lease or loan shall not become effective, as the case may be, except as provided in this section.

"(b) REVIEW PERIOD.—In any case covered by subsection (a), the President's consent to a transfer may not become effective, the letter of offer, license or approval may not be issued, or the agreement to lease or loan may not become effective if—

"(1) in cases in which the recipient country or international organization is the North Atlantic Treaty Organization, any member country of such organization, or any major non-NATO ally, within 15 days after the certification is submitted; and

"(2) in other cases, within 30 days after the certification is submitted;

a joint resolution is enacted prohibiting it from becoming effective.

"(c) Any joint resolution under subsection (b) shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976. For the purpose of expediting the consideration and enactment of joint resolutions under subsection (b) of this section, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

"(d) The President may waive the application of subsection (b) if the certification states that an emergency exists that requires the transfer, sale, export, agreement, loan or lease in the national security interests of the United States. In such cases, the President shall set forth in the certification a detailed justification for the waiver, including a description of the emergency circumstances that necessitate it and a discussion of the national security interests involved."

(b) CONFORMING AMENDMENTS.—That Act is further amended—

(1) by striking out paragraph (2) of section 3(d), and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(2) in the section 3(d)(2), as redesignated by paragraph (1)—

(A) in the first sentence—

(i) by striking out "at least 30 calendar days";

(ii) by striking out "report" and inserting in lieu thereof "certification";

(3) by striking out the last sentence;

(3) in section 36(b)—

(A) by striking the last two sentences of paragraph (1);

(B) by striking paragraphs (2) and (3);

(C) by redesignating paragraphs (4) and (5) as paragraphs (2) and (3), respectively;

(4) in section 36(c)—

(A) by striking out "(1)"; and

(B) by striking out paragraphs (2) and (3);

(5) in section 36(d)—

(A) by striking out "for or in a country not a member of the North Atlantic Treaty Organization"; and

(B) by striking out "(c)(1)" and inserting in lieu thereof "(c)"; and

(6) in chapter 6—

(A) in section 62—

(i) by striking out "(a) Not less than 30 days before" and inserting in lieu thereof "Before";

(ii) by striking out subsection (b); and

(B) by striking out section 63.

(c) EFFECTIVE DATE.—The amendments made by this section apply with respect to certifications submitted on or after the effective date specified in section 601.

SEC. 224. UPDATE OF CERTIFICATION THRESHOLDS.

The Defense Trade and Export Control Act is further amended—

(a) by striking out "14,000,000" each place it appears in sections 3 and 36, and replacing it with "$25,000,000";

(b) by striking out "50,000,000" each place it appears in sections 3 and 36, and replacing it with "$75,000,000"; and

(c) by striking out "200,000,000" each place it appears in section 36, and replacing it with "$300,000,000".

The amendments made by this section apply with respect to certifications submitted on or after the effective date specified in section 601

SEC. 225. ECONOMIC IMPACT ON UNITED STATES OF ARMS SALES.

(a) CONGRESSIONAL PRESENTATION MATERIALS.—Section 25(a) of the Defense Trade and Export Control Act is amended—

(1) by redesignating paragraphs (11) and (12) as paragraphs (12) and (13), respectively; and

(2) by inserting the following new paragraph (11) after paragraph (10):

"(11) an analysis of the economic benefits or disadvantages to the United States of sales and licensed commercial exports under this Act during the preceding fiscal year;".

(b) ARMS SALE NOTIFICATIONS.—Section 36(b)(1) of that Act is amended—

(1) by striking out "and" at the end of subparagraph (O);

(2) by striking out the period at the end of subparagraph (P) and inserting in lieu thereof "; and"; and

(3) by inserting after subparagraph (P) the following:

"(Q) an analysis of the economic benefits or disadvantages to the United States of the proposed sale.".

SEC. 226. ENFORCEMENT AND PROCESSING OF ARMS EXPORT LICENSING REQUIREMENTS.

(a) DEFENSE ARTICLES AND SERVICES.—Section 38(a)(1) of the Defense Trade and Export Control Act is amended—

(1) by striking out "(a)(1)" and inserting in lieu thereof "(a)(1)(A); and

(2) by inserting at the end thereof the following:

"(B) Notwithstanding any other provision of law—

"(i) an article or service shall be designated or determined to be a defense article or defense service for purposes of this section if—

"(I) it is specially designed, developed, configured, adapted, or modified for a military or intelligence application, or

"(II) in accordance with regulations promulgated in accordance with this section, the President determines that an article or service has substantial military or intelligence applicability such that it is necessary to control the export of the article or service to all destinations to protect significant national security or foreign policy interests of the United States.

"(ii) Defense articles and defense services controlled pursuant to this section that have been determined in accordance with regulations promulgated in accordance with this section to have gained a predominant civil application and that do not need to be controlled to all destinations to protect significant national security interests of the United States shall be removed from the United States Munitions List.".

(b) VIOLATIONS OF INTERNATIONAL TRAFFIC IN ARMS REGULATIONS.—

(1) DISQUALIFICATION AND FORFEITURE.—Section 38 of that Act is further amended by inserting after subsection (c) the following:

"(d)(1) No contract between a foreign government and a person convicted or debarred for a violation of this section or section 39, or any rule or regulation issued under either section, may be approved for financing under chapter 2 of title II of the Foreign Assistance Act of 1961 during the twelve months following the date of such conviction or debarment.

"(2)(A) Any person who is convicted for a violation of this section or section 39, or any rule or regulation issued under either section, shall (in addition to any other penalty) forfeit to the United States—

"(i) any of that person's interest in, security of, claim against, or property or contractual rights of any kind in any defense article or other tangible item that was the subject of the violation;

"(ii) any of that person's interest in, security of, claim against, or property or contractual rights of any kind in any defense article or other tangible item that was used in—

"(I) the export or import or attempt to export or import, or

"(II) the contribution, gift, commission, or fee that was paid or offered or agreed to be paid, that was the subject of the violation; and

"(iii) any of that person's property constituting, or derived from, any proceed obtained directly or indirectly as a result of the violation.

"(B) The procedures in any forfeiture under this paragraph, and the duties and authorities of the courts of the United States and the Attorney General with respect to any forfeiture action under this paragraph or with respect to any property that may be subject to forfeiture under this paragraph,

shall be governed by section 1963 of title 18, United States Code.".

(2) EFFECTIVE DATE.—Subsection (d) of section 38 of that Act, as enacted by paragraph (1) of this subsection, shall take effect on the date of enactment of this Act or October 1, 1991 (whichever is later), and applies—

(A) in the case of paragraph (1) of subsection (d), with respect to convictions or debarments occurring on or after the effective date of that subsection; and

(B) in the case of paragraph (2) of subsection (d), with respect to convictions based on conduct occurring on or after the effective date of that subsection.

(3) CONFORMING AMENDMENT.—(A) Section 38(e) of that Act is amended by striking out "(e) and (g)" and inserting in lieu thereof "and (e)".

(B) The amendment made by subparagraph (A) does not apply with respect to convictions based on conduct occurring before the date specified in paragraph (2)(B).

(c) MUNITIONS CONTROL ENFORCEMENT PROCEDURES.—Section 38(g) of that Act is amended—

(1) in paragraph (3), by striking out "may disapprove the application" and inserting in lieu thereof "should disapprove the application if doing so is necessary to further law enforcement objectives or otherwise will serve the national interest".

(2) in paragraph (4), by inserting before the period at the end "or that foreign policy or national security considerations justify the issuance of a particular license";

(3) in paragraph (5), by inserting "or international organization" after "foreign government"; and

(4) in paragraph (8)—

(A) by striking out "initial screening" and all that follows through "enforcement concerns"; and

(B) inserting in lieu thereof "implementation of such functions".

(d) OTHER PROLIFERATION CONTROLS.—Section 38 of that Act is further amended by inserting after subsection (h) the following:

"(i) Notwithstanding any other provision of law, the President may, by regulation, impose controls to prevent the proliferation of nuclear-capable missiles and chemical, biological and related weapons. Such controls may cover any action or service, including financial services, knowingly performed by a United States person, or any person subject to United States jurisdiction, that would facilitate the acquisition, production or development of such missiles or weapons. The controls imposed under this subsection shall be in addition to the controls imposed pursuant to any other provision of law.".

SEC. 227. FAIR PRICING.

Section 21(e) of the Defense Trade and Export Control Act is amended by adding at the end the following:

"(4) Effective with respect to defense articles sold after September 30, 1991, charges for defense articles that are not major defense equipment that are sold under this Act or licensed or approved for export under section 38 of this Act may exclude any nonrecurring costs of research on or development or production of those articles.".

SEC. 228. PRESIDENTIAL AUTHORITIES.

The Defense Trade and Export Control Act is amended as follows:

(a) Section 2 is amended—

(1) in subsection (a), by striking out "Secretary of State" and inserting in lieu thereof "President"; and

(2) in subsection (b), by striking out "Under the direction of the President, the Secretary of State" and inserting in lieu thereof "The President".

(b) Section 21 is amended—

(1) in subsection (a)(2), by striking out "Secretary of Defense" and inserting in lieu thereof "President".

(2) in subsection (d), by striking out "Secretary of the Treasury" and inserting in lieu thereof "President"; and

(3) in subsection (e)(3), by striking out "Secretary of Defense" and inserting in lieu thereof "President".

(c) Section 22(a) is amended by striking out "Secretary of the Treasury" and inserting in lieu thereof "President".

(d) Section 27(i) is amended by striking out "Secretary of State and the Secretary of Defense" and inserting in lieu thereof "the President".

(e) Section 30A is amended—

(1) in subsection (a), by striking out "a Secretary of"; and

(2) in subsection (b), by striking out "the Secretary of".

(f) Section 36 is amended—

(1) in subsection (a)(8), by striking out "to the Secretary of State";

(2) in subsection (b)(1)(D), by striking out ", prepared by the Director of the Arms Control and Disarmament Agency in consultation with the Secretary of State and the Secretary of Defense,"; and

(3) in subsection (c)(1), by striking out ", prepared in consultation with the Secretary of Defense".

(g) Section 38 is amended—

(1) in subsection (a)(2), by striking out "shall be made in coordination with the Director of the Arms Control and Disarmament Agency and" and "the Director's opinion as to";

(2) by repealing subsection (b)(1)(B), as added by section 1255(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989;

(3) in subsection (g)(3), by striking out the last sentence.

(4) in subsection (g)(4), by striking out "after consultation with the Secretary of the Treasury,";

(5) in subsection (g)(8), by striking out "the Secretary of State, the Secretary of Defense and the Secretary of the Treasury" and inserting in lieu thereof "the Department of State, the Department of Defense and the Department of the Treasury".

(h) Section 39 and section 40 are each amended by striking out "Secretary of State" each place it appears and inserting in lieu thereof "President".

(i) Section 42 is amended—

(1) in subsection (a), by striking out "in consultation with the Director of the Arms Control and Disarmament Agency, the Director's opinion as to";

(2) in subsection (b), as redesignated by section 202(14) of this Act, by striking out "Secretary of Defense shall, under the direction of the President, have primary" and inserting in lieu thereof "President shall have"; and by striking out ", under the direction of the President, be determined by the Secretary of Defense" and inserting in lieu thereof "be determined by the President"; and

(3) in subsection (c), as redesignated by section 202(14) of this Act, by striking out "Secretary" and "Secretary of State" and inserting in lieu thereof "President" in each case.

(j) Section 51 is amended—

(1) in subsection (a)(1), by striking out "and in consultation with the Secretary of State, the Secretary of Defense shall establish" and inserting in lieu thereof ", there is established";

(2) in subsection (a)(2), by striking out "Secretary of State or the Secretary of Defense" and inserting in lieu thereof "the President".

(k) Section 52(a) is amended by striking out "by the Secretary of Defense".

(l) Section 65 is amended by striking out "Secretary of Defense" and "Secretary" each place it appears and inserting in lieu thereof "President" in each case.

(m) Section 71 is amended—

(1) in subsection (a), by striking out "Secretary of State, in consultation with the Secretary of Defense and the heads of other appropriate departments and agencies," and inserting in lieu thereof "President".

(2) by striking out subsection (b) and redesignating subsection (c) as subsection (b); and

(3) in subsection (b)(2), as so redesignated, by striking out "Secretary of State" and "Director of Central Intelligence" and inserting in lieu thereof "President" in each case.

(n) Section 73(d) is amended by striking out "Secretary of State, in consultation with the Secretary of Defense and the Secretary of Commerce," and inserting in lieu thereof "President".

SEC. 229. AMENDMENTS TO ELIMINATE OBSOLETE AND INCONSISTENT PROVISIONS.

The Defense Trade and Export Control Act is amended as follows:

(1) Section 5(d) is repealed.

(2) Section 25 is amended—

(A) in subsection (a) by striking out "Except as provided in subsection (d), no" and inserting in lieu thereof "No";

(B) in paragraph (1) of subsection (a) by striking out "$7,000,000" and "$25,000,000" and inserting in lieu thereof "$25,000,000" and "$75,000,000", respectively;

(C) in subsection (a), as amended by section 225(a) of this Act, by repealing paragraphs (4), (7) and (9); by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively; by redesignating paragraph (8) as paragraph (6); and by redesignating paragraphs (10) through (13) as paragraphs (7) through (10), respectively; and

(D) by repealing subsection (d), as added by section 113 of the International Security and Development Cooperation Act of 1985.

(3) Sections 28, 33, 34, 35, 38(b)(3), 41, 44 and 46 are repealed.

(4) Section 36 is amended—

(A) in the text preceding paragraph (1), by striking out "an unclassified report" and all that follows through "containing" and inserting in lieu thereof "a report, which shall be unclassified to the maximum extent possible, containing";

(B) in subsection (a), by striking out paragraphs (3), (5), and (6), by redesignating paragraph (4) as paragraph (3), and by redesignating paragraphs (7) through (11) as paragraphs (4) through (8), respectively; and

(C) in subsection (b)(1), by striking out "(9)" and "(8)" and inserting in lieu thereof "(6)" and "(5)", respectively.

(5) Section 45 is amended—

(A) by amending the section caption to read "Statutory Construction"; and

(B)(i) by striking out "(a) Sections 521" and all that follows through "in section 44, no"; and

(ii) inserting in lieu thereof "No provision of this Act shall be construed as modifying in any way the provisions of the Atomic Energy Act of 1954, as amended, or section 7307 of title 10 of the United States Code. No".

SEC. 230. CONTRACT ADMINISTRATIVE SERVICE CHARGES FOR NATO SUBSIDIARY BODIES.

Section 21(h)(1)(A) of the Defense Trade and Export Control Act is amended by inserting ", or by a North Atlantic Treaty Organization Body on behalf of such foreign government" after "North Atlantic Treaty Organization".

SEC. 231. TECHNICAL CORRECTIONS.

The Defense Trade and Export Control Act is amended as follows:

(1) Correction of cross references to international traffic in arms regulations.—

(A) Section 3(a) is amended in the second sentence following paragraph (4)—

(i) by striking out "significant defense articles" and inserting in lieu thereof "significant military equipment"; and

(ii) by striking "such defense articles" both places it appears and inserting in lieu "such significant military equipment".

(B) Section 26(d) is amended by strking out "combat" and inserting in lieu thereof "military".

(2) CLERICAL ERROR IN 1985 AUTHORIZATION ACT.—Subsection (d) of section 25, as added by section 112(b) of the International Security and Development Cooperation Act of 1985, is amended by striking out the semicolon at the end and inserting in lieu thereof a period.

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

SEC. 301. REVISION OF CERTAIN PRIVATE SECTOR PROGRAMS.

The Foreign Assistance Act of 1961 is amended by adding the following new title III after new title II (as enacted by title II of this Act):

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

"CHAPTER 1—OVERSEAS PRIVATE INVESTMENT CORPORATION

"SEC. 3101. PURPOSE AND POLICY.

"(a) PURPOSE.—The Overseas Private Investment Corporation shall be an agency of the United States under the foreign policy guidance of the Secretary of State. The purpose of the Corporation is to mobilize and facilitate the participation of United States private capital and skills in the economic and social development of emerging democracies, economies in transformation and less developed friendly countries and areas, thereby complementing the development assistance objectives of the United States.

"(b) DEVELOPMENT AND PER CAPITA INCOME CRITERIA.—The Corporation, in determining whether to provide insurance, reinsurance, guarantees, or financing for a project, shall especially—

"(1) be guided by the economic and social development impact and benefits of such a project and the ways in which such a project complements, or is compatible with, other development assistance programs or projects of the United States or other donors; and

"(2) give preferential consideration to investment projects in countries that have per capita incomes of $1,091 or less in 1989 United States dollars.

"(c) GUIDELINES FOR ACTIVITIES OF OPIC.—In carrying out its purpose, the Corporation, utilizing broad criteria, shall undertake—

"(1) to conduct insurance, reinsurance, guarantee, and financing operations on a self-sustaining basis, taking into account in its guarantee and financing operations the economic and financial soundness of projects;

"(2) to utilize private credit and investment institutions and the Corporation's guarantee authority as the principal means of mobilizing capital investment funds;

"(3) to broaden private participation and revolve its funds through selling its direct investments to private investors whenever it can appropriately do so on satisfactory terms;

"(4) to conduct its insurance operations with due regard to principles of risk management, including efforts to share its insurance risks and reinsurance risks;

"(5) to consider in the conduct of its operations the extent to which the governments of less developed countries are receptive to private enterprise, domestic and foreign, and their willingness and ability to maintain conditions which enable private enterprise to make its full contribution to the development process;

"(6) to foster private initiative and competition and discourage monopolistic practices;

"(7) to further to the greatest degree possible, in a manner consistent with its goals, the balance-of-payments and employment objectives of the United States;

"(8) to conduct its activities in consonance with the activities of the agency designated under section 5102 and the international trade, investment, and financial policies of the United States Government, and to seek to support those developmental projects having positive trade benefits for the United States; and

"(9) to advise and assist, within its field of competence, interested agencies of the United States and other organizations, both public and private, national and international, with respect to projects and programs relating to the development of private enterprise in less developed countries and areas.

"SEC. 3102. STOCK OF THE CORPORATION.

"The Secretary of the Treasury shall hold the capital stock of the Corporation.

"SEC. 3103. ORGANIZATION AND MANAGEMENT.

"(a) STRUCTURE OF THE CORPORATION.—The Corporation shall have a Board of Directors, a President, an Executive Vice President, and such other officers and staff as the Board of Directors may determine.

"(b) BOARD OF DIRECTORS.—

"(1) IN GENERAL.—All powers of the Corporation shall vest in and be exercised by or under the authority of its Board of Directors (hereafter in this chapter referred to as the 'Board') which shall consist of 15 Directors (including the Chair, Vice Chair, and the President of the Corporation), with 8 Directors constituting a quorum for the transaction of business.

"(2) COMPOSITION OF THE BOARD.—

"(A) CHAIR.—The Chair of the Board shall be the head of the agency designated under section 5102, ex officio.

"(b) VICE CHAIR.—The Vice Chair of the Board shall be the United States Trade Representative, ex officio, or, if so designated by the United States Trade Representative, a Deputy United States Trade Representative.

"(C) PRESIDENT OF THE CORPORATION.—The President of the Corporation shall serve as a Director, ex officio.

"(D) PUBLIC SECTOR DIRECTORS.—(i) In addition to the directors provided for in subparagraphs (A), (B), and (C), four Directors who are officers or employees of the Government of the United States shall be designated by the President of the United States.

"(ii) The Directors designated under this subparagraph shall receive no additional compensation by virtue of their service as such a Director.

"(E) PRIVATE SECTOR DIRECTORS.—(i) Eight Directors who are not officers or employees of the Government of the United States shall be appointed by the President of the United States, by and with the advice and consent of the Senate. It is the sense of the Congress that, of these, at least—

"(I) two should be experienced in small business,

"(II) one should be experienced in organized labor, and

"(III) one should be experienced in cooperatives.

"(ii) Each Director appointed under this subparagraph should be appointed for a term of not more than 3 years. The terms of not more than 3 such Directors should expire in any 1 year. Such Directors should serve until their successors are appointed and qualified and may be reappointed to subsequent terms.

"(iii) Each Director appointed under this subparagraph shall be compensated at the daily equivalent of the annual rate of pay in effect for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such Director is actually engaged in the business of the Corporation, and may be paid travel or transportation expenses to the extent authorized for employees serving intermittently in the Government service under section 5703 of title 5, United States Code. Any Director may waive any such compensation.

"(c) APPOINTMENT OF THE PRESIDENT.—The President of the Corporation shall be appointed by the President of the United States, by and with the advice and consent of the Senate. In making such appointment, the President should take into account the private business experience of the appointee. The President of the Corporation shall be its Chief Executive Officer and shall be responsible for the operations and management of the Corporation, subject to bylaws and policies established by the Board.

"(d) OFFICERS AND STAFF.–

"(1) EXECUTIVE VICE PRESIDENT.—The Executive Vice President of the Corporation shall be appointed by the President of the United States, by and with the advice and consent of the Senate.

"(2) OTHER OFFICERS AND STAFF.—(A) The Corporation may appoint such other officers and such employees (including attorneys) and agents as the Corporation considers appropriate.

"(B) The officers, employees, and agents appointed under this subsection shall have such functions as the Corporation may determine.

"(C) Of the officers, employees, and agents appointed under this paragraph, 20 may be appointed, compensated or removed without regard to civil service laws and regulations.

"(D) Under such regulations as the President may prescribe, any individual appointed under subparagraph (C) may be entitled, upon removal (except for cause) from the position to which the appointment was made, to reinstatement to the position occupied by that individual at the time of appointment or to a position of comparable grade and pay.

"SEC. 3104. INVESTMENT INSURANCE, GUARANTEES, FINANCING, AND OTHER PROGRAMS.

"(a) INVESTMENT INSURANCE.—

"(1) RISKS FOR WHICH INSURANCE ISSUED.—The Corporation is authorized to issue insurance, upon such terms and conditions as the Corporation may determine, to eligible investors assuring protection in whole or in part against any or all of the following risks with respect to projects which the Corporation has approved:

"(A) Inability to convert into United States dollars other currencies, or credits in such currencies, received as earnings or profits from the approved project, as repayment or return of the investment in the project, in whole or in part, or as compensation for the sale or disposition of all or any part of the investment.

"(B) Loss of investment, in whole or in part, in the approved project due to expropriation or confiscation by action of a foreign government.

"(C) Loss due to war, revolution, insurrection, or civil strife.

"(D) Loss due to business interruption caused by any of the risks set forth in subparagraphs (A), (B), and (C).

"(2) RISK SHARING ARRANGEMENTS WITH FOREIGN GOVERNMENTS AND MULTILATERAL ORGANIZATIONS.—Recognizing that major private investments in emerging democracies, economies in transformation and less developed friendly countries or areas are often made by enterprises in which there is multinational participation, including significant United States private participation, the Corporation may make arrangements with foreign governments (including agencies, instrumentalities, and political subdivisions thereof) and with multilateral organizations and institutions for sharing liabilities assumed under investment insurance for such investments and may, in connection with such arrangements, issue insurance to investors not otherwise eligible for insurance under this chapter, except that—

"(A) liabilities assumed by the Corporation under the authority of this paragraph shall be consistent with the purposes of this chapter, and

"(B) the maximum share of liabilities so assumed shall not exceed the proportionate participation by eligible investors in the project.

"(3) MAXIMUM CONTINGENT LIABILITY WITH RESPECT TO SINGLE INVESTOR.—Not more than 10 percent of the maximum contingent liability for investment insurance which the Corporation is permitted to have outstanding under section 3107(a)(1) shall be issued to a single investor.

"(4) OTHER INSURANCE FUNCTIONS.—

"(A) IN GENERAL.—The Corporation is authorized—

"(i) to make and carry out contracts of insurance or reinsurance, or agreements to associate or share risks, with insurance companies, financial institutions, any other persons, or groups thereof, and

"(ii) to employ such insurance companies, financial institutions, other persons, or groups, where appropriate, as its agent, or to act as their agent, in the issuance and servicing of insurance, the adjustment of claims, the exercise of subrogation rights, and ceding and accepting of reinsurance, and in any other matter incident to an insurance business, except that such agreements and contracts shall be consistent with the purposes of the Corporation set forth in section 3101 and shall be on equitable terms.

"(B) RISK-SHARING AGREEMENTS.—The Corporation is authorized to enter into pooling or other risk-sharing agreements with multilateral insurance of financing agencies or groups of such agencies.

"(C) OWNERSHIP INTEREST IN RISK-SHARING ENTITIES.—The Corporation is authorized to hold an ownership interest in any association or other entity established for the purposes of sharing risks under investment insurance.

"(D) REINSURANCE OF CERTAIN LIABILITIES.—The Corporation is authorized to issue, upon such terms and conditions as it may determine, reinsurance of liabilities assumed by other insurers or groups thereof in respect of risks referred to in subsection (a)(1).

"(E) LIMITATION ON REINSURANCE.—The amount of reinsurance of liabilities under this chapter which the Corporation may issue shall not in the aggregate exceed at any one time an amount equal to the amount authorized for the maximum contingent liability outstanding at any one time under section 3107(a)(1). All reinsurance issued by the Corporation under this subsection shall require that the reinsured party retain for his or her own account specified portions of liability, whether first loss or otherwise.

"(b) INVESTMENT GUARANTEES.—

"(1) AUTHORITY.—The Corporation is authorized to issue to eligible investors guarantees of loans and other investments made by such investors assuring against loss due to such risks and upon such terms and conditions as the Corporation may determine, subject to paragraphs (2), (3), and (4).

"(2) GUARANTEES ON OTHER THAN LOAN INVESTMENTS.—A guarantee issued under paragraph (1) on other than a loan investment may not exceed 75 percent of such investment.

"(3) LIMIT ON AMOUNT OF INVESTMENT GUARANTEED.—Except for loan investments for credit unions made by eligible credit unions or credit union associations, the aggregate amount of investment (exclusive of interest and earnings) for which guarantees are issued under paragraph (1) with respect to any project shall not exceed, at the time of issuance of any such guarantee, 75 percent of the total investment committed to any such project as determined by the Corporation. Such determination by the Corporation shall be conclusive for purposes of the Corporation's authority to issue any such guarantee.

"(4) MAXIMUM CONTINGENT LIABILITY WITH RESPECT TO SINGLE INVESTOR.—Not more than 15 percent of the maximum contingent liability for investment guarantees which the Corporation is permitted to have outstanding under section 3107(a)(2) may be issued to a single investor.

"(c) DIRECT INVESTMENT.—

"(1) IN GENERAL.—The Corporation is authorized to make loans in United States dollars, repayable in dollars, and to make loans in foreign currencies, to firms privately owned or of mixed private and public ownership, upon such terms and conditions as the Corporation may determine. Loans may be made under this subsection only for projects that are sponsored by or significantly involve United States small business or cooperatives.

"(2) USE OF LOAN FOR NEW TECHNOLOGIES, PRODUCTS, OR SERVICES.—The Corporation may designate up to 25 percent of any loan under this subsection for use in the development or adaptation in the United States of new technologies or new products or services that are to be used in the project for which the loan is made and are likely to contribute to the economic or social development of less developed countries.

"(d) INVESTMENT ENCOURAGEMENT.—The Corporation is authorized to initiate and support through financial participation, incentive grant, or otherwise, and on such terms and conditions as the Corporation may determine, the identification, assessment, surveying, and promotion of private investment opportunities, using wherever feasible and effective the facilities of private investors, except that the Corporation shall not finance any survey to ascertain the existence, location, extent, or quality of oil or gas resources.

"(e) SPECIAL ACTIVITIES.—The Corporation is authorized to administer and manage special projects and programs, including programs of financial and advisory support, which provide private technical, professional, or managerial assistance in the development of human resources, skills, technology, capital savings, intermediate financial and investment institutions, and cooperatives. The funds for these projects and programs may, with the Corporation's concurrence, be transferred to it for such purposes under the authority of section 5201(a) or from other sources, public or private.

"(f) PILOT EQUITY FINANCE PROGRAM.—

"(1) AUTHORITY FOR PILOT PROGRAM.—In order to study the feasibility and desirability of a program of equity financing, the Corporation is authorized to conduct a pilot program to terminate on September 30, 1995 under which it may, on the limited basis prescribed in paragraphs (2) and (3), purchase, invest in, or otherwise acquire equity securities of any firm or entity, upon such terms and conditions as the Corporation may determine, for the purpose of providing capital for any project which is consistent with the provisions of this chapter, except that—

"(A) the aggregate amount of the Corporation's equity investment with respect to any project shall not exceed 30 percent (49 percent for projects in eligible East European countries) of the aggregate amount of all equity investment made with respect to such project at the time that the Corporation's equity investment is made, except for securities acquired through the enforcement of any lien, pledge, or contractual arrangement as a result of a default by any party under any agreement relating to the terms of the Corporation's investment; and

"(B) the Corporation's equity investment under this subsection with respect to any project, when added to any other investments made or guaranteed by the Corporation under subsection (b) or (c) with respect to such project, shall not cause the aggregate amount of all such investment to exceed, at the time any such investment is made or guaranteed by the Corporation, 75 percent of the total investment committed to such project as determined by the Corporation.

"The determination of the Corporation under subparagraph (B) shall be conclusive for purposes of the Corporation's authority to make or guarantee any such investment.

"(2) ADDITIONAL CRITERIA.—In making investment decisions under this subsection, the Corporation shall give preferential consideration to projects sponsored by or significantly involving United States small business or cooperatives. The Corporation shall also consider the extent to which the Corporation's equity investment will assist in obtaining the financing required for such projects.

"(3) DISPOSITION OF EQUITY INTEREST.—Taking into consideration, among other things, the Corporation's financial interests and the desirability of fostering the development of local capital markets in emerging democracies, economies in transformation and less developed countries, the Corporation shall endeavor to dispose of any equity interest it may acquire under this subsection within a period of 10 years from the date of acquisition of such interest.

"SEC. 3105. ENHANCING PRIVATE POLITICAL RISK INSURANCE INDUSTRY.

"(a) COOPERATIVE PROGRAMS.—In order to encourage greater availability of political

risk insurance for eligible investors by enhancing the private political risk insurance industry in the United States, and to the extent consistent with this chapter, the Corporation shall undertake programs of cooperation with such industry, and in connection with such programs may engage in the following activities:

"(1) Utilizing its statutory authorities, encourage the development of associations, pools, or consortia of United States private political risk insurers.

"(2) Share insurance risks (through coinsurance, contingent insurance, or other means) in a manner that is conducive to the growth and development of the private political risk insurance industry in the United States.

"(3) Notwithstanding section 3109(e), upon the expiration of insurance provided by the Corporation for an investment, enter into risk-sharing agreements with United States private political risk insurers to insure any such investment; except that, in cooperating in the offering of insurance under this paragraph, the Corporation shall not assume responsibility for more than 50 percent of the insurance being offered in each separate transaction.

"(b) ADVISORY GROUP.—

"(1) ESTABLISHMENT AND MEMBERSHIP.—The Corporation shall establish a group to advise the Corporation on the development and implementation of the cooperative programs under this section. The group shall be appointed by the Board and shall be composed of up to 12 members, including the following:

"(A) Up to 7 persons from the private political risk insurance industry, of whom no fewer than 2 shall represent private political risk insurers, 1 shall represent private political risk reinsurers, and 1 shall represent insurance or reinsurance brokerage firms.

"(B) Up to 4 persons, other than persons described in subparagraph (A), who are purchasers of political risk insurance.

"(2) FUNCTIONS.—The Corporation shall call upon members of the advisory group, either collectively or individually, to advise it regarding the capability of the private political risk insurance industry to meet the political risk insurance needs of United States investors, and regarding the development of cooperative programs to enhance such capability.

"(3) MEETINGS.—The advisory group shall meet at least annually. The Corporation may from time to time convene meetings of selected members of the advisory group to address particular questions requiring their specialized knowledge.

"(4) FEDERAL ADVISORY COMMITTEE ACT—The advisory group shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

"SEC. 3106. GUIDELINE AND REQUIREMENTS FOR OPIC SUPPORT.

"(a) DEVELOPMENT IMPACT PROFILE.—In order to carry out the policy set forth in section 3101(b)(1), the Corporation shall prepare and maintain for each investment project it insures, finances, or reinsures, a development impact profile consisting of data appropriate to measure the projected and actual effects of such project on development. Criteria for evaluating projects shall be developed in consultation with the agency designated under section 5102.

"(b)— SMALL BUSINESS DEVELOPMENT.—

"(1) BROADENED PARTICIPATION BY SMALL BUSINESSES.—The Corporation shall undertake, in cooperation with appropriate departments, agencies, and instrumentalities of the United States as well as private entities and others, to broaden the participation of United States small business, cooperatives, and other small United States investors in the development of small private interprise in less developed friendly countries or areas.

"(2) PREFERENTIAL CONSIDERATION.—The Corporation shall undertake to give preferential consideration in its investment insurance, reinsurance, and guarantee activities to investment projects sponsored by or involving United States small business or cooperatives.

"(c) ENVIRONMENTAL CONSIDERATIONS.—

"(1) ENVIRONMENTAL, HEALTH, OR SAFETY HAZARD.—The Corporation should refuse to insure, reinsure, guarantee, or finance any investment in connection with a project which the Corporation determines will pose an unreasonable or major environmental, health, or safety hazard, or will result in the significant degradation of national parks or similar protected areas.

"(2) RESOURCE SUSTAINABLE DEVELOPMENT.—The Corporation, indetermining whether to provide insurance, reinsurance, guarantees, or financing for a project, should ensure that the project is consistent with the goals set forth in section 1 of this Act.

"(3) ENVIRONMENTAL IMPACT STATEMENTS AND ASSESSMENTS.—The requirements of section 1121 relating to environmental impact statements and environmental assessments should apply to any investment which the Corporation insures, reinsures, guarantees, or finances under this chapter in connection with a project in a country.

"(4) NOTIFICATION OF FOREIGN GOVERNMENTS.—Before finally providing insurance, reinsurance, guarantees, or financing under this chapter for any environmentally sensitive investment in connection with a project in a country, the Corporation should notify appropriate government officials of that country of—

"(A) all guidelines and other standards adopted by the International Bank for Reconstruction and Development and any other international organization relating to the public health or safety or the environment which are applicable to the project; and

"(B) to the maximum extent practicable, any restriction under any law of the United States relating to public health or safety or the environment that would apply to the project if the project were undertaken in the United States.

"The notification under the preceding sentence should include a summary of the guidelines, standards, and restrictions referred to in subparagraphs (A) and (B).

"(5) CONSIDERATION OR COMMENTS RECEIVED.—Before finally providing insurance, reinsurance, guarantees, or financing for any investment subject to paragraph (4), the Corporation should take into account any comments it receives on the project involved.

"(d) HUMAN RIGHTS.—The Corporation should take into account in the conduct of its programs in a country, in consultation with the Secretary of State, all available information about observance of and respect for human rights and fundamental freedoms in such country and the effect the operation of such programs will have on human rights and fundamental freedoms in such country.

"(e) HARM TO EMPLOYMENT IN THE UNITED STATES.—

"(1) REPLACEMENT OF UNITED STATES PRODUCTION.—(A) The Corporation should refuse to insure, reinsure, guarantee, or finance an investment if the Corporation determines that such investment is likely to cause such investor (or the sponsor of an investment project in which such investor is involved) significantly to reduce the number of the investor's or sponsor's employees in the United States because the investor or sponsor is replacing his or her United States production with production from such investment, and the production from such investment involves substantially the same product for substantially the same market as the investor's or sponsor's United States production.

"(B) If the Corporation determines that an investment is not likely to have the effects described in subparagraph (A), the Corporation shall monitor conformance with the representations made by the investor on which the Corporation relied in making that determination.

"(2) REDUCTION OF EMPLOYEES IN THE UNITED STATES.—The Corporation should refuse to insure, reinsure, guarantee, or finance an investment if the Corporation determines that such investment is likely to cause a significant reduction in the number of employees in the United States.

"(3) MANDATORY AND EXCLUSIVE U.S. EFFECTS ANALYSIS.—The analysis required by this Chapter is mandatory and exclusive with respect to the U.S. effects of the Corporation's programs, including effects on exports and employment, and shall not be limited or modified by any other provision of this Act.

"(f) PERFORMANCE REQUIREMENTS.—The Corporation should refuse to insure, reinsure, guarantee, or finance an investment which is subject to performance requirements which would reduce substantially the positive trade benefits likely to accrue to the United States from the investment.

"(g) PROHIBITED TRADE PRACTICES.—

"(1) PAYMENTS TO VIOLATORS BARRED.—No payment may be made under any insurance or reinsurance which is issued under this chapter on or after April 24, 1978, for any loss occurring with respect to a project, if the preponderant cause of such loss was an act by the investor seeking payment under this chapter, by a person possessing majority ownership and control of the investor at the time of the act, or by any agent of such investor or controlling person, and a court of the United States has entered a final judgment that such act constituted a violation of section 30A of the Securities Exchange Act of 1934 or section 104 of the Foreign Corrupt Practices Act of 1977.

"(2) REGULATIONS.—The Corporation shall have in effect regulations setting forth appropriate conditions under which any person who has been finally determined by a court of the United States to have violated section 30A of the Securities Exchange Act of 1934 or section 104 of the Foreign Corrupt Practices Act of 1977 shall be suspended, for a period of not more than 5 years, from eligibility to receive any insurance, reinsurance, guarantee, financing, or other financial support authorized by this chapter, if that violation related to a project insured, reinsured, guaranteed, financed, or otherwise supported by the Corporation under this chapter.

"(h) FRAUD OR MISREPRESENTATION.—No payment may be made under any guarantee, insurance, or reinsurance issued under this chapter for any loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

"(i) PUBLIC HEARINGS.—The Board shall hold at least 1 public hearing each year in order to afford an opportunity for any person to present views as to whether the Corporation is carrying out its activities in accordance with section 3101 and this section or

whether any investment in a particular country should have been or should be extended insurance, reinsurance, guarantees, or financing under this chapter.

SEC. 3107. ISSUING AUTHORITY, DIRECT INVESTMENT FUND, EQUITY FUND, AND RESERVES.

"(a) ISSUING AUTHORITY.—

"(1) INSURANCE.—The maximum contingent liability outstanding at any one time pursuant to insurance issued under section 3104(a) shall not exceed in the aggregate $7,500,000,000.

"(2) GUARANTEES.—Except as provided in Section 5201(f), commitments to guarantee loans are authorized for any fiscal year pursuant to section 504(b) of the Federal Credit Reform Act of 1990.

"(3) ACTION BY CONGRESS.—The Congress, in considering the budget programs transmitted by the President for the Corporation, pusuant to section 9103 of title 31, United States Code, may limit the obligations and contingent liabilities to be undertaken under subsections (a), (b), and (c) of section 3104.

"(b) CREATION OF FUND FOR ACQUISITION OF EQUITY.—The Corporation is authorized to establish a revolving fund to be available solely for the purposes specified in section 3104(f), to make a one-time transfer to the fund of $35,000,000 from its income and revenues, and to transfer to such fund other funds transferred to the Corporation for such purposes under the authority of section 5201 of this Act: *Provided, however*, That such funds may not be transferred out of the Corporation's liquidating account. The Corporation shall transfer to the fund in each fiscal year all amounts received by the Corporation during the preceding fiscal year as income on securities acquired under section 3104(f) and from the proceeds on the disposition of such securities. Purchases of, investments in, and other acquisitions of equity from the fund are authorized for any fiscal year only to the extent or in such amounts as are provided in advance in appropriations Acts or are transferred to the Corporation pursuant to section 5201 of this Act, or are transferred to the fund pursuant to the preceding sentence.

"(c) INSURANCE RESERVE.—

"(1) MAINTENANCE AND PURPOSES.—The Corporation shall maintain an insurance reserve. Such reserve shall be available for the discharge of liabilities, as provided in subsection (e), until such time as all such liabilities have been discharged or have expired or until such reserve has been expended in accordance with the provisions of this section.

"(2) FUNDING.—The insurance reserve shall consist of—

"(A) any funds in the insurance reserve of the Corporation on the effective date of the International Corporation Act of 1991,

"(B) amounts transferred to the reserve pursuant to this Act, and

"(C) such sums as are appropriated pursuant to subsection (e) of this section for such purposes.

"(d) ORDER OF PAYMENTS TO DISCHARGE LIABILITIES.—Any payment made to discharge liabilities under investment insurance or reinsurance issued under section 3104, under similar predecessor guarantee authority, or under section 3105, shall be paid first out of the insurance reserve, as long as such reserve remains available, and thereafter out of funds made available pursuant to subsection (e) of this section. Any payments made to discharge liabilities under guarantees issued under section 3104(b) shall be paid in accordance with the Federal Credit Reform Act of 1990.

"(e) AUTHORIZATION OF APPROPRIATIONS.—

"(1) AUTHORIZATION.—Subject to paragraph (2), there are authorized to be appropriated to the Corporation, to remain available until expended, such amounts as may be necessary from time to time to replenish or increase the insurance reserve, to discharge the liabilities under insurance or reinsurance issued by the Corporation or to discharge obligations of the Corporation purchased by the Secretary of the Treasury pursuant to subsection (f).

"(2) LIMITATION ON APPROPRIATIONS.—No appropriation shall be made under paragraph (1) to augment the insurance reserve until the amount of funds in the insurance reserve is less than $25,000,000. Any appropriations to augment the insurance reserve shall then only be made to satisfy the full faith and credit provision of section 3109(c).

"(f) INSURANCE OF OBLIGATIONS.—In order to discharge liabilities under investment insurance or reinsurance, the Corporation is authorized to issue from time to time for purchase by the Secretary of the Treasury its notes, debentures, bonds, or other obligations; except that the aggregate amount of such obligations outstanding at any one time may not exceed $100,000,000. Any such obligation shall be repaid to the Treasury within 1 year after the date of issue of such obligations. Any such obligation shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of any obligation authorized by this subsection. The Secretary of the Treasury shall purchase any obligation of the Corporation issued under this subsection, and for such purchase the Secretary may use as a public debt transaction the proceeds of the sale of any securities issued under chapter 31 of title 31, United States Code. The purpose for which securities may be issued under chapter 31 of title 31, United States Code, shall include any such purchase.

"SEC. 3108. INCOME AND REVENUES.

"In order to carry out the purposes of the Corporation, all revenues and income transferred to or earned by the Corporation, in relation to non-credit activities, from whatever source derived, shall be held by the Corporation and shall be available to carry out its purposes, including without limitation—

"(1) payment of all expenses of the Corporation, including investment promotion expenses;

"(2) transfers and additions to the insurance reserves, and such other funds or reserves as the Corporation may establish, at such time and in such amounts as the Board may determine, subject to the provisions of the Federal Credit Reform Act of 1990; and

"(3) payment of dividends, on capital stock, which shall consist of and be paid from net earnings of the Corporation after payments, transfers, and additions under paragraphs (1) and (2).

"SEC. 3109. GENERAL PROVISIONS RELATING TO INSURANCE, GUARANTEE, AND FINANCING PROGRAM.

"(a) AGREEMENTS WITH COUNTRIES.—Insurance, guarantees, and reinsurance issued under this chapter shall not cover investment made in connection with projects in any country or area unless the President of the United States has agreed with the government of such country or area to institute a program for such insurance, guarantee, or reinsurance.

"(b) PROTECTION OF INTERESTS OF THE CORPORATION.—The Corporation shall determine that suitable arrangements exist for protecting the interest of the Corporation in connection with any insurance, reinsurance, or guarantee issued under this chapter, including arrangements concerning ownership, use, and disposition of the currency, credits, assets, or investments on account of which payment under such insurance, guarantee, or reinsurance is to be made, and any right, title, claim or cause of action existing in connection therewith.

"(c) FULL FAITH AND CREDIT PLEDGED.—All guarantees issued pursuant to predecessor guarantee authority, and all insurance, reinsurance, and guarantees issued pursuant to this chapter shall constitute obligations, in accordance with the terms of such insurance, reinsurance, or guarantees, or the United States of America, and the full faith and credit or the United States of America is hereby pledged for the full payment and performance of such obligations.

"(d) FEES.—(1) Fees may be charged for providing insurance, reinsurance, guarantees, financing, or services under this chapter in amounts to be determined by the Corporation. In the event fees charged for insurance, reinsurance, guarantees, financing or services and for similar guarantees issued under predecessor guarantee authority are reduced, fees to be paid under existing contract for the same type of insurance, reinsurance, guarantees, financing, or services and for similar guarantees issued under predecessor guarantee authority may be reduced.

"(2) CREDIT TRANSACTION COSTS.—For credit transactions covered by the provisions of the Federal Credit Reform Act of 1990, project-specific transaction costs relating to loan obligations or loan guarantee commitments, including but not limited to project-related travel and outside legal expenses, shall be considered cash flows from the Government resulting from direct loan obligations or loan guarantee commitments and shall be paid out of the appropriate financing account established pursuant to section 505(b) of such Act.

"(3) NON-CREDIT TRANSACTION COSTS.—Fees paid for the project-specific transaction costs and other direct costs associated with services provided to specific investors or potential investors pursuant to section 3104 (other than those covered in subsection (d)(2) of this section), including financing, insurance, reinsurance, missions, seminars, conferences, and other pre-investment services, shall be available for obligation for the purposes for which they were collected notwithstanding any other provision of law.

"(e) INSURANCE, GUARANTEES, AND REINSURANCE LIMITED TO 20 YEARS.—No insurance, reinsurance, or guarantee of any equity investment under this chapter shall extend beyond 20 years from the date on which such insurance, reinsurance, or guarantee is issued.

"(f) AMOUNT OF COMPENSATION PAID ON CLAIMS.—Compensation for any insurance, reinsurance, or guarantee issued under this chapter shall not exceed the dollar value, as of the date of the investment, of the investment made in the project with the approval of the Corporation plus interest, earnings, or profits actually accrued on such investment to the extent provided by such insurance, reinsurance, or guarantee, except that the Corporation may provide that—

"(1) appropriate adjustments in the insured dollar value may be made to reflect the replacement cost of project assets;

"(2) compensation for a claim of loss under insurance of an equity investment may be

computed on the basis of the net book value attributable to such equity investment on the date of loss; and

"(3) compensation for loss due to business interruption may be computed on a basis to be determined by the Corporation which reflects amounts lost.

"Notwithstanding the preceding sentence, the Corporation shall limit the amount of direct insurance and reinsurance issued under section 3104 or 3105 so that risk or loss as to at least 10 percent of the total investment of the insured and its affiliates in the project is borne by the insured and such affiliates, except that this limitation shall not apply to direct insurance or reinsurance of loans by banks or other financial institutions to unrelated parties.

"(g) LIMITATION WITH RESPECT TO FOREIGN CREDIT INSTITUTIONS.—Insurance, guarantees, or reinsurance of a loan or equity investment of an eligible investor in a foreign bank, finance company, or other credit institution shall extend only to such loan or equity investment and not to any individual loan or equity investment made by such foreign bank, finance company, or other credit institution.

"(h) SETTLEMENT AND ARBITRATION OF CLAIMS.—Claims arising as a result of insurance, reinsurance, or guarantee operations under this chapter or under predecesor guarantee authority may be settled, and disputes arising as a result thereof may be arbitrated with the consent of the parties, on such terms and conditions as the Corporation may determine. Payment made pursuant to any such settlement, or as a result or an arbitration award, shall be final and conclusive notwithstanding any other provision of law.

"(i) CONTRACTS PRESUMED TO COMPLY WITH ACT.—Each guarantee contract executed by such officer or officers as may be designated by the Board shall be conclusively presumed to be issued in compliance with the requirements of this Act.

"(j) Except for the provisions of this chapter, no other provision of this or any other law relating to the eligibility of countries for assistance under this Act shall be construed to prohibit the operation of any program authorized by this chapter.

"SEC. 3110. GENERAL PROVISIONS AND POWERS.

"(a) PRINCIPAL OFFICE.—The Corporation shall have its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be a resident of the District of Columbia.

"(b) AUDITS.—

"(1) IN GENERAL.—The Corporation shall be subject to the applicable provisions of chapter 91 of title 31, United States Code, except as otherwise provided in this chapter.

"(2) INDEPENDENT AUDIT.—An independent certified public accountant shall perform a financial and compliance audit of the financial statements of the Corporation every year, in accordance with generally accepted Government auditing standards for a financial and compliance audit. The independent certified public accountant shall report the results of such audit to the Board. The financial statements of the Corporation shall be presented in accordance with generally accepted accounting principles. These financial statements and the report of the accountant shall be included in a report which contains, to the extent applicable, the information identified in section 9106 of title 31, United States Code, and which the Corporation shall submit to the Congress not later than 6½ months after the end of the last fiscal year covered by the audit.

"(c) POWERS.—To carry out the purposes of this chapter, the Corporation is authorized—

"(1) to adopt and use a corporate seal, which shall be judicially noticed;

"(2) to sue and be sued in its corporate name;

"(3) to adopt, amend, and repeal by laws governing the conduct of its business and the performance of the powers and duties granted to or imposed upon it by law;

"(4) to acquire, hold, or dispose of, upon such terms and conditions as the Corporation may determine, any property, real, personal, or mixed, tangible or intangible, or any interest therein;

"(5) to invest funds derived from fees and other revenues in obligations of the United States and to use the proceeds, therefrom, including earnings and profits, as it considers appropriate;

"(6) to indemnify directors, officers, employees, and agents of the Corporation for liabilities and expenses incurred in connection with their Corporation activities;

"(7) to require bonds of officers, employees, and agents and to pay the premiums therefor;

"(8) notwithstanding any other provision of law, to represent itself or to contract for representation in all legal and arbitral proceedings;

"(9) to purchase, discount, rediscount, sell, and negotiate, with or without its endorsement or guarantee, and guarantee notes, participation certificates, and other evidence of indebtedness (except that the Corporation shall not issue its own securities, except participation certificates for the purpose of carrying out section 3101(c)(3) or participation certificates as evidence of indebtedness held by the Corporation in connection with settlement of claims under section 3109(h));

"(10) to make and carry out such contracts and agreements as are necessary and advisable in the conduct of its business;

"(11) to exercise any priority of the government of the United States in collecting debts from the estates of bankrupt, insolvement, or decedent parties;

"(12) to determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to Government corporations;

"(13) to collect or compromise any obligations assigned to or held by the Corporation, including any legal or equitable rights accruing to the Corporation; and

"(14) to take such actions as may be necessary or appropriate to carry out the powers of the Corporation.

"(d) INSPECTOR GENERAL.—

"(1) AUTHORITY.—The Inspector General of the agency designated under section 5102—

"(A) shall have full and independent authority to conduct audits, investigations, and inspections of all phases of the Corporation's programs and operations for the purpose of promoting economy, efficiency, and effectiveness, and detecting and preventing fraud and abuse; and

"(B) shall conduct all security activities of the Corporation relating to personnel and the control of classified material.

"(2) RELATION TO PRESIDENT OF CORPORATION.—The Inspector General shall report to and be under the general supervision of the President of the Corporation with respect to activities undertaken pursuant to this subsection, except that the President of the Corporation shall not prevent or prohibit the Inspector General from initiating, carrying out, or completing any such activity in accordance with the duties, authorities, and responsibilities contained in the Inspector General Act of 1978 and any other applicable law or regulation.

"(3) EXPENSES.—The Inspector General shall be reimbursed by the Corporation for all expenses incurred by the Inspector General in connection with the Inspector General's responsibilities under this subsection.

"(4) INSPECTOR GENERAL ACT.—For purposes of the Inspector General Act of 1978, the Corporation shall continue to be considered a Federal entity and the President of the Corporation shall be considered the head of the Federal entity.

"(5) SEMIANNUAL REPORT.—The semiannual report required under section 5 of the Inspector General Act of 1978 shall include information relating to activities of the Inspector General undertaken pursuant to this subsection.

"(e) EXEMPTION FROM STATE AND LOCAL TAXATION.—The Corporation (including its franchise, capital, reserves, surplus, advances, intangible property, and income) shall be exempt from all taxation at any time imposed by any State, the District of Columbia, or any county, municipality, or local taxing authority.

"(f) CORPORATE OPERATIONAL GUIDELINES.—The Corporation—

"(1) shall establish and publish guidelines for its programs and operations consistent with the provisions of this chapter, which provisions shall be controlling with respect to the Corporation's programs and operations, and

"(2) shall make such guidelines available to applicants for insurance, reinsurance, guarantees, financing, or other assistance provided by the Corporation.

"SEC. 3111. ANNUAL REPORT; MAINTENANCE OF INFORMATION.

"(a) ANNUAL REPORT.—After the end of each fiscal year, the President shall submit to the Congress a complete and detailed report of the Corporation's operations during such fiscal year. Such report shall include—

"(1) an assessment, based upon the development impact profiles required by section 3106(a), of the economic and social development impact and benefits of the projects with respect to which such profiles are prepared, and of the extent to which the operations of the Corporation complement or are compatible with the development assistance programs of the United States and other donors; and

"(2) a description of any project for which the Corporation refused to provide any insurance, reinsurance, guarantee, financing, or other financial support, on account of violations of human rights referred to in section 3106(e).

"(b) PROJECTIONS OF EFFECTS ON EMPLOYMENT.—

"(1) IN GENERAL.—Each annual report required by subsection (a) shall contain protections of the effects on employment in the United States of all projects for which, during the fiscal year covered by the report, the Corporation initially issued any insurance, reinsurance, or guarantee or provided financing. Each such report shall include projections of—

"(A) the amount of United States exports to be generated by those projects, both during the start-up phase and over a period of years;

"(B) the final destination of the products to be produced as a result of those projects; and

"(C) the impact such production will have on the production of similar products in the

United States with regard to both domestic sales and exports.

"(2) INFORMATION IN AGGREGATE FORM.—The projections required by this subsection shall be based on an analysis of each of the projects described in paragraph (1). Such projections may, however, present information and analysis in aggregate form, but only if—

"(A) those projects which are projected to have a positive effect on employment in the United States and those projects which are projected to have a negative effect on employment in the United States are grouped separately; and

"(B) there is set forth for each such grouping the key characteristics of the projects within that grouping, including the number of projects in each economic sector, the countries in which the projects in each economic sector are located, and the projected level of the impact of the projects in each economic sector on employment in the United States and on United States trade.

"(c) MAINTENANCE OF INFORMATION.—The Corporation shall maintain as part of its records—

"(1) all information collected in preparing the report required by section 240A(c) of the Foreign Assistance Act of 1961 (as in effect before the enactment of the Overseas Private Investment Corporation Amendments Act of 1988), whether the information was collected by the Corporation itself or by a contractor; and

"(2) a copy of the analysis of each project analyzed in preparing the projections required by subsection (b) of this section or the report required by section 240A(c) of the Foreign Assistance Act of 1961 (as in effect before the enactment of the Overseas Private Investment Corporation Amendments Act of 1988).

"(d) PROGRAMS OF COOPERATION WITH PRIVATE INDUSTRY.—Each annual report required by subsection (a) shall include an assessment of programs implemented by the Corporation under section 3105(a), including the following information, to the extent such information is available to the Corporation:

"(1) The nature and dollar value of political risk insurance provided by private insurers in conjunction with the Corporation, which the Corporation was not permitted to provide under this chapter.

"(2) The nature and dollar value of political risk insurance provided by private insurers in conjunction with the Corporation, which the Corporation was permitted to provide under this chapter.

"(3) The manner in which such private insurers and the Corporation cooperated in recovery efforts and claims management.

"(e) PROTECTION OF CERTAIN INFORMATION.—Subsections (b) and (d) do not require the inclusion in any information submitted pursuant to those subsections of any information which would not be required to be made available to the public pursuant to section 552 of title 5, United States Code (relating to freedom of information).

"SEC. 3112. DEFINITIONS.

"As used in this chapter, the following terms have the following meanings:

"(1) BOARD.—The term 'Board' means the Board of Directors of the Overseas Private Investment Corporation.

"(2) CORPORATION.—The term 'Corporation' means the Overseas Private Investment Corporation.

"(3) ELIGIBLE INVESTOR.—(A) The term 'eligible investor' means—

"(i) a United States citizen; and

"(ii) a corporation, partnership, or other association, including a nonprofit association, which is more than 50 percent beneficially owned by United States citizens.

"(B) For purposes of this chapter—

"(i) in the case of insurance or a guarantee for any loan investment, a final determination of whether a person is an eligible investor may be made at the time the insurance or guarantee is issued; and

"(ii) in the case of insurance or a guarantee for any other investment, an investor must be an eligible investor at the time a claim arises as well as the time the insurance or guarantee is issued.

"(4) EXPROPRIATION.—The term 'expropriation' includes any abrogation, repudiation, or impairment by a foreign government of its own contract with an investor with respect to a project, where such abrogation, repudiation, or impairment is not caused by the investor's own fault or misconduct, and materially adversely affects the continued operation of the project.

"(5) INVESTMENT.—The term 'investment' includes any contribution or commitment or funds, commodities, services, patents, processes, or techniques, in the form of—

"(A) a loan or loans to an approved project,

"(B) the purchase of a share of ownership in any such project,

"(C) participation in royalties, earnings, or profits of any such project, and

"(D) the furnishing of commodities or services pursuant to a lease or other contract.

"(6) PREDECESSOR GUARANTEE AUTHORITY.—The term 'predecessor guarantee authority' means prior guarantee authorities (other than housing guarantee authorities) repealed by the Foreign Assistance Act of 1969, section 202(b) and 413(b) of the Mutual Security Act of 1954, and section 111(b)(3) of the Economic Cooperation Act of 1948 (exclusive of authority relating to informational media guarantees).

"CHAPTER 2—TRADE AND DEVELOPMENT AGENCY

"SEC. 3121. PURPOSE.

The Trade and Development Agency shall be an agency of the United States under the foreign policy guidance of the Secretary of State. The purpose of the Trade and Development Agency is to promote United States private sector participation in development projects in developing and middle-income countries, in order to promote the goals set forth in section 1 of this Act.

"SEC. 3122. AUTHORITY TO PROVIDE ASSISTANCE.

"(a) AUTHORITY.—The Director of the Trade and Development Agency is authorized to work with foreign countries, including those in which the United States development programs have been concluded or those not receiving assistance under title I, to carry out the purpose of this chapter by providing funds for feasibility studies and other activities related to development projects which provide opportunities for the use of United States exports.

"(2) USE OF FUNDS.—Funds under this chapter may be used to provide support for the planning of, development of, management of, and procurement for, bilateral and multilateral development projects, including training activities undertaken in connection with a project, for the purpose of promoting the use of United States goods and services in such projects.

"(c) INFORMATION DISSEMINATION.—

"(1) IN GENERAL.—The Trade and Development Agency shall disseminate information about its project activities to the private sector.

"(2) RELATIONSHIP AMONG AGENCIES.—Federal departments, agencies, and the Trade and Development Agency are encouraged to cooperate in the effective provision of informational services to persons in the private sector concerning trade development and export promotion related to development projects.

"(d) NONAPPLICABILITY OF OTHER PROVISIONS.—Any funds used for purposes of this chapter may be used notwithstanding any other provision of law.

"SEC. 3123. DIRECTOR AND PERSONNEL.

"(a) DIRECTOR.—There shall be at the head of the Trade and Development Agency a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

"(b) OFFICERS AND EMPLOYEES.—

"(1) APPOINTMENT.—The President may appoint such officers and employees of the Trade and Development Agency as the President considers appropriate.

"(2) FUNCTIONS.—The officers and employees appointed under this subsection shall have such functions as the Director may determine.

"(3) APPOINTMENTS WITHOUT REGARD TO CERTAIN CIVIL SERVICE LAWS.—Of the officers and employees appointed under this subsection, 2 may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be compensated without regard to the provisions of chapter 51 or subchapter III of chapter 53 of such title.

"(4) REINSTATEMENT RIGHTS.—Under such regulations as the President may prescribe, any individual appointed under paragraph (3) may be entitled, upon removal (except for cause) from the position to which the appointment was made, to reinstatement to the position occupied by that individual at the time of appointment or to a position of comparable grade and pay.

"SEC. 3124. ANNUAL REPORT.

"The President shall, not later than December 31 of each year, submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the activities of the Trade and Development Agency in the preceding fiscal year.

"SEC. 3125. INSPECTOR GENERAL.

"(a) AUTHORITY.—The Inspector General of the agency designated under section 5102—

"(1) shall have full and independent authority to conduct audits, investigations, and inspections of all phases of the program and operations of the Trade and Development Agency for the purpose of promoting economy, efficiency, and effectiveness, and detecting and preventing fraud and abuse; and

"(2) shall conduct all security activities of the Trade and Development Agency relating to personnel and the control of classified material.

"(b) RELATION TO DIRECTOR OF THE TRADE AND DEVELOPMENT AGENCY.—The Inspector General shall report to and be under the general supervision of the Director of the Trade and Development Agency with respect to activities undertaken pursuant to this section, except that the Director shall not prevent or prohibit the Inspector General from initiating, carrying out, or completing any such activity in accordance with the duties, authorities, and responsibilities contained in the Inspector General Act of 1978, and any other applicable laws and regulations.

"(c) INSPECTOR GENERAL ACT.—For purposes of the Inspector General Act of 1978, the Trade and Development Agency shall continue to be considered a Federal entity and the Director of the Trade and Develop-

ment Agency shall be considered the head of the Federal entity.

"(d) SEMIANNUAL REPORT.—The semiannual report required under section 5 of the Inspector General Act of 1978 shall include information relating to activities of the Inspector General undertaken pursuant to this section.

"SEC. 3126. FUNDING.

"There are authorized to be appropriated for purposes of this chapter, in addition to funds otherwise available for such purposes, $35,000,000 for fiscal year 1992.

TITLE IV—SPECIAL AUTHORITIES, RESTRICTIONS ON ASSISTANCE, AND REPORTS

SEC. 401. CONSOLIDATION AND REVISION OF SPECIAL AUTHORITIES, RESTRICTIONS, AND REPORTING REQUIREMENTS.

The Foreign Assistance Act of 1961 is amended by striking out existing part III and by adding the following new title IV after new title III (as added by title III of this Act):

"TITLE IV—SPECIAL AUTHORITIES, RESTRICTIONS ON ASSISTANCE, AND REPORTS

"CHAPTER 1—SPECIAL AUTHORITIES

"SEC. 4101. AUTHORITY TO TRANSFER BETWEEN ACCOUNTS.

"(a) GENERAL TRANSFER AUTHORITY.—Whenever the President determines it to be necessary for the purposes of this Act, not to exceed 10 percent of the funds made available to carry out any provision of this Act—

"(1) may be transferred to, and consolidated with, the funds in the account or fund available to carry out any other provision of this Act; and

"(2) may be used for any of the purposes for which funds in that account or fund may be used.

"(b) LIMITATION ON AMOUNT OF INCREASE IN AN ACCOUNT.—The total amount in the account or fund for the benefit of which a transfer is made under subsection (a) during any fiscal year may not be increased by more than 20 percent of the amount of funds otherwise made available for such account or fund.

"(c) NOTIFICATION TO CONGRESS.—The authority of subsection (a) may be exercised only if the Committee on Foreign affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate are notified in advance of the exercise of that authority.

"SEC. 4102. SPECIAL WAIVER AUTHORITY.

"(a) FOREIGN ASSISTANCE ACT AND DEFENSE TRADE AND EXPORT CONTROL ACT.—The President may authorize the taking of any action (or the refraining from the taking of any action) under this Act or the Defense Trade and Export Control Act without regard to any of the provisions described in subsection (c) if he determines—

"(1) in cases under chapters 2 or 5 of title II of this Act, or under the Defense Trade and Export Control Act, that to do so is essential to the national interests of the United States; and

"(2) in any other cases under such Acts, that to do so is important to the national interests of the United States.

"(b) OTHER ACTS.—The President may authorize the taking of any action (or the refraining from the taking of any action) under any other Act without regard to the provisions described in paragraphs (1) and (2) of subsection (c), or of any annual (or periodic) foreign assistance authorization of appropriations Acts, if the President determines that to do so is important to the national interest of the United States.

"(c) LAWS WHICH MAY BE WAIVED.—The provisions referred to in subsections (a) and (b) are—

"(1) the provisions of this Act,

"(2) the provisions of the Defense Trade and Export Control Act,

"(3) any other provisions of law that restrict the authority to provide assistance, make sales or leases, or take other actions (or refrain from taking actions) under the Acts in paragraphs (1) and (2), and

"(4) any law relating to receipts and credits accruing to the United States.

"(d) EXTRAORDINARY CIRCUMSTANCES.—The President is authorized to use amounts not to exceed $50,000,000 of the funds made available under this Act during any fiscal year pursuant to the President's certification that it is inadvisable to specify the nature of the use of such funds, which certification shall be deemed to be a sufficient voucher for such amounts. The President shall fully inform the chairman and ranking minority member of the Committee on Foreign Affairs of the House of Representatives and the chairman and ranking minority member of the Committee on Foreign Relations of the Senate of each use of funds under this subsection prior to the use of such funds.

"(e) CONSULTATION WITH CONGRESS.—Before exercising the authority granted in this section, the President shall consult with, and shall provide a written policy justification to, the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

"(f) NOTIFICATION TO CONGRESS.—A determination under subsection (a) or (b) shall be effective only if the President notifies the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, in writing, of that determination.

"(1) IN GENERAL.—The authority of this section may not be used in any fiscal year to authorize—

"(A) more than $1,000,000,000 in sales or leases to be made under the Defense Trade and Export Control Act;

"(B) the use of more than $500,000,000 of funds made available for use under this Act; and

"(C) the use of more than $100,000,000 of foreign currencies accruing under this Act or any other law.

"(2) FINANCED MILITARY SALES.—If the authority of this section is used both to authorize a sale or lease under the Defense Trade and Export Control Act and to authorize funds to be used under chapter 2 of title II of this Act with respect to the financing of that sale or lease, then the use of the funds shall be counted against the limitation in paragraph (1)(B) and the portion, if any, of the sale or lease which is not so financed shall be counted against the limitation in paragraph (1)(A).

"(3) LEASES.—For purposes of paragraph (1)(A) the value of the defense articles authorized to be leased (in terms of their replacement cost less any depreciation in their value) shall be counted against the limitation in that paragraph.

"(4) COUNTRY LIMITS.—(A) Not more than $100,000,000 of the $500,000,000 limitation provided in paragraph (1)(B) may be allocated to any one country in any fiscal year unless that country is a victim of active aggression.

"(B) Not more than $500,000,000 of the aggregate limitation of $1,500,000,000 provided in paragraphs (1)(A) and (1)(B) may be allocated to any one country in any fiscal year.

"SEC. 4103. UNANTICIPATED CONTINGENCIES.

"(a) AUTHORITY.—Notwithstanding any other provision of law, the President is authorized to use funds made available to carry out any provision of this Act (other than the funds described in paragraph (2)) in order to furnish, for any unanticipated contingency, assistance authorized by any provision of this Act (other than chapters 2 and 5 of title II) in accordance with the provisions applicable to the furnishing of such assistance.

"(b) ANNUAL CEILING.—The authority of this section may not be used to authorize the use of more than $50,000,000 during any fiscal year.

"(c) REPORT TO CONGRESS.—The President shall report promptly to the Speaker of the House of Representatives and to the Committee on Foreign Relations and the Committee on Appropriations of the Senate each time the authority of this section is exercised.

"(d) PROHIBITION ON GIFTS.—Funds used under the authority of this section may not be used to pay for any gifts to any official of any foreign government.

"SEC. 4104. EMERGENCY ASSISTANCE.

"(a) AUTHORITY.—In any fiscal year, up to $75,000,000 of the funds appropriated to carry out chapter 3 of title I, and up to $75,000,000 of the funds appropriated to carry out chapter 2 of title II, may be made available for emergency use under such respective provisions when the national interests of the United States urgently require support to promote economic, political, or military stability.

"(b) SOURCE OF FUNDS.—Notwithstanding any provision of an Act authorizing or appropriating funds for use under this Act that earmarks funds available to carry out chapter 3 of title I or chapter 2 of title II for a specific country, organization, or purpose, up to 5 percent of each amount so earmarked may be used to carry out this section.

"SEC. 4105. TERMINATION EXPENSES.

"(a) IN GENERAL.—Funds made available under this Act shall remain available for obligation for a period not to exceed 8 months from the date of any termination of assistance under this Act for the necessary expenses of winding up programs related to such termination and may remain available until expended. Funds obligated under the authority of this Act prior to the effective date of the termination of assistance may remain available for expenditure for the necessary expenses of winding up programs related to such termination notwithstanding any provision of law restricting the expenditure of funds. In order to ensure the effectiveness of assistance under this Act, such expenses for orderly termination of programs may include the obligation and expenditure of funds to complete the training or studies outside their countries of origin of students whose course of study or training program began before assistance was terminated.

"(b) LIABILITY TO CONTRACTORS.—For the purpose of making an equitable settlement of termination claims under extraordinary contractual relief standards, the President is authorized to 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 under this Act prior to the termination of assistance.

"(c) TERMINATION EXPENSES.—Amounts certified as having been obligated for assist-

ance subsequently terminated by the President, or pursuant to any provision of law, shall continue to remain available and may be reobligated to meet any necessary expenses arising from the termination of such assistance.

"(d) GUARANTY PROGRAMS.—Provisions of this or any other Act requiring the termination of assistance under this Act shall not be construed to require the termination of guarantee commitments under title I of this Act that were entered into prior to the effective date of the termination of assistance.

"(e) RELATION TO OTHER PROVISIONS.—Unless specifically made inapplicable by another provision of law, the provisions of this section shall be applicable to the termination of assistance pursuant to any provision of law.

"SEC. 4106. EXEMPTION OF ASSISTANCE THROUGH NONGOVERNMENTAL ORGANIZATIONS FROM RESTRICTIONS.

"(a) RESTRICTIONS NOT APPLICABLE.—Subject to subsection (c), restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance under title I in support of programs of nongovernmental organizations.

"(b) NATIONAL INTEREST CRITERIA.—The President shall take into consideration, in any case in which a restriction on assistance would be applicable but for this section, whether assistance for programs of nongovernmental organizations is in the national interest of the United States.

"(c) NOTICE TO CONGRESS.—Whenever the authority of this section is used to furnish assistance for a program of a nongovernmental organization, the President shall notify the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate. Such notification shall describe the program assisted, the assistance provided, and the reasons for furnishing such assistance.

"SEC. 4107. EXEMPTION OF TRAINING ACTIVITIES FROM PROHIBITIONS.

"Provisions of this or any other Act shall not be construed to prohibit assistance for any training activity funded under this Act for a country as long as that country has a democratically elected government and the assistance is otherwise consistent with section 4201(a)(1), section 4201(a)(2), section 4201(a)(7), and section 4202.

"SEC. 4108. NONAPPLICABILITY TO MILITARY ASSISTANCE OF CERTAIN NEUTRALITY ACT PROVISIONS.

"The functions authorized under this Act may be performed without regard to such provisions as the President may specify of the Neutrality Act of 1939 (22 U.S.C. 441 and following).

"CHAPTER 2—RESTRICTIONS ON ASSISTANCE

"SEC. 4201. INELIGIBLE COUNTRIES.

"(a) RESTRICTIONS.—Except as provided in subsection (b), assistance under this Act may not be furnished to the government of a country that is:

"(1) COMMUNIST COUNTRIES.—A communist country, as designated under subsection (d).

"(2) HUMAN RIGHTS VIOLATORS.—A country described in subsection (e).

"(3) EXPROPRIATION OF UNITED STATES PROPERTY.—A country whose government—

"(A) has—

"(i) expropriated the property of any United States person,

"(ii) repudiated or nullified any contract with any United States person, or

"(iii) taken any other action (such as discriminatory taxes or other exactions) which has the effect of seizing ownership or control of the property of any United States person, and

"(B) has not within a reasonable period of time provided adequate and effective compensation and is not engaged in good faith efforts to negotiate a settlement if the United States person has exhausted host country legal and other formal remedies.

"(4) MILITARY COUPS.—A country whose duly-elected Head of Government is disposed by military coup or decree unless subsequent to the military coup or decree a democratically elected government has taken office.

"(5) TERRORIST COUNTRIES.—A country whose government the President determines repeatedly provides support for acts of international terrorism.

"(6) NUCLEAR NON-PROLIFERATION.—A country described in section 4206.

"(7) MAJOR ILLICIT DRUG PRODUCING OR MAJOR DRUG TRANSIT COUNTRIES.—A country described in section 4207.

"(b) EXCEPTIONS.—

"(1) IN GENERAL.—Funds may be obligated and expended for assistance restricted by subsection (a), or any similar provision of law, under any of the following circumstances:

"(A) NATIONAL INTEREST.—The President determines that the furnishing of such assistance is important to the national interest of the United States.

"(B) ALLEVIATING SUFFERING RESULTING FROM A DISASTER.—The assistance is for the alleviation of suffering resulting from a natural or manmade disaster.

"(C) DIRECTLY BENEFITTING THE NEEDY.—The assistance will directly benefit the needy people in the country.

"(D) PROMOTING HUMAN RIGHTS AND DEMOCRACY.—The assistance will be furnished through nongovernmental organizations to directly promote increased respect for internationally recognized human rights and the development of democracy.

"(2) LIMITATIONS ON USE OF NATIONAL INTEREST WAIVER.—The authority of paragraph (1)(A) may be exercised with respect to the restrictions contained in subsection (a)(6) only if the President also determines that the furnishing of such assistance will further United States nonproliferation objectives.

"(c) REPORT TO CONGRESS.—Assistance restricted by subsection (a) may not be provided under subsection (b) until the President has submitted to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, a report with respect to such assistance. Any such report shall include a detailed explanation of the assistance to be provided, including the estimated dollar amount of such assistance, and an explanation of how the assistance meets the criteria specified in subsection (b).

"(d) COMMUNIST COUNTRY LIST.—

"(1) ESTABLISHMENT.—The President shall designate those countries that are communist countries for purposes of subsection (a)(1).

"(2) PUBLICATION OF LIST.—The initial list of countries designated pursuant to this subsection shall be published in the Federal Register and shall be provided to the Congress. Thereafter, any additions to or deletions from such list shall be similarly published and provided.

"(3) REMOVAL OF COUNTRIES FROM THE LIST; EXEMPTIONS.—The President may remove a country from the communist country list established pursuant to this section, or may exempt a listed country from the application of subsection (a)(1) or other provisions of law that reference subsection (a)(1), if the President promptly reports such removal or exemption to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate.

"(e) HUMAN RIGHTS VIOLATORS.—

"(1) INELIGIBILITY.—Subsection (a)(2) shall apply to any country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights.

"(2) MATTERS TO BE CONSIDERED.—In implementing subsection (a)(2), consideration shall be given to the following:

"(A) The relevant findings of appropriate international organizations and nongovernmental organizations.

"(B) The extent of cooperation by the government in question in permitting an unimpeded investigation by indigenous nongovernmental organizations, other nongovernmental organizations, and international organizations (such as the International Committee of the Red Cross), of alleged violations of internationally recognized human rights.

"(C) Specific actions that have been taken by the President or the Congress relating to the human rights practices of the government in question.

"(D) The likely effect that a determination of ineligibility under this subsection is expected to have on the human rights process of the country concerned.

"(f) TERRORIST COUNTRIES.—The President shall promptly report to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate the rescission of a determination that the government of a country repeatedly provides support for acts of international terrorism.

"(g) RELATED RESTRICTIONS ON ASSISTANCE.—

"(1) HUMAN RIGHTS VIOLATORS.—Subsection (a)(2) shall be deemed to prohibit, in addition to the furnishing of assistance under this Act—

"(A) sales of defense articles, defense services, or design and construction services under the Defense Trade and Export Control Act;

"(B) licenses under section 38 of the Defense Trade and Export Control Act with respect to the export of defense articles or defense services to or for the armed forces, police, intelligence, or other internal security forces of a foreign country; and

"(C) licenses required under the Export Administration Act of 1979 for the export of crime control and detection instruments and equipment.

"(2) TERRORIST COUNTRIES.—Subsection (a)(5) shall be deemed to prohibit, in addition to the furnishing of assistance under this Act, the furnishing of assistance under the Agricultural Trade Development and Assistance Act of 1954 and the Peace Corps Act, and the provision of loans, guaranties, and insurance under the Export-Import Bank Act of 1945.

"(3) MAJOR ILLICIT DRUG PRODUCING AND MAJOR DRUG TRANSIT COUNTRIES.—

"(A) Subsection (a)(7) shall be deemed to prohibit, in addition to the furnishing of assistance under this Act, (i) sales under the Defense Trade and Export Control Act, (ii) the provision of agricultural commodities other than food under the Agricultural Trade Development and Assistance Act of 1954, and (iii) loans, guarantees and insurance under the Export-Import Bank Act of 1945.

"(B) Notwithstanding subparagraph (A), subsection (a)(7) shall not be deemed to prohibit (i) assistance under chapter 4 of title I; (ii) disaster relief assistance, including any assistance under chapter 6 of title I; (iii) assistance that involves the provision of food (including monetization of food) or medicine; (iv) assistance for refugees; and (v) assistance for narcotics education and awareness activities under title I.

"(C) With respect to any country for which assistance is prohibited under section (a)(7), the President should instruct the United States Executive Director of the International Bank for Reconstruction and Development, the United States Executive Director of the International Development Association, the United States Executive Director of the Inter-American Development Bank, and the United States Executive Director of the Asian Development Bank to vote, during the period in which assistance is prohibited under subsection (a)(7), against any loan or other utilization of the funds of their respective institution to or for any major illicit drug producing country or major drug-transit country, except as provided in subsection (b).

"SEC. 4202. POLICE TRAINING.

"(a) PROHIBITION.—None of the funds made available to carry out this Act, and none of the local currencies generated under this Act, shall be used to provide training or advice, or provide any financial support for law enforcement functions of police, prisons, or other law enforcement forces for any foreign government or any program of internal intelligence or surveillance on behalf of any foreign government within the United States or abroad.

"(b) EXCEPTIONS.—Subsection (a) of this section shall not apply with respect to—

"(1) assistance provided for counter-narcotics purposes, including narcotics control assistance under chapter 4 of title I;

"(2) assistance, including training, in maritime law enforcement and other maritime skills;

"(3) assistance for a country which has a longstanding democratic tradition, does not have standing armed forces, and does not engage in a consistent pattern of gross violations of internationally recognized human rights;

"(4) assistance in protecting and maintaining wildlife habitats and in developing sound wildlife management and plant conservation programs;

"(5) assistance provided under chapter 7 of title II;

"(6) with respect to assistance provided for police forces in connection with their participation in the regional security system of the Eastern Caribbean states; or

"(7) such other assistance as the President determines to be appropriate.

"SEC. 4203. COUNTRIES IN ARREARS ON ASSISTANCE REPAYMENTS.

"Assistance may not be furnished under this Act to the government of any country which is more than 1 year in arrears to the United States Government on any payment of interest or principal on any loan made or credit extended under this Act or under the former authorities of section 23 or section 24 of the Arms Export Control Act, unless the President determines that assistance to such government is in the national interest and notifies the Speaker of the House of Representatives and the Chairman of the Committe on Foreign Relations of the Senate of such determination.

"SEC. 4204. FAMILY PLANNING ACTIVITIES.

"(a) ABORTIONS AND INVOLUNTARY STERILIZATIONS.—Funds made available to carry out title I may not be—

"(1) used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions;

"(2) used to pay for the performance of involuntary sterilizations as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations;

"(3) used to pay for any biomedical research which relates, in whole or in part, to methods of, or the performance of, abortions or involuntary sterilizations as a means of family planning;

"(4) made available to any organization or program which (as determined by the President) supports, or participates in the management of, a program of coercive abortion or involuntary sterilization; or

"(5) made available to any foreign nongovernmental organization which performs or actively promotes abortion as a method of family planning.

"(b) REFERRAL.—In order to reduce reliance on abortion in developing countries, funds allocated under provisions of title I for voluntary family planning projects shall be available only for projects which offer, either directly or through referral to or information about access to, a broad range of family planning methods and services. In using such funds to award grants for natural family planning, no applicant shall be discriminated against becasue of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the first sentence of this subsection.

"SEC. 4205. COMPETITON WITH UNITED STATES EXPORTS.

"In determining whether to provide assistance under title I of this Act, the President should take into consideration whether such assistance would be furnished for direct support for any project or activity that is specifically designed to increase exports of any agricultural, textile, or apparel commodity from a developing country where such exports—

"(1) would be in direct competition with United States exports, and

"(2) can reasonably be expected to cause substantial injury to United States exporters of the same or substantially similar commodity.

"SEC. 4206. NUCLEAR NON-PROLIFERATION.

"Section 4201(a)(6) shall apply to—

"(a) a country that, on or after the date of enactment of the International Security Assistance Act of 1977, delivers nuclear enrichment equipment, materials, or technology to a non-nuclear weapon state or, if a non-nuclear weapon state, receives such equipment, materials, or technology from any other country, unless before such delivery—

"(1) the supplying country and receiving country have reached agreement to place all such equipment, materials, or technology, upon delivery, under multilateral auspices and management when available; and

"(2) the recipient country has entered into an agreement with the International Atomic Energy Agency to place all such equipment, materials, technology, and all nuclear fuel and facilities in such country under the safeguards system of such Agency;

"(b) a country that—

"(1) on or after the date of enactment of the International Security Assistance Act of 1977, delivers nuclear reprocessing equipment, materials, or technology to a non-nuclear weapon state or, if a non-nuclear weapon state, receives such equipment, materials, or technology from any other country (except for the transfer of reprocessing technology associated with the investigation, under international evaluation programs in which the United States participates, of technologies which are alternatives to pure plutonium reprocessing); or

"(2) is a non-nuclear weapon state which, on or after the date of enactment of the International Security and Development Corporation Act of 1985, exports illegally or attempts to export illegally from the United States any material, equipment, or technology which would contribute significantly to the ability of such country to manufacture a nuclear explosive device, if the President determines that the material, equipment, or technology was to be used by such country in the manufacture of a nuclear explosive device; for purposes of this subparagraph, an export or attempted export by a person who is an agent of, or is otherwise acting on behalf of or in the interests of, a country shall be considered to be an export or attempted export by that country; or

"(c) a country that, on or after the date of enactment of the International Security Assistance Act of 1977—

"(1) transfers a nuclear explosive device to a non-nuclear weapon state, or

"(2) is a non-nuclear weapon state and either—

"(A) receives a nuclear explosive device, or

"(B) detonates a nuclear explosive device.

"SEC. 4207. MAJOR ILLICIT DRUG PRODUCING AND DRUG TRANSIT COUNTRIES.

"(a) APPLICATION OF RESTRICTION.—Section 4201(a)(7) shall apply to any major illicit drug producing country and any major drug-transit country if the President determines, at the time of the submission of the report required by section 1406, that during the previous fiscal year the country has not cooperated with the United States, and has otherwise not taken adequate steps to control the illicit cultivation, production, and smuggling of, trafficking in, and abuse of narcotic and psychotropic drugs. The President may rescind such a determination, and section 4201(a)(7) shall cease to apply, if the President subsequently determines that the country has resumed cooperating with the United States, or otherwise has taken adequate steps to control the illicit cultivation, production, and smuggling of, trafficking in, and abuse of narcotic and psychotropic drugs.

"(b) In implementing subsection (a), the President should consider the extent to which the country has—

"(1) accomplished the goals described in an applicable bilateral narcotics agreement with the United States or a multilateral agreement;

"(2) investigated and immobilized major organizations involved in the production, processing, or distribution of narcotics and dangerous drugs;

"(3) achieved significant increases in seizures of the proceeds and instrumentalities of the illicit drug trade;

"(4) achieved significant reductions, where applicable, in the net production of illicit narcotic crops through forced or voluntary eradication efforts;

"(5) prevented and punished the laundering in that country of drug-related monies;

"(6) prevented and punished public corruption that facilitates the production, processing, or shipment of narcotic and psycho-

tropic drugs and other controlled substances, or that discourages the investigation or prosecution of such acts;

"(7) processed expeditiously United States and other extradition requests related to narcotics trafficking;

"(8) increased public awareness of the heinous nature of drug abuse and reduced the demand and the consumption of narcotics and dangerous drugs;

"(9) if it is a producer of licit opium, taken steps to prevent significant diversion of its licit cultivation and production into the illicit market, to maintain production of stockpiles at levels no higher than those consistent with licit market demands, and to prevent illicit cultivation and production.

"SEC. 4208. ASSISTANCE FOR ELECTIONS.

"Funds made available for economic assistance under title I that are used to enhance the independence and performance of electoral processes may not be used for the purpose of influencing the outcome of any election in any country.

SEC. 4209. DUTIES OF A NONCOMBATANT NATURE.

"(a) LIMITATION.—Members of the Armed Forces assigned or detailed to provide defense services under chapter 2 of title II, provide military education and training under chapter 5 of title II, or perform functions under chapter 4 of title II, may not perform duties of a combatant nature, including any duty related to training and advising that may engage United States Armed Forces personnel in combat activities outside the United States in connection with the performance of those defense services.

"(b) EXCEPTION.—Subsection (a) shall not apply if the President determines, and reports to the Congress, that its application would not be in the national interest of the United States.

"CHAPTER 3—REPORTS AND NOTIFICATIONS TO CONGRESS

"SEC. 4301. CONGRESSIONAL PRESENTATION DOCUMENTS FOR ECONOMIC ASSISTANCE.

"(a) REQUIREMENT FOR SUBMISSION.—The President shall prepare, and submit to the Congress in a timely manner, annual congressional presentation documents for economic assistance programs under title I.

"(b) MATERIALS FOR DEVELOPMENT AND ECONOMIC SUPPORT ASSISTANCE.—For assistance under chapters 2 and 3 the documents submitted pursuant to subsection (a) shall include the following:

"(1) The rationale for the allocation of assistance to each country, regional program, or centrally funded program. In the case of economic support assistance, this rationale shall include a justification for the provision of economic support assistance and for the particular use of that assistance.

"(2) A brief description of each country program, regional program, and centrally funded program, including—

"(A) in the case of development assistance, a discussion of how each program supports, as appropriate, the goals set forth in section 1 of this Act; and

"(B) in the case of economic support assistance, a discussion of the extent to which each program supports the goals set forth in section 1.

"(3) A description of new activities to be undertaken in the coming fiscal year.

"(c) OTHER TITLE I PROGRAMS.—The documents submitted pursuant to subsection (a) shall include for each economic assistance program under title I (other than those programs specified in subsection (b)—

"(1) a summary of program activities for the previous year; and

"(2) a description of activities anticipated in the current fiscal year and the coming fiscal year.

"SEC. 4302. HUMAN RIGHTS POLICY AND REPORTS.

"(a) PROMOTION OF HUMAN RIGHTS.—It is the sense of the Congress that the United States should, in accordance with its international obligations as set forth in the Charter of the United Nations and in keeping with the constitutional heritage and traditions of the United States, promote and encourage increased respect for human rights and fundamental freedoms throughout the world without distinction as to race, sex, language, or religion.

"(b) CONDUCT OF ASSISTANCE AND MILITARY SALES PROGRAMS.—In furtherance of subsection (a), the President should formulate and conduct United States assistance and military sales programs in a manner which will—

"(1) promote and advance human rights;

"(2) strengthen a relationship between civilian and military sectors appropriate to a democratic system of government; and

"(3) avoid identification of the United States, through these programs, with governments which deny to their people internationally recognized human rights and fundamental freedoms in violation of international law or in contravention of the policy of the United States as expressed in this section or otherwise.

"(c) MATTERS TO BE CONSIDERED.—In carrying out subsection (b) and in preparing the annual reports required by subsection (d), consideration should be given to the following:

"(1) The relevant findings of appropriate international organizations and nongovernmental organizations.

"(2) The extent of cooperation by the government in question in permitting an unimpeded investigation by indigenous nongovernmental organizations, other nongovernmental organizations, and international organizations (such as the International Committee of the Red Cross), of alleged violations of internationally recognized human rights.

"(d) ANNUAL HUMAN RIGHTS REPORT.—In furtherance of subsections (a) and (b), the President shall transmit to the Congress, not later than February 28 each year, a full and complete report with respect to practices regarding the observance of and respect for internationally recognized human rights in every foreign country that is a member of the United Nations. Wherever appropriate, such reports shall include information on practices regarding coercion in population control, including coerced abortion and involuntary sterilization.

"(e) INFORMATION TO BE PROVIDED.—Each annual report under subsection (d), shall include—

"(1) information about observance of and respect for human rights and fundamental freedom in the country in question, and

"(2) a detailed description of practices by the recipient government with respect to human rights and fundamental freedom, including where appropriate information provided by organizations, including nongovernmental organizations.

"SEC. 4303. ANNUAL ALLOCATION REPORT.

"(a) REPORT ON ALLOCATIONS OF ASSISTANCE.—Not later than 30 days after the enactment of any law appropriating funds to carry out any provision of this Act, the President shall notify the Congress of—

"(1) each foreign country and international organization to which the United States Government intends to provide any portion of the funds under such law; and

"(2) the amount of funds under that law, by category of assistance, that the United States Government intends to provide to each such country or organization.

"(b) EXCEPTIONS.—Subsection (a) does not apply with respect to—

"(1) funds appropriated under section 1801 or section 1802 for operating expenses of the administering agency for title I; or

"(2) any law making continuing appropriations.

"SEC. 4304. NOTIFICATION OF PROGRAM CHANGES.

"(a) INCREASED ASSISTANCE AND NEW PROGRAMS.—Unless the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate are notified at least 15 days in advance, funds appropriated for a fiscal year to carry out this Act may not be obligated for the following:

"(1) INCREASE IN ASSISTANCE LEVEL.—Any assistance under any provision of this Act—

"(A) for a country or international organization for which assistance under that provision was not justified in congressional presentation documents for that fiscal year, or

"(B) in excess of the amount justified in the congressional presentation document and allocated pursuant to section 4303, whichever is greater, for that country or organization under that provision for that fiscal year.

"(2) NEW ACTIVITIES.—Any economic assistance for a program, project, or activity under any provision of this Act—

"(A) which was not justified in congressional presentation documents for that fiscal year; and

"(B) for which assistance was not furnished for the preceding fiscal year.

"(b) CONGRESSIONAL PRESENTATION DOCUMENTS.—For purposes of this section, the term 'congressional presentation documents' means the annual congressional presentation documents for assistance under this Act or the justification documents accompanying a request for supplemental authorizations of appropriations or supplemental appropriations for assistance under this Act.

"(c) APPROPRIATIONS SUBJECT TO REQUIREMENTS.—Subsection (a) applies with respect to all funds appropriated for assistance under this Act (including chapter 4 of title I relating to narcotics control) other than—

"(1) title III (relating to the Overseas Private Investment Corporation and the Trade Development Agency),

"(2) section 1111 (relating to the private sector investment guaranty program),

"(3) section 1112 (relating to the housing and urban development guarantee program), and

"(4) programs of disaster relief and rehabilitation, including assistance programs under chapter 6 of title I (relating to international disaster assistance).

"(3) EMERGENCY EXCEPTIONS.—

"(1) WAIVER.—Subsection (a), or any similar requirement to provide advance notification to the Congress or congressional committees, may be waived if the President determines that doing so is necessitated by emergency circumstances.

"(2) EXERCISE OF AUTHORITY.—In the case of any waiver under paragraph (1) notification to the Congress or the appropriate Congressional committees shall be provided as

early as practicable, but in no event later than three days after taking the action to which such notification requirement was applicable. Any notification under this paragraph shall contain an explanation of the circumstances necessitating the use of the authority of this subsection.

TITLE V—GENERAL PROVISIONS

SEC. 501. CONSOLIDATION AND REVISION OF ADMINISTRATIVE AUTHORITIES AND ELIMINATION OF OBSOLETE PROVISIONS.

The Foreign Assistance Act of 1961, as amended by the preceding titles of this Act, is amended by adding the following new title V after new title IV (as enacted by title IV of this Act):

"TITLE V—GENERAL PROVISIONS

"CHAPTER 1—EXERCISE AND COORDINATION OF FUNCTIONS

"SEC. 5101. DELEGATIONS BY THE PRESIDENT.

"(a) IN GENERAL.—The President may exercise any functions conferred upon the President by this Act through such agency or officer of the United States Government as the President shall direct.

"(b) AUTHORITY TO ISSUE REGULATIONS AND DELEGATE.—The head of any agency or officer exercising functions under this Act—

"(1) may from time to time promulgate such rules and regulations as may be necessary to carry out such functions; and

"(2) may delegate authority to perform any such functions, including, if he or she shall so specify, the authority successively to redelegate any of such functions to a subordinate.

"SEC. 5102. DESIGNATION OF ADMINISTERING AGENCY FOR TITLE I.

"The President may exercise his functions for administering economic assistance programs under title I primarily through a single agency, which the President may designate.

"SEC. 5103. AUTHORITY TO ESTABLISH MISSIONS ABROAD.

"(a) AUTHORITY.—The President may maintain special missions or staffs outside the United States in such countries and for such periods of time as may be necessary to carry out this Act.

"(b) CHIEF OF MISSION.—Each such special mission or staff shall be under the direction of a chief.

"(c) SMALLER ECONOMIC ASSISTANCE PROGRAMS.—In the case of smaller programs, economic assistance under title I may be administered under the direction of the chief of the United States diplomatic mission by the principal economic officer of the mission.

"SEC. 5104. PRESIDENTIAL FINDINGS AND DETERMINATIONS.

"(a) FINDINGS AND DETERMINATIONS TO BE WRITTEN AND SIGNED.—In any case in which the President is required to make a report by any provision of this Act, the Defense Trade and Export Control Act, annual foreign assistance authorization legislation, or the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act, to the Congress or to any committee or officer of either House of Congress concerning any finding or determination, that finding or determination shall be reduced to writing and signed by the President.

"(b) RESTRICTION.—No action shall be taken pursuant to any such finding or determination prior to the date on which that finding or determination has been reduced to writing and signed by the President.

"(c) PUBLICATION IN FEDERAL REGISTER.—Each such finding or determination shall be published in the Federal Register as soon as practicable after it has been reduced to writing and signed by the President. In any case in which the President concludes that such publication would be harmful to the national security of the United States, only a statement that a determination or finding has been made by the President, including the name and section of the Act under which it was made, shall be published.

"CHAPTER 2—ADMINISTRATIVE AUTHORITIES

"SEC. 5201. ALLOCATION OF FUNDS AND REIMBURSEMENT AMONG AGENCIES.

"(a) IN GENERAL.—The President may allocate or transfer to any agency of the United States Government any part of any funds available for carrying out this Act, including any advance to the United States Government by any country or international organization for the procurement of commodities or services. Such funds shall be available for obligation and expenditure for the purposes for which authorized, in accordance with authority granted in this Act or under authority governing the activities of the agency of the United States Government to which such funds are allocated or transferred.

"(b) PROCUREMENT FROM OTHER AGENCIES.—

"(1) AUTHORITY.—Any officer of the United States Government carrying out functions under this Act may utilize the services or defense services and the facilities of, or procure commodities or defense articles from, any agency of the United States Government as the President shall direct, or with the consent of the head of such agency.

"(2) SEPARATE ACCOUNT.—Funds allocated pursuant to this subsection to any such agency may be established in separate appropriation accounts on the books of the Treasury.

"(c) NONMILITARY ASSISTANCE.—

"(1) REIMBURSEMENT TO AGENCIES.—In the case of any commodity, service, or facility procured from any agency of the United States Government to carry out any provision of title I, reimbursement or repayment shall be made to such agency from funds available to carry out that provision.

"(2) AMOUNT OF REIMBURSEMENT.—Such reimbursement or payment shall be at—

"(A) replacement cost,

"(B) if required by law, actual cost,

"(C) in the case of services procured from the Department of Defense to carry out chapter 4 of title I, the amount of additional costs incurred by the Department of Defense in providing such services, or

"(D) at any other price authorized by law and agreed to by the owning or disposing agency.

"(3) CREDITING OF REIMBURSEMENT.—The amount of any such reimbursement or payment—

"(A) shall be credited to current applicable appropriations, funds, or accounts, from which there may be procured replacements of similar commodities, services, or facilities; or

"(B) shall be deposited into the Treasury as miscellaneous receipts if such appropriations, funds, or accounts are not reimbursable except by reason of this subsection and if the owning or disposing agency determines that such replacement is not necessary.

"(d) MILITARY ASSISTANCE.—

"(1) REIMBURSEMENT TO AGENCIES.—Except as otherwise provided, reimbursement shall be made to any agency of the United States Government, from funds available for use under title II, for any assistance furnished under title II from, by, or through such agency.

"(2) AMOUNT OF REIMBURSEMENT.—Such reimbursement shall be—

"(A) in an amount equal to the value of the defense articles, the defense services (excluding salaries of members of the Armed Forces), or other assistance furnished, plus

"(B) expenses arising from or incident to operations under title II (excluding salaries of members of the Armed Forces and unfunded estimated costs of civilian retirement and other benefits).

"(3) CREDITING TO APPROPRIATION.—The amount of such reimbursement shall be credited to the current applicable appropriations, funds, or accounts of such agency.

"(e) ESTABLISHMENT OF ACCOUNTS.—

"(1) AUTHORITY TO ESTABLISH; USES.—In furnishing assistance under this Act, accounts may be established on the books of any agency of the United States Government or, on terms and conditions approved by the Secretary of the Treasury, in banking institutions in the United States—

"(A) against which letters of commitment may be issued which shall constitute recordable obligations of the United States Government, and moneys due or to become due under such letters of commitment shall be assignable under the last sentence of section 3727(b) and section 3727(c) of title 31, United States Code, and the second and third paragraphs of section 3737 of the Revised Statutes of the United States (41 U.S.C. 15); and

"(B) from which disbursements may be made to, or withdrawals may be made by, recipient countries or agencies, organizations, or persons upon presentation of contracts, invoices, or other appropriate documentation.

"(2) ACCOUNTING FOR EXPENDITURES.—Expenditure of funds which have been made available through accounts established under paragraph (1) shall be accounted for on standard documentation required for expenditure of funds of the United States Government.

"(f)(1) EXPORT-IMPORT BANK.—Credits made by the Export-Import Bank of the United States with funds allocated to the Bank under subsection (a) of this section shall not be considered in determining whether the Bank has outstanding at any one time loans and guaranties to the extent of the limitations imposed by section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635e) or related appropriations Acts.

"(2) OVERSEAS PRIVATE INVESTMENT CORPORATION.—Loans guaranties, or investments made by the Overseas Private Investment Corporation with funds—

"(A) allocted under subsection (a) of this section or transferred from other sources, public or private, or

"(B) received in foreign currency by the Corporation as a result of insurance activities conducted pursuant to section 3104(a) of this Act.

shall not be considered in determining whether the Corporation has made or has outstanding loans, guaranties, or investments to the extent of any limitation on obligations, commitments, and equity investments imposed by or pursuant to this Act.

"(3) CREDIT REFORM.—The provisions of section 504(b) of the Federal Credit Reform Act of 1990 shall not apply to direct loan obligations or loan guarantee commitments, including insurance provided under the Export-Import Bank Act of 1945, made with funds described—

"(A) in paragraphs (1) or (2)(A) of this subsection to the extent that an amount equivalent to their cost (as defined in section 502(5) of such Act) is transferred to the associated

financing account established pursuant to such Act: *Provided*, That the Committees on Appropriations and Foreign Affairs of the House of Representatives and the Committees on Appropriations and Foreign Relations of the Senate are notified at least ten days before any such transfer, or

"(B) in paragraph (2)(B) of this subsection.

"(g) CHARGING TO APPROPRIATIONS.—

"(1) INITIAL CHARGING.—Any appropriation or account available to carry out provisions of title I may initially be charged in any fiscal year, within the limit of available funds, to finance expenses for which funds are available in other appropriations or accounts under that title.

"(2) FINAL CHARGING.—As of the end of such fiscal year, such expenses shall be finally charged to applicable appropriations or accounts with proper credit to the appropriations or accounts initially utilized for financing purposes, except that such final charges shall not be required in the case of expenses (other than those provided under sections 1801 and 1802) incurred in furnishing assistance where it is determined that the accounting costs of identifying the applicable appropriation or account to which such expenses should be charged would be disproportionate to the advantage to be gained.

"SEC. 5202. GENERAL AUTHORITIES.

"(a) TERMS OF ASSISTANCE.—Except as otherwise specifically prohibited in this Act, assistance under this Act may be furnished on a grant, loan, or guaranty basis, or on such terms, including cash, credit, or other terms of repayment (including repayment in foreign currencies or by transfer to the United States Government of commodities), as may be determined to be best suited to the achievement of the purposes of this Act.

"(b) TERMS AND CONDITIONS.—The President may furnish assistance under this Act on such terms and conditions (consistent with other provisions of law) as the President deems appropriate, and, consistent with the provisions of this Act, may charge such fees for guarantees and loans under this Act as the President deems appropriate.

"(c) ADVANCES, CONTRACTS, ETC.—In furtherance of the purposes and within the limitations of this Act, the President may make loans, advances, and grants to, make and perform agreements and contracts with, or enter into other transactions with, any person, corporation, or other body of persons, any government or government agency, regional organization, and any international organization.

"(d) GIFTS.—The President may accept and use in furtherance of the purposes of this Act, money, funds, property, and services of any kind made available by gift, devise, bequest, grant, or otherwise for such purpose.

"(e) INSURANCE.—

"(1) FOREIGN PARTICIPANTS.—Any agency of the United States Government is authorized to pay the cost of health and accident insurance for foreign participants in any program of furnishing assistance administered by such agency while such participants are absent from their homes for the purpose of participation in such program.

"(2) FOREIGN EMPLOYEES.—Any agency of the United States Government is authorized to pay the cost of health and accident insurance for foreign employees of that agency while those employees are absent from their places of employment abroad for purposes of training or other official duties.

"(f) ADMISSION TO UNITED STATES.—Alien participants in any program of furnishing assistance under this Act may be admitted to the United States if otherwise qualified as nonimmigrants under section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), for such time and under such conditions as may be prescribed by regulations promulgated by the Secretary of State and the Attorney General.

"(g) ASSISTANCE AUTHORITIES.—In furnishing and administering assistance under this Act, the President—

"(1) may issue letters of credit and letters of commitment;

"(2) may collect, compromise, or otherwise settle any obligations assigned to, or held by, and any legal or equitable rights accruing to, the President and may (as the President deems appropriate) refer any such obligations or rights to the Attorney General for suit or collection;

"(3) may—

"(A) acquire and dispose of (upon such terms and conditions as the President deems appropriate) any property, including any instrument evidencing indebtedness or ownership, and

"(B) guarantee payment against any such instrument;

"(4) may establish the character of, and decide the necessity for, obligations and expenditures of funds used in furnishing and administering such assistance and the manner in which such obligations and expenditures shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to corporations of the United States Government; and

"(5) shall cause to be maintained an integral set of accounts which shall be audited by the General Accounting Office in accordance with principles and procedures applicable to commercial corporate transactions as provided by chapter 91 of title 31, United States Code.

"(h) CLAIMS RELATING TO GUARANTEES.—Claims arising as a result of any guarantee program authorized by this Act may be settled, and disputes arising as the result thereof may be arbitrated with the consent of the parties, on such terms and conditions as the President may direct. Payment made pursuant to any such settlement, or as a result of an arbitration award, shall be final and conclusive notwithstanding any other provision of law.

"(i) FINANCIAL TRANSACTIONS WITH FOREIGN GOVERNMENTS IN DEFAULT OF OBLIGATIONS TO THE UNITED STATES.—Section 955 of title 18, United States Code, shall not apply to any person—

"(1) who acts for or participates in any operation or transaction arising under this Act, or

"(2) who acquires any obligation issued in connection with any operation or transaction arising under this Act.

"(j) EDUCATIONAL INSTITUTIONS.—Any cost-type contract or agreement (including grants) entered into with an institution of higher education for the purpose of carrying out programs authorized by title I may provide for the payment of the reimbursable indirect costs of that institution on the basis of predetermined fixed-percentage rates applied to the total or an element thereof, of the reimbursable direct costs incurred.

"(k) MULTIYEAR COMMITMENTS.—A contract or agreement which entails commitments for the expenditure of funds under this Act may, subject to any future action of the Congress, extend at any time for not more than 10 years.

"SEC. 5203. AUTHORIZED ADMINISTRATIVE USES OF FUNDS.

"(a) PERSONNEL, PRINTING, PROCUREMENT OF SUPPLIES, AND OTHER ADMINISTRATIVE EXPENSES.—Funds made available to carry out this Act may be used for the following:

"(1) Compensation, allowances, and travel of personnel, including Foreign Service personnel, whose services are utilized primarily for the purposes of this Act.

"(2) Printing and binding without regard to the provisions of any other law.

"(3) Expenditures outside the United States for the procurement of supplies and services and for other administrative and operating purposes (other than compensation of personnel) without regard to such laws and regulations governing the obligation and expenditure of funds of the United States Government (other than sections 1341, 1342, and 1517 of title 31 United States Code) as may be necessary to accomplish the purpose of this Act.

"(b) Uses of Nonmilitary Assistance Funds.—

"(1) AUTHORIZED USES.—Funds described in paragraph (2) shall be available for the following:

"(A) Rent of buildings and space in buildings in the United States, and for repair, alteration, and improvements of such leased properties.

"(B) Expenses of attendance at meetings concerned with the purposes of title I, including (notwithstanding section 1346(a) and 1346(c) of title 31, United States Code), expenses in connection with meetings of persons whose employment is authorized by section 5503.

"(C) Contracting with individuals for personal service abroad. Such individuals shall not be regarded as employees of the United States Government for the purpose of any law administered by the Office of Personnel Management.

"(D) Purchase, maintenance, operation, and hire of aircraft, except that aircraft for administrative purposes may be purchased only as specifically provided for in an appropriation or other Act.

"(E)(i) Purchase and hire of passenger motor vehicles, subject to clauses (ii) and (iii).

"(ii) Except as may otherwise be provided in an appropriation or other Act, passenger motor vehicles for administrative purposes outside the United States may be purchased for replacement only. Such vehicles may be exchanged or sold and replaced by an equal number of such vehicles.

"(iii) Passenger motor vehicles other than one for the official use of the head of the agency designated under section 5102 may be purchased for use in the United States only as may be specifically provided in an appropriation or other Act

"(F) Entertainment.

"(G) Exchange of funds without regard to loss by exchange.

"(H) Expenditures (not to exceed $50,000 in any fiscal year except as may otherwise be provided in an appropriation or other Act) of a confidential character other than entertainment. A certificate of the amount of such expenditure, the nature of which it is considered inadvisable to specify, shall be made by the President, and every such certificate shall be deemed a sufficient voucher for the amount therein specified.

"(I) Insurance of official motor vehicles or aircraft acquired for use in foreign countries.

"(J)(i) Rent or lease outside the United States of offices, buildings, grounds, and quarters, including living quarters to house personnel, and payments therefor in advance for such period as the President may determine.

"(ii) Maintenace, furnishing, necessary repairs, improvements, and alterations to

properties owned or rented by the United States Government or made available for use to the United States Government outside the United States.

"(iii) Costs of fuel, water, and utilities for such properties.

"(K) EXPENSES OF—

"(i) preparing and transporting to their former homes (or with respect to foreign participants engaged in any program under title I to their former homes or places of burial), and

"(ii) caring for and disposing of the remains of an individual, or the remains of a member of an individual's family, who may die while such individual is away from home participating in activities carried out with funds described in paragraph (2).

"(L) Purchase of uniforms.

"(M) Payment of per diem in lieu of subsistence to foreign participants engaged in any program under title I while such participants are away from their homes in countries other than the United States, at rates not in excess of those prescribed by the standardized Government travel regulations, notwithstanding any other provision of law.

"(N) Use in accordance with authorities of the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.) not otherwise provided for.

"(O) Ice and drinking water for use outside the United States.

"(P) Services of commissioned officers of the National Oceanic and Atmospheric Administration. For the purposes of providing such services, the National Oceanic and Atmospheric Administration may appoint not to exceed 20 commissioned officers in addition to those otherwise authorized.

"(Q) EXPENSES IN CONNECTION WITH—

"(i) travel of personnel outside the United States, including travel expenses of dependents (including expenses during necessary stopovers while engaged in such travel);

"(ii) the transportation of personal effects, household goods, and automobiles of such personnel when any part of such travel or transportation begins in one fiscal year pursuant to travel orders issued in that fiscal year, notwithstanding the fact that such travel or transportation may not be completed during the same fiscal year; and

"(iii) the costs of transporting automobiles to and from a place of storage, and the costs of storing automobiles of such personnel, when it is in the public interest or more economical to authorize storage.

"(R) Assistance for the implementation of programs under the Agricultural Trade Development and Assistance Act of 1954, the Agricultural Act of 1949, and the Food for Progress Act of 1985.

"(2) FUNDS WHICH MAY BE USED.—Paragraph (1) applies to—

"(A) appropriations to carry out this Act (other than title II),

"(B) allocations to any agency of the United States Government, from other appropriations, for functions directly related to the purposes of this Act (other than title II), and

"(C) funds made available for other purposes to the agency designated under section 5102.

"(c) FACILITIES ABROAD.—

"(1) LIVING QUARTERS, OFFICES, SCHOOLS, AND HOSPITALS.—Notwithstanding any other provision of law, funds available for assistance under this Act may be used in any fiscal year (in addition to funds available for such use under other authorities in this Act)—

"(A) to construct or otherwise acquire outside the United States essential living quarters, office space, and necessary supporting facilities for use of personnel carrying out activities authorized by this Act;

"(B) to construct or otherwise acquire outside the United States schools (including dormitories and boarding facilities) and hospitals for use of personnel carrying out activities authorized by this Act, United States Government personnel, and their dependents; and

"(C) to staff, operate, and maintain such schools and hospitals.

"(2) DISPOSAL.—Overseas property acquired under this subsection (or predecessor provisions of this Act) may be disposed of, and the proceeds of such disposal shall remain available until expended for use of the purposes specified in paragraph (1).

"(d) EDUCATION OF DEPENDENTS.—Funds available for assistance under this Act may be used in any fiscal year to provide assistance to schools established, or to be established, outside the United States whenever it is determined that such action would be more economic or would best serve the interests of the United States in providing for the education of dependents of personnel carrying out activities authorized by this Act and dependents of United States Government personnel, in lieu of acquisition or construction pursuant to subsection (c) of this section.

"(e) TRAINING OF PERSONNEL.—

"(1) PAYMENT OF COSTS.—Funds available under this Act may be used to pay costs of training United States citizen personnel employed or assigned pursuant to section 5502(c), through interchange or otherwise, at any State or local unit of government, public or private nonprofit institution, trade, labor, agricultural, or scientific association or organization, or commercial firm.

"(2) LIMITATION ON DUAL EMPLOYMENT.—Such training shall not be considered employment or holding of office under section 5533 of title 5, United States Code.

"(3) ACCEPTANCE OF CERTAIN PAYMENT.—Any payment or contributions in connection with such training may, as deemed appropriate by the head of the agency of the United States Government authorizing such training, be made by private or public sources and be accepted by any trainee, or may be accepted by and credited to the current applicable appropriation of such agency. Any such payments or contributions to any employee in the nature of compensation shall be in lieu, or in reduction, or compensation received from the United States Government.

"(f) DETAIL OF PERSONNEL.—Funds made available for title I may be used to reimburse an agency of the United States Government, an agency of a State government, or an institution of higher education for the full costs of any employee which that agency or institution details or assigns to the agency designated under section 5102 to carry out programs under title I that require specialized technical skills.

"(g) MILITARY ASSISTANCE FUNDS.—Funds made available for the purposes of title II shall be available for the following:

"(1) Administrative, extraordinary (not to exceed $300,000 in any fiscal year), and operating expenses incurred in furnishing defense articles and defense services under chapter 2 or chapter 5 of title II or on a sale or lease basis under the Defense Trade and Export Control Act.

"(2) Reimbursement of actual expenses of military officers detailed or assigned as tour directors in connection with orientation visits of foreign military and related civilian personnel, in accordance with the provisions of section 5702 of title 5, United States Code, applicable to civilian officers and employees.

"(3) Maintenance, repair, alteration, and furnishing of United States-owned facilities in the District of Columbia or elsewhere for the training of foreign military and related civilian personnel without regard to the provisions of section 3733 of the Revised Statutes (41 U.S.C. 12) or other provision of law requiring a specific authorization or specific appropriation for such public contracts.

"CHAPTER 3—SPECIAL REQUIREMENTS AND AUTHORITIES RELATING TO APPROPRIATIONS AND LOCAL CURRENCIES

"Subchapter A—Provisions Relating to Appropriations

"SEC. 5301. REQUIREMENT FOR AUTHORIZATION OF APPROPRIATIONS.

"(a) REQUIREMENT FOR AUTHORIZATION.—Funds appropriated for foreign assistance under this Act shall not be available for obligation or expenditure—

"(1) unless the appropriation thereof has been specifically authorized by law; or

"(2) in excess of an amount prescribed by law.

"(b) SUBSEQUENT AUTHORIZATIONS.—To the extent that legislation enacted after the making of an appropriation for foreign assistance under this Act authorizes the obligation or expenditure thereof, the limitation contained in subsection (a) shall not apply.

"(c) RELATION TO OTHER PROVISIONS.—The provisions of this section shall not be superseded except by a provision of law that specifically repeals of modifies the provisions of this section.

"SEC. 5302. AUTHORITY FOR EXTENDED PERIOD OF AVAILABILITY OF APPROPRIATIONS.

"Amounts appropriated to carry out this Act are authorized to be made available, in appropriations Acts, until expended.

"SEC. 5303. REDUCTION IN EARMARKS.

"(a) PROPORTIONAL REDUCTIONS.—If—

"(1) the amount appropriated for a fiscal period to carry out any provision of this Act is less than the amount authorized to be appropriated to carry out such provision, and

"(2) the provision or provisions authorizing such appropriations provides that a specified amount of the amount authorized to be appropriated to carry out that provision for that fiscal period shall be available only for a particular country, organization, or purpose,

then the amount so specified shall be deemed to be reduced to the amount which bears the same ratio to the specified amount as the amount appropriated bears to the amount authorized to be appropriated.

"(b)(1) Funds may be made available notwithstanding any provision of law described in paragraph (2) if—

"(A) compliance with such provision is made impossible by operation of law, or

"(B) the President determines that the country or organization for whom such funds would have been made available has significantly reduced its military, political, or economic cooperation with the United States during the preceding 12 month period.

"(2) The provisions of law to which this subsection applies are any provisions requiring that a specified amount of funds appropriated tro carry out any provision of this Act shall be available only for a particular country, organization, or purpose.

"Subchapter B—Local Currencies

"SEC. 5321. SPECIAL ACCOUNTS FOR AND USE OF HOST-COUNTRY OWNED LOCAL CURRENCY

"(a) SPECIAL ACCOUNT.—If assistance is furnished to the government of a foreign country under title I under agreements which will result in the generation of local currencies of that country, and to the extent determined appropriate by the President to further the purposes of the Act, the President should—

"(1) requires that local currencies be deposited in a special account established by that government;

"(2) enter into an agreement with that government which sets forth—

"(A) the amount of the local currencies to be so generated, and

"(B) the terms and conditions under which the currencies so deposited may be utilized, consistent with this section; and

"(3) establish by agreement with that government the responsibilities of the United States and that government to monitor and account for deposits into and disbursements from the special account.

"(b) USES OF LOCAL CURRENCIES.—As may be agreed upon with the foreign government, local currencies deposited in a special account pursuant to subsection (a), or an equivalent amount of local currencies, shall be used only—

"(1) to carry out title I (as the case may be), for such purposes as—

"(A) project and sector assistance activities, or

"(B) debt and deficit financing; or

"(2) for the administrative requirements of the United States Government.

"(c) PROGRAMMING ACCOUNTABILITY.—The President shall take all appropriate steps to ensure that the equivalent of the local currencies disbursed pursuant to subsection (b)(1) from the special account established pursuant to subsection (a)(1) are used for the purposes agreed upon pursuant to subsection (a)(2).

"(d) TERMINATION OF ASSISTANCE PROGRAMS.—Upon termination of assistance to a country under title I, any unencumbered balances of funds which remain in a special account established pursuant to subsection (a) shall be disposed of for such purposes as may be agreed to by the government of that country and the United States Government.

"(e) APPLICABILITY OF REQUIREMENTS.—This section does not apply with respect to chapter 4 of title I or chapter 6 or 7 of title II.

"(f) DEFINITION.—For purposes of this section local currencies that are generated are those local currencies which result from the provision on non-project assistance disbursed as a cash transfer and where such local currencies represent a tangible flow of currency to the recipient government rather than an internal account transaction within such government.

"SEC. 5322. USE OF CERTAIN FOREIGN CURRENCIES OWNED BY THE UNITED STATES.

"(a) AUTHORITY TO USE FOREIGN CURRENCIES FOR ASSISTANCE PROGRAMS.—Except as otherwise provided in this Act or other provisions of law, foreign currencies described in subsection (b) are authorized to be appropriated for use in providing assistance under title I.

"(b) FOREIGN CURRENCIES WHICH MAY BE USED FOR ASSISTANCE.—The foreign currencies which may be used under subsection (a) are any foreign currencies received as a result of the furnishing of assistance under title I (or any predecessor legislation authorizing nonmilitary assistance) which are in excess of—

"(1) the amounts reserved under authority of section 105(d) of the Mutual Educational and Cultural Exchange Act of 1961 or any other Act relating to educational and cultural exchanges; and

"(2) the amounts required for payment by the agencies of the United States Government of their obligations outside the United States, as such requirements may be established from time to time by the President.

"(c) PAYMENT OF OBLIGATIONS OF GOVERNMENT AGENCIES.—Foreign currencies described in subsection (b) which are in excess of the amounts described in paragraph (1) of that subsection may be sold by the Secretary of the Treasury to agencies of the United States Government for payment of their obligations outside the United States.

"SEC. 5323. INTEREST ON U.S. OWNED FOREIGN CURRENCY PROCEEDS.

"(a) REQUIREMENT FOR PAYMENT OF INTEREST.—In cases where assistance is to be furnished to any recipient country under this Act on a basis which will result in the accrual of foreign currency proceeds to the United States, agreements with respect to such assistance should include provisions for the receipt of interest income on the foreign currency proceeds deposited in authorized depositories.

"(b) WAIVER OF REQUIREMENTS.—The President may waive any requirement for receipt of such income if the President decides it would not be in the national interest to conclude arrangements for the receipt of interest income pursuant to subsection (a).

"SEC. 5324. USE OF LOCAL CURRENCIES.

"In carrying out programs under this Act, the President shall take all appropriate steps to assure that, to the maximum extent possible countries receiving assistance under this Act contribute local currencies to meet the cost of contractual and other services rendered in conjunction with such programs.

"SEC. 5325. INTEREST ON LOCAL CURRENCY ACCRUING TO NONGOVERNMENTAL ORGANIZATIONS.

"A nongovernmental organization may invest local currencies which accrue to that organization as a result of assistance provided under title I, the Agricultural Trade Development and Assistance Act of 1954, section 416(b) of the Agricultural Act of 1949, or the Food for Progress Act of 1985, and any interest earned on such investment may be used for the purpose for which the assistance was provided to that organization including for the establishment of an endowment.

"CHAPTER 4—PROCUREMENT AND DISPOSITION OF COMMODITIES AND DEFENSE ARTICLES

"SEC. 5401. USE OF PRIVATE ENTERPRISE.

"(a) IN GENERAL.—In order to encourage and facilitate participation by private enterprise to the maximum extent practicable in achieving any of the purposes of this Act, the President shall—

"(1) to the maximum extent practicable carry out programs of assistance through private channels and, to the extent practicable, in conjunction with local private or governmental participation;

"(2) utilize wherever practicable the services of United States private enterprise to provide the necessary skills to develop and operate a specific project or program of assistance in a developing country or area in any case in which direct private investment is not readily encouraged, and provide where appropriate for the transfer of equity ownership in such project or program to private investors at the earliest feasible time.

"(b) TECHNICAL ASSISTANCE.—In providing technical assistance under this Act, the President shall utilize, to the fullest extent practicable, goods and professional and other services from private enterprise on a contract basis. In such fields as education, health, housing, engineering, surveying, mapping, construction or agriculture, the facilities and resources of Federal agencies, which do not administer programs under this Act, may be utilized when such facilities are particularly or uniquely suitable for technical assistance, are not competitive with private enterprise, and can be made available without interfering unduly with domestic programs.

"(c) MILITARY ASSISTANCE.—The President shall assure that there is made available to suppliers in the United States, and particularly to small independent enterprises, information with respect to purchases made by the Department of Defense pursuant to title II. Such information shall be furnished as far in advance as possible.

"SEC. 5402. PROCUREMENT STANDARDS AND PROCEDURES.

"(a) ESTABLISHMENT OF STANDARDS AND PROCEDURES.—Funds made available under this Act may be used for procurement outside the United States only if the President determines that such procurement will not result in adverse effects upon the economy of the United States or the industrial mobilization base which outweigh the economic or other advantages to the United States of less costly procurement outside the United States, and only if the price of any commodity procured in bulk is lower than the market price prevailing in the United States at the time of procurement, adjusted for differences in the cost of transportation to destination, quality, and terms of payment.

"(b) BULK COMMODITIES.—No funds made available under this Act shall be used for the purchase in bulk of any commodities at prices higher than the market price prevailing in the United States at the time of purchase, adjusted for differences in the cost of transportation to destination, quality, and terms of payment.

"(c) PROCUREMENT METHOD FOR INSTITUTIONS OF HIGHER EDUCATION.—The President may establish separate procurement standards and procedures for projects under title I to limit competition to a selection among institutions of higher education when the projects would benefit substantially from the resources and special capabilities of such institutions.

"SEC. 5403. SHIPPING ON UNITED STATES VESSELS.

"(a) CERTAIN LAWS NOT APPLICABLE.—The ocean transportation between foreign countries of commodities and defense articles purchased with foreign currencies made available or derived from funds made available under this Act or the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 and following), and transfers of fresh fruit and fresh fruit products under this Act, shall not be governed by section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. app. 1241(b)), or any other law relating to the ocean transportation of commodities on United States flag vessels.

"(b) SHIPPING DIFFERENTIAL.—For purposes of facilitating implementation of section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. app. 1241(b)), funds made available for development assistance and economic support assistance may be used to make grants to recipients or otherwise pay all or any por-

tion of such differential as is determined by the Secretary of Transportation to exist between United States and foreign-flag vessel charter or freight rates. Grants made under this section shall be paid with United States-owned foreign currencies wherever feasible.

"SEC. 5404. EXCESS AND OTHER AVAILABLE PROPERTY.

"(a) POLICY REGARDING USE OF EXCESS AND OTHER AVAILABLE PROPERTY.—In furnishing assistance under title I—

"(1) excess personal property, or

"(2) if a substantial savings would occur, other property already owned by an agency of the United States Government,

may be utilized wherever practicable in lieu of or supplementary to the procurement of new items for United States-assisted projects and programs.

"(b) SEPARATE ACCOUNT FOR EXPENSES RELATED TO PROPERTY.—

"(1) AUTHORITY TO MAINTAIN ACCOUNT.—The President is authorized to maintain in a separate account funds made available under title I. Funds in such a separate account shall (notwithstanding section 1535(d) of title 31, United States Code) be free from fiscal year limitations.

"(2) USE OF FUNDS IN THE ACCOUNT.—Funds in the separate account established under paragraph (1) may be used to pay costs (including personnel costs) of acquisition, storage, renovation and rehabilitation, packing, crating, handling, transportation, and related costs of—

"(A) property classified as domestic or foreign excess property pursuant to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 and following);

"(B) any property available from an agency of the United States Government; or

"(C) other property,

in advance of known requirements for the use of such property in furtherance of the purposes of title I.

"(3) USE OF PROPERTY ACQUIRED.—Property acquired pursuant to paragraph (2) may be furnished—

"(A) pursuant to any provision of title I (other than subchapter C of chapter 5 or chapter 8), for which funds are authorized for the furnishing of assistance, in which case the separate account established pursuant to this section shall be repaid from funds made available for such provision for all costs incurred; or

"(B) pursuant to subchapter C of chapter 5 of title I, in which case the separate account shall be repaid in accordance with section 1522 for all costs incurred.

"(c) CONDITIONS ON USE OF EXCESS PROPERTY.—

"(1) LIMITATION.—Government-owned excess property may not be made available for use under title I unless approval is given and a determination is made in accordance with paragraph (2)—

"(A) before the shipment of such property for use in a specified country, or

"(B) if the property is already in such country, before the transfer of the property.

"(2) DETERMINATION.—A shipment or transfer subject to paragraph (1) may take place only after the President approves the shipment or transfer and makes a written determination—

"(A) that there is a need for such property in the quantity requested and that such property is suitable for the purpose requested;

"(B) as to the status and responsibility of the designated end-user and his ability effectively to use and maintain such property; and

"(C) that the residual value, serviceability, and appearance of such property would not reflect unfavorably on the image of the United States and would justify the costs of packing, crating, handling, transportation, and other accessorial costs, and that the residual value at least equals the total of these costs.

"SEC. 5405. RETENTION AND USE OF CERTAIN ITEMS AND FUNDS.

"(a) RETENTION AND USE OF CERTAIN COMMODITIES AND DEFENSE ARTICLES.—

"(1) AUTHORITY TO RETAIN, TRANSFER, AND USE.—Any commodities or defense articles procured to carry out this Act shall be retained by, or (upon reimbursement) transferred to and for the use of, such agency of the United States Government as the President deems appropriate in lieu of being disposed of to a foreign country or international organization, whenever in the judgment of the President the best interests of the United States will be served thereby.

"(2) LAWS GOVERNING DISPOSAL OF GOVERNMENT PROPERTY.—Any commodities or defense articles so retained may be disposed of without regard to provisions of law relating to the disposal of property owned by the United States Government, when necessary to prevent spoilage or wastage of such commodities or defense articles or to conserve their usefulness.

"(3) PROCEEDS CREDITED TO APPROPRIATIONS.—Funds realized from any disposal or transfer shall revert to the respective appropriation, fund, or account used to procure such commodities or defense articles or to the appropriation, fund, or account currently available for the same general purpose.

"(b) COMMODITIES RECEIVED AS PAYMENT.—Whenever commodities are transferred to the United States Government as repayment of assistance under this Act, such commodities may be used in furtherance of the purposes and within the limitations of this Act.

"(c) FAILED TRANSACTIONS.—Funds realized as a result of any failure of a transaction financed under this Act to conform to the requirements of this Act, to applicable rules and regulations of the United States Government, or to the terms of any agreement or contract entered into under this Act, shall revert to the respective appropriation, fund, or account used to finance such transaction or to the appropriate fund, or account currently available for the same general purpose.

"(d) DISPOSAL OF DEFENSE ARTICLES.—Funds realized by the United States Government from the sale, transfer, or disposal of defense articles furnished under the former authority of chapter 2 of part II of this Act, and no longer needed for the purposes for which furnished, shall be credited to the respective appropriation, fund, or account currently available for the same general purpose.

"SEC. 5406. LAWS RELATING TO CONTRACTS AND GOVERNMENT EXPENDITURES.

"Whenever the President determines it to be in furtherance of the purposes of this Act, the functions authorized under this Act may be performed without regard to such provisions of law regulating the making, performance, amendment, or modification of contracts and the expenditure of funds of the United States Government as the President may specify.

"SEC. 5407. TRANSPORTATION CHARGES INCURRED BY THE RED CROSS OR PRIVATE VOLUNTARY ORGANIZATIONS.

"In order to further the efficient use of United States voluntary contributions for development and for the relief and rehabilitation of people in friendly countries, the President may use funds made available for assistance under title I, to pay transportation charges on shipments by the American National Red Cross and by registered United States private voluntary organizations.

"CHAPTER 5—PERSONNEL

"SEC. 5501. STATUTORY OFFICERS IN ECONOMIC ASSISTANCE AGENCY.

"(a) APPOINTMENT.—The President may appoint, by and with the advice and consent of the Senate, 12 officers in the agency designated pursuant to section 5102.

"(b) TITLE.—The President may designate the title of any officer appointed under subsection (a).

"(c) ORDER OF SUCCESSION.—The President may also fix the order of succession among the officers appointed under subsection (a) of this section in the event of the absence, death, resignation, or disability of one or more of those officers.

"SEC. 5502. EMPLOYMENT OF PERSONNEL.

"(a) AUTHORITY.—Any agency or officer of the United States Government carrying out functions under this Act is authorized to employ such personnel as the President deems necessary to carry out the provisions and purposes of this Act.

"(b) ECONOMIC ASSISTANCE FUNCTIONS IN THE UNITED STATES.—

"(1) APPOINTMENTS WITHOUT REGARD TO CERTAIN CIVIL SERVICE LAWS.—Of the personnel employed in the United States to carry out title I, 110 may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be compensated without regard to the provisions of chapter 51 or subchapter III of chapter 53 of such title, subject to paragraph (2) of this subsection.

"(2) COMPENSATION.—Of the personnel appointed under paragraph (1), 51 may be compensated at rates higher than those payable for GS–15 of the General Schedule under section 5332 of title 5, United States Code, but not in excess of the highest rate payable under section 5376 of such title.

"(3) REINSTATEMENT RIGHTS.—Under such regulations as the President may prescribe, any individual employed under paragraph (1) may be entitled, upon removal (except for cause) from the position to which the appointment was made, to reinstatement to the position occupied by that individual at the time of appointment or to a position of comparable grade and pay.

"(4) PROVISIONS NOT APPLICABLE TO OTHER NONMILITARY ASSISTANCE PROGRAMS.—This subsection does not apply with respect to chapter 4 title I or chapters 6 and 7 of title II.

"(c) MILITARY ASSISTANCE FUNCTIONS IN THE UNITED STATES.—Of the personnel employed in the United States to carry out title II or the Defense Trade and Export Control Act not to exceed 8 may be compensated at rates higher than those payable for GS–15 of the General Schedule under section 5332 of title 5 of the United States Code, but not in excess of the highest rate payable under section 5376 of such title. Such positions shall be in addition to those authorized by law to be filled by Presidential appointment, and in addition to the number authorized by section 5108 of title 5, United States Code.

"(d) PERFORMANCE OF FUNCTIONS OUTSIDE THE UNITED STATES.—

"(1) AUTHORITY TO EMPLOY OR ASSIGN.—For the purpose of performing functions under this Act outside the United States, the President may—

"(A) employ or assign individuals, or

"(B) authorize the employment or assignment of officers or employees by agencies of the United States Government which are not authorized to utilize the Foreign Service personnel system.

"(2) COMPENSATION.—Individuals employed or assigned under paragraph (1) shall receive compensation at any of the rates provided for under section 402 or section 403 of the Foreign Service Act of 1980, or under chapter 53 of title 5, United States Code, or at any other rate authorized by law, together with allowances and benefits under the Foreign Service Act of 1980.

"(3) REEMPLOYMENT RIGHTS.—Individuals so employed or assigned shall be entitled to the same benefits as are provided by section 310 of that Act for individuals appointed to the Foreign Service, except to the extent that the President may specify otherwise in cases in which the period of employment or assignment exceeds 30 months.

"(e) CERTAIN FUNDS DEEMED OBLIGATED FOR CERTAIN SERVICES.—Funds provided for in agreements with foreign countries for the furnishing of services under this Act with respect to specific projects shall be deemed to be obligated for the services of personnel employed by agencies of the United States Government (other than the agency designated under section 5102 or the Department of Defense) as well as personnel not employed by the United States Government.

"SEC. 5503. EXPERTS, CONSULTANTS, AND RETIRED OFFICERS.

"(a) AUTHORITY TO EMPLOY.—Expert and consultants or organizations thereof may, in accordance with section 3109 of title 5 of the United States Code, be employed for the performance of functions under this Act.

"(b) MANDATORY RETIREMENT AGE NOT APPLICABLE.—Service of an individual as an expert or consultant under subsection (a) of this section shall not be considered as employment or holding of office or position bringing such individual within the provisions of section 3323(a) of title 5 of the United States Code.

"(c) EMPLOYMENT OF CERTAIN PERSONS WITHOUT COMPENSATION.—Persons of outstanding experience and ability may be employed without compensation by any agency of the United States Government for the performance of functions under this Act in accordance with the provisions of section 710(b) of the Defense Production Act of 1950 (50 U.S.C. App. 2160(b)), and regulations issued thereunder.

"SEC. 5504. DETAIL OF PERSONNEL TO FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS.

"(a) DETAILS TO FOREIGN GOVERNMENTS.—When consistent with and in furtherance of the purposes of this Act, the head of any agency of the United States Government is authorized to detail any officer or employee of that agency to any office or position with any foreign government or foreign government agency, where acceptance of such office or position does not involve the taking of an oath of allegiance to another government.

"(b) DETAIL TO INTERNATIONAL ORGANIZATIONS.—When consistent with and in furtherance of the purposes of this Act, the head of any agency of the United States Government is authorized to detail to any international organization any officer or employee of that agency to serve with, or as a member of, the international staff of such organization, or to render any technical, scientific, or professional advice or service to, or in cooperation with, such organization.

"(c) STATUS OF PERSONNEL DETAILED.—

"(1) RETENTION OF BENEFITS.—Any officer or employee, while detailed under this section—

"(A) shall be considered an officer or employee of the United States Government and of the agency of the United States Government from which detailed for the purpose of preserving his or her allowances, privileges, rights, seniority, and other benefits as such; and

"(B) shall continue to receive compensation, allowances, and benefits from funds appropriated to that agency or made available to that agency under this Act, or may be detailed on a leave without pay status.

"(2) ALLOWANCES.—Any officer or employee assigned, detailed, or appointed under this section, section 5103, section 5505, or section 5506 may receive (under such regulations as the President may prescribe) representation allowances similar to those allowed under section 905 of the Foreign Service Act of 1980. The authorization of such allowances and other benefits and the payment thereof out of any appropriations available therefor shall be considered as meeting all the requirements of section 5536 of title 5, United States Code.

"(d) TERMS OF DETAIL.—Details may be made under this section or section 408 of the Mutual Security Act of 1954 in accordance with any of the following paragraphs:

"(1) Without reimbursement to the United States Government by the foreign government or international organization.

"(2) Upon agreement by the foreign government or international organization to reimburse the United States Government for compensation, travel expenses, benefits, and allowances, or any part thereof, payable to the officer or employee concerned during the period of detail. Such reimbursements (including foreign currencies) shall be credited to the appropriation, fund, or account utilized for paying such compensation, travel expenses, benefits, or allowances, or to the appropriation, fund, or account currently available for such purposes.

"(3) Upon an advance of funds, property, or services by the foreign government or international organization to the United States Government accepted with the approval of the President for specified uses in furtherance of the purposes of this Act. Funds so advanced may be established as a separate fund in the Treasury of the United States Government, to be available for the specified uses, and to be used for reimbursement of appropriations or direct expenditure subject to the provisions of this Act, any unexpended balance of such account to be returned to the foreign government or international organization.

"(4) Subject to the receipt by the United States Government of a credit to be applied against the payment by the United States Government of its share of the expenses of the international organization to which the officer or employee is detailed, such credit to be based upon the compensation, travel expenses, benefits and allowances, or any part thereof, payable to such officer or employee during the period of detail in accordance with subsection (c).

"SEC. 5505. CHIEF OF ECONOMIC ASSISTANCE MISSION ABROAD.

"(a) APPOINTMENT.—The chief and his deputy of each special mission or staff carrying out economic assistance programs under title I shall be appointed by the President.

"(b) COMPENSATION AND ALLOWANCES.—Such chief shall be entitled to receive such compensation and allowances as are authorized by the Foreign Service Act of 1980, not to exceed those authorized for a chief of mission (as defined in section 102(a)(3) of that Act), as the President deems appropriate.

"SEC. 5506. CHAIRMAN OF OECD DEVELOPMENT ASSISTANCE COMMITTEE.

"(a) APPOINTMENT.—The President may—

"(1) appoint any United States citizen who is not an employee of the United States Government, or

"(2) assign any United States citizen who is an employee of the United States Government, to serve as Chairman of the Development Assistance Committee (or any successor committee) of the Organization for Economic Cooperation and Development, upon election thereto by members of that Committee.

"(b) COMPENSATION AND ALLOWANCES.—An individual appointed or assigned under subsection (a) may receive such compensation and allowances as are authorized by the Foreign Service Act of 1980, not to exceed those authorized for a chief of mission (as defined in section 102(a)(3) of that Act), as the President deems appropriate. Such individual, if appointed under subsection (a)(1), shall be deemed to be an employee of the United States Government for purposes of chapters 81, 83, 84, 87, and 89 of title 5, United States Code. Such individual may also, in the President's discretion, receive any other benefit and perquisites available under this Act to chiefs of special missions or staffs outside the United States established under section 5103.

"SEC. 5507. ASSIGNMENT OF DOD PERSONNEL TO CIVIL OFFICES.

"Notwithstanding section 973(b) of title 10, United States Code, personnel of the Department of Defense may be assigned or detailed to any civil office to carry out this Act.

"SEC. 5508. DISCRIMINATION AGAINST UNITED STATES PERSONNEL PROVIDING ASSISTANCE.

"It is the Sense of the Congress that—

"(1) the assignment of officers and employees of the United States to carry out any assistance program funded under this Act in any foreign country, should not take into account the race, religion, national origin, or sex of any such officer or employee, and such assignments should be made solely on the basis of ability and relevant experience.

"(2) assistance under this Act should not be furnished to any foreign country, the laws, regulations, official policies, or governmental practices of which prevent any United States person (as defined in section 7701(a)(30) of the Internal Revenue Code of 1954) from participating in the furnishing of assistance under this Act on the basis of race, religion, national origin, or sex.

"CHAPTER 6—DEFINITIONS AND MISCELLANEOUS PROVISIONS

"SEC. 5601. DEFINITIONS.

"(a) TYPES OF ASSISTANCE.—For purposes of this Act and any other provision of law relating to assistance under this Act, the following terms have the following meanings:

"(1) ANTITERRORISM ASSISTANCE.—The term 'antiterrorism assistance' means assistance under chapter 7 of title II.

"(2) DEVELOPING COUNTRY.—The term 'developing country' includes advances developing country.

"(3) DEVELOPMENT ASSISTANCE.—The term 'development assistance' means assistance under chapters 1 and 2 of title I.

"(4) ECONOMIC ASSISTANCE.—The term 'economic assistance' means assistance under title I other than chapter 4; it does not include assistance under chapters 6 and 7 of title II.

"(5) ECONOMIC SUPPORT ASSISTANCE.—The term 'economic support assistance' means assistance under chapter 3 of title I.

"(6) FOREIGN MILITARY FINANCING.—The term 'foreign military financing' means assistance furnished with funds made available to carry out chapter 2 of title II.

"(7) INTERNATIONAL DISASTER ASSISTANCE.—The term 'international disaster assistance' means assistance under chapter 6 of title I.

"(8) INTERNATIONAL MILITARY EDUCATION AND TRAINING.—The term 'international military education and training' means assistance under chapter 5 of title II; it does not include military education and training under chapter 2 of title II.

"(9) MILITARY ASSISTANCE.—The term 'military assistance' means assistance under title II; however, it does not include assistance under chapters 6 and 7 of that title.

"(10) NARCOTICS CONTROL ASSISTANCE.—The term 'narcotics control assistance' means assistance under chapter 4 of title I.

"(b) DEFINITIONS APPLICABLE TO THE ACT GENERALLY.—For purposes of this Act and any other provision of law relating to assistance under this Act, the following terms have the following meanings:

"(1) AGENCY OF THE UNITED STATES GOVERNMENT.—The term 'agency of the United States Government' includes any agency, department, board, wholly or partly owned corporation, instrumentality, commission, or establishment of the United States Government.

"(2) FUNCTION.—The term 'function' includes any duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity.

"(3) GROSS VIOLATIONS OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS.—The term 'gross violations of internationally recognized human rights' includes torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges and trial, causing the disappearance of persons by the abduction and clandestine detention of those persons, and other flagrant denial of the right to life, liberty, or the security of person.

"(4) INCLUDES.—The term 'includes' means includes but is not limited to.

"(5) OFFICER OR EMPLOYEE.—The term 'officer or employee' means civilian personnel of the United States Government and members of the Armed Forces.

"(6) NONNUCLEAR-WEAPON STATE.—The term 'nonnuclear-weapon state' means any country which is not a nuclear-weapon state, as defined in article IX(3) of the Treaty on the Non-Proliferation of Nuclear Weapons.

"(7) UNITED STATES.—The term 'United States', when used in the geographic sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the Virgin Islands, and any other territory or possession of the United States.

"(8) MAJOR ILLICIT DRUG PRODUCING COUNTRY.—The term 'major illicit drug producing country' means a country producing five metric tons or more of opium or opium derivative during a fiscal year or producing five hundred metric tons or more of coca or marijuana (as the case may be) during a fiscal year.

"(9) MAJOR DRUG TRANSIT COUNTRY.—The term 'major drug transit country' means a country—

"(A) that is a significant direct source of illicit narcotic or psychotropic drugs or other controlled substances significantly affecting the United States;

"(B) through which are transported such drugs or substances; or

"(C) through which significant sums of drug-related profits or monies are laundered with the knowledge or complicity of the government.

"(10) NARCOTIC AND PSYCHOTROPIC DRUGS AND OTHER CONTROLLED SUBSTANCES.—The term 'narcotic and psychotropic drugs and other controlled substances' has the same meaning as is given by any applicable international narcotics control agreement or domestic law of the country or countries concerned.

"(c) DEFINITIONS APPLICABLE PRIMARILY TO NONMILITARY ASSISTANCE.—For purposes of this Act and any other provision of law relating to assistance under this Act, the following terms have the following meanings:

"(1) AGRICULTURE.—The term 'agriculture' includes aquaculture and fisheries.

"(2) COMMODITY.—The term 'commodity' includes any material, article, supply, goods, or equipment used for the purposes of furnishing assistance under title I.

"(3) FARMERS.—The term 'farmers' includes fishermen and other persons employed in cultivating and harvesting food resources from salt and fresh waters.

"(4) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the same meaning that term is given by section 1201(a) of the Higher Education Act of 1965.

"(5) SERVICES.—The term 'services' include any service, repair, training of personnel, or technical or other assistance or information used for the purposes of furnishing assistance under title I.

"(d) DEFINITIONS APPLICABLE PRIMARILY TO MILITARY ASSISTANCE.—For purposes of this Act, the following terms have the following meanings:

"(1) ARMED FORCES.—The term 'Armed Forces' means the Army, Navy, Air Force, Marine Corps, and Coast Guard of the United States.

"(2) DEFENSE ARTICLE.—The term 'defense article'—

"(A) includes—

"(i) any weapon, weapons system, munition, aircraft, vessel, boat, or other implement of war;

"(ii) any property, installation, commodity, material, equipment, supply, or goods used for the purposes of furnishing military assistance;

"(iii) any machinery, facility, tool, material, supply, or other item necessary for the manufacture, production, processing, repair, servicing, storage, construction, transportation, operation, or use of any article listed in this paragraph; or

"(iv) any component or part of any article listed in this paragraph; but

"(B) does not include—

"(i) merchant vessels; or

"(ii) as defined by the Atomic Energy Act of 1954 (42 U.S.C. 2011), source material (except uranium depleted in the isotope 235 which is incorporated in defense articles solely to take advantage of high density or pyrophoric characteristics unrelated to radioactivity), byproduct material, special nuclear material, production facilities, utilization facilities, or atomic weapons or articles involving Restricted Data.

"(3) DEFENSE INFORMATION.—The term 'defense information'—

"(A) includes any document, writing, sketch, photograph, plan, model, specification, design, prototype, or other recorded or oral information relating to any defense article or defense service; but

"(B) does not include Restricted Data as defined by the Atomic Energy Act of 1954, and data removed from the Restricted Data category under section 142d of that Act.

"(4) DEFENSE SERVICE.—The term 'defense service' includes any service, test, inspection, repair, publication, or technical or other assistance or defense information used for the purposes of furnishing military assistance, including—

"(A) military education and training, and

"(B) design and construction services (as defined in section 47(8) of the Defense Trade and Export Control Act).

"(5) EXCESS DEFENSE ARTICLES.—The term 'excess defense articles' means the quantity of defense articles owned by the United States Government, and not procured in anticipation of military assistance or sales requirements, or pursuant to a military assistance or sales order, which is in excess of the Approved Force Acquisition Objective and Approved Force Retention Stock of all Department of Defense Components at the time such articles are dropped from inventory by the supplying agency for delivery to countries or international organizations under this Act.

"(6) MAJOR DEFENSE EQUIPMENT.—The term 'major defense equipment' has the same meaning that term has under section 47(6) of the Arms Export Control Act.

"(7) MAJOR NON-NATO ALLY.—The term 'major non-NATO ally' means a country which is designated in accordance with section 48 of the Defense Trade and Export Control Act as a major non-NATO ally for purposes of that Act or this Act.

"(8) MILITARY EDUCATION AND TRAINING.—The term 'military education and training' includes formal or informal instruction of foreign students in the United States or overseas by officers or employees of the United States, contract technicians, contractors (including instruction at civilian institutions), or by correspondence courses, technical, educational, or information publications and media of all kinds, training aids, orientation, and military advice to foreign military units and forces.

"(9) VALUE.—The term 'value' means—

"(A) with respect to an excess defense article, the actual value of the article plus the gross cost incurred by the United States Government in repairing, rehabilitating, or modifying the article, except that for purposes of section 5201(d) such actual value shall not be taken into account;

"(B) with respect to a nonexcess defense article delivered from inventory to a foreign country or international organization under this Act, the acquisition cost to the United States Government, adjusted as appropriate for condition and market value;

"(C) with respect to a nonexcess defense article delivered from new procurement to a foreign country or international organization under this Act, the contract or production costs of such article;

"(D) with respect to a defense service, the cost to the United States Government of such service; and

"(E) with respect to military education and training under chapter 5 of title II or services provided under chapter 7 of title II of this Act, the additional costs that are incurred by the United States Government in furnishing such assistance.

"SEC. 5602. ACTIVITIES UNDER OTHER LAWS NOT AFFECTED.

"Unless expressly provided to the contrary, provisions of this Act and other provisions applicable to foreign assistance shall not be construed to prohibit activities authorized by or conducted under the Peace Corps Act, the Mutual Educational and Cul-

tural Exchange Act of 1961, the Export-Import Bank Act of 1945, the National Security Act of 1947, the Central Intelligence Agency Act of 1949, the Agricultural Act of 1949, the Agricultural Trade Development and Assistance Act of 1954, the Food for Progress Act of 1985, the Inter-American Foundation Act, the African-American Foundation Act, Title 10 of the United States Code, any National Defense Authorization Act or Department of Defense Appropriations Act, or the Migration and Refugee Assistance Act of 1962, or commercial export promotion activities of the Department of Agriculture (including the Commodity Credit Corporation).".

TITLE VI—TECHNICAL AND CONFORMING PROVISIONS

SEC. 601. EFFECTIVE DATE.

Except as otherwise provided in this Act, the provisions of this Act shall take effect on October 1, 1991.

SEC. 602. SAVINGS PROVISIONS.

(a) IN GENERAL.—All actions taken under the authority of any provision of law repealed or modified by titles I through VI of this Act shall continue in full force and effect until modified by appropriate authority.

(b) CERTAIN PRESIDENTIAL APPOINTEES.—The repeal by this Act of any provision of the Foreign Assistance Act of 1961 providing for the appointment of an individual to a position by the President, by and with the advice and consent of the Senate, and the reenactment by this Act of that provision in substantively identical form does not require the reappointment of the individual holding that position on the effective date specified in section 601.

(b) SECTION 124(c) AUTHORITY.—For purposes of section 572 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461), section 124(c) of the Foreign Assistance Act of 1961, as in effect before the effective date specified in section 601 of this Act, shall be deemed to remain in effect on and after that date.

SEC. 603. RETENTION OF CERTAIN PROVISIONS FORMERLY IN THE FOREIGN ASSISTANCE ACT.

(a) FEDERAL ACT OF STATE DOCTRINE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, no court in the United States shall decline on the ground of the federal act of state doctrine to make a determination on the merits giving effect to the principles of international law in a case in which claim of title or other right to property is asserted by any party, including a foreign state (or a party claiming through such state), based upon (or traced through) a confiscation or other taking after January 1, 1959, by an act of that state in violation of the principles of international law, including the principles of compensation and the other standards set out in section 620(e)(1) of the Foreign Assistance Act of 1961 as in effect before the effective date of this section.

(2) EXCEPTIONS.—This subsection shall not be applicable—

(A) in any case in which an act of a foreign state is not contrary to international law or with respect to a claim of title or other right to property acquired pursuant to an irrevocable letter of credit of not more than 180 days duration issued in good faith prior to the time of the confiscation or other taking; or

(B) in any case with respect to which the President determines that application of the act of state doctrine is required in that particular case by the foreign policy interests of the United States and a suggestion to this effect is filed on his behalf in that case with the court.

(b) ACCOUNTING AND VALUATION OF FOREIGN CURRENCIES.—

(1) AMENDMENT TO UNITED STATES CODE.—Subchapter V of chapter 51 of title 31, United States Code, is amended by inserting at the end the following:

"(a) Under the direction of the President, the Secretary of the Treasury shall have responsibility for valuation and central accounting with respect to foreign credits (including currencies) owed to or owned by the United States. In order to carry out such responsibility, the Secretary shall issue regulations binding upon all agencies of the United States Government.

"(b) The Secretary of the Treasury shall have sole authority to establish for all foreign currencies or credits the exchange rates at which such currencies are to be reported by all agencies of the Government.".

(2) CONFORMING AMENDMENT.—The table of sections for subtitle IV of such title is amended by inserting after the item relating to section 5155 the following:

"5156. Accounting and valuation of foreign currencies.".

(c) VALUATION OF EXPROPRIATED PROPERTY.—

(1) VALUATION.—If the President requests such an evaluation, the Foreign Claims Settlement Commission is authorized to evaluate the value of the property which is the subject of an action described in section 4201(a)(3) of the Foreign Assistance Act of 1961 and render an advisory report with respect to the value of such property to the President.

(2) DEFINITION OF UNITED STATES PERSON.—For purposes of section (a)(3), the term 'United States person' means a United States citizen or a corporation, partnership, or association at least 50 percent beneficially owned by United States citizens.

(d) PARTICIPATION IN FOREIGN POLICE ACTIONS.—

(1) PROHIBITION ON EFFECTING AN ARREST.—No officer or employee of the United States may directly effect an arrest in any foreign country as part of any foreign police action with respect to narcotics control efforts, notwithstanding any other provision of law.

(2) EXCEPTIONS.—Paragraph (1) does not prohibit an officer or employee of the United States—

(A) with the approval of the United States chief of mission, from being present when foreign officers are effecting an arrest or from assisting foreign officers who are effecting an arrest.

(B) from taking direct action to protect life or safety if exigent circumstances arise which are unanticipated and which pose an immediate threat to United States officers or employees, officers or employees of a foreign government, or members of the public.

(3) MARITIME LAW ENFORCEMENT.—With the agreement of a foreign country, paragraph (1) does not apply with respect to maritime law enforcement operations in the territorial sea of that country.

(4) INTERROGATIONS.—No officer or employee of the United States may interrogate or be present during the interrogation of any United States person arrested in any foreign country with respect to narcotics control efforts without the written consent of such person.

(5) EXCEPTION FOR STATUS OF FORCES ARRANGEMENTS.—This section does not apply to the activities of the United States Armed Forces in carrying out their responsibilities under applicable Status of Forces arrangements.

(6) DEFINITION.—For purposes of this subsection, the term "legal and law enforcement measures" means—

"(A) the enactment and implementation of laws and regulations or the implementation of existing laws and regulations to provide for the progressive control, reduction, and gradual elimination of the illicit cultivation, production, processing, transportation, and distribution of narcotic drugs and other controlled substances; and

"(B) the effective organization, staffing, equipping, funding, and activation of those governmental authorities responsible for narcotics control.".

SEC. 604. CONFORMING AMENDMENTS.

(a) ANGLO-IRISH AGREEMENT SUPPORT ACT.—The Anglo-Irish Agreement Support Act of 1986 is amended—

(1) in section 4(a)(1), by striking out "108" and inserting in lieu thereof "1201";

(2) in section 4(a)(2), by striking out "221" and all that follows through "Guaranty" and inserting in lieu thereof "1202 of that Act (relating to the Housing and Urban Development Guarantee";

(3) in section 4(a)(3)—

(A) by striking out "Title IV of chapter 2 of part I" and inserting in lieu thereof "chapter 1 of title III"; and

(B) by striking out "paragraph (2) of the second undesignated paragraph of section 231" and inserting in lieu thereof "section 3101(b)(2)";

(4) in section 4(a)(4)—

(A) by striking out "Section 661" and inserting in lieu thereof "chapter 2 of title III"; and

(B) by striking out "Program" and inserting in lieu thereof "Agency"; and

(5) in section 5(a), by striking out "531(e) and 660(a)" and inserting in lieu thereof "1123 and 4202".

(b) NARCOTICS CONTROL TRADE ACT.—The Narcotics Control Trade Act (which is title VIII of the Trade Act of 1974) is amended—

(1) section 802(b) is amended to read as follows—

"(b) Subsection (a) shall apply with respect to a country for which assistance is prohibited under section 4201(a)(7) of the Foreign Assistance Act of 1961.";

(c) INTERNATIONAL SECURITY AND DEVELOPMENT COOPERATION ACT OF 1985.—Section 132 of the International Security and Development Cooperation Act of 1985 is amended by striking out "Arms" each place it appears in subsections (b), (c), and (d) and inserting in lieu thereof "Defense Trade and".

(d) PUBLIC LAW 480.—The Agricultural Trade Development and Assistance Act of 1954 is amended—

(1) in section 304 by striking out "section 104(c)(2)" and all that follows through "Fund", and inserting in lieu thereof "section 1101(d)(2) of the Foreign Assistance Act of 1961";

(2) in section 306 by striking out "section 104(c)(2) and all that follows through "Fund", and inserting in lieu thereof "section 1101(d)(2) of the Foreign Assistance Act of 1961"; and

(3) in section 414 by striking out "section 481(i)(2)" and inserting in lieu thereof "section 5601(b)(8).

(e) EXPORT ADMINISTRATION ACT.—The Export Administration Act of 1979 is amended—

(1) in section 5(b), by striking out "set forth in section 620(f)" and inserting in lieu thereof "on the list established pursuant to section 4201(d)"; and

(2) in section 6(k)(2), by striking out "section 502B" and inserting in lieu thereof "sections 4201(a)(2) and (e) and section 4302(a)".

(f) TITLE 5, UNITED STATES CODE.—Subchapter II of chapter 53 of title 5, United States Code, is amended—

(1) in section 5314, by striking out "Director, Institute for Scientific and Technological Cooperation.";

(2) in section 5315, by striking out "Deputy Director, Institute for Scientific and Technological Cooperation."; and

(3) in section 5316, by striking out "Additional officers, Institute for Scientific and Technological Cooperation (2).".

(g) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended—

(1) in section 114(c), by striking out "Arms" and inserting in lieu thereof "Defense Trade and";

(2) in section 130(a), by striking out "Arms" and inserting in lieu thereof "Defense Trade and";

(3) in section 2208(i)(3), by striking out "Arms" and inserting in lieu thereof "Defense Trade and";

(4) in section 2344(b)(2)(B), by striking out "Arms" and inserting in lieu thereof "Defense Trade and";

(5) in section 2350b, by striking out "Arms" each place it appears in subsections (a)(1), (b), (c)(1), and (d)(3) and inserting in lieu thereof "Defense Trade and";

(6) in section 4542(d), by striking out "Arms" and inserting in lieu thereof "Defense Trade and"; and

(7) in section 7307(b)(1), by striking out "Arms" and inserting in lieu thereof "Defense Trade and".

(h) DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1987.—Section 2350d of title 10, United States Code, is amended—

(1) in the subsection caption by striking out "Arms" and inserting in lieu thereof "Defense Trade and"; and

(2) in the text, by striking out "Arms" and inserting in lieu thereof "Defense Trade and".

(i) EXPORT-IMPORT BANK ACT OF 1945.—Section 2(b)(2)(B)(ii) of the Export-Import Bank Act of 1945 is amended by striking from the list at the end thereof "Czechoslovakia Socialist Republic.", "German Democratic Republic.", "Hungarian People's Republic.", "People's Republic of Bulgaria.", "Polish People's Republic.", "Socialist Federal Republic of Yugoslavia.", and "Socialist Republic of Romania.".

(j) CONFORMING REFERENCES.—Except to the extent that the context requires otherwise any reference in any provision of law enacted before the effective date specified in section 601—

(1) to credits under section 23 of the Arms Export Control Act shall be deemed to be a reference to assistance on credit terms under chapter 2 of title II of the Foreign Assistance Act of 1961;

(2) to chapter 1 of part I of the Foreign Assistance Act of 1961 shall be deemed to be a reference to chapter 1 of title I of that Act;

(3) to chapter 8 of part I of the Foreign Assistance Act of 1961 shall be deemed to be a reference to chapter 4 of title I of that Act;

(4) to chapter 2 of part II of the Foreign Assistance Act of 1961 shall be deemed to be a reference to chapter 2 of title II of that Act;

(5) to chapter 4 of part II of the Foreign Assistance Act of 1961 shall be deemed to be a reference to chapter 3 of title I of that Act;

(6) to chapter 5 of part II of the Foreign Assistance Act of 1961 shall be deemed to be a reference to chapter 5 of title II of that Act;

(7) to chapter 8 of part II of the Foreign Assistance Act of 1961 shall be deemed to be a reference to chapter 7 of title II; and

(8) to any other provision of the Foreign Assistance Act of 1961 shall be deemed to be a reference to the corresponding provision of that Act as amended by this Act.

SEC. 605. REPEAL OF OBSOLETE PROVISIONS.

(a) 1988 OPIC ACT.—The Overseas Private Investment Corporation Amendments Act of 1988 (as enacted by reference by section 555 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989) is repealed.

(b) 1988 INTERNATIONAL NARCOTICS CONTROL ACT.—The International Narcotics Control Act of 1988 is repealed.

(c) NARCOTICS CONTROL TRADE ACT.—Sections 802(e) and 804 of the Narcotics Control Trade Act (which is title VIII of the Trade Act of 1974) are repealed.

(d) 1986 DRUG ACT.—The International Narcotics Control Act of 1986 (which is title II of the Anti-Drug Abuse Act of 1986) is repealed.

(e) 1986 ASSISTANCE ACT.—The Special Foreign Assistance Act of 1986 is repealed except for section 1 and section 204.

(f) 1985 ASSISTANCE ACT.—The International Security and Development Cooperation Act of 1985 is repealed except for section 1, section 131, section 132, section 202(c), section 504, section 505, part B of title V (other than section 558 and section 559), section 1302, section 1303, and section 1304.

(g) 1985 JORDAN SUPPLEMENTAL ACT.—The Jordan Supplemental Economic Assistance Authorization Act of 1985 is repealed.

(h) 1985 AFRICAN FAMINE ACT.—The African Famine Relief and Recovery Act of 1985 is repealed.

(i) 1983 ASSISTANCE ACT.—The International Security and Development Assistance Authorization Act of 1983 is repealed.

(j) 1983 LEBANON ASSISTANCE ACT.—The Lebanon Emergency Assistance Act of 1983 is repealed.

(k) 1981 ASSISTANCE ACT.—The International Security and Development Cooperation Act of 1981 is repealed except for section 1, section 709, section 714.

(l) 1980 ASSISTANCE ACT.—The International Security and Development Cooperation Act of 1980 is repealed except for section 1, section 110, section 315, and title V.

(m) 1979 DEVELOPMENT ASSISTANCE ACT.—The International Development Cooperation Act of 1979 is repealed.

(n) 1979 SECURITY ASSISTANCE ACT.—The International Security Assistance Act of 1979 is repealed.

(o) 1979 SPECIAL SECURITY ASSISTANCE ACT.—The Special International Security Assistance Act of 1979 is repealed.

(p) 1978 DEVELOPMENT ASSISTANCE ACT.—The International Development and Food Assistance Act of 1978 is repealed, except for section 1, title IV, and section 603(a)(2).

(q) 1978 SECURITY ASSISTANCE ACT.—The International Security Assistance Act of 1978 is repealed.

(r) 1977 DEVELOPMENT ASSISTANCE ACT.—The International Development and Food Assistance Act of 1977 is repealed except for section 1, section 132(b), and section 133.

(s) 1977 SECURITY ASSISTANCE ACT.—The International Security Assistance Act of 1977 is repealed.

(t) 1976 SECURITY ASSISTANCE ACT.—The International Security Assistance and Arms Export Control Act is repealed except for section 1, section 201(b), section 212(b), section 601, and section 608.

(u) 1975 DEVELOPMENT ASSISTANCE ACT.—The International Development and Food Assistance Act of 1975 is repealed.

(v) 1975 BIB ACT.—Public Law 94-104 is repealed.

(w) 1974 ASSISTANCE ACT.—The Foreign Assistance Act of 1974 is repealed.

(x) 1973 EMERGENCY ASSISTANCE ACT.—The Emergency Security Assistance Act of 1973 is repealed.

(y) 1973 ASSISTANCE ACT.—The Foreign Assistance Act of 1973 is repealed.

(z) 1973 DEPARTMENT OF STATE APPROPRIATIONS AUTHORIZATION ACT.—Section 13 of the Department of State Appropriations Authorization Act of 1973 is repealed.

(aa) 1971 ASSISTANCE ACT.—The Foreign Assistance Act of 1971 is repealed.

(bb) 1971 SPECIAL ASSISTANCE ACT.—The Special Foreign Assistance Act of 1971 is repealed.

(cc) 1971 FMS ACT.—The Act entitled "An Act to amend the Foreign Military Sales Act, and for other purposes", approved January 12, 1971 (Public Law 91-672), is repealed.

(dd) 1969 ASSISTANCE ACT.—The Foreign Assistance Act of 1969 is repealed except for the first section and part IV.

(ee) 1968 ASSISTANCE ACT.—The Foreign Assistance Act of 1968 is repealed.

(ff) 1964 ASSISTANCE ACT.—The Foreign Assistance Act of 1964 is repealed.

(gg) LATIN AMERICAN DEVELOPMENT ACT.—The Latin American Development Act is repealed.

(hh) 1959 MUTUAL SECURITY ACT.—The Mutual Security Act of 1959 is repealed.

(ii) 1954 MUTUAL SECURITY ACT.—Section 402 and section 417 of the Mutual Security Act of 1954 are repealed.

(jj) 1979 REORGANIZATION PLAN.—Reorganization Plan No. 2 of 1979 is repealed.

TITLE VII—SPECIAL ASSISTANCE INITIATIVES

CHAPTER 1—DEVELOPMENT FUND FOR AFRICA

SEC. 701. DEVELOPMENT ASSISTANCE FOR SUB-SAHARAN AFRICA.

(a) AUTHORITY TO FURNISH ASSISTANCE.—Project and program assistance are authorized to be furnished for development in sub-Saharan Africa.

(b) PURPOSE OF ASSISTANCE.—

(1) PURPOSE.—The purpose of assistance under this section shall be to help the poor majority of men and women in sub-Saharan Africa to participate in a process of development through economic growth that is equitable, participatory, environmentally sustainable and self-reliant.

(2) USE OF ASSISTANCE TO ENCOURAGE PRIVATE SECTOR DEVELOPMENT.—Assistance provided under this section should, in a manner consistent with paragraph (1), be used to promote sustained economic growth, encourage private sector development, promote individual initiatives, and help to reduce the role of central governments in areas more appropriate for the private sector.

(c) APPLICATION OF FOREIGN ASSISTANCE ACT GOALS.—Assistance under this section shall be provided consistent with the goals set forth in section 1 of the Foreign Assistance Act of 1961.

(d) PRIVATE VOLUNTARY ORGANIZATIONS.—

(1) CONSULTATION TO ENSURE LOCAL PERSPECTIVES.—The local-level perspectives of the rural and urban poor in sub-Saharan Africa, including women, should be taken into account during the planning process for project and program assistance under this section. In order to gain that perspective consultations should be undertaken with African, United States, and other private vol-

untary organizations which have demonstrated effectiveness in or commitment to the promotion of local, grassroots activities on behalf of development in sub-Saharan Africa as described in subsection (b).

(2) DEFINITION OF PRIVATE VOLUNTARY ORGANIZATION.—For purposes of this section, the term "private voluntary organization" includes (in addition to entities traditionally considered to be private voluntary organizations) cooperatives, credit unions, trade unions, women's groups, nonprofit development research institutions, and indigenous local organizations, which are private and nonprofit.

(e) LOCAL INVOLVEMENT IN PROJECT IMPLEMENTATION.—Local people, including women, should be closely consulted and involved in the implementation of projects under this section that have a local focus.

(f) PARTICIPATION OF AFRICAN WOMEN.—The President should ensure that development activities assisted under this section incorporate a significant expansion of the participation (including decision-making) and integration of African women in each of the critical sectors described in subsection (h).

(g) TYPES OF ASSISTANCE AUTHORIZED.—

(1) PROJECTS AND PROGRAMS TO ADDRESS CRITICAL SECTORAL PRIORITIES.—Assistance under this section shall emphasize primarily projects and programs to address critical sectoral priorities for development described in subsection (h).

(2) REFORM OF ECONOMIC POLICIES.—

(A) USE OF PROGRAM ASSISTANCE.—Assistance under this section may include program assistance to promote reform of sectoral economic policies affecting long-term development described in sub-Saharan Africa as described in subsection (b), with primary emphasis on reform of economic policies to support the critical sectoral priorities described in subsection (h).

(B) PROTECTION OF VULNERABLE GROUPS.—Assisted policy reforms shall also include provisions to protect vulnerable groups (especially poor, isolated, and female farmers, children (including displaced children) and the urban poor) and long-term environmental interests from foreseeable negative consequences of the reforms.

(3) OTHER ASSISTANCE.—Funds made available to carry out this section that are not used to address the critical sectoral priorities for long-term development described in subsection (h) shall used be to furnish assistance in accordance with section 1101 of the Foreign Assistance Act of 1961.

(h) CRITICAL SECTORAL PRIORITIES.—The critical sectoral priorities for long-term development as described in subsection (b) are the following:

(1) AGRICULTURAL PRODUCTION AND NATURAL RESOURCES.—

(A) AGRICULTURAL PRODUCTION.—Increasing agricultural production in ways that protect or restore the natural resource base, especially food production, including through agricultural policy changes, agricultural research (including participatory research directly involving small farmers) and extension, development and promotion of agriculture marketing activities, credit facilities, and appropriate production packages, and the construction and improvement of needed production-related infrastructure such as farm-to-market roads, small-scale irrigation, and rural electrification. Emphasis shall be given to promoting increased equity in rural income distribution, recognizing the role of small farmers.

(B) NATURAL RESOURCE BASE.—Maintaining and restoring the renewable natural resource base in ways which increase agricultural production, including through the following:.

(i) Support for small-scale, affordable, resource-conserving, low-risk local projects, using appropriate technologies (including traditional agricultural methods) suited to local environmental, resource, and climatic conditions, and featuring close consultation with the involvement of local people at all stages of project design and implementation. Emphasis shall be given to grants for African local government organizations, international or African nongovernmental organizations, and United States private voluntary organizations.

(ii) Support for efforts at national and regional levels to provide technical and other support for projects of the kinds described in clause (i) and to stengthen the capacities of African countries to provide effective extension and other services in support of environmentally sustainable increases in food production.

(iii) Support for special training and education efforts to improve the capacity of countries in sub-Saharan Africa to manage their own environments and natural resources.

(iv) Support for low-cost desalination activities in order to increase the availability of fresh water sources in sub-Saharan Africa.

(2) HEALTH.—Improving health conditions, with special emphasis on meeting the health needs of mothers and children (including displaced children) through the establishment of primary health care systems that give priority to preventive health and that will be ultimately self-sustaining.

(3) VOLUNTARY FAMILY PLANNING SERVICES.—Providing increased access to, and stimulating the demand for, voluntary family planning services, including encouragement of private, community, and local government initiatives.

(4) EDUCATION.—Improving the relevance, equity and efficiency of education, with special emphasis on improving primary education.

(6) INCOME-GENERATING OPPORTUNITIES.—Developing income-generating opportunities for the unemployed and underemployed in urban and rural areas through, among other things, support for off-farm employment opportunities in micro- and small-scale labor-intensive enterprises.

(i) MINIMUM LEVELS OF ASSISTANCE FOR CERTAIN CRITICAL SECTORS.—The President should target the equivalent of 10 percent of the amount appropriated for each fiscal year to carry out this chapter for each of the following:

(1) The activities described in subsection (h)(1)(B), including identifiable components of agricultural production projects.

(2) The activities described in subsection (h)(2).

(3) The activities described in subsection (h)(3).

(j) EFFECTIVE USE OF ASSISTANCE.—Assistance provided under this section should be concentrated in countries that will make the most effective use of such assistance in order to fulfill the purpose specified in subsection (b), especially those countries (including those of the Sahel region) having the greatest need for outside assistance.

(k) PROMOTION OF REGIONAL INTEGRATION.—Assistance under this section should, to the extent consistent with this section, include assistance to promote the regional and subregional integration of African production structures, markets, and infrastructure.

(l) DONOR COORDINATION MECHANISM.—Funds made available to carry out this section may be used to assist the governments of countries in sub-Saharan Africa to increase their capacity to participate effectively in donor coordination mechanisms at the country, regional, and sector levels.

(m) SUPPORT FOR SADCC PROJECTS.—

(1) AUTHORITY TO PROVIDE ASSISTANCE.—Funds made available to carry out this section may be used to assist sector projects, in the sectors specified in paragraph (2) of this section, that are supported by the Southern Africa Development Coordination Conference (SADCC) to enhance the economic development of the member states forming that regional institution.

(2) SECTORS.—The sectors with respect to which assistance may be provided under this subsection may include the following: transportation; manpower development; agriculture and natural resources; energy (including the improved utilization of electrical power sources which already exist in the member states and offer the potential to swiftly reduce the dependence of those states on South Africa for electricity); and industrial development and trade (including private sector initiatives).

(3) RELATION TO DEVELOPMENT POLICIES AND AUTHORITIES.—To the maximum extent feasible, the assistance authorized by this subsection shall be provided consistent with the policies and authorities contained in the preceding subsections of this section.

(4) RELATIONSHIP TO CERTAIN PROVISIONS OF LAW.—Assistance may be furnished for activities under this subsection notwithstanding section 4203 of the Foreign Assistance Act of 1961 or any similar provisions of law that prohibit providing assistance to countries in default on obligations owed to the United States.

(o) SOUTH AFRICA.—

(1) Assistance under this section, and under chapter 3 of title I of the Foreign Assistance Act of 1961, may be provided for South Africa as follows:

(A) for grants to nongovernmental organizations in South Africa promoting political, economic, social, juridical, and humanitarian efforts to foster a just society and help the victims of apartheid;

(B) for direct legal and other assistance to political detainees and prisoners and their families, including the investigation of the killing of protesters and prisoners; and to provide support for actions of black-led community organizations to resist, through nonviolent means, the enforcement of apartheid policies;

(C) for activities, notwithstanding any other provision of law, that are consistent with the objective of a majority of South Africans for an end to the apartheid system and the establishment of a society based on nonracial principles, and which may include scholarships, assistance to promote the participation of disadvantaged South Africans in trade unions and private enterprise and alternative education and community development programs.

(2) LIMITATIONS AND AUTHORITIES.—Grants may be made under paragraphs (1) (A) and (B) only for organizations whose character and membership reflect the objective of a majority of South Africans for an end to the apartheid system of separate development and for interracial cooperation and justice.

(p) RELATION TO OTHER AUTHORITIES.—

(1) CENTRAL PROGRAMS.—The authority granted by this section to provide assistance for development in sub-Saharan Africa is not intended to preclude the use of other authorities for that purpose. Centrally-funded programs which benefit sub-Saharan Africa

shall continue to be funded under the development assistance program under this title.

(2) FOREIGN ASSISTANCE ACT OF 1961.—Except to the extent inconsistent with this chapter—

(A) assistance under this chapter shall be considered to be economic assistance under title I of the Foreign Assistance Act of 1961 for purposes of making available the provisions contained in that or other Acts, except that the provisions of section 4304 of such Act shall not be applicable to assistance under this chapter;

(B) the provisions of section 5402 of the Foreign Assistance Act of 1961, and similar provisions of law relating to the procurement of goods and services, shall not apply with respect to goods and services procured for use in carrying out this chapter.

SEC. 702. AUTHORIZATION OF APPROPRIATIONS FOR ASSISTANCE FOR SUB-SAHARAN AFRICA.

There are authorized to be appropriated to the President to carry out section 701, $800,000,000 for fiscal year 1992. Amounts authorized to be appropriated by this section are authorized to remain available until expended.

SEC. 703. REPORTS AND EVALUATIONS.

(a) ANNUAL CONGRESSIONAL PRESENTATION DOCUMENTS.—The President shall submit congressional presentation documents regarding programs under this chapter on the same basis as the President submits such documents under section 4301 of the Foreign Assistance Act of 1961 regarding programs under chapters 2 and 3 of that Act. In addition, the President shall include a decription of the progress made during the previous fiscal year in carrying out this chapter in three countries in sub-Saharan Africa which represent differing economic situations and levels of programs. This description shall include—

(1) the nature and extent of consultation to ensure local perspectives as described in subsections (d)(1) and (e) of section 701;

(2) the degree of involvement of local people in the implementation of projects having a local focus;

(3) the extent to which there has been an expansion of the participation and integration of African women in each of the critical sectors sepcified in subsection (h) of section 701;

(4) program assistance provided, including the amounts obligated, the criteria used for assisting reforms, and the provisions made pursuant to section 701(g)(2)(B) to protect vulnerable groups from the possible negative consequences of the reforms; and

(5) a description of the assistance for the critical sectoral priorities specified in section 701(h), by sector, including the amounts obligated.

(b) EVALUATIONS.—It is the sense of the Congess that there should be periodic evaluations of the progress of the administering agency in achieving the purpose specified in section 701(b).

CHAPTER 2—ASSISTANCE FOR EASTERN EUROPE

SEC. 711. UNITED STATES POLICY REGARDING EASTERN EUROPE.

(a) IN GENERAL.—It should be the policy of the United States to facilitate the reintegration of the East European countries into the community of democratic nations and to end the artificial division of Europe. United States programs can continue to make a substantial contribution to these objectives by building on earlier initiatives, including important ongoing initiatives that were established under the Support for East European Democracy (SEED) Act of 1989. In furtherance of these objectives, the United States should support economic and political reform in East European countries, both through—

(1) the provision of assistance to governments and private individuals and entities in those countries, and

(2) the promotion of a United States commercial presence in those countries.

(b) ASSISTANCE.—Pursuant to subsection (a)(1), the United States should provide assistance for eligible East European countries under the authorities of this Act to the extent that such countries are taking steps toward—

(1) political pluralism, based on progress toward free and fair elections and a multiparty political system.

(2) economic reform, based on progress toward a market-oriented economy;

(3) respect for internationally recognized human rights; and

(4) a willingness to build a friendly relationship with the United States.

(c) DEFINITION OF "ELIGIBLE EAST EUROPEAN COUNTRY".—

(1) For purposes of this Act, the term "eligible East European country" means—

(A) Poland, Hungary, Czechoslovakia, Bulgaria, Romania; and

(B) any other East European country if the President has determined that such country is taking the steps described in subsection (b).

(2) Yugoslavia shall also be considered to be an "eligible East European country" for purposes of this Act, unless the President determines that it is not taking the steps described in subsection (b).

SEC. 712. BASIC OBJECTIVES OF ASSISTANCE.

(a) BASIC OBJECTIVES.—In furtherance of the policy contained in section 711, assistance programs authorized by this Act shall have as their purposes the enhancement of the ability of the countries of Eastern Europe and Yugoslavia to address the following two interrelated and mutually reinforcing objectives.

(1) PROMOTION OF DEMOCRACY.—Fostering political pluralism, the development of open and independent media, and the establishment of an open, accessible, fair, and predictable rule of law that values individual liberty and respect for individual property, and that facilitates the functioning of democratic and free market systems.

(2) ENCOURAGEMENT OF FREE MARKET SYSTEMS.—Fostering market-oriented economies and free enterprise based on the principle of private ownership of property, consistent with sound environmental policies, thereby facilitating and expanding the participation of the local private sector in the democratization process and enhancing the ability of the private sector in the United States and other free market countries to participate in that process.

(b) DEMOCRACY.—Democratic development, political pluralism, and respect for internationally recognized human rights are intrinsically linked to economic and social progress. It is in the United States interest and in keeping with our democratic tradition to foster the spread of democratic values and aspirations and universal respect for civil and political liberties. While this is true worldwide, it is especially important in the newly emerging democratic nations within Eastern Europe and Yugoslavia.

(1) ELABORATION OF OBJECTIVE.—Activities in furtherance of this objective would promote—

(A) the ability of all citizens to organize and associate freely and independently of government;

(B) the ability of all citizens to speak and travel freely;

(C) the right to choose freely one's government, to hold that government accountable, and to participate in political life;

(D) the full observance of internationally recognized human rights; and

(E) the growth of indigenous nongovernmental organizations that are committed to democratic value and active in the promotion of pluralism.

(2) TYPES OF ASSISTANCE.—In pursuing the above objective the President is authorized to undertake actions such as—

(A) assisting in election activities to ensure open and free elections and nationwide dissemination of information;

(B) strengthening newly established democratic institutions such as democratically elected legislatures and local governments, independent judiciaries, government administrative entities, and unions; and enhancing the effectiveness and impartiality of the administration of justice and law enforcement;

(C) strengthening nongovernmental organizations such as professional associations, indigenous private voluntary organizations, and independent institutions and foundations;

(D) encouraging involvement of United States nongovernmental agencies, foundations and institutions to participate in promoting democratic pluralism within these countries;

(E) promoting cultural and educational exchanges;

(F) promoting the establishment of open and independent media; and

(G) promoting democratic civilian control over its military and law enforcement institutions.

(c) FREE MARKET SYSTEMS.—Establishment of a free enterprise, market economy is a key component of long-term sustainable growth of any nation. To be sustainable, such economic growth also must be environmentally sound. As the Eastern European countries and Yugoslavia abandon government-controlled pricing and allocation systems, they will be in a position to benefit from the experience of the United States and other democracies in operating market-oriented economies.

(1) ELABORATION OF OBJECTIVE.—Promoting a free market system covers a broad spectrum of activities which would include—

(A) establishing policies, legal and regulatory frameworks, and financial institutions and markets to address the structural problems inhibiting the development of free market economies;

(B) developing the indigenous private sector, mobilizing United States private sector investment and trade, and advancing United States business interests;

(C) developing human resources required by free market economies;

(D) providing support for the transition to market-oriented economic systems and a private agricultural sector through the provision of essential goods and services such as farm equipment, feed grains, food assistance, and fertilizers;

(E) improving environmental conditions;

(F) providing for labor market reform;

(G) providing for a social safety net to protect the health and welfare of persons most in need; and

(H) providing for the active engagement of the United States private sector in technical assistance efforts and infrastructure develop-

ment projects, and encouraging the development of United States investment in the region.

(2) TYPES OF ASSISTANCE.—In pursuing the above objective, the President is authorized or encouraged to undertake such actions as—

(A) support for International Monetary Fund and International Bank for Reconstruction and Development agreements;

(B) support for participation in other multilateral institutions and in stabilization and structural adjustment programs, and for debt relief;

(C) provision of Most Favored Nation status and benefits under the Generalized System of Preferences consistent with existing legislation;

(D) encouragement of trade, investment, and economic agreements;

(E) mobilization of capital for private sector investment through such vehicles as enterprise funds, guarantees, financial and capital market development;

(F) provision of technical assistance, technical training and scholarships in relevant areas such as management, banking, economics, procurement, accounting, agribusiness, law, and privatization;

(G) provision of food assistance under the Agricultural Trade Development and Assistance Act of 1954 and other food assistance programs, consistent with the need to avoid disincentives to domestic production and marketing;

(H) provision of technical assistance for the implementation of labor market reforms and to facilitate adjustment during economic transition and reform;

(I) encouragement and support of small and medium size United States firm activities in Eastern Europe and Yugoslavia, and encouragement of the entry of United States firms into the market to stimulate increased bilateral trade and investment in ways that encourage the growth of the private sector; and

(J) promotion of sound environmental policies and practices that address the problems of environmental pollution.

(d) EXTRAORDINARY NATURE OF ASSISTANCE.—The Congress recognizes that—

(1) change is occurring quickly but unevenly in Yugoslavia and the countries of Eastern Europe, and it has not been possible, and will not be possible, to anticipate with certainty how United States assistance would best serve to facilitate the political and economic democratization processes in Eastern Europe and Yugoslavia;

(2) the pace of events in Eastern Europe and Yugoslavia requires that the President have the ability to provide United States assistance and resources expeditiously if the United States is to be able to influence events as they occur;

(3) the ability of the United States to participate effectively in the rebuilding of Eastern Europe and Yugoslavia will be directly related to how well United States assistance efforts are coordinated and integrated with the similar activities of friendly and allied donor countries, and international financial institutions; and

(4) the success of United States efforts to encourage political, economic, and social change depends in large measure on providing the President with the authority to use the resources available to him in those countries of Eastern Europe and in Yugoslavia, and for activities in those countries, which will most effectively promote the objectives of this Act and the Support for East European Democracy (SEED) Act of 1989.

SEC. 713. ASSISTANCE ACTIVITIES.

(a) AUTHORITY.—In order to carry out section 712 to foster the transition of the countries of Eastern Europe and Yugoslavia to a system of free market economies and to political democratization, the President is authorized to furnish assistance notwithstanding any other provision of law for eligible East European countries. Such assistance may include any of the SEED Actions contained in section 2(c) of the Support for East European Democracy (SEED) Act of 1989, such as—

(1) technical assistance and training, including such activities as support for labor activities, scholarship programs, medical assistance, and support for private sector development;

(2) technical and other assistance to support housing sectors;

(3) environment and energy activities, including such activities as assistance in developing policies encouraging, and providing incentives for, greater efficiency in energy production, distribution, and end-use (including use of integrated energy resource planning), heightened awareness of energy security concerns, conservation, advanced energy resource development, and reliance on renewable energy resources, and further including training and technical assistance for related energy and environmental investments, waste minimization, local production of environmental or energy-related equipment, promotion of United States technologies, and health problems directly associated with pollution;

(4) activities to foster democratic pluralism, including such activities as support for democratic organizations, independent media, national legislatures (including exchanges involving members, staff, and support agencies of Congress and the parliaments of Eastern Europe), rule of law, educational reform, and local government;

(5) the Polish-American and Hungarian-American Enterprise Funds, and other Enterprise Funds as may be designated under section 714;

(6) other private enterprise activities, including such activities as technical assistance and training for development of market-oriented policies, restructuring and creation of financial institutions (such as stock markets, insurance companies and banks), creation and management of private business organizations, and privatization of state businesses and organizations; and

(7) agricultural and rural development activities, including such activities as technical assistance and training for development of rural economies and market-oriented policies, restructuring and creation of agricultural financial institutions and marketing systems, development of food processing, food transport and food storage systems, creation and management of agribusiness organization (including farmer-owned cooperatives) and privatization of state farms, agribusiness and credit institutions, and other activities that would strengthen private agriculture.

(b) APPLICABILITY OF SEED ACT TO ELIGIBLE EAST EUROPEAN COUNTRIES.—

(1) Subject to section 714 of this Act, any authority in the Support for East European Democracy (SEED) Act of 1989 to provide assistance for, or take other action with respect to, Poland or Hungary may be deemed to be an authority to provide similar assistance for, or take similar action with respect to, any eligible East European country.

(2) In addition, upon enactment of this Act, the President is authorized to use any funds made available for Assistance for Eastern Europe under the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, to provide balance of payments support with respect to any eligible East European country.

(c) STABILIZATION ASSISTANCE.—It is the sense of Congress that the President should use the authorities provided under the Support for East European Democracy (SEED) Act of 1989 (including those provided under sections 101(b) and 102) and this chapter (including those provided under section 712(c)) to provide stabilization assistance, including by working with multilateral groups to provide timely and appropriate resources and coordinated policies to assist Hungary, Czechoslovakia, and other eligible East European countries as the President deems appropriate.

(d) AUTHORIZATION OF APPROPRIATIONS.—For purposes of providing assistance authorized by this chapter, there are authorized to be appropriated to the President $400,000,000 for fiscal year 1992. Amounts authorized to be appropriated by this subsection are authorized to remain available until expended.

SEC. 714. ENTERPRISE FUNDS.

(a) AUTHORITY.—The President may provide funds and support to Enterprise Funds designated in accordance with subsection (d) that are established for the purposes of promoting—

(1) development of the private sectors of eligible East European countries, including small businesses, the agricultural sector, and joint ventures with United States and host country participants; and

(2) policies and practices conducive to private sector development in eligible East European countries;

on the same basis as funds and support may be provided with respect to Enterprise Funds for Poland and Hungary under the Support for East European Democracy (SEED) Act of 1989.

(b) TREATMENT EQUIVALENT TO ENTERPRISE FUNDS FOR POLAND AND HUNGARY.—Except as otherwise specifically provided in this section, each of the authorities and limitations applicable to the Enterprise Funds for Poland and Hungary pursuant to the Support for East European Democracy (SEED) Act of 1989 shall apply to any Enterprise Funds that receive funds and support under this section. The officers, members of employees of an enterprise Fund that receives funds and support under this section shall enjoy the same status under law that is applicable to officers, members, or employees of the Enterprise Funds for Poland and Hungary under the Support for East European Democracy (SEED) Act of 1989, including without limitation the status that they have pursuant to section 201(d)(5) of that Act.

(c) REPORTING REQUIREMENT.—Notwithstanding any other provision of this section or section 201 of the Support for East European Democracy (SEED) Act of 1989, the requirement that an enterprise Fund that receives funds and support under this section shall be required to publish an annual report not later than January 31 each year shall not apply with respect to an Enterprise Fund that receives funds and support under this section for the first twelve months after it is designated as eligible to receive such funds and support.

(d) COUNTRIES ELIGIBLE FOR ENTERPRISE FUND.—The President is authorized to designate a private, nonprofit organization as eligible to receive funds and support pursuant to this section with respect to any country in Eastern Europe or Yugoslavia in the

same manner and with the same limitations as set forth in section 201(d) of the Support for East European Democracy (SEED) Act of 1989.

(e) FUNDING.—Funds authorized to be appropriated under section 713 of this chapter may be made available to enterprise Funds designated by the President under subsection (d), and used for the purposes of this section notwithstanding any other provision of law.

SEC. 715. PROGRAM ADMINISTRATION.

(A) AUTHORITY OF UNITED STATES GOVERNMENT AGENCIES.—United States Government agencies which are authorized to provide assistance or conduct programs for Poland or Hungary under the provisions of the Support for East European Democracy (SEED) Act of 1989 are hereby authorized, notwithstanding any other provision of law, to provide such assistance or conduct such programs as the President may determine for eligible East European countries. Any administrative authorities provided by the (SEED) Act available to any such agency to assist it to carry out programs for Poland or Hungary shall be applicable for programs, as designated by the President, for other eligible East European countries.

(b) PRIVATE SECTOR DEVELOPMENT.—The President may authorize such agency or agencies as he may designate to develop and implement, in consultation with representatives of business organizations in the United States, programs for management and technical assistance to governments and private enterprises in Eastern European countries and Yugoslavia.

(c) PERSONAL SERVICES.—Appropriations to carry out the provisions of this chapter may be made available for contracting with individuals for personal services abroad or in the United States; provided that such individuals shall not be regarded as employees of the United States Government for the purpose of any law administered by the Office of Personnel Management.

(d) RELATIONSHIP TO THE FOREIGN ASSISTANCE ACT OF 1961.—Except to the extent inconsistent with this chapter, assistance under this chapter shall be considered to be economic assistance under title I of the Foreign Assistance Act of 1961 for purposes of making available the authorities contained in that or other Acts (including the authority of the President under section 5201 of the Foreign Assistance Act of 1961 to allocate or transfer to any agency any part of those funds).

CHAPTER 3—MULTILATERAL ASSISTANCE INITIATIVE FOR THE PHILIPPINES

SEC. 721. FINDINGS AND STATEMENT OF POLICY.

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

(1) The people of the Philippines and the people of the United States continue to enjoy a longstanding relationship of mutual respect and cooperation.

(2) The return of democracy to the Philippines under the leadership of President Corazon Aquino has brought the Philippines and the United States closer together and offers an opportunity to the Philippines to become again an economic, social, and political leader in Southeast Asia.

(3) The Philippines is currently facing a domestic insurgency that threatens the efforts to the Government of the Philippines to broaden the participation of the people of the Philippines in the development of their country.

(4) It is in the mutual interest of our two peoples that the Philippines be provided all possible assistance in its efforts to redress the problems caused by economic deterioration and social inequity which have fueled the domestic insurgency.

(5) The promotion of democracy and achievement of sustainable economic growth required a partnership among the Philippines, multilateral institutions, bilateral donors, and the private sector to help the Philippines restructure its economy and address its debt service burden in order to achieve broadly based, self-sustaining growth and to improve the quality of life of the people of the Philippines.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the United States should continue to participate with the multilateral financial institutions and other bilateral donors in a coordinated economic reform and development program in the Philippines; and

(2) the commitment of resources by the United States, other bilateral donors, and the multilateral financial institutions and a reform effort and leadership role by the Government of the Philippines will continue to be necessary in order to ensure economic growth in the Philippines and enhanced participation of the people of the Philippines in the democratic process.

SEC. 722. ASSISTANCE.

(a) AUTHORITY.—The President is authorize to provide assistance to carry out this chapter in order to promote the goals set forth in section 1 of the Foreign Assistance Act of 1961. Such assistance shall have as its ultimate objective, in conjunction with assistance provided by other donors, support of democracy in the Philippines, promotion of sustained economic growth led by the private sector, and improvement of living conditions for the people of the Philippines, and shall build upon the progress that the Government of the Philippines has made in the development and implementation of economic, structural, judicial, and administrative reforms.

(b) PROGRESS OF REFORMS NECESSARY FOR PROVISION OF ASSISTANCE.—The provision of assistance under this chapter shall be linked to progress by the Government of the Philippines in the implementation of its economic, structural, judicial, and administrative reform program.

(c) USES OF ASSISTANCE.—Assistance under this chapter may include support for—

(1) economic, structural, and administrative reforms that are necessary to stimulate growth led by the private sector, import liberalization, export growth and diversification, and the privatization of enterprises owned or controlled by the government;

(2) infrastructure needed by the private sector, particularly in rural areas;

(3) strengthening the private sector, including promoting greater participation of the United States private sector in the development of the Philippines; and

(4) such other programs as are consistent with the purposes of this chapter.

SEC. 723. REPORT TO CONGRESS.

The President shall submit congressional presentation documents regarding programs under this chapter on the same basis as the President submits such documents under section 4301 of the Foreign Assistance Act of 1961 regarding programs under chapter 1 and 3 of title I of that Act.

SEC. 724. AUTHORIZATION OF APPROPRIATIONS; AUTHORITIES.

(a) AUTHORIZATION.—There are authorized to be appropriated to the President to carry out this chapter (inclusive of amounts previously appropriated), $1,000,000,000, of which not more than $160,000,000 may be appropriated under this section for fiscal year 1992. Amounts authorized to be appropriated by this subsection are in addition to amounts otherwise available for such purposes and authorized to remain available until expended.

(b) Except to the extent inconsistent with this chapter, assistance under this chapter shall be considered to be economic assistance under title I of the Foreign Assistance Act of 1961 for purposes of making available the provisions contained in that or other Acts.

SEC. 725. APPROPRIATIONS IN FUTURE YEARS.

It is the sense of the Congress that, before requesting the appropriations of additional amounts to carry out this chapter, the President should take into account the progress being made by the Government of the Philippines toward achieving the reform objectives of this chapter, the extent of financial and other participation of other bilateral donors and multilateral financial institutions, and efforts to coordinate the multilateral assistance program for which assistance under this chapter is authorized. Such considerations will be primary factors in decisions by the Congress to provide additional appropriations to carry out this chapter.

SEC. 726. DONOR COORDINATION.

It is the sense of the Congress that critical to the success of the multilateral assistance program for which assistance under this chapter is authorized will be the ability of the bilateral donors, the multilateral financial institutions, and the Government of the Philippines to coordinate effectively their objectives and programs. It is further the sense of the Congress that all bilateral donors to this multilateral assistance program should take steps to simplify procurement and disbursement procedures and to ensure that any conditions on the provision or use of assistance are complementary, and that the Government of the Philippines should establish such internal procedures and processes as will ensure the most effective use of the resources provided by the bilateral donors and the multilateral financial institutions.

TITLE VIII—PRESIDENTIAL CONTINGENCY FUND

SEC. 801. AUTHORITY.

There are authorized to be appropriated to the President, in order to meet unanticipated contingencies in programs within the International Affairs Budget Function, $20,000,000 for the fiscal year 1992 to remain available until expended. Amounts appropriated under this section are authorized to be made available notwithstanding any other provision of law.

TITLE IX—AUTHORIZATIONS FOR FISCAL YEAR 1993

SEC. 901. AUTHORIZATIONS.

Consistent with the Budget Enforcement Act of 1990 (Public Law 101-508), there are authorized to be appropriated for the fiscal year 1993 such sums as may be necessary to carry out programs and activities for which appropriations for the fiscal year 1992 are authorized by this Act and the Foreign Assistance Act of 1961 as amended by this Act.

SECTIONAL ANALYSIS OF THE INTERNATIONAL COOPERATION ACT OF 1991

The International Cooperation Act of 1991 rewrites the Foreign Assistance Act of 1961 in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, amends the Arms Export Control Act and redesignates that Act as the Defense Trade and Export Control

Act, and authorizes appropriations for international cooperation programs for fiscal year 1992 and 1993.

TITLE I—STATEMENT OF POLICY; ECONOMIC ASSISTANCE PROGRAMS

Section 101—Statement of Policy.—This section provides a new overall policy framework for foreign assistance programs as follows:

STATEMENT OF POLICY

Section 1—Statement of Policy.—This section states the policy framework for the amended Foreign Assistance Act. This framework emphasizes the importance of democracy, the development of market economies, and cooperation in meeting aggression, in order to promote peace and foster worldwide prosperity. The economic and security assistance programs authorized by the Foreign Assistance Act are to serve five mutually reinforcing goals: (1) promoting and consolidating democratic values, (2) promoting market principles and strengthening competitiveness, (3) promoting peace, (4) protecting against transnational threats, and (5) meeting humanitarian needs.

Section 102—Revision of Assistance Programs.—This section provides a new title I of the Foreign Assistance Act as follows:

TITLE I—ECONOMIC ASSISTANCE

Chapter 1—Development Assistance

Subchapter A—Development assistance authorities

Section 1101—Assistance for Development Needs.—This section sets forth the basic statement of policy, objectives, and authorities to be used in furnishing development assistance. Subsection (a) states that developing countries hold the key to their own development, and that development assistance should promote sustainable growth and development which fosters the participation of individuals in economic and political processes through, among other things, emphasizing sound economic policies, encouraging income-generating opportunities, encouraging responsible environmental policies, and improving the capacity of individuals and families to better their economic and social well being.

Subsection (b) notes certain factors which should be taken into account in the allocation of development assistance resources.

Subsection (c) provides that assistance authorized by this section is to be used by the President to meet development needs in developing countries.

Subsection (d) authorizes the President to furnish development assistance for the following two purposes: (1) to support economic growth and democratic development, and (2) to address humanitarian assistance needs and global programs. In each case, the subsection describes both the rationale for the provisions of assistance and contains examples of the kinds of assistance that might be provided in order to address the respective development purpose.

Subsection (e) states that development assistance used to address humanitarian needs and global problems, and assistance to foster democratic initiatives, may be provided notwithstanding provisions of law which restrict assistance to foreign countries.

Section 1102—Authorization of Appropriations.

This section authorizes to be appropriated $1,277,000,000 for fiscal year 1992.

Subchapter B—Other development assistance programs and authorities

Section 1111—Capital and Infrastructure Assistance.—This section authorizes the use of development assistance funds for capital and infrastruture activities. The section recognizes the importance of these kinds of activities to developing countries and the need to ensure the development value of those activities.

Section 1112—Development Education.—This section rewrites section 316 of the International Security and Development Cooperation Act of 1980, generally referred to as the "Biden-Pell" development education provision. This provision authorizes the use of economic assistance to support development education programs within the United States, with emphasis on programs conducted by PVO's and cooperatives to educate U.S. citizens about the issues involved in international development and the importance to the United States of developing countries.

Section 1113—Strengthening the Capacity of Nongovernmental Organizations, Including Research and Educational Institutions.—This section authorizes the furnishing of assistance under title I of the Act to nongovernmental organizations, including research and educational institutions, to strengthen their capacity to develop and carry out programs concerned with economic and social development.

Subchapter C—Other Authorities and Requirements

Section 1121—Impact of Development Assistance on Environment and Natural Resources.—This section states that in implementing programs under chapters 1 and 3 of title I, the President should take fully into account the impact of such program and projects upon the environment and natural resources of developing countries. The section describes certain procedures that the President should employ in taking these matters into account. Subsection (d) authorizes the provision of funds for activities in the environment and energy sectors notwithstanding provisions of law which restrict assistance to foreign countries. This latter authority is similar to one contained in section 533(c) of the FY 1991 Foreign Operations Appropriations Act.

Section 1122—Cost Sharing.—This section states that a government that receives assistance should bear an appropriate share of the costs of the program being financed. Unlike current law, which contains a 25 percent requirement, this section recognizes the need to tailor a recipient government's contribution to several factors, including the need to foster the sustainability of the project and the ability of the government to provide the resources.

Section 1123—Assistance Limited to Economic Programs.—This section provides in subsection (a) that economic assistance authorized by title I is to be used for economic programs and not for military or paramilitary purposes. Subsection (b) contains an exception to this requirement where military personnel participate in training activities or conferences consistent with section 1101 of the Act. Subsection (a) is in substance identical to section 531(e) of current law.

Chapter 2—Development Assistance Credit Programs

Section 1201—Private Sector Credit Program.—This section authorizes a program of investments, loans, and guarantees to assist the development of the private sector in developing countries.

Subsection (a) contains a statement of policy regarding the importance of fostering the private sector in developing countries.

Subsection (b) provides the authority for the program and contains certain limitations, terms, and conditions applicable to the exercise of that authority.

Section 1202—Housing and Urban Credit Program.—This section authorizes a program of loans and guarantees to assist developing countries meet shelter and other essential urban development services and facilities needs.

Chapter 3—Economic Support Assistance

Section 1301—Assistance Under Special Economic, Political, and Security Conditions.—This section states that under special economic, political, or security conditions the United States national interest may require economic assistance for countries in amounts which could not be justified only under development assistance. The section authorizes the President to furnish assitance to countries and organizations in order to promote economic or political stability. To the extent feasible, such assistance is to be furnished consistent with development assistance purposes and authorities.

Section 1302—Authorization of Appropriations.—This section authorizes the appropriations of $3,228,000,000 for the purposes of section 1301 for fiscal year 1992.

Section 1303—Administration of Justice.—This section is based on the current section 534 of the Foreign Assistance Act. Under section 1303, Administration of Justice programs could be undertaken for developing countries and emerging democracies.

Subsection (b) authorizes certain programs to be undertaken under this program, assistance for which is furnished notwithstanding section 4202. There is also general authority for the President to authorize additional programs to support the administration of justice notwithstanding section 4202 if the President determines it to be appropriate.

Section 1303 does not enumerate the activities, listed in paragraphs (1), (2), and (4) through (7) of current section 534, since specific mention is not needed in order to conduct those activities. The absence of such specific mention is thus not intended to limit the scope of administration of justice activities.

Section 1304—Democracy Contingency Fund.—This section establishes a fund to support recently emerged or emerging democracies, or certain countries recently emerging from civil strife. Assistance may be provided notwithstanding any provision of law upon notification of the Congress. Funding of such amounts as may be necessary is authorized for the Democracy Contingency Fund as well as transfers from other accounts. The amount of unobligated funds in the Democracy Contingency Fund at any one time cannot exceed $100 million.

Chapter 4—International Narcotics Control

Section 1401—General.—This section contains statements of policy regarding international narcotics control. Subsection (a), relating to policy, is based closely on current section 481(a)(1) of the Foreign assistance Act, except that it adds a reference to the 1988 United Nations Convention Against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances. Subsection (b), relating to U.S. policy in multilateral development banks on narcotics issues, is based closely on current section 481(a)(3).

Section 1402—Authority to Enter Into Agreements and Provide Assistance.—Subsection (a) provides authority for the President to conclude agreements to promote effective international narcotics control. This subsection is based closely on current section 481(a)(2). The phrase "including reciprocal maritime agreements" has been added

to support Presidential authority, pursuant to article 6(1) of the 1958 Geneva Convention on the High Seas and article 17 of the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, to enter into maritime drug interdiction agreements involving consent to law enforcement action by foreign countries against vessels of United States registry suspected of carrying illicit narcotics beyond the territorial sea of any country.

Subsection (b) provides authority for the President to furnish assistance under chapter 4 to any country or international organization notwithstanding any other provision of law. In addition, the President is authorized to furnish narcotics-related assistance under other chapters of title I notwithstanding any provision of law that restricts assistance to foreign countries except section 4201(a)(7).

Section 1403—Provisions Applicable to Assistance Under This Chapter.—Subsection (a) states that to ensure local commitment to narcotics control activities assisted under this chapter, the government of the country receiving assistance should bear an appropriate share of the costs of the program for which assistance is furnished. The government's contribution may be on an "in kind" basis.

Subsection (b) requires the President, with the assistance of appropriate Federal agencies, to monitor any use under this chapter of a herbicide for aerial eradication in order to determine the impact of such use on the environment and health of individuals.

Subsection (c)(1) requires the President to take all reasonable steps to ensure that aircraft and other equipment made available to foreign countries under this chapter are used only in ways that are consistent with the purposes for which they were made available. Subsection (c)(2) requires the President to discuss, in the annual international narcotics control report, any evidence indicating misuse by a foreign country of aircraft or other equipment made available under this chapter, and the actions taken by the United States Government to prevent future misuse of such equipment by that foreign country.

Subsection (d) authorizes the President to provide under the Foreign Assistance Act any commodity to a foreign country for narcotics-related assistance on a lease or loan basis.

Subsection (e) requires the President to take all reasonable steps to ensure that, except in such circumstances as the President deems appropriate, assistance under this act is not provided to or through any individual or entity that has been convicted or indicted of a violation of, or a conspiracy to violate, any United States, State or District of Columbia, or foreign country law relating to narcotic or psychotropic drugs or other controlled substance.

Section 1404—Transfer of Funds When Countries Fail to Take Adequate Steps to Halt Illicit Drug Production or Trafficking.—This section provides that funds allocated under the report required by section 4303 for a country for economic support assistance, foreign military financing, or international military education and training may be transferred to, and consolidated with, funds made available to carry out this chapter if such funds are withheld pursuant to section 4201(a)(7) and they are used for assistance for countries that have taken significant steps to halt illicit drug production or trafficking.

Section 1405—Waiver of Certain Restrictions on Assistance.—This section provides that section 4203 and any similar provisions of law that prohibit providing assistance to countries in default on obligations owed to the United States shall not apply to the provision of narcotics-related assistance, including assistance under this chapter.

Section 1406—International Narcotics Control Report.—This section requires the President to submit to the Congress a comprehensive annual report on the state of international narcotics production and trafficking, and on United States efforts to prevent the illicit cultivation, manufacture and trafficking in illicit drugs.

Section 1407—Determining Major Drug-Transit and Major Illicit Drug Producing Countries.—This section requires that, not later than October 1 of each year, the President shall notify the appropriate committees of the Congress of which countries have been determined to be major illicit drug producing and major drug transit countries for that year.

Section 1408—Authorization of Appropriations.—This section authorizes $171,500,000 to be appropriated to the President for fiscal year 1992.

Chapter 5—Other Economic Assistance Programs

Subchapter A—American Schools and Hospitals

Section 1501—Authority to Provide Assistance.—This section authorizes assistance for the American Schools and Hospitals Abroad program.

Section 1502—Authorization of Appropriations.—This section authorizes the appropriation of $30,000,000 for fiscal year 1992 for the American Schools and Hospitals Abroad program.

Subchapter B—Debt Exchanges for Development

Section 1511—Debt Exchange.—This section authorizes the making of grants or contracts with nongovernmental organizations to enable those organizations to purchase debt owed by developing countries and cancel the purchased debt to the extent the country makes available assets or policy commitments to promote the objectives of the Act. Subsection (b) allows the local currency proceeds received by the organization to be invested and interest accruing thereon to be retained by the organization for purposes of this Act.

Subchapter C—Reimbursable Programs

Section 1521—Authority to Conduct Reimbursable Programs.—This section provides authority for any United States Government agency to furnish assistance on a reimbursement or advance-of-funds basis. The provision is comparable to section 607 in current law. Subsection (c) makes clear that this authority is not considered assistance for purposes of applying limitations contained in this or any other Act.

Section 1522—Use of Payments.—This section provides that advances or reimbursements received under the previous section are to be credited to the currently applicable appropriation account of the agency concerned. The provision is comparable to section 607 in current law.

Chapter 6—International Disaster Assistance

Section 1601—Statement of Policies.—This section contains a statement of policies regarding the provision of humanitarian assistance for the people and countries affected by natural and manmade disaster.

Section 1602—Authority to Provide Assistance.—This section provides the President with the authority to furnish assistance for international disaster relief and rehabilitation, including preparedness, prevention, mitigation activities, and activities regarding the prediction of, and contingency planning for, natural disasters abroad. Assistance is authorized to be made available notwithstanding any other provision of law.

Section 1603—Authorization of Appropriations.—

This section authorizes $40,000,000 for fiscal year 1992 for International Disaster Assistance activities.

Section 1604—Borrowing Authority.—This section authorizes the use of up to $50 million of funds made available under other provisions of title I to provide assistance under the authorities and general policies of this chapter. This section is the same general authority contained in section 492(b) of current law.

Chapter 7—Voluntary Contributions to International Organizations and Programs

Section 1701—Authority to Provide Assistance.—This section provides authority for voluntary contributions to support international organizations and their programs. Such support could continue to be provided either as direct contributions or as support for bilateral or multilateral programs that support or assist in achieving the goals of international organizations.

Section 1702—Authorization of Appropriations.—This section authorizes $250,212,000 to be appropriated to carry out this chapter for fiscal year 1992.

Section 1703—Condition on Contributions to International Organizations.—This section authorizes the President to withhold contributions to any international organization if the President determines that Israel, or such other countries as the President may designate, is being denied its right to participate in the activities of that organization.

Section 1704—Withholding of United States Proportionate Share for Certain Programs of International Organizations.—This section requires withholding of the U.S. proportionate share for programs for certain countries, organizations, or projects.

Section 1705—Contributions to United Nations Relief and Works Agency.—This section authorizes witholding of contributions to the United Nations Relief and Works Agency for Palestine Refugees in the Near East if that Agency does not take all possible measures to assure that no part of the United States contribution is used to furnish assistance to any refugee who is receiving military training as a member of the PLO or any other guerrilla type organization, or who has engaged in any act of terrorism.

Section 1706—Auditing of Accounts of International Organizations.—This section contains provisions for the auditing of accounts of international organizations.

Chapter 8—Administration of Economic Assistance Programs

Subchapter A—Operating Expenses

Section 1801—Authorizations of Appropriations for Operating Expenses Generally.—This section authorizes the appropriation of $483,300,000 for fiscal year 1992 for the operating expenses for the agency designated to administer economic assistance programs under title I of this Act, and authorizes such additional amounts as may be necessary for increases in salary, pay, and other employee benefits and nondiscretionary costs.

Section 1802—Authorizations of Appropriations for the Operating Expenses of the Inspector General.—This section authorizes the appropriation of $37,739,000 for fiscal year 1992 for the operating expenses for the Office

of Inspector General of the agency designated to administer economic assistance programs under title I of this Act, and authorizes such additional amounts as may be necessary for increases in salary, pay, and other employee benefits and nondiscretionary costs.

Section 1803—Availability of Funds.—This section authorizes the agency designated to administer economic assistance programs under title I of this Act to obligate and expend funds in advance of appropriations in order to maintain operations at posts abroad for up to three days.

Subchapter B—Evaluation

Section 1811—Evaluation and Accountability.—This section states that the President should develop and disseminate performance evaluations of economic assistance programs under title I, and describes the role that evaluation should play in the implementation of economic assistance programs.

Subchapter C—Cooperation With Nongovernmental Sector

Section 1821—Voluntary Cooperation in Development.—This section urges the continued participation of private and voluntary organizations, including cooperatives and credit unions, and universities in achieving the objectives of this Act.

TITLE II—MILITARY ASSISTANCE AND RELATED ASSISTANCE AND SALES PROGRAMS

Chapter 1—Consolidation and Revision of Accounts

Section 201—Revision of assistance programs.—This section provides a new title II of the Foreign Assistance Act as follows:

TITLE II—MILITARY ASSISTANCE AND RELATED PROGRAMS

Chapter 1—Policies Regarding Military Assistance

Section 2101—General.—This section sets forth a series of findings and statements regarding military assistance.—This section sets forth objectives for providing military assistance.

Chapter 2—Foreign Military Financing Program

Section 2201—Authority to Furnish Assistance.—This section sets forth the basic authorities for furnishing military assistance by providing defense articles and defense services on a loan or grant basis, and by financing the sale of defense articles and defense services. It also contains provisions on financing procurement by commercial leases, the exclusion of certain costs from sales, the obligation of funds under the FMF program upon apportionment, and the inclusion in grant agreements under the program of provisions granting the U.S. the right to deobligate funds furnished under the agreement in certain cases no later than three years after the agreement is entered into.

Section 2202—Terms of Financing.—This section provides that financing may be provided on a grant or credit basis, or by providing guarantees, and sets forth criteria that should be taken into account in determining the form of financing.

Section 2203—Eligibility.—This section contains requirements that recipients of defense articles and defense services provide assurances regarding their use and retransfer, and contains provisions on ineligibility for assistance in certain cases for failure to abide by these assurances.

Section 2204—Approval of Third Country Transfers.—This section contains requirements regarding approval by the U.S. of requests by recipients of assistance under the program to transfer defense articles and defense services to third parties.

Section 2205—Drawdown Authority.—This section, based on current section 506 of the Foreign Assistance Act, authorizes the President to direct drawdowns in certain situations.

Section 2206—Grant Transfers of Excess Defense Articles.—This section, based on current sections 516 through 519 of the Foreign Assistance Act, authorizes the President to provide excess defense articles on a grant basis in certain circumstances.

Section 2207—Considerations in Furnishing Assistance.—This section sets forth criteria to be considered in deciding to furnish assistance under this chapter.

Section 2208—Civic Action in Africa.—This section provides that assistance under this chapter for the civic action in the Africa program may be made available notwithstanding section 4203 and any similar provisions of law that prohibit providing assistance to countries in default on obligations owed to the United States.

Section 2209—Authorization of Appropriations.—This section authorizes $4,640,000,000 to be appropriated to carry out this chapter for fiscal year 1992.

Chapter 3—Stockpiling of Defense Articles for Foreign Countries

Section 2301—Restrictions on Stockpiling.— This section contains restrictions on the transfer of defense articles contained in dual-use stockpiles.

Section 2302—Location of Stockpiles.—This section contains provisions that govern the location of stockpiles.

Section 2303—Additions to War Reserve Stockpiles.—This section contains provisions regarding the ceilings on the value of defense articles that can be added to dual-use stockpiles.

Chapter 4—Overseas Management of Assistance and Sales Programs

Section 2401—Authorized Functions.—This section authorizes the President to assign members of the Armed Forces to a foreign country to perform certain functions. It also provides that advisory and training assistance conducted by members of the Armed Forces under this chapter shall be kept to an absolute minimum.

Section 2402—Costs.—This section governs costs of overseas management and sales programs under this chapter.

Section 2403—Role of Chief of Mission.—This section provides that members of the Armed Forces assigned to a foreign country under this chapter shall serve under the direction and supervision of the Chief of the United States Diplomatic Mission to that country.

Chapter 5—International Military Education and Training

Section 2501—Authority to Furnish Assistance.—This section sets forth the authority for the international military education and training ("IMET") program.

Section 2502—Terms of Assistance.—This section provides that military education and training under this chapter shall be provided on a grant basis and that, whenever feasible, military education and training shall be provided on credit terms under chapter 2.

Section 2503—Exchange Training.—This section provides for attendance of foreign military personnel at professional military education institutions in the U.S. without charge, on a reciprocal basis.

Section 2504—Exemptions.—This section provides exemptions for the IMET program from section 4203 and any similar provisions of law that prohibit providing assistance to countries in default on obligations owed to the United States; and from section 4204 for certain types of training.

Section 2505—Authorization of Appropriations.—This section authorizes $52,500,000 to be appropriated to carry out this chapter for fiscal year 1992.

Chapter 6—Peacekeeping Operations

Section 2601—General Authority.—This section authorizes the furnishing of assistance to foreign countries and international organizations for peacekeeping operations and other programs carried out in furtherance of the national interest of the United States.

Section 2602—Special Transfer and Drawdown Authorities.—This section contains authorities for transfers and drawdowns in cases of unforeseen emergency, where the provision of assistance under this chapter in amounts in excess of funds otherwise available for such assistance is important to the national interests of the United States.

Section 2603—Administrative Authorities.—This section provides that, except where expressly provided to the contrary, any reference in any law to title I of this Act shall be deemed to include reference to this chapter and any reference in any law to title II of this Act shall be deemed to exclude reference to this chapter.

Section 2604—Authorization of Appropriations.—This section authorizes $28,000,000 to be appropriated to carry out this chapter for fiscal year 1992.

Chaper 7—International Terrorism

Section 2701—General.—This section describes the transnational threat of terrorism, considerations related to this threat that the President should take into account in providing assistance under the Foreign Assistance Act, and the purposes of antiterrorism assistance.

Section 2702—Authority to Provide Antiterrorism Assistance.—This section contains the basic authority for the antiterrorism assistance program.

Section 2703—Authorities and Limitations.—This section sets forth a series of authorities and limitations regarding the antiterrorism assistance program.

Section 2704—Congressional Presentation Documents.—This section describes information to be included in the congressional presentation documents in connection with the anti-terrorism program.

Section 2705—Administrative Authorities.—This section provides that, except where expressly provided to the contrary, any reference in any law to title I of this Act shall be deemed to include a reference to this chapter and any reference in any law to title II of this Act shall be deemed to exclude reference to this chapter.

Section 2706—Authorization of Appropriations.—This section authorizes $15,000,000 to be appropriated to carry out this chapter for fiscal year 1992.

Section 202—Conforming Amendments to Arms Export Control Act.—This section contains a number of amendments to the Arms Export Control Act to conform to changes to the Foreign Assistance Act that would be made by the International Cooperation Act.

Section 203—Transition Rules.—This section contains transition rules regarding disposition of certain previously provided military equipment, and commitment of prior year military assistance.

Chapter 2—Foreign Military Sales Program

Section 221—Arms Transfer Policy.—This section sets forth new policy language, to be included in section 1 of the new Defense

Trade and Export Control Act. It also makes certain additional conforming amendments.

Section 222—Designation of Major Non-NATO Allies.—This section would enact a new section 48 of the Defense Trade and Export Control Act to establish a procedure for designating countries and major non-NATO allies.

Section 223—Standardized Congressional Notification Procedures.—This section would enact a new section 49 of the Defense Trade and Export Control Act to establish standardized procedures for all arms transfers under that Act. It also contains a series of necessary conforming amendments.

Section 224—Update of Certification Thresholds.—This section updates the certification thresholds, which have not been adjusted for inflation for approximately a decade, for reporting arms sales under the standardized procedures of section 223.

Section 225—Economic Impact on United States of Arms Sales.—Under this section, the annual report on arms sales submitted under section 25(a) of the Defense Trade and Export Control Act would contain an analysis of the economic benefits or disadvantages to the United States of arms sales and licensed commercial exports under the Defense Trade and Export Control Act during the preceding year.

Section 226—Enforcement and Processing of Arms Export Licensing Requirements.—This section is intended to enhance munitions export controls and to tighten enforcement action against illicit or illegal arms export activities.

Subsection (a) would amend section 38 of the Defense Trade and Export Control Act to include a definition of those articles or services that may be included on, or covered by, the U.S. Munitions List (USML). It further provides that certain articles or services must be removed from the USML if they have gained a predominant civil application, even though they otherwise qualify for inclusion on the USML. This provision is intended to clear up confusion expressed by exporters regarding the extent of USML coverage. It also responds to the long-standing request of exporters that truly "dual-use" items be transferred to Commerce Department control.

Subsection (b) would amend section 38 of the Defense Trade and Export Control Act to provide that any person convicted or debarred for a violation of arms export rules or regulations under sections 38 or 39 of such act may not, for a one-year period following the date of conviction or debarment, be eligible to conclude a contract with a foreign government in which foreign military financing is used. The provision is consistent with similar sanctions in other U.S. laws for violations of licensing procedures under the Export Administration Act. Subsection (b) also provides that any person convicted of a violation of arms export rules or regulations under sections 38 and 39 of the Defense Trade and Export Control Act shall forfeit to the United States any interest in, or rights of any kind in any defense article or tangible item that was the subject of or used in the violation or arms export rules or regulations. These provisions are similar to the forfeiture provisions for violations of the export regulations of the Export Administration Act and are designed to ensure that those convicted of illegal arms exports do not benefit financially from violations of the Defense Trade and Export Control Act.

Subsection (c) would amend section 38(g) of the Defense Trade and Export Control Act to clarify with the President should disapprove license applications that may raise law enforcement concerns because of certain circumstances surrounding the applicant. This provision also clarifies that the President may grant licenses to persons convicted of violating certain laws or ineligible to receive export licenses if foreign policy or national security considerations justify the issuance of a particular license. These provisions elaborate the intent of sections 38(g)(3) and 38(g)(4) regarding the specific instances when export licenses should be denied for law enforcement reasons and when exceptions to denial policies should be made.

Subsection (c) would further amend section 38(g) of the Defense Trade and Export Controt Act by expanding the exception to the prohibition against issuing arms export licenses to foreign persons. Consistent with treatment of international organizations in other contexts, this exception would now explicitly cover international organizations as well as foreign governments. Finally, under this subsection, in addition to initial screening of license applications, the Secretary of State would now be able to request assistance with respect to all functions of the office primarily responsible for munitions licensing.

Subsection (d) would amend section 38 of the Defense Trade and Export Control Act to add explicit authority for the President to impose controls on any action or service knowingly performed by a U.S. person (or person subject to U.S. jurisdiction), to the extend such controls are necessary to prevent the proliferation of nuclear-capable missiles and chemical, biological, and related weapons. This amendment stems from an increasing sense that traditional item-based controls alone are insufficient to prevent proliferation of such missiles and weapons.

Section 227—Fair Pricing.—Under this section, charges for defense articles that are not major defense equipment that are sold under the Defense Trade and Export Control Act or licensed or approved for export under section 38 may exclude any nonrecurring costs of research on or development or production of those articles.

Section 228—Presidential Authorities.—This section would modify the Defense Trade and Export Control Act, consistent with the approach in the Foreign Assistance Act, so that authorities and functions contained in it would be vested directly in the President, rather than to particular Executive branch officers. While this change is to some degree stylistic, since Executive branch officers in any event are subordinate to the President, it is in keeping with the approach that the President is responsible for the administration of foreign assistance and arms sales programs.

Section 229—Amendments to Eliminate Obsolete and Inconsistent Provisions.—This section would amend a series of provisions in the Defense Trade and Export Control Act to eliminate obsolete and inconsistent provisions.

Section 230—Contract Administrative Service Charges for NATO Subsidiary Bodies.—This provision would amend section 21(h)(1)(A) of the Defense Trade and Export Control Act with respect to contract administrative service charges for NATO subsidiary bodies.

Section 231—Technical Corrections.—This section makes technical corrections in sections 3, 25, and 36 of the Defense Trade and Export Control Act.

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

Sec. 301. Revision of certain private sector programs.—This section provides a new title III of the Foreign Assistance Act as follows:

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

Chapter 1—Overseas Private Investment Corporation

Section 3101—Purpose and Policy.—This section, which establishes the Overseas Private Investment Corporation and outlines general administrative guidelines for OPIC operations, is similar to section 231 of current law. These guidelines continue to require that OPIC consider the development impact of each project, give preferential treatment to investments in countries with per capita incomes of $1,091 or less; but expand the focus of OPIC's operations beyond friendly developing countries to include emerging democracies and economies in transformation.

Section 3102—Stock of the Corporation.—This section states that the Secretary of the Treasury shall hold OPIC's capital stock. The language updates section 232 of current law by striking the reference to OPIC's start-up capital and initial issuance of stock.

Section 3103—Organization and Management.—This section establishes a Board of Directors and outlines the appointment of the President and Executive Vice President and the hiring of staff. The provisions are virtually identical to section 233 of current law, except that limitations on appointment of members of the OPIC Board of Directors has been modified. In addition, authority is provided to allow Board members to waive their compensation in order to permit them to serve without pay if they choose to do so.

Section 3104—Investment Insurance, Guarantees, Financing, and Other Programs.—Section 3104(a) authorizes OPIC to issue investment insurance against inconvertibility, expropriation, civil strife, and business interruption; authorizes OPIC to share liabilities with foreign governments and multilateral organizations, and prohibits OPIC from issuing insurance to a single investor for more than 10% of its maximum contingent liability. This section is virtually identical to section 234(a) of current law, except a requirement for OPIC to submit a report to Congress each time it proposes to expand the type of risk insured under "civil strife" or "business interruption" coverage has been removed. Provisions previously found in section 234(f) authorizing the Corporation to contract with insurance companies or financial institutions, to enter into risk-sharing agreements, and to issue reinsurance have been included in this subsection, in order to bring all insurance authorities into a single subsection. These provisions are virtually identical to section 234(f) of current law.

Section 3104(b), authorizing OPIC to issue investment guarantees, is virtually identical to section 234(b) of current law.

Section 3104(c) authorizes OPIC's direct loan program and is virtually identical to section 234(c) of current law, except that certain restrictions on using direct loans to finance operations for the extraction of oil and gas and other minerals have been removed.

Section 3104(d), authorizing OPIC to engage in various investment encouragement activities, is virtually identical to section 234(d) of current law, except that certain restrictions on the financing of studies to de-

termine the feasibility of extraction of oil and gas and other minerals have been removed.

Section 3104(e), authorizing OPIC to administer special assistance programs, is virtually identical to section 234(e) of current law.

Section 3104(f) provides the authority for a four-year pilot equity finance program. This section is virtually identical to section 234(g) of current law, except geographic limitations and consulting requirements have been removed, and the limit on equity held by the Corporation has been increased to 49 percent for projects in Eastern Europe.

Section 3105—Enhancing Private Political Risk Insurance Industry.—Section 3105(a) authorizes OPIC to enter into cooperative programs with the private political industry and is virtually identical to section 234A(a) of current law. Section 3105(b) mandates the establishment of a private sector advisory group to provide assistance in implementing the cooperative programs under this section. This provision is virtually identical to section 234A(b) of current law.

Section 3106—Guidelines and Requirements for OPIC Support.—Section 3106(a), directing the Corporation to prepare a development impact profile for each project it insures, finances or reinsures, is virtually identical to section 239(h) of current law.

Section 3106(b), which provides that OPIC should give preferential treatment to projects involving U.S. small business, is virtually identical to section 240 and section 231(e) of current law, except that the requirement that up to 50 percent of annual net income be set aside for small business activity and program level guidelines have been deleted as adding little to the other existing requirements for preferential treatment for small businesses and cooperatives.

Section 3106(c) states that the Corporation should refrain from insuring, reinsuring or financing any project deemed to pose an environmental, health or safety hazard, or to threaten a national park or protected area. It also provides that OPIC's projects should be consistent with the objective of resource sustainable development outlined in section 1 of the bill, that OPIC should prepare an environmental impact statement or assessment for each project, and that OPIC should notify foreign government officials of applicable World Bank and U.S. standards and guidelines relating to any project. This section is similar to subsections 231(n), 239(g) and 237(m) of current law.

Section 3106(d) provides that the Corporation should take country human rights into account in operation of its program. This section is similar to section 239(i) of current law.

Section 3106(e) directs that OPIC should refrain from insuring, reinsuring, or financing an investment that would cause an investor to reduce his workforce in the United States or that would cause a reduction in overall U.S. employment. This section is similar to subsections 231 (k) and (l) of current law. This provision clarifies that these restrictions should govern OPIC's activities rather than the similar but broader provision contained in section 4201(a)(4) of this act.

Section 3106(f), prohibiting OPIC from involvement in any investment subject to performance requirements, is identical to section 231(m) of current law.

Section 3106(g) prohibits the payment of any claims to, and bars from OPIC eligibility for 5 years, any investor found guilty under the Securities Exchange Act or the Foreign Corrupt Practices Act in connection with an OPIC-supported investment. This language is virtually identical to section 237(l) of current law.

Section 3106(h), prohibiting OPIC from making any payment for losses incurred due to fraud or misrepresentation, is identical to section 237(g) of current law.

Section 3106(i), mandating that OPIC hold an annual public hearing, is identical to section 231A(b) of current law.

Section 3107—Issuing Authority, Direct Investment Fund, Equity Fund, and Reserves.—

Section 3107(a) sets a maximum contingent liability of $7.5 billion for insurance. This section is similar to section 235(a) of current law, except that, consistent with the Federal Credit Reform Act of 1990, it deletes the limit on maximum contingent liabilities for guarantees, the minimum level for aggregate guarantees and the requirement of a 25 percent reserve for guarantees. It also requires the Congress to limit the level of administrative expense and subsidies in connection with OPIC's direct lending and guarantee programs in accordance with the Credit Reform legislation, and it deletes the termination of authority of OPIC's insurance and guarantee programs.

Section 3107(b), establishing a direct investment revolving fund, is virtually identical to section 235(b) of current law, except for the deletion of a minimum level of authority. Consistent with the Federal Credit Reform Act of 1990, section 3107(b) also provides for the termination of the Direct Investment Fund.

Section 3107(c) creates a revolving fund for the pilot equity finance program authorized by section 1504(f) and is virtually identical to section 235(c) of current law, except that the amount has been increased to $35 million, and new language has been added to authorize the use of funds transferred pursuant to section 5201 for the same purpose.

Section 3107(d), directing OPIC to maintain apporpriate reserve against insurance liabilities, is virtually identical to section 235(c) of current law, but deletes, consistent with the Federal Credit Reform Act of 1990, the requirement for a guarantee reserve.

Section 3107(e) outlines the payments of funds to discharge liabilities and is virtually identical to section 235(d) of current law, except for changes necessary to conform to the provisions of the Federal Credit Reform Act of 1990.

Section 3107(f) authorizes the appropriation of funds to replenish the insurance reserve and is virtually identical to section 235(f) of current law, except for deletion of the guarantee reserve.

Section 3107(g) authorizes OPIC to issue obligations for purchase by the Secretary of the Treasury to discharge its liabilities when necessary and is virtually identical to section 235(f) of current law.

Section 3108—Income and Revenues.—

Section 3108, outlining the uses of OPIC's income and revenues, is virtually identical to section 236 of current law.

Section 3109—General Provisions Relating to Insurance, Guarantee, and Financing Program.—Section 3109(a) prohibits OPIC from supporting projects in any country unless OPIC has signed a bilateral agreement with respect to OPIC activity. It is virtually identical to section 237(a) of current law.

Section 3109(b), directing OPIC to ensure that the interests of the Corporation are adequately protected, is virtually identical to section 237(b) of the current law.

Section 3109(c) pledges the full faith and credit of the United States for OPIC insurance and guarantees and is virtually identical to section 237(c) of current law.

Section 3109(d)(1), permitting the charging of fees for OPIC services, is virtually identical to section 237(d) of current law. A new subsection 3109(d)(2) has been added clarifying OPIC's authority to expend funds in the financing accounts established pursuant to the Federal Credit Reform Act of 1990 for project-related transactional costs, and a new subsection 3109(d)(3) has been added clarifying OPIC's authority to apply fees collected for the direct costs associated with its investor-specific activities as well as its conferences and seminars.

Section 3109(e) limits OPIC insurance, reinsurance and guarantees to 20 years and is virtually identical to section 237(e) of current law.

Section 3109(f) outlines the amount of compensation OPIC may pay on its insurance, reinsurance or guarantees. This section is virtually identical to section 237(f) of current law.

Section 3109(g), which limits the extent of OPIC insurance, reinsurance or guarantees of investments in foreign banks or financial institutions, is virtually identical to section 237(h) of current law.

Section 3109(h) authorizes the Corporation to arbitrate claims arising from its programs and is virtually identical to section 237(i) of current law.

Section 3109(i), stating that each OPIC contract shall be presumed to be in compliance with the statute, is virtually identical to section 237(j)) of current law.

Section 3109(j) changes current law, which permitted OPIC to support projects in certain countries otherwise prohibited by law (Eastern Europe and the People's Republic of China), subject to a Presidential determination. This provision would now provide that only the restrictions contained in this chapter would limit the countries where OPIC programs can be made available.

Section 3110—General Provisions and Powers.—Section 3110(a), establishing the Corporation in the District of Columbia, is virtually identical to section 239(a) of current law.

Section 3110(b) provides for an annual independent audit of OPIC. This section is similar to section 239(c) of current law, except that it requires annual audits instead of once every three years and authority for audits by the Comptroller General has been removed.

Section 3110(c) delineates OPIC's corporate powers and is virtually identical to section 239(d) of current law.

Section 3110(d) authorizes investigations by the Inspector General and is similar to section 239(e) of current law.

Section 3110(e) provides an exemption from state and local taxation. It is virtually identical to section 239(j) of current law.

Section 3110(f) directs OPIC to publish its guidelines and is similar to section 239(k) of current law.

Section 3111—Annual Report; Maintenance of Information.—Section 3111(a) directs the President to submit an annual report to Congress and section 3111(b) mandates that each annual report contain a projection of the aggregate U.S. employment effects of all OPIC projects. These sections are similar to sections 240A (a) and (b) of current law except that the annual report is no longer submitted by the corporation and certain reporting requirements are eliminated.

Section 3111(c) requires OPIC to maintain information on its projects and their employment and development effects. This section is virtually identical to section 240(d) of current law.

Section 3111(d) directs OPIC to include in each annual report a review of its cooperative programs with the private political risk insurance industry and is virtually identical to section 240A(e) of current law.

Section 3111(e), protecting certain information from public disclosure, is virtually identical to section 240A(f) of current law.

Section 3112—Definitions.—This section defines certain terms used in this subchapter and is similar to section 238 of current law, except for a change in the definition of "eligible investor" to clarify that eligibility requires more than 50 percent U.S. beneficial ownership, and to remove the separate standard for eligibility of foreign-domiciled investors.

Chapter 2—Trade and Development Agency

Section 3121—Purpose.—This section states that the purposes of this chapter will be carried out by the Trade and Development Agency under the foreign policy guidance of the Secretary of State.

Section 3122—Authority to Provide Assistance.—This section authorizes the Director of the Trade and Development Agency to work with foreign countries, including aid graduates and other countries not receiving U.S. assistance, by supporting feasibility studies and other activities related to development projects and which promote U.S. exports. This section authorizes the use of funds to support activities for bilateral and multilateral projects in order to promote U.S. exports, and directs the Trade and Development Agency to disseminate information on its projects to the private sector. Lastly, the section authorizes the use of funds under this chapter notwithstanding any other provision of law.

Section 3123—Director and Personnel.—This section states that the head of the Trade and Development Agency is a Director to be appointed by the President, by and with the advice and consent of the Senate. The section contains further personnel authorities.

Section 3124—Annual Report.—This section requires the Trade and Development Agency to submit an annual report to Congress concerning its activities.

Section 3125—Inspector General.—This section provides certain authorities and responsibilities concerning Inspector General oversight of the Trade and Development Agency.

Section 3126—Funding.—This section authorizes the appropriation of $35,000,000 for fiscal year 1992 for the Trade and Development Agency.

TITLE IV—SPECIAL AUTHORITIES, RESTRICTIONS ON ASSISTANCE, AND REPORTING REQUIREMENTS

Section 401—Consolidation and Revision of Special Authorities, Restrictions on Assistance, and Reporting Requirements.—This section provides a new title IV of the Foreign Assistance Act as follows:

TITLE IV—SPECIAL AUTHORITIES, RESTRICTIONS ON ASSISTANCE, AND REPORTS

Chapter 1—Special Authorities

Section 4101—Authority to Transfer between Accounts.—This section, based on current section 610 of the Foreign Assistance Act, provides authority to transfer funds between accounts, subject to notification in advance of the Committees on Foreign Affairs and Appropriations of the House of Representatives, and the Committees on Foreign Relations and Appropriations of the Senate. As under current section 610, there would be a cap of twenty percent on the amount that could be transferred into any account under the authority of this section.

Section 4102—Special Waiver Authority.—This section, based on current section 614 of the Foreign Assistance Act, provides authority to take certain actions without regard to certain provisions of law upon an appropriate determination by the President. The exercise of this authority is subject to a requirement that the President consult with, and provide a written policy justification to, the Committees on Foreign Affairs and Appropriations of the House of Representatives, and the Committees on Foreign Relations and Appropriations of the Senate.

Section 4103—Unanticipated Contingencies.—This section, based on current section 451 of the Foreign Assistance Act, provides authority to use funds under the Act in order to furnish, for any unanticipated contingency, assistance authorized by any provision of the Act, other than chapters 2 and 5 of title II, in accordance with the provisions applicable to furnishing such assistance. Such assistance may be furnished notwithstanding any other provision of law. This provision would increase the annual cap on the use of this authority from $25 million under current section 451 to $50 million.

Section 4104—Emergency Assistance.—This section, based on current section 533 of the Foreign Assistance Act, provides authority to use funds otherwise earmarked for the FMF or ESF programs for emergency use when the national interests of the United States urgently require support to promote economic, political or military stability.

Section 4105—Termination Expenses.—This section, based on current section 617 of the Foreign Assistance Act, provides authority to conduct an orderly wind-up of programs following the termination of assistance to a country. The section clarifies existing wind up authorities as they pertain to the expenditure of previously appropriated funds, and with respect to guarantees.

Section 4106—Exemption of Assistance through Nongovernmental Organizations.—This section provides that restrictions on assistance to countries shall not be construed to restrict assistance under title I in support of programs of nongovernmental organizations.

Section 4107—Exemption of Training Activities from Prohibitions.—This section provides that restrictions on assistance shall not be construed to prohibit assistance for training activities under the Act for certain countries described therein.

Section 4108—Nonapplicability to Military Assistance of Certain Neutrality Act Provisions.—This section provides that functions authorized under the Foreign Assistance Act may be performed without regard to such provisions as the President may specify of the Neutrality Act of 1939.

Chapter 2—Restrictions on Assistance

Section 4201—Ineligible Countries.—This section provides that assistance may generally not be furnished to the government of a country that is a communist country, a country the government of which engages in a consistent pattern of gross violations of human rights, a country that has taken certain actions with regard to the expropriation of the property of United States persons, a country whose duly-elected head of government is deposed by military coup or decree, a country whose government the President determines repeatedly provides support for acts of international terrorism, a country with respect to which certain provisions on nuclear nonproliferation apply, and certain major drug-producing or major drug-transit countries. There are exceptions to these restrictions for cases in which the President determines that the furnishing of assistance is important to the national interests of the United States, to alleviate suffering resulting from a disaster, to directly benefit the needy, and to promote human rights and democracy.

Section 4202—Policy Training.—This section is based on current section 660 of the Foreign Assistance Act. A series of exceptions are set forth in subsection (b).

Section 4203—Countries in Arrears on Assistance Repayments.—This section, based on current section 620(q) of the Foreign Assistance Act, prohibits assistance to certain countries in arrears to the United States Government on certain loan repayments.

Section 4204—Family Planning Activities.—This section sets forth restrictions on the use of funds made available to carry out title I for certain family planning activities.

Section 4205—Competition with United States Exports.—This section describes considerations that the President should take into account in providing assistance under title I of the Foreign Assistance Act with respect to certain export-related activities.

Section 4206—Nuclear Non-Proliferation.—This section sets forth criteria applicable in determining whether a country is covered by the prohibition on assistance under section 4201(a)(6), relating to nuclear nonproliferation issues.

Section 4207—Major Illicit Drug Producing and Drug Transit Countries.—This section sets forth criteria applicable in determining whether a country is covered by the prohibition on assistance under section 4201(a)(7), relating to major illicit drug producing and drug transit countries.

Section 4208—Assistance for Elections.—This section provides that economic assistance used to enhance the independence and performance of electoral processes may not be used for the purpose of influencing the outcome of any election in any country. This provision is similar to the requirement contained in current section 116(e) of the Foreign Assistance Act.

Section 4209—Duties of a Noncombatant Nature.—This section, which is based on current section 503(a)(2) of the Foreign Assistance Act and section 21(c)(1) of the Arms Export Control Act, restricts the performance of duties of a combatant nature. The provisions of current law have been interpreted as not prohibiting the performance of such duties by U.S. personnel during periods in which the United States is itself involved in combat, but there are additional situations in which the application of this restriction would not be in the national interest of the United States, and an appropriate waiver provision has therefore been added.

Chapter 3—Reports and Notification to Congress

Section 4301—Congressional Presentation Documents for Economic Assistance.—This section requires the President to provide congressional presentation documents for economic assistance programs under title I of the Foreign Assistance Act, and describes information that is to be included in such documents.

Section 4302—Human Rights Policy and Report.—This section sets forth the sense of the Congress regarding respect for human rights and fundamental freedoms throughout the world, and reflects the importance human rights and related concerns should play in formulating and conducting United States assistance and military sales programs. Subsection (c) requires the submission of annual human rights report not later than February 28 each year.

Section 4303.—Annual Allocation Report.—This section, based on current section 653(a) of the Foreign Assistance Act, requires an annual report not later than 30 days after the enactment of any law appropriating funds to carry out any provision of this act.

Section 4304—Notification of Program Changes.—This section, based on current section 634A of the Foreign Assistance Act, sets forth requirements for submitting reprogramming notifications to the Committees on Foreign Affairs and Appropriations of the House of Representatives, and the Committees on Foreign Relations and Appropriations of the Senate.

TITLE V—GENERAL PROVISIONS

Section 501—Consolidation and Revision of Administrative Authorities and Elimination of Obsolete Provisions.—This section provides a new title V of the Foreign Assistance Act as follows:

TITLE V—GENERAL PROVISIONS

Chapter 1—Exercise and Coordination of Functions

Section 5101—Delegations by the President.—This section generally retains the language in section 621(a) of current law. It authorizes the President to carry out provisions of this Act through any U.S. Government agency or officer.

Section 5102—Designation of Administering Agency for Title I.—This section states that the President may exercise his functions to administer economic assistance programs under title I primarily through a single agency which the President may designate.

Section 5103—Authority to Establish Missions Abroad.—This section essentially retains provisions of sections 631 (a) and (d) of current law. It authorizes the President to establish special missions abroad to carry out the purposes of this act. Smaller economic assistance programs may be administered by the principal economic officer of the U.S. diplomatic mission.

Section 5104—Presidential Findings and Determinations.—This section is based on current law (sections 654 (a) and (b)) and procedures concerning findings and determinations required in foreign assistance legislation which must be reported to Congress. This provision does not affect any presidential findings concerning covert operations which remain subject to the reporting requirements of section 501 of the National Security Act of 1947.

Chapter 2—Administrative Authorities

Section 5201—Allocation of Funds and Reimbursement Among Agencies.—This section retains the provisions of section 632 of current law. The President is allowed to allocate or transfer to any U.S Government agency any of the funds made available to carry out this Act to procure commodities, services, defense articles, or defense service. This section lays out technical provisions concerning procurement from other agencies, reimbursement to agencies, establishment of accounts, and charges to appropriations.

Section 5202—General Authorities.—This section provides general authorities for carrying out this Act. These authorities follow the lines of section 635 of current law. They include terms and conditions of assistance; the authority to make guaranty commitments; contracting; receipt of gifts; health and accident insurance for foreign employees and participants; U.S. admission of alien participants; loan authorities; claims related to guarantees; indirect costs of educational institution; and multi-year commitments. The section deletes the provision contained in current law which prohibited the use of funds to take equity positions in organizations.

Section 5203—Authorized Administrative Uses of Funds.—This section generally follows section 636 of current law. Authorities retained, and in some instances clarified, include those relating to: compensation of personnel; procurement of administrative supplies and services; travel; housing; purchase and maintenance of motor vehicles; construction of facilities; education of dependents; training of personnel; and other operating authorities. Dollar limitations with respect to the construction of support facilities and schools for dependents are not retained.

Chapter 3—Special Requirements and Authorities Relating to Appropriations and Local Currencies

Subchapter A—Provisions Relating to Appropriations

Section 5301—Requirement for Specific Authorization of Appropriations.—This section sets forth the requirement for the specific authorization of funds for foreign assistance pursuant to existing law (Public Law 91-672).

Section 5302—Authority for Extended Period of Availability of Appropriations.—This section authorizes amounts appropriated to carry out this Act to remain available until expended.

Section 5303—Reduction in Earmarks.—This section contains two authorities regarding earmarks of funds. Subsection (a) authorizes the proportional reduction of earmarks in the event that the amount appropriated for the account being earmarked is less than the amount authorized for that account. Subsection (b) states that earmarked funds may be made available notwithstanding the earmark if compliance with the earmark is made impossible by operation of law or the President determines that the country or organization for which the funds are earmarked has significantly reduced its military, political, or economic cooperation with the United States.

Subchapter B—Local currencies

Section 5321—Special Accounts For and Use of Host-Country Owned Local Currencies.—This section states that to the extent determined apporpriate by the President, separate accounts for the use and accounting of host-country owned local currencies "generated" from economic assistance programs should be established. The term "generated" means the tangible flow of local currency to the host government (rather than an internal accounting transaction within that government) as a result of the use of dollar assistance by the host government. In exercising the authority of this section, consideration should be given to the economic effects of changes in local money supply caused by the generation of local currency. Section 5321 generally follows provisions of section 609 of current law.

Section 5322—Use of Certain Foreign Currencies Owned by the United States.—This section amends and updates section 612 of current law. It authorizes the use of United States owned excess foreign currencies to provide economic assistance.

Section 5323—Interest on U.S. Owned Foreign Currency Proceeds.—This section retains a similar provision in section 612 of current law. It states that agreements with respect to assistance that will result in the accrual of foreign currency proceeds should include provisions for the receipt of such interest income on such proceeds.

Section 5324—Use of Local Currencies.—This section retains section 636(h) of current law. It directs the President to ensure that countries receiving assistance under this Act contribute their local currencies, to the maximum extent possible, to help meet the cost of providing the assistance.

Section 5325—Interest on Local Currency Accruing to Nongovernmental Organizations.—This section permits nongovernmental organizations to invest and earn interest on local currencies they receive from economic and food assistance provided by the United States. It also allows any interest earned to be used for the purpose for which the assistance was provided.

Chapter 4—Procurement and Disposition on Commodities and Defense Articles

Section 5401—Use of Private Enterprise.—This section amends provisions in current law, in sections 601(b) (5) and (8), 602(c), and 621(a) of current law. It directs the President to encourage and facilitate participation by private enterprise in achieving the purposes of the Act. It encourages the use of contracts, including cost-plus incentive fee contracts, to provide the technical skills, goods and professional services needed in such fields as education, health, housing, and agriculture. It also requests that the President ensure that U.S. suppliers, especially small independent enterprises, are kept informed as to expected purchases for military assistance programs.

Section 5402—Procurement Standards and Procedures.—This section largely restates section 604 of current law, regarding the requirement to procure commodities from the United States. With regard to OPI activities, the requirements of this section insofar as they might affect downstream procurement by OPIC borrowers are superseded by section 3106 of this Act.

Section 5403—Shipping on United States Vessels.—This section exempts certain goods acquired with foreign currencies from U.S. flag vessel cargo preference requirements and is identical to section 603 of current law. Also, this section allows the use of foreign assistance funds to pay ocean freight differentials that may exist between United States and foreign flag carriers on shipments that are subject to cargo preference requirements, similar to the authority contained in section 640C of current law.

Section 5404—Excess and Other Available Property.—This section sets forth policy with respect to the use of excess and other available property. It provides control over the distribution of government-owned excess property used in the foreign assistance program. Sections 607(c) and 608 of current law are rewritten and generally retained by this provision.

Section 5405—Retention and Use of Certain Items and Funds.—This section authorizes the retention, transfer, use, or disposal of any commodities or defense articles procured for a foreign country or international organization when changing circumstances make it inadvisable to furnish such commodities or defense articles. This section generally follows the provisions of section 605 of current law.

Section 5406—Laws Relating to Contracts and Government Expenditures.—This section provides flexibility in carrying out the purposes of this Act by allowing the President to waive provisions of law regulating the making, performance, amendment, or modification of contracts and the expenditure of funds. This provision retains section 633(a) of current law.

Section 5407—Transportation Charges Incurred by the Red Cross or Private Voluntary Organizations.—This section authorizes the use of funds under title I to pay transportation charges on shipments by the American Red Cross and by registered United States private voluntary organizations. This section is similar to the authority contained in section 123(b) of current law.

Chapter 5—Personnel

Section 5501—Statutory Officers in Economic Assistance Agency.—This section generally follows section 624(a) and (b) of current law. It permits the President to appoint 12 statutory officers in the economic assistance agency, with the advice and consent of the Senate. The President may designate titles and fix the order of succession among the officers appointed.

Section 5502—Employment of Personnel.—This section rewrites and generally retains many of the provisions of section 625 of current law. It authorizes the hiring of personnel to carry out certain functions under the Act. It sets forth compensation assistance functions, performance functions outside of the United States, and reemployment rights.

Section 5503—Experts, Consultants, and Retired Officers.—This section authorizes the employment of individual experts and consultants and organizations thereof. It covers reimbursement for expenses and employment of certain persons without compensation.

Section 5504—Detail of Personnel to Foreign Governments and International Organizations.—This section authorizes the datail of personnel to foreign governments and international organizations to assist in carrying out the purposes of this Act. This section consolidates provisions of section 627, 628, 629, and 630 of current law, including the status of personnel detailed, retention of benefits, allowances, and terms of detail.

Section 5505—Chief of Economic Assistance Mission Abroad.—This section retains section 631(b) of current law authorizing the President to appoint chiefs of economic assistance missions abroad, including provision for compensation and allowances.

Section 5506—Chairman of OECD Development Assistance Committee.—This section retains section 631(c) of current law authorizing the President to appoint the Chairman of the Development Assistance Committee of the Organization for Economic Cooperation and Development and provides for the compensation and allowances the person so appointed is to receive.

Section 5507—Assignment of DOD Personnel to Civil Offices.—This section retains section 633(c) of current law authorizing the President to detail Department of Defense personnel to civil offices to carry out the purposes of this Act.

Section 5508—Discrimination Against United State Personnel Providing Assistance.—This section is based on sections 666 and 505(g) of current law. It states that the President should not take into account race, religion, national origin, or sex in assigning officers or employees to carry out any assistance programs funded by this Act in any foreign country, and that such assignments should be made solely on the basis of ability and relevant experience. This section affirms U.S. policy that assistance should not be provided to any country which prevents any U.S. person from participating in the furnishing of assistance on the basis of race, religion, national origin, or sex.

Chapter 6—Definitions and Miscellaneous Provisions

Section 5601—Definitions.—This section provides definitions of terms used in this Act. Most of the definitions are found in section 644 and 670(c) of current law.

Section 5602—Activities Under Certain Other Laws not Affected.—this section states that provisions of this Act or other foreign assistance provisions, shall not prohibit activities authorized by or conducted under the Acts specified in the section or certain commercial activities of the Department of Agriculture.

TITLE VI—TECHNICAL AND CONFORMING PROVISIONS

Section 601—Effective Date of Revisions.—Except as otherwise provided in the Act, this section establishes October 1, 1991, as the effective date for the Act, including the amendments made by the Act to the Foreign Assistance Act.

Section 602—Saving Provisions.—Section 602 continues in full force and effect, all actions taken under the authority of any law repealed or modified by this Act, until modified by appropriate authority.

It allows the retention of individuals holding appointments under current law without the necessity of Presidential reappointment because of the repeal and reenactment of applicable provisions in substantially the same form.

Section 603—Retention of Certain Provisions Formerly in the Foreign Assistance Act.—Section 603 retains certain provisions currently included in the Foreign Assistance Act.

Section 604—Conforming Amendments.—Section 604 amends the applicable section numbers, titles and certain wording in current legislation in order to confirm existing law with corresponding provisions in the new Act.

Section 605—Repeal of Obsolete Provisions.—Section 605 repeals obsolete provisions in current law that have been fulfilled, have expired, are no longer applicable, or are subsumed in the new Act. The section has no effect on provisions of other laws that may have been repealed by the Acts repealed by this section.

TITLE VII—SPECIAL ASSISTANCE INITIATIVES

Chapter 1—Development Fund for Africa

Section 701—Development Assistance for Sub-Saharan Africa.—Section 701 provides the policy framework for development assistance for sub-Saharan Africa. The language is virtually identical to that enacted as part of the fiscal year 1991 foreign assistance appropriations act (Public Law 101-513) and currently included as chapter 10 of part I of the Foreign Assistance Act.

Section 702—Authorization of Appropriations for Assistance for Sub-Saharan Africa.—Section 702 authorizes the appropriation of $800,000,000 for sub-Saharan Africa assistance for fiscal year 1992.

Section 703—Reports and Evaluations.—Section 703 requires certain special reporting requirements to be included as part of the annual congressional presentation. These added requirements are in lieu of applying the congressional notification procedures contained in the Foreign Assistance Act to programs funded under this chapter.

Chapter 2—Assistance for Eastern Europe

Section 711—United States Policy Regarding Eastern Europe.—This section sets forth policy statements regarding assistance for Eastern Europe.

Section 712—Basic Objectives of Assistance.—This section states that assistance programs under this chapter shall have as their purposes the enhancement of the ability of the countries of Eastern Europe and Yugoslavia to address the objectives of promotion of democracy and encouragement of free market systems. Subsection (d) describes the extraordinary nature of the assistance.

Section 713—Assistance Activities.—Subsection (a) describes assistance activities the President is authorized to undertake. Subsection (b) extends authorities available under the Support for East European Democracy (SEED) Act of 1989 with respect to Poland and Hungary, and makes them applicable with respect to any eligible East European country; it further authorizes the President to use funds made available under P.L. 101-513 to provide balance of payments support with respect to any such country. Subsection (c) expresses a sense of the Congress regarding stabilization assistance for Hungary, Czechoslovakia and other eligible East European countries as the President deems appropriate. Finally, subsection (d) authorizes $400,000,000 to be appropriated to carry out this chapter, which amount is authorzied to remain available until expended.

Section 714—Enterprise Funds.—This section authorizes the President to provide funds and support for Enterprise Funds for countries in Eastern Europe and Yugoslavia akin to the Enterprise Funds for Poland and Hungary under the Support for East European Democracy (SEED) Act of 1989.

Section 715—Program Administration.—This section provides certain authorities for United States Government agencies including authorities to provide assistance and conduct programs as the President may determine for eligible East European countries.

Chapter 3—Multilateral Assistance Initiative for the Philippines

Section 721—Findings and Statement of Policy.—This section contains a statement of policy recognizing the importance of the continued multilateral assistance effort for the Philippines.

Section 722—Assistance.—This section authorizes the President to furnish assistance to the Philippines and links such assistance to progress by the Government of the Philippines in the implementation of its economic, structural, judicial, and administrative reform program.

Section 723—Report to Congress.—This section requires the annual submission of congressional presentation documents for the program authorized by this chapter.

Section 724—Authorization of Appropriations; Authorities.—This section authorizes a total of $1,000,000,000 (inclusive of funds previously appropriated) for this program, of which not more than $160,000,000 may be appropriated for fiscal year 1992.

Section 725—Appropriations in Future Years.

This section expresses the sense of the Congress that, before requesting additional amounts for the programs authorized by this chapter, the President should take into account the progress being made by the Philippines toward achieving the reform objectives of this chapter.

Section 726—Donor Coordination.—This section expresses the importance of multidonor coordination in the achievement of the objectives of the assistance program authorized by this chapter.

TITLE VIII—PRESIDENTIAL CONTINGENCY FUND

Section 801—Authority.—This section authorizes the appropriation of $20,000,000 for

fiscal year 1992 for the purpose of meeting unanticipated contingencies in programs within the International Affairs Budget Function.

TITLE IX—AUTHORIZATION FOR FISCAL YEAR 1993

Section 901—Authorizations.—This section authorizes such sums as may be necessary for fiscal year 1993 to carry out programs and activities for which appropriations for the fiscal year 1992 are authorized by the International Cooperation Act of 1991 and the Foreign Assistance Act of 1961.

THE WHITE HOUSE,
Washington, April 12, 1991.

Hon. J. DANFORTH QUAYLE,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: I attach great importance to the proposed "International Cooperation Act of 1991," which we are submitting for congressional consideration. Secretary Baker and I look forward to working closely with the Congress to ensure its prompt enactment.

Events in recent months have dramatically illustrated the growing urgency for flexible and rapidly available economic, military, and humanitarian assistance as a vital instrument of American foreign policy. Before us loom international opportunities and challenges as promising as any our nation has faced since the end of the Second World War. Yet the law governing foreign assistance has become so complex, splintered and restrictive that it no longer serves our essential national interests and aspirations. The shortcomings of existing law are likely to become even more pronounced and damaging as we move ahead through the volatile transition to a new world order.

Together, we must regain the essentials of administrative simplicity, flexibility, accountability, and clarity of purpose that originally characterized the Foreign Assistance Act of 1961. The world, of course, has changed fundamentally since then, especially during the two years following our last effort to reform the law governing foreign assistance. What has not changed, however, are the basic values and national outlook that motivate our foreign assistance.

My overarching goal is for the United States to remain at the forefront of a world community that is increasingly democratic, market-oriented, and willing and able to cooperate against aggression. The urgently needed reforms I propose would restore the necessary coherence and flexibility to pursue effectively the five basic and closely interrelated objectives that now frame our foreign policy: promoting and consolidating democratic values, promoting market principles and strengthening U.S. competitiveness, promoting peace, protecting against transnational threats, and meeting urgent humanitarian needs.

All of the continuing programs that have been included in the proposed legislation are essential to our national interest, at least in the short run. I fully recognize, however, that pressures to adjust to new international realities are rapidly increasing, and, in the years immediately ahead, we must work energetically together to meet the new challenges they are producing. We must also reach these important, if difficult, decisions within the constraints imposed by the Budget Enforcement Act of 1990.

In my March 6 address to the Joint Session of Congress, I observed that our nation cannot lead internationally if we propose politics as usual in devising and implementing foreign assistance. I asked Congress to work with me to put an end to micromanagement of all of our foreign economic, security, and humanitarian assistance programs. Each of these programs must become part of a coherent strategy that will advance a foreign policy worthy of our deepest and most abiding national aspirations. Without the flexibility provided for in the proposed International Cooperation Act it will be impossible to forge such coherence and to sustain the international leadership that we both desire.

On my part, I pledge to work closely and cooperatively with the Congress throughout each stage of the foreign policy-making process so that you can fully meet your responsibilities under the Constitution. But I am also convinced that we will be unable to deal with the momentous—and often unpredictable—events of today's world if Congress continues to restrict presidential prerogatives. Such micromanagement must not be part of this legislation.

In seeking to restore the proper balance of congressional and presidential authority in the conduct of foreign policy, the Administration's proposal deletes the many restrictions, prohibitions, burdensome reports, unnecessary reporting requirements and statutory waiting periods that have accumulated over several decades. The proposed revisions will significantly strengthen our capacity to respond positively and effectively to a rapidly changing environment, while reducing the risk of missed opportunities.

The restitution of presidential authorities would extend to all aspects of the proposed legislation. One especially sensitive and important area concerns nuclear nonproliferation. Consistent with our approach of removing country-specific provisions, the Administration's proposal does not contain a specific provision on assistance to Pakistan, as stipulated in the current Foreign Assistance Act.

Nevertheless, I give the Congress my unequivocal assurance that my position on the critical issue of preventing nuclear proliferation in South Asia and elsewhere will not weaken. While the proposed elimination of the Pakistan-specific certification requirement is intended to uphold the general principle of presidential authority, I will continue to insist on unambiguous specific steps taken by Pakistan in meeting nonproliferation standards including those specifically reflected in the omitted language, known as the Pressler Amendment. Satisfaction of the Pressler standard will remain the essential basis for exercising the national interest waiver that is in the Administration's proposal in order to resume economic and military assistance to Pakistan. By adopting this policy firmly and publicly as the Administration's position, my intention is to send the strongest possible message to Pakistan and other potential proliferators that nonproliferation is among the highest priorities of my Administration's foreign policy, irrespective of whether such a policy is required by law.

The proposed legislation addresses many complex and difficult issues, with profound political and moral implications for America's global role. But the world we seek to influence is in the throes of an historic transition that creates special opportunities and responsibilities for our nation. The process by which we resolve our differences will be as important to the effectiveness of our foreign policy as the decisions finally taken. I hope that you will find this proposal to be an appropriate foundation for building such cooperation, and moving forward to revitalize foreign assistance so as to serve better our most fundamental values and interests.

Sincerely,

GEORGE BUSH.●

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 957. A bill to direct the Secretary of the Interior to conduct a study of the feasibility of including Revere Beach, located in the city of Revere, MA, in the National Park System: to the Committee on Energy and Natural Resources.

REVERE BEACH STUDY ACT OF 1991

Mr. KERRY. Mr. President, I rise today to introduce the Revere Beach Study Act of 1991 which would set in motion a 12-month study by the Secretary of the Interior to determine whether Massachusetts' Revere Beach should be included as part of the National Park System.

It is my hope that this study will eventually lead to a comprehensive plan for protecting one of the rare spots along America's coast, where historic significance blends with a natural environment. Indeed, at this time when our beaches are increasingly threatened by erosion, toxic urban run-off and ill conceived land use planning, it is important to remember that Revere Beach has an important historical legacy to match its natural gifts. In the 1890's Revere Beach became the Nation's first public beach. With its close proximity and easy access to Boston the beach area was a vibrant resort at the beginning of this century and maintained this vitality throughout the forties and fifties. With its amusement rides and ocean side attractions it became an important part in the lives of people throughout Massachusetts and New England. Today the beach is threatened and deserves protection.

The concept of public access to common recreational land is at the very heart of concern for preserving Revere Beach. In the 1890's Charles Eliot fathered the idea of making the beach public saying it was "the first I know of to be set aside and governed by a public body for the enjoyment of the common people." Yet Eliot's idea, though novel for a beach, had a precedent 200 years earlier when the people of Boston set aside a common area—the Boston Common—for all its citizens to share. Today those ties between the people and their common land are being strained and Revere Beach symbolizes a spirit of community and togetherness that should not be allowed to die through oversight or neglect.

One hundred years after Revere Beach became America's first public beach, the issue of citizens' access to America's beaches is at the forefront of coastal debate. It is anticipated that 75 percent of America's population will be living within 50 miles of our coastal community by the end of the next decade. It seems fitting to set aside

Ameica's first public beach for all to enjoy for generations to come. The planners of Revere Beach had a vision of society that would migrate to coastal areas, and, a century later they have been proven correct.

Local support for this project is considerable. The mayor and city council of Revere fully support this study as do a number of local grassroots organizations. Mr. President, I think this legislation, and this beach, deserve the support of the Congress as well. The citizens of Massachusetts and the people of this Nation should—like their parents and grandparents before them—have a public Revere Beach of which they can be proud. I urge my colleagues to join me in supporting this legislation and I ask that the full text of the bill appear in the RECORD.

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

S. 957

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 known as the "Revere Beach Study Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that—

(1) as the first beach set aside for the enjoyment of the public in the United States, Revere Beach has unique historical, cultural, natural and recreational resources;

(2) Revere Beach represents a unique part of working class history in early 20th century America;

(3) the social and cultural aspects of American history embodied in Revere Beach are not represented elsewhere in the National Park System;

(4) many of the original structures and public buildings of Revere Beach remain;

(5) Revere Beach is located within easy access of a large urban population center, and within reach of tourists visiting the historic city of Boston; and

(6) given the interest by organized groups and local and State governments in the preservation of Revere Beach, a coordinated evaluation should be conducted to consider options for preserving the unique historical, cultural, natural, and recreational resources of Revere Beach.

SEC. 3. STUDY AND REPORT BY THE SECRETARY OF THE INTERIOR.

(a) STUDY.—In order to consider protection of Revere Beach's unique historical, cultural, natural, and recreational resources, the Secretary of the Interior shall study, investigate, and formulate recommendations on the feasibility and desirability of establishing Revere Beach as a unit of the National Park System.

(b) CONTENTS OF REPORT.—The report of the Secretary shall contain findings with respect to—

(1) the historical, cultural, natural, and outdoor recreational values of Revere Beach;

(2) the type of Federal, State, and local programs that are feasible and desirable in the public interest to preserve, develop, and make accessible for public use the values identified;

(3) the relationship of the recommended National Park System unit to existing or proposed Federal, State, or local programs to manage in the public interest the unique historical, cultural, natural, and recreational resources of Revere Beach; and

(4) the types and general intensities of development, including a visitor facility with sufficient space to accommodate exhibits and information regarding the history of Revere Beach, that would be associated with public enjoyment and use of the beach, including general location and anticipated costs.

(c) CONSULTATION AND INFORMATION.—The study shall include participation by representatives of the city of Revere, Massachusetts, representatives of the Commonwealth of Massachusetts, representatives of associations interested in the preservation of Revere Beach, and persons knowledgeable in American history, historic preservation, and popular culture. Federal departments and agencies shall cooperate with the Secretary and, to the extent permitted by law, furnish such statistics, data, reports, and other material as the Secretary may deem necessary for the study.

(d) AGREEMENTS.—In conducting the study required under subsection (a), the Secretary of the Interior may enter into agreements with nonprofit or public interest groups to undertake studies and planning work with respect to the preservation, interpretation, and management of Revere Beach.

(e) SUBMISSION.—The Secretary shall submit to the President and the Congress of the United States, within 12 months after the date of enactment of this Act, a report of the Secretary's findings and recommendations.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

By Mr. THURMOND (for himself, Mr. WARNER, Mr. BENTSEN, Mr. HOLLINGS, Mr. LOTT, and Mr. SANFORD):

S. 958. A bill to amend title 32, United States Code, to authorize Federal support of State defense forces; to the Committee on Armed Services.

FEDERAL SUPPORT OF STATE DEFENSE FORCES

Mr. THURMOND. Mr. President, in 1989 I introduced S. 1755, a bill to authorize Federal support of State defense forces. Although the legislation died in committee, it perked the interest of many of my colleagues and revitalized State defense forces in many States.

Mr. President, since I introduced S. 1755, the world has changed dramatically. We have seen the demise of the Warsaw Pact, fought a major ground conflict in the Persian Gulf, and watched our defense budget take a downward spiral. The period has also vividly demonstrated that our Nation's volunteer spirit is as strong as ever. Our all-volunteer military gave this Nation a glorious victory in the Persian Gulf while, at home, our citizens opened their hearts not only to the men and women employed to the Middle East, but also to the loved ones who were left behind.

Among the volunteers who dedicated their time and labor during the tumultuous time were the State defense forces. Mr. President, in recognition of this dedicated service. I rise to reintroduce my legislation to authorize Federal support of State defense forces. I am pleased to have as cosponsors Senator HOLLINGS, Senator WARNER, Senator BENTSEN, Senator LOTT, and Senator SANFORD.

Mr. President, I venture to say that many of my colleagues are not aware that 24 States have some form of State defense force, nor are they aware of the hundreds of citizens who are involved in this patriotic service. The history of the State defense forces goes back to World War I, when it was called the "Home Guard", and its primary function was to assume the duties of the National Guard units that were activated.

In 1940, a model State Guard Act was developed and, through World War II, the State Guard performed such vital functions as coastal defense and installation security against sabotage. After the war, all State forces except the National Guard were banned.

With the beginning of the Korean war, "temporary" National Guard units were set up to replace those Guard units which were federalized. The Korean experience resulted in the congressional amendment of title 32, to allow the States to set up State defense forces.

Today, the mission of the State defense force is to back up the National Guard. This backup was demonstrated during Operation Desert Storm. Some examples of this support are illustrated in an Associated Press article published in the Washington Post. I want to highlight two examples and ask unanimous consent that the complete article be included in the RECORD immediately after my statement.

In Mississippi, the State Guard provided security for approximately 55 National Guard armories while the National Guard units were on active duty. Members of the Tennessee Defense Force repaired doors, helped with finances and otherwise aided spouses of mobilized National Guard troops.

Mr. President, the State defense force are supported entirely by the State although, in many instances, individual members of the force pay for their own uniforms and equipment. Despite State support, State defense forces often do not have qualified personnel to train new recruits. Virtually all are poorly equipped or do not have any equipment at all. The legislation I am introducing today will help address these problems. With the passage of this bill:

The Army can issue or sell surplus supplies and equipment;

Retired military personnel, who do not have any other mobilization mission, will be allowed to join State defense forces so that, at least during peacetime, their experience and expertise could be used for the training of others;

The Army can lend training manuals to the State defense forces;

State defense forces may use Army training facilities when there is room for them;

State defense force personnel may attend active training schools when there is room—this training will normally be funded by the State; and

The National Guard Bureau can help States with organization and mission definition of their defense forces.

Mr. President, there is no doubt that State defense forces perform a vital function. As the decline in our defense budget forces us to reduce our military force structure—both active and reserve components—State defense forces will play an ever-increasing role during natural and civil emergencies. My legislation does not attempt to justify the mission—the mission exists. This bill—without adding to the budget—will allow the State defense forces to be equipped, trained, and organized in order to contribute to the common defense of our Nation and the welfare of the States they represent.

Mr. President, I urge my colleagues to join me in support of this bill, and ask unanimous consent that a copy of this legislation appear in the RECORD immediately following my remarks.

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

S. 958

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

SECTION 1. FEDERAL SUPPORT OF STATE DEFENSE FORCES

(a) IN GENERAL.—(1) Title 32, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 9—STATE DEFENSE FORCES

"Sec.
"901. Definitions.
"902. General policy.
"903. Membership.
"904. Arms and equipment.
"905. Uniforms: sale and wear.
"906. Training assistance.
"907. Federal coordination.
"908. Non-Federal status.
"909. Security clearances; criminal history information.

"§ 901. Definitions

"In this chapter:

"(1) The term 'State defense force' means a military force or defense force organized by a State to serve as a State military reserve force that would train to become actively operational when the State National Guard forces are federalized or otherwise not available in or adequate to the needs of the State. A State defense force need not be so named by the State to be a State defense force for purposes of this chapter.

"(2) The term 'State' includes the District of Columbia and any territory or commonwealth that has an organized National Guard.

"(3) The term 'national emergency' means an emergency declared by the President or the Congress.

"§ 902. General policy

It is in the national interest for a State to have a State defense force as a military reserve force of the State ready to supplement National Guard forces and other State and local government agencies for performance of the following functions:

"(1) To assist civil authorities in the preservation of order and the protection of life and property.

"(2) To meet domestic emergencies.

"(3) To guard and protect critical industrial installations and facilities when other means for guarding and protecting such installations are inadequate.

"(4) To prevent or suppress subversive activities in conjunction with or in support of Federal, State, or local law enforcement agencies.

"(5) To cooperate with Federal military authorities and forces engaged in active military operations within the State or performing internal security missions within the State.

"(6) To assume control of State armories and property, to provide security for Federal property, and to provide such other services as may be needed in connection with the mobilization of the National Guard and other reserve components of the Armed Forces.

"(7) To perform any other duties that may be assigned to a militia under the constitution and laws of the State.

"§ 903. Membership

"(a) Qualifications for membership in a State defense force shall be determined by the State sponsoring the defense force. A member of the armed forces may not be a member of a State defense force unless such membership is authorized under regulations prescribed by the Secretary of Defense or, in the case of the Coast Guard, by the Secretary of Transportation. Membership in a State defense force does not exempt any person from the provisions of the Military Selective Service Act or from any military duty or service that such person may be required to perform by virtue of membership in the armed forces.

"(b) A State may require an oath of allegiance to a chief executive of a State before a person becomes a member in the State defense force of that State. Any such oath shall include an affirmation of support for the Constitution of the United States and shall not include a provision that would limit a person's appointment or enlistment in an armed force.

"(c) Membership in a State defense force may not by itself limit a person from enlistment or appointment in an armed force.

"§ 904. Arms and equipment

"(a) The Secretary of a military department may issue or loan to a State such equipment, small arms, and uniforms as may be necessary for its State defense force to train and perform such functions as may be designated by the Governor and approved by the Chief of the National Guard Bureau. The issuance of any such items may be made on a reimbursable basis if determined appropriate by the Secretary concerned. Items issued or loaned under this subsection may be made only from items that are excess or obsolete for the needs of the military department concerned.

"(b) The Secretary of Defense shall prescribe policies and procedures to carry out subsection (a). Such policies and procedures shall—

"(1) ensure that items specified in subsection (a) may not be issued or loaned if to do so would affect adversely the readiness of active or reserve forces; and

"(2) provide that when any property issued or loaned is no longer needed by a State defense force, it shall be reported to the Secretary of the military department concerned and that any subsequent disposal of such property shall be carried out in accordance with the Federal Property and Administrative Services Act of 1949.

"§ 905. Uniforms: sale and wear

"(a)(1) Notwithstanding chapter 45 of title 10, a member of a State defense force may wear a uniform normally prescribed for wear by members of an armed force if—

"(A) the uniform as prescribed for wear by members of the State defense force includes distinctive devices or accoutrements identifying it as a uniform of a State defense force;

"(B) such uniform does not include a designation bearing the name of an armed force; and

"(C) the Secretary of the military department concerned approves State regulations for the wear of such uniform.

"(2) Before approving State regulations, the Secretary of the military department concerned shall ensure that such regulations include provisions regarding manner of wear of the uniform and periods of wear in such a manner that the wear of the uniform will not tend to discredit that armed force.

"(b) Under regulations prescribed by the Secretary of Defense, the Secretary of a military department may sell uniforms, items of uniforms, indicia of grade, and individual equipment to members of State defense forces.

"(c) A former member of the armed forces, a member of the Retired Reserve, or a regular member who is retired may wear such decorations and medals awarded for military service or valor on the uniform such person wears as a member of State defense force.

"§ 906. Training assistance

"(a)(1) Under regulations prescribed by the Secretary of Defense, the Secretary of a military department may provide training and training assistance for State defense forces. Such training and assistance may include—

"(A) the provision or loan of training manuals and instructional materials, including training devices used for active and Reserve forces;

"(B) the use of Federal military training facilities;

"(C) attendance at service schools on a space-available basis; and

"(D) the services of active or Reserve members of the armed forces skilled in training.

"(2) Transportation and travel expenses are not authorized members of the State Defense Forces for any training under this section.

"(3) The Secretary of the military department concerned may establish priorities and conditions for the provision of the training authorized by this subsection.

"(b) Under regulations prescribed by the President, an executive department or an independent agency of the Federal Government may provide such training and training assistance to a State for the State defense forces of that State as is in the interests of national security and not detrimental to the primary operational requirements of the department or agency concerned. Training under this subsection may be of the same quality as the training authorized by subsection (a) and shall be with the agreement of the Secretary of Defense.

"(c) The Secretary of a military department and the head of a department or agency referred to in subsection (b) may require reimbursement from a State for the cost of

providing training or training assistance to the State defense force of that State. Reimbursement normally should be required in the case of training provided a member of a State defense force for a period exceeding 14 days.

"§ 907. Federal coordination

"The Chief of the National Guard Bureau shall serve as the means of communication between a State and the Federal Government on matters involving the State defense force of such State.

"§ 908. Non-Federal status

"A member of a State defense force is not a member of the armed forces or an employee or agent of the United States for any purpose, including legal liability or legal defense. Any such member is responsible to the State sponsoring the defense force. A member of a State defense force who is injured or who dies while performing training or duties on behalf of the State defense force may not be provided military or federally sponsored health care, other than emergency care. Federally sponsored disability and death benefits may not be provided as a consequence of a person's status as a member of a State defense force.

"§ 909. Security clearances; criminal history information

"(a) The Secretary of a military department may conduct such background investigations as the Secretary determines necessary and appropriate as a condition to allowing access to classified information by a member of a State defense force.

"(b) A State sponsoring a State defense force is encouraged and requested to make available to officials of the State defense force the criminal history information described in section 520a of title 10. The State defense force should maintain a record of criminal history information pertaining to a member in order that security clearances may be expedited in time of mobilization or national emergency.".

(2) The table of chapters at the beginning of such title is amended by adding at the end the following new item:

"9. State Defense Forces ..... 901".

(b) CONFORMING AMENDMENTS.—(1) Subsection (a) of section 109 of title 32, United States Code, is amended to read as follows:

"(a) In time of peace, a State or territory, Puerto Rico, or the District of Columbia may maintain no troops other than those of its National Guard, a naval militia authorized by chapter 659 of title 10, and defense forces authorized by chapter 9 of this title.".

(2) Subsection (b) of such section is amended by striking out "by subsection (c)" and inserting in lieu thereof "by chapter 9 of this title".

(3) Subsections (c), (d), and (e) of such section are repealed.

STATE VOLUNTEERS REPLACE ACTIVATED GUARDSMEN

Tens of thousands of National Guardsmen called to duty in the Persian Gulf are being temporarily replaced in some states by volunteers whose duties include watching over vacant armories and assisting in natural disasters.

Usually called the state guard or the state defense force, groups totaling nearly 10,000 such volunteers—mostly retired soldiers and sailors—exist in 24 states and Puerto Rico.

"We're sort of a has-been force until we're needed," said Tom Anderson, president of the National Association of State Defense Forces.

Most have been relatively inactive in recent years, but Persian Gulf call-ups have expanded the role of these purely state-operated organizations, said Anderson, commander of the New Mexico State Defense Force.

"We have people from all walks of life. I would say that our membership is pretty much split between veterans as well as young people having no military service whatsoever," said Commander Robert Haas of the 750-member Ohio Military Reserve.

None of the organizations has federal status, although the Washington-based National Guard Bureau assists the states in coordinating their activities.

The governors can call up the state units to help with disasters and other activities usually handled by activated Guard units.

Size, duties and history of the units vary widely.

Texas has a 1,300-member state guard, and units in Tennessee and Georgia number about 1,000. Rhode Island's State Defense Force, created in 1987, numbers just three, and Vermont's eight-year-old state guard consists of 12 retired military officers.

The 400-member Indiana Guard Reserve last summer provided relief and assisted in the cleanup of southern Indiana, hit by devastating storms.

Last year, the Virginia Defense Force helped with crowd control at 17 events around the state. It has done search-and-rescue missions and is helping a small town develop a plan to handle toxic chemical spills.

Some of the units, such as Alaska's, were formed at statehood. Others were authorized by state constitutions and some formed during World War I. In Mississippi, the State Guard operated under an attorney general's opinion until the Legislature put it into law in 1989.

Many units have deep roots in U.S. history. New Mexico's militia traces its beginnings to an organization known as "Los Vecinos" (the neighbors), dating to 1606, when the Spanish explored the Rio Grande valley. Georgia's State Defense Force traces its heritage to a colonial militia organized in the Massachusetts Bay Colony in 1636.

In Michigan, the recruitment of military retirees begins in earnest next month. The Michigan Emergency Volunteers is re-emerging, after having flourished during the two world wars before being disbanded in 1946.

"We've had it before," said retired Brig. Gen. Warren Lawrence, who is to oversee the organization. "It's something that really should be in place, at least in skeletal fashion to activate on a needs basis."

Much of the state guards' work right now is voluntary. None has been called to duty by executive orders of governors. State units in a few states, if activated by the governor, would get the same pay as National Guardsmen.

"Right now, we're watching over about 55 National Guard armories across the state," said Maj. Gen. Roy H. Swayer Jr. of the Mississippi State Guard.

Members of the Tennessee Defense Force are repairing doors, helping with finances and otherwise aiding spouses of mobilized National Guard troops.

"We're gotten an enormous amount of volunteer work going on, with people assisting units that have mobilized—lawyers helping draw up wills, helping with family support groups, things like that," said Brig. Gen. Frank Pointer.

Tom Hegele, a member of the North Carolina State Defense Militia, said the groups are true volunteers.

"This might not be much, but for some people it is a way they can contribute," Hegele said. "We're telling people who might have aged out of active service or the Guard to look us over and see if they are interested."

By Mr. WARNER (for himself and Mr. ROBB):

S. 959. A bill to establish a commission to commemorate the 250th anniversary of the birth of Thomas Jefferson; to the Committee on the Judiciary.

THOMAS JEFFERSON COMMEMORATION ACT

• Mr. WARNER. Mr. President, I rise today to introduce legislation, together with my Virginia colleague, Senator ROBB, to commemorate the 250th anniversary of the birth of one of America's most distinguished Presidents and citizens—Thomas Jefferson. An identical bill has been introduced by my colleague in the House of Representatives, Congressman FRENCH SLAUGHTER.

Saturday, April 13, marked the anniversary of the birthday of Thomas Jefferson. It is fitting that we introduce legislation honoring his contributions to the State of Virginia and our Nation in shaping the current structure of Federal and State government.

On April 13, 1743, Thomas Jefferson was born at Shadwell in Goochland—now Albemarle County, VA, the son of Peter Jefferson, a surveyor, and the former Jane Randolph, the daughter of perhaps the most distinguished family in the province. His father drew the first accurate map of Virginia in 1751, and established his mark in Government as the burgess and county lieutenant. Thomas Jefferson inherited his father's fondness for the State of Virginia. Of the 10 children of Peter Jefferson, he left Thomas, the elder of his two sons, 2,750 acres of land and an established position in the community.

Few Presidents in the history of our country possessed the range of interests and intellect as Jefferson. He is regarded as a Renaissance man—accomplished in art, literature, law, science, music, languages, Government, philosophy, agriculture, mathematics, architecture, ethnology and inventions. Jefferson was a statesman, ambassador, educator, writer, philosopher, architect, inventor, scientist and musician. President Kennedy's remark to a group of Nobel prize winners, that so many distinguished persons had not been gathered in the White House since Jefferson dined alone, characterized the brilliance of him as a man schooled in all subjects and interested in all things.

On March 3, 1797, as an example, the distinguished Virginian was installed as president of the American Philosophical Society; the next day he was sworn in as Vice President of the United States, and 1 week later he presented the Philosophical Society with

a paper describing fossil discoveries in his home State.

Jefferson began his education at the age of 5 studying Latin, Greek and French in the Reverend James Maury's School on the James River, a few miles above the present Richmond. While the red hills of Albemarle became his permanent home, he left at the age of 17, in 1760, to begin studying mathematics and science at the College of William and Mary in the colonial capital, Williamsburg.

Nature destined him to the sciences, Jefferson often said, but no careers were open to him to Virginia, and he took the path of law, studying under George Wythe, the most prominent law teacher of his generation. In 1767, he was admitted to the bar, at the age of 24. He led a highly successful law practice until the Revolution closed the courts. While he never practiced law again, his legal training and his attention to legal history, as well as of procedure, left a permanent impression on him and is reflected in his many writings—most notably as the author of the Declaration of Independence.

Jefferson's political career began in 1769, at the age of 26, when he served as a representative from Albemarle, to the Virginia House of Burgesses. At the same time, he began building his home at Monticello, near Charlottesville. There were no architects in Virginia, so Jefferson studied architecture and became his own architect. Monticello is influenced by the Renaissance Italian Andrea Palladio and assumed its current form about the time Jefferson retired from the Presidency and after rebuilding it because he was dissatisfied with the first version.

Jefferson's interest in Renaissance architecture led to his design of the Virginia State Capitol in Richmond and the principal buildings and grounds of the University of Virginia. He also designed wholly or in part, numerous Virginia houses, among them his own Poplar Forest, Farmington, and Bremo. He created a definite school of builders in Virginia, sought to establish formal instruction in architecture and accepted no pay for his architectural services. He is considered the "father of our national architecture."

In 1772, Jefferson married Martha (Wayles) Skelton from Charles City County. In their 10 years of marriage she bore him six children, three of whom survived her and only two of whom, Martha and Mary (or Maria) attained maturity. When Martha died, Jefferson grieved and never remarried.

Jefferson's most important contribution to the Revolutionary debate was "A Summary View of the Rights of British America is 1774." He argued that Americans, as sons of expatriate Englishmen, possessed the same natural rights to govern themselves as their Saxon ancestors had exercised when they migrated to England from Germany. He was regarded as one of the Revolution's most articulate spokesman, espousing the philosophies of the 18th century enlightenment.

The fighting had begun in June 1775 when Jefferson took one of the Virginia seats in the Second Continental Congress at Philadelphia. In May 1776, as hopes of reconciliation faded, Virginia, like several other colonies, proceeded to establish an independent government and called upon the Congress to speak for the united colonies. On June 11, Jefferson, because he possessed that "peculiar felicity of expression," was selected to draft a document declaring the independence of the colonies. On July 4, 1776, following nearly 3 days of debate, the Congress adopted the Declaration of Independence. Aside from stylistic and minor substantive changes, the document that emerged bore the unmistakable stamp of Jefferson's literary and philosophical genius.

Following the Revolution, Jefferson returned to Virginia and to his seat in the reconstituted legislature and served until his election as Governor on June 1, 1779. He framed a bill for the purpose of moving the capital to Richmond, which included his preamble to the Virginia Constitution and provisions for public buildings. His plans for the State were never fully carried out, but he may properly be termed the "architect of Virginia government." He was responsible for the abolition of property laws that stemmed from feudalism and was a pioneer for establishing a complete system of public education, with elementary schools available to all. Jefferson's public career might have ended in the spring of 1781, when the British invaded Virginia and convened the legislature at Charlottesville on May 24. Jefferson proceeded to Monticello and fulfilled his term through June 3, where he recommended that the military and civil agencies be combined by the election of Gen. Thomas Nelson. The Governor and the legislators escaped a raid on Monticello on June 4 by the British. However, General Nelson succeeded Jefferson as Governor and the general assembly voted to inquire into Jefferson's conduct as Governor. Though he was formally vindicated, the charges of personal cowardice and the lack of military precaution and expedition wounded Jefferson's pride and prestige and he resolved to quit public service.

From 1781 to 1783, Jefferson lived a private life and wrote his only book, "Notes on the State of Virginia," published in Paris, offering his opinions on a variety of subjects from slavery, geography and science to the social and political life of 18th-century Virginia.

He returned to public service in June 1783 when he was elected as a delegate to Congress. He became a member of almost every important committee and drafted 31 State papers. Some of the most notable papers advocated establishing a decimal system of currency for the United States and a prohibition on slavery in all the Western territory after 1800. He was also a major architect of American expansion and drafted papers to forbid the secession of any part of the Western territory.

In May 1784, he was appointed Commissioner to France, together with Benjamin Franklin and John Adams, to draft a report, which subsequently was adopted, establishing procedures for negotiating treaties of commerce with European powers. In 1785, he succeeded Franklin as Minister to France and remained in this diplomatic position until October 1789. While he was overshadowed by the immense reputation of Franklin and Lafayette, who was regarded by the French as a symbol of American ideas and ideals, he proved a diligent and skillful diplomat. He successfully negotiated a treaty of commerce with Prussia in 1785, a treaty with Morocco in 1787 to restrain the barbary pirates and a consular convention with France in 1788 to relax French duties on American products.

On Jefferson's return to America, President George Washington prevailed on him to become our Nation's first Secretary of State in 1790, under the new Constitution. In this capacity he became frustrated by the efforts of Secretary of the Treasury, Alexander Hamilton, whose fiscal system turned on British trade, credit and power. Jefferson sided with the opposition to Hamilton's measures to concentrate enormous power in the Treasury and break down the restraints of the Constitution and aligned himself with the opposition party that soon came to be known as Republicans. On another important issue however, Jefferson, together with Hamilton in 1790, arranged the compromise among Members of Congress to locate the Nation's Capitol in Washington, DC.

Jefferson resigned his position at the end of 1793, again determined to quit public life. But in 1796, the Republicans made him their Presidential candidate against John Adams. Losing by three electoral votes, Jefferson became Vice President. The chief significance of his service as Presiding Officer of the Senate lies in the fact that out of it emerged his "Manual of Parliamentary Practice", written in 1801, and which is now the basis of parliamentary procedure in the U.S. Senate.

In 1798, Jefferson and James Madison prepared the Kentucky and Virginia resolutions in response to the Alien and Sedition Acts passed by the Federalist dominated Congress. These acts were used to stifle Democratic-Republican criticism of the Government. The resolutions advanced the theory of the Union as a compact among the several States, declared the Sedition Acts as unconstitutional and sought nullification. While the Sedition Acts were not repealed, the constitutional issue of

State rights and Union expressed in the resolutions of 1789 contributed to the resisting public clamor against the administration that led to its defeat at the polls in 1800.

On March 4, 1801, Jefferson became the third President of the United States. He defeated his opponent, Adams, in the electoral vote and his running mate, Aaron Burr, by 36 ballots in the House of Representatives after they received an equal number of votes. Jefferson's election marked the first transfer of Government from one political party to another.

Jefferson's inaugural address combined a lofty appeal for the restoration of harmony and affection by commenting that "We have called by different names brethren of the same principle. We are all Republicans, we are all Federalists." Working with Congress, Jefferson restored freedom of the press; lowered the residency period of the law of naturalization to 5 years; scaled down the Army and Navy—despite a war against Barbary piracy; repealed the partisan Judiciary Act of 1801; abolished all internal taxes, together with a host of revenue offices; and began the planned retirement of the debt. The Jeffersonian reformation was bottomed on fiscal policy; by reducing the means and powers of Government, it sought to further peace, equality, and individual freedom. His greatest triumph came with his negotiating the Louisiana Purchase in 1803 for $11.25 million, thereby doubling the size of America with some 800,000 square miles.

Easily reelected in 1804, Jefferson encountered foreign and domestic troubles such as controlling an insurgency in the West and establishing an embargo on America's seagoing commerce. The embargo was ruinous to him and to many Virginia planters.

In retirement, Jefferson sold some 10,000 volumes of his library to the Library of Congress to relieve his financial burdens. He also continued to advocate a comprehensive statewide plan of education, such as he had proposed in 1779. He regarded education as a guarantor of freedom and sought to advance the youths with great promise at no cost to hopefully serve the State as future public leaders. He was in favor of a literacy test for citizenship. While the State legislature rejected Jefferson's education plan, they approved his plan for the State university. He was the master planner of the University of Virginia, from the grounds and buildings to the curriculum, faculty and rules of governance.

During his lifetime, Jefferson received American and international recognition as a man of learning. He was the president of the American Philosophical Society from 1797 to 1815. He received a gold medal from a French society for inventing the mouldboard plow which lifts, turns, and pulverizes soil with great efficiency—an invention to improve the resistance of a plow.

He was associated with a vast number of important societies in various countries of Europe and almost all the agricultural societies of America. Jefferson said of farming, "No occupation is so delightful to me as the culture of the earth, and no culture comparable to that of the garden." He designed the plan for the gardens and landscaping at Monticello.

Jefferson was elected by the Institute of France in December 26, 1801 as a foreign associate—an honor shared by no other man of American birth and residence during his lifetime. He also corresponded throughout his life with an extraordinary number of scientists and philosophers throughout the world and America and sought to make available in his own country the best of foreign thought and discovery.

Modern scholars have recognized Jefferson as an American pioneer in numerous branches of science, notably paleontology, ethnology, geography, and botany. The Jefferson diphylla is named for Thomas Jefferson by Benjamin Smith Barton, a preeminent botanist, who in 1792, commented that "* * * his knowledge of natural history * * *, but especially in botany and zoology, * * * equaled by that of few persons in the United States * * *".

Jefferson's mind was ever-inquiring. Usefulness was his standard of value. To Robert Fulton he declared, "Where a new invention is supported by well-known principles, and promises to be useful, it ought to be tried." He was notable for his efforts to attain scientific exactitude. As Secretary of State, he was in effect the first Commissioner of Patents and the first patent examiner. He himself invented or adapted to personal uses numerous ingenious devices, the best known of which is his polygraph, based on the original invention of Charles Wilson Peale, which produced a copy of a letter.

Jefferson was well versed in French, Italian, Spanish, Greek, and Latin. He wrote "An Essay Towards Facilitating Instruction in the Anglo-Saxon and Modern Dialects of the English Language" in 1851. He owned one of the best private collections of paintings and statuary in the country, and has been termed "the first American connoisseur and patron of the arts." He was an accomplished violinist calling music "the favorite passion of my soul" and cherished it as "a delightful recreation for the hours of respite from the caves of the day."

While Jefferson left no treatise on political philosophy, he was a passionate advocate of human liberty; he realized the value of the Union; he emphasized the importance of the States and of local agencies of Government; and he anticipated the development of a dominant nation on the North American continent. He is notable for being ahead of his time, a philosophical statesman rather than a political philosopher—"I am not an advocate for frequent changes in laws and constitutions. But laws and constitutions must go hand in hand with the progress of the human mind."

Jefferson died at Monticello on the 50th anniversary of the Declaration of Independence, July 4, 1826. He died believing that his debts would be paid, not realizing that Monticello would pass from the hands of his heirs forever. Jefferson believed in freedom of religion, Government, thought and speech. He said, "I have sworn upon the altar of God eternal hostility against every form of tyranny over the mind of man."

Jefferson's tombstone is inscribed with a simple epitaph he wrote for himself in remembrance of the things he left to the American people and not for his prestigious positions—"Here was buried Thomas Jefferson, author of the Declaration of American Independence, of the Statute of Virginia for religious freedom, and father of the University of Virginia." He is buried at Monticello in the family cemetery—"All my wishes end, where I hope my days will end, at Monticello."

Mr. President, Jefferson was truly one of the most remarkable and accomplished politicians of our Nation. The bill I am introducing today with my Virginia colleague, Senator ROBB, would pay tribute to our third President and honor his many contributions, both at home and abroad, by establishing a Commission.

The Commission would consist of 18 members, including the Library of Congress, the Archivist of the United States, the President pro tempore of the Senate, the Speaker of the House, the Secretary of the Interior, the Secretary of the Smithsonian Institution and the executive director of the Thomas Jefferson Memorial Foundation. With respect to the appointment of Commission members, the President would appoint five members, no more than three of whom shall be affiliated with the same political party. The majority leader of the Senate, in consultation with the minority leader, would appoint three private citizens, no more than two of whom shall be affiliated with the same political party. Finally, the Speaker of the House of Representatives, in consultation with the minority leader, would also appoint three private citizens, no more than two of whom shall be of the same political party. All appointees would be selected based on their qualifications or expertise in the disciplines reflecting the professional accomplishments of Thomas Jefferson. The President would choose the Chairman from among the Commissioners.

The Commission would be authorized to accept donations of money and per-

sonal property belonging to Jefferson to enhance their abilities in preserving and interpreting his life. It is my hope that when the Commission reports to Congress on the activities of the Commission, given the historical depth and stature of the members, they will identify the appropriate disposition of all artifacts, personal property and memorabilia related to Jefferson that have been collected or identified by the Commission for permanent preservation and interpretation by the public. For example, knowing that Jefferson died in debt, many of his personal belongings at Monticello were sold but may be returned through the efforts of the Commission. Knowing there may be differing but substantive views among Members regarding the disposition of donations to the Commission, the final report to the President would allow members to express their differing views, should they desire to do so.

Mr. President, the role of the Commission will allow Americans to understand the importance of Jefferson in shaping our Nation's history, Government and constitutional principles.

Mr. President, I ask unanimous consent that the full text of my bill be printed in the RECORD.

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

S. 959

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 "Thomas Jefferson Commemoration Act".

SEC. 2. FINDINGS.

The Congress finds and recognizes that—

(1) April 13, 1993, marks the 250th anniversary of the birth of Thomas Jefferson;

(2) as author of the Declaration of Independence, Thomas Jefferson conceived and executed an affirmation of democratic government unequaled in both its eloquence and clarity;

(3) in an age of democratic awakening, Thomas Jefferson worked to promote government based on the consent of the people, to hold rulers continually responsible to the ruled, and to secure fundamental rights and liberties of free citizens;

(4) Thomas Jefferson was elected third President of the United States in 1801 and helped to establish the process by which ongoing political change is carried forward through public debate and free elections;

(5) with the Louisiana Purchase, Thomas Jefferson virtually doubled the size of the United States;

(6) the genius of Thomas Jefferson also extended beyond the realm of politics and government, adapted classic architecture as exemplified by his home at Monticello and the grounds of the University of Virginia, set an American standard of dignity, simplicity, and elegance;

(7) Thomas Jefferson encouraged American science in its infancy, and with his friend James Madison, laid the cornerstone of the American tradition of religious freedom and separation of church and state;

(8) Thomas Jefferson also championed universal public education, believing such education essential to democratic government as well as to advancement of knowledge and the pursuit of happiness;

(9) it is appropriate to remember and renew the legacy of Thomas Jefferson for the American people and, indeed for all mankind, during a time when the light of democracy is again bursting upon the world; and

(10) as the Nation approaches the 250th anniversary of the birth of Thomas Jefferson, it is appropriate to celebrate and commemorate this anniversary through local, national, and international observances and activities planned and coordinated by a national commission representative of appropriate individual, public, and private officials and organizations.

SEC. 3. ESTABLISHMENT.

There is established the Thomas Jefferson Commemoration Commission (hereafter referred to as the "Commission"), to promote and coordinate activities in commemoration of the 250th anniversary of the birth of Thomas Jefferson.

SEC. 4. FUNCTIONS OF THE COMMISSION.

The Commission shall—

(1) plan and develop programs and activities appropriate to commemorate the 250th anniversary of the birth of Thomas Jefferson, including a limited number of projects to be undertaken by the Federal Government seeking to harmonize and balance the important goals of ceremony and celebration with the equally important goals of scholarship and education;

(2) generally coordinate activities throughout the States;

(3) honor historical locations associated with the life of Thomas Jefferson;

(4) sponsor at least one international symposium pertaining to Jefferson's legacy, to be composed of scholars, public officials, and private citizens;

(5) recognize individuals and organizations that have significantly contributed to the preservation of Jefferson's ideals, writings, architectural designs, and other professional accomplishments, by the award and presentation of medals and certificates;

(6) encourage civic, patriotic, and historical organizations, and State and local governments to organize and participate in anniversary activities commemorating Jefferson's birth; and

(7) develop and coordinate any other activities as may be appropriate.

SEC. 5. MEMBERSHIP AND COMPOSITION.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 18 members, including—

(1) the Librarian of Congress or his delegate;

(2) the Archivist of the United States or his delegate;

(3) the President pro tempore of the Senate or his delegate;

(4) the Speaker of the House of Representatives or his delegate;

(5) the Secretary of the Interior or his delegate;

(6) the Secretary of the Smithsonian Institution or his delegate;

(7) the Executive Director of the Thomas Jefferson Memorial Foundation or his delegate;

(8) 5 private citizens of the United States, appointed by the President, no more than 3 of whom shall be affiliated with the same political party;

(9) 3 private citizens of the United States, selected by the Majority Leader of the Senate, in consultation with the Minority Leader, no more than 2 of whom shall be affiliated with the same political party; and

(10) 3 private citizens of the United States, selected by the Speaker of the House of Representatives, in consultation with the Minority Leader, no more than 2 of whom shall be affiliated with the same political party.

(b) APPOINTMENTS AND TERMS.—(1) IN GENERAL.—Each member shall be appointed within 90 days after the date of enactment of this Act, for the life of the Commission.

(2) CHAIRMAN.—At the time the President nominates individuals for appointment to the Commission pursuant to subsection (a)(8), the President shall designate one such individual who shall serve as Chairman of the Commission.

(3) VACANCY.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(4) REPRESENTATION.—Individuals appointed under paragraphs (8), (9), and (10) of subsection (a), shall be representative, to the maximum extent possible, of the full range of United States citizens. The Commission members shall be chosen based on their distinctive qualifications or experience in the fields of history, government, architecture, the applied sciences, or other professions that would enhance the work of the Commission and reflect the professional accomplishments of Thomas Jefferson.

(c) COMPENSATION AND TRAVEL.—(1) COMPENSATION.—(A) Except as otherwise provided under paragraphs (2) and (3), each member, other than the Chairman, shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel-time) during which the member is engaged in the actual performance of duties vested in the Commission.

(B) The Chairman shall be paid for each day referred to in subparagraph (A) at a rate equal to the daily equivalent of the minimum annual rate of basic pay for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(2) FEDERAL EMPLOYEES.—Members of the Commission who are full-time officers or employees of the United States or Members of Congress shall receive no additional pay on account of their service on the Commission.

(3) TRAVEL.—While away from their homes or regular places of business in the performance of services for the Commission, members and employees of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 6. POWERS OF THE COMMISSION.

(a) MEETINGS.—The Commission shall meet at the call of the Chairman or a majority of its members.

(b) APPROVAL OF ACTIONS.—All official actions of the Commission under this Act shall be approved by the affirmative vote of no less than a majority of the Commissioners.

(c) ADVISORY COMMITTEES.—The Commission may appoint such ex officio advisory committees as it determines necessary to carry out the provisions of this Act.

(d) POWERS OF MEMBERS AND EMPLOYEES.—Any member or employee of the Commission may, to the extent authorized by the Commission, take any action which the Commission is authorized to take by this Act.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and

intermittent services under section 3109(b) of title 5, United States Code, at the rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(f) PROCUREMENT OF SUPPLIES, SERVICES, AND PROPERTY.—The Commission may procure supplies, services, and property, and make or enter into contracts, leases, or other legal agreements in order to carry out the provisions of this Act. No contracts, leases, or other legal agreements made or entered into by the Commission shall extend beyond the date of termination of the Commission. All supplies and property acquired by the Commission under this Act which remain in the possession of the Commission on the date of termination of the Commission shall become the property of the General Services Administration upon the date of termination.

(g) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(h) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(i) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 7. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—The Chairman, with the advice of the Commission, shall appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, an executive director who may be compensated at a rate not to exceed the rate of basic pay payable for level IV of the Executive Schedule established under section 5315 of such title.

(b) ADDITIONAL PERSONNEL.—The Commission may appoint and fix the compensation of additional personnel, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the rate of pay for such personnel may not exceed the rate payable for level V of the Executive Schedule under 5316 of such title.

(c) PERSONNEL DETAIL AUTHORIZED.—Upon request of the chairman, the head of any Federal agency is authorized to detail, on a reimbursable or nonreimbursable basis, any of the personnel of such agency to the Commission to assist in carrying out its duties under this Act.

SEC. 8. CONTRIBUTIONS TO THE COMMISSION.

(a) DONATIONS.—The Commission is authorized to accept donations of money, personal services, and property including books, manuscripts, miscellaneous printed matter, memorabilia, relics and other materials related to Thomas Jefferson.

(b) USE OF FUNDS.—Funds donated to the Commission may be used by the Commission in order to carry out the purposes of this Act. The source and amount of such funds shall be listed in the interim and final reports under section 9.

(c) VOLUNTEER SERVICES.—The Commission may accept the volunteer services of private individuals or companies as the Commission determines necessary.

(d) REMAINING FUNDS.—Funds remaining upon the date of termination of the Commission shall be used to ensure the proper disposition of property donated to the Commission as specified in the Commission's final report under section 9.

SEC. 9. REPORT.

(a) INTERIM REPORT.—No later than December 31, 1992, the Commission shall prepare and submit to the Congress and the President of the United States a report on the activities of the Commission, including an accounting of funds received and expended.

(b) FINAL REPORT.—No later than December 31, 1993, the Commission shall submit to the President and to the Congress a final report. The final report shall contain the findings, conclusions, and recommendations of the Commission, and a final accounting of funds received and expended. Specific recommendations concerning the final disposition of historically significant items donated to the Commission under section 8 shall also be contained in the final report.

(c) ADDITIONAL VIEWS.—The final report shall include additional views of members concerning the Commission's recommendations under subsection (b), at the request of such members.

SEC. 10. TERMINATION.

The Commission shall terminate no later than 60 days following submission of the final report required by section 8.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out the provisions of this Act $250,000 for the 1992 fiscal year, $250,000 for the 1993 fiscal year, and $125,000 for the period beginning on October 1, 1993, and ending on December 31, 1993. Amounts appropriated under this section for any fiscal year shall remain available until 60 days after December 31, 1993. The total appropriations authorized under this Act for the purpose of this Act shall not exceed $625,000.●

● Mr. ROBB. Mr. President, I rise today to honor the man who created America.

In the Commonwealth of Virginia, we are proud to claim Thomas Jefferson as our own, but so broad are his works that no one state can contain them. His legacy is more than an entire nation can hold:

That's why the democratic principles which Thomas Jefferson articulated have spread so widely and with such speed beyond our borders. His concepts of democracy and the inherent rights of individuals are infectious and irresistible. If you don't believe that the pen is mightier than the sword, look upon the changes which have been wrought in the world in just the last five years. One man's quill defeated the armies of many nations.

But while his democratic notions are the most celebrated of his works, Jefferson's thoughts on other matters are equally pervasive—and persuasive.

At a time when education was the province of the privileged, he sought to bring it to every person, regardless of station. He knew that the learned mind was the most fertile ground for democracy, as he put it, "The most effectual means of preventing the perversion of power into tyranny are to illuminate, as far as practicable, the minds of the people."

He founded not only universal education, but one of its greatest institutions of which I am a proud alumnus. My colleagues may not know this, but those who are privileged to attend the University of Virginia refer to it properly as "Mr. Jefferson's University." In a very real sense, we are all graduates of Mr. Jefferson's Country.

His writings on the separation of church and State have only become more relevant with time. And Mr. Jefferson's achievements as President, his aptitude as an architect, and the keenness of his scientific inquiry show that in this one man were combined all the talents of America.

As the 250th anniversary of Thomas Jefferson's birth approaches, it is appropriate that America recognize the contributions which this unique man, liberty's strongest voice, has made to our Nation and the entire world. I am pleased to join with the distinguished senior Senator from Virginia, Senator WARNER, in sponsoring the Thomas Jefferson Commemoration Act, and I urge its passage. ●

By Mr. STEVENS (for himself, Mr. INOUYE, Mr. MURKOWSKI, and Mr. AKAKA):

S. 960. A bill to amend chapter 57 of title 5, United States Code, to provide that reimbursement for certain travel expenses related to relocation of Federal employees shall apply to all stations within the United States; to the Committee on Governmental Affairs.

REIMBURSEMENT OF CERTAIN TRAVEL EXPENSES

● Mr. STEVENS. Mr. President, today I am introducing legislation which passed the Senate during the 101st Congress to remedy an inequity in the law with regard to house hunting trips for Federal employees who are changing official duty stations. I am pleased that Senator INOUYE has again agreed to cosponsor this bill, and that our colleagues from Alaska and Hawaii, Senators MURKOWSKI and AKAKA, are also cosponsors.

Section 5724a of title 5, United States Code, allows Federal agencies to reimburse employees for travel to seek a permanent residence at a new duty station. Subject to agency approval, this reimbursement is made by the recipient agency for travel expenses and up to 10 days per diem for the employee and spouse. However, section 5724a(a)(2) limits that reimbursement authority to house hunting trips within the continental United States.

We propose to simply delete the word "continental" in section 5724a(a)(2) in order to allow house hunting trips to and from all locations in the United States, including Alaska and Hawaii.

Mr. President, Alaska and Hawaii have been part of the United States since 1959. There is no reason to continue to discriminate against employ-

ees moving to or from Alaska and Hawaii by prohibiting the reimbursement of house hunting trips.

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

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

S. 960

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second sentence of section 5724a(a)(2) of title 5, United States Code, is amended by striking out "continental".•

By Mr. CHAFEE:

S. 961. A bill to require that Federal buildings be managed in a manner that will improve energy conservation and efficiency, and for other purposes; to the Committee on Environment and Public Works.

FEDERAL BUILDINGS MANAGEMENT IMPROVEMENT AND RECYCLING ACT OF 1991

Mr. CHAFEE. Mr. President, today I rise to introduce the Federal Buildings Management Improvement and Recycling Act of 1991. The bill is straightforward, promoting energy conservation and recycling in Federal buildings. As you know, the U.S. Government is the Nation's largest energy consumer. Reports estimate that the Federal Government spent over $3.5 billion in 1989 to heat, cool, and power buildings. Yet dollars and energy are being wasted.

This is not to say that the Federal Government is idly standing by watching energy resources slip through the cracks of our Federal buildings. The Federal Energy Management Act of 1988 mandates reductions in energy consumption in our Federal building space. Furthermore, on April 17 of this year, the President issued an executive order regarding Federal energy conservation. But what is needed is funding. The primary reason why the Government is unable to reduce its energy use is simply because of a lack of funding. The bill I am introducing today addresses this issue head on.

First, the legislation directs the Administrator of General Services, in consultation with the Secretary of Energy, and affected agency heads, to establish energy consumption targets for the reduction of thermal unit expenditures per square foot in Federal buildings. These targets will provide the framework for energy reduction. It is imperative that the Administrator of General Services and the Secretary of Energy share their energy expertise with the various departments and agencies in order to develop aggressive energy reduction targets.

Second, the bill authorizes the Administrator of General Services to receive amounts from rebates and cash incentives related to energy and recycling savings for deposit in the Federal buildings fund. These rebates would then be available for the promotion of energy conservation and recycling programs and to encourage Federal employees to participate in conservation efforts by providing funding for employee benefit programs. In addition, the Administrator is authorized to accept goods and services in lieu of rebates for energy management improvement. The keys here are funding and incentives.

Under this legislation, energy rebates and recycling revenues form the basis of a dedicated funding source for further conservation efforts. At the same time, they create a much needed conservation incentive. In the past, energy rebates and recycling revenues due to the General Services Administration were forwarded to the General Treasury. As a result, there was little incentive for the General Services Administration, Federal building managers for employees to reduce energy use or recycle. The Federal Buildings Management Improvement and Recycling Act, however, serves as an energy conservation and recycling catalyst, directly funding conservation and employee benefit programs.

The approach is certainly not radical. In fact, the Appropriations Committee included language in the 1990 Treasury, Postal appropriations bill authorizing the Administrator to accept energy rebates for efficiency efforts. The difference here is in authorizing direct employee incentives. Incentives will undoubtedly translate into participation, and participation is absolutely essential for a successful energy conservation and recycling program. Federal energy conservation and recycling is not something that can simply be legislated or directed from above, it must come from all quarters of the Federal bureaucracy.

The Federal Buildings Management Improvement and Recycling Act of 1991 represents sound energy and fiscal policy. If enacted, the measure will result in savings for the taxpayer and conservation of our limited energy and natural resources. Most importantly, the program will create a conservation awareness. As the Nation's largest energy consumer, the Federal Government must take steps to set a conservation example. The Federal Buildings Management Improvement and Recycling Act is a step in the right direction.

By Mr. INOUYE:

S. 962. A bill to make permanent the legislative reinstatement, following the decision of Duro against Reina (58 U.S.L.W. 4643, May 29, 1990), of the power of Indian tribes to exercise criminal jurisdiction over Indians; to the Select Committee on Indian Affairs.

S. 963. A bill to confirm the jurisdictional authority of tribal governments in Indian country; to the Select Committee on Indian Affairs.

AUTHORITY OF TRIBES TO EXERCISE CRIMINAL JURISDICTION ON RESERVATION LANDS

• Mr. INOUYE. Mr. President, I am pleased today to introduce two bills to permanently reaffirm the inherent authority of tribes to exercise criminal jurisdiction over Indians who commit crimes on reservation lands.

Mr. President, until the Supreme Court ruled in the case of Duro versus Reina in May 1990, most Members of Congress, as well as Indian leaders throughout the Nation, assumed that tribal courts possess jurisdiction over all Indians in Indian country. However, in Duro, the Supreme Court held that federally recognized Indian tribes have no inherent criminal jurisdiction over nonmember Indians. The Court adopted the reasoning of the 1979 Oliphant case, where it held that tribes had no inherent jurisdiction over non-Idians. In that case, the court left open the question of jurisdiction over nontribal member Indians.

In the Duro case, the court ignored the long history of intertribal relations and the fact that one Federal statute says, in effect, that Indian tribes have jurisdiction over crimes committed by other Indians in Indian country. Since the Federal Government exercises jurisdiction over all major crimes committed in Indian country, under current law tribal courts are imposing only misdemeanor penalties. The 1968 Indian Civil Rights Act [ICRA] limits the penalties that may be imposed by tribal courts to 1 year in jail and/or $5,000 in fines.

Part of the reasoning of the court in Duro rests on the fact that tribal courts are not article III courts. While the ICRA does provide some guarantees similar to those in the Bill of Rights, the recourse from tribal court to Federal court for alleged violations of civil rights is through a petition for writ of habeas corpus.

While there is much interest among tribes and in the Congress in enhancing tribal courts, these goals are expensive and long term, as they involve a more comprehensive approach to the support and structure of tribal judicial systems. The criminal enforcement system of many tribes, including the Ute Tribe of Utah, the Navajo Nation, the Wind River Tribes, the Confederated Salish and Kootenai tribes of the Flathead Reservation, to name but a few, are composed of law-trained and lay counsel and judges, professional and trained police forces, and impartial and capable appellate panels. According to the Ute Tribe: "until Duro, the tribe was wholly unaware that its court system or its civil rights protections were somewhow inadequate or insufficient." In fact, free counsel is provided to indigent defendants by the Ute court and by many tribal courts elsewhere.

The reality, however, is that the Duro case has left a jurisdictional gap. States, with a few exceptions, have no

jurisdiction over Indians in Indian country. Some States have jurisdiction that was delegated by the Federal Government under Public Law 83-280. The Federal Government exercises jurisdiction only over major crimes. If tribes are prevented from exercising misdemeanor criminal jurisdiction to maintain law and order, then the so-called Duro Indians are basically free from any authority, since the Federal Government is simply not geared to address problems of drunk driving, disorderly conduct, petty theft, assault, and so forth. In order for tribes to enforce local laws, they must have jurisdiction over nonmember Indians. Anecdotal evidence suggests that at some reservations, as many as 50 percent of the misdemeanor crimial cases prior to Duro involved nonmember Indians.

In the view of most Indian legal scholars and virtually all tribal leaders, the court was simply wrong in its analysis in Duro. The prevailing view is that if Congress had intended to divest indian tribal governments of jurisdiction over nonmember Indians, it would have done so. Instead, the assumption in Congress has always been that tribal governments do have such jurisdiction since in all the Federal statutes Congress has never differentiated between member Indians and nonmember Indians.

As a final word, however, the Court in the Duro case said that "if the present jurisdictional scheme proves insufficient to meet the practical needs of reservation law enforcement, then the proper body to address the problem is Congress, which has the ultimate authority over Indian affairs."

At the close of the 101st Congress, at my request, a provision was included in the 1991 Defense Department Appropriations Act to amend the ICRA to reaffirm the inherent authority of federally recognized tribal governments to exercise criminal jurisdiction over all Indians within their respective lands. This confirms what we have believed to be the case all along: nontribal member Indians own homes and property on reservations, are part of the labor force on the reservation, and frequently are married to tribal members. Nontribal member Indians receive the benefits of programs and services operated by the tribal government. Their children attend tribal schools, and their families receive health care services in tribal hospitals and clinics. Most Indian reservations are located far from urban centers, they are geographically isolated and remote, they are separated from State law enforcement centers by significant distances. The only practical means of providing an immediate law enforcement response to situations arising on the reservation has consistently been found to be that of tribal or local BIA police, with arraignment in tribal court, and confinement in tribal detention facilities.

Tribal Governments retain all powers of self-government except those which have been explicitly divested by the Congress. Congress has never acted to divest tribal governmetns of this authority.

Unfortunately, because of the press of time in the final days of the previous session of the Congress, it was not possible to debate this issue thoroughly. Therefore, a 1-year limitation on the effect of the provision was agreed to in an effort to assure that the Congress could revisit the matter. The bills I am introducing today are the product of months of debate and discussion among elected tribal governmental leaders from across the Nation. Indian legal scholars have also fully participated in its development.

The premise of these bills is that the Congress affirms the inherent jurisdiction of tribal governments over nonmember Indians. I, and my colleagues on the Senate select committee are also committed to measures that will provide Federal assistance to enhance tribal courts. However, if we do not move forward, however, with this response to the Duro decision, lawlessness will undoubtedly become a fact of life on many Indian reservations.

These bills will clarify the jurisdiction of tribal governments over Indians as Indians are defined in Federal law. The applicability of this definition to Indian tribes is supported by the administration as evidenced by the briefs filed by the United States in Federal courts in the case of Duro versus Reina. Under the provisions of these bills, the defendant subject to prosecution must be an Indian within the meaning of that term in Federal law and the crime must have been committed in Indian country in violation of the laws of the tribal goverment that governs that particular Indian country.

In enacting laws relating to crimes in Indian country over the past 200 years, the Congress has never distinguished between Indians who are members of the tribe which governs the Indian country where the crime is committed and those who are not members of such tribe but who may be members of other federally recognized tribes or descendants of tribal members who are still treated as Indian. This was not necessarily a deliberate oversight or omission but rather an assumption that Indians in Indian country are not treated differently because of their tribe of origin or enrollment. To quote from the dissent in Duro:

> In 1790, when Congress first addressed the rules governing crimes in Indian country, it made crimes committed by citizens or inhabitants of the United States against Indians punishable according to the laws of the State in which the offense occurred and directed the State courts to take jurisdiction of such offense. * * * In 1817, Congress withdrew that jurisdiction from the States and provided for Federal jurisdiction * * * over crimes committed within Indian country. Congress made an explicit exception for crimes committed by an Indian against another Indian, however: "nothing in this act shall be so construed * * * to extend to any offence committed by one Indian against another, within any Indian boundary." * * * In 1854, Congress again amended the statute to proscribe prosecution in Federal court of an Indian who had already been tried in tribal court. * * * Finally, in 1885, Congress made a limited but significant departure from its consistent practice of leaving no Indian tribes the task of punishing crimes committed by Indians against Indians. In response to this court's decision in ex parte crow dog, 109 U.S. 556,571 (1183), which held that there was no Federal jurisdiction over an Indian who murdered another member of his tribe, Congress passed the Major Crimes Act. * * * Under which certain enumerated crimes, including murder, manslaughter, and arson, fall within Federal jurisdiction when involving two Indians. [T]he Court (has) long held that the term "Indian" in these statutes does not differentiate between members and nonmembers of a tribe. * * * These enactments reflect the congressional presumption that tribes had power over all disputes between Indians regardless of tribal membership.
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> The existence of a jurisdictional gap is not an independent justification for finding tribal jurisdiction, but rather is relevant to determining congressional intent. The unlikelihood that Congress intended to create a jurisdictional void in which no sovereign has the power to prosecute an entire class of crimes should inform our underlying assumptions about tribal power upon which Congress legislated.

These bills will maintain the status quo that existed in Indian country prior to the decision in the Duro case, that is, tribes will exercise jurisdiction over all Indians within Indian country when those Indians are prosecuted for crimes punishable by no more than $5,000 and no more than 1 year in jail. The Indians in question are the Indians for whom the Congress has always legislated, that is Indians who are identified as Indian by their communities, whether or not they are actually formally enrolled in such community, and who receive benefits from federally assisted programs because of their status as Indians. These are exactly the same Indians over whom the U.S. Government exercises jurisdiction under the provisions of the Major Crimes Act (18 U.S.C. 1152 and 1153). If a person living in Indian country has Indian blood but does not participate in programs for Indians, is not considered by the local tribal community to be Indian, and does not consider himself or herself to be Indian, then such person would not be subject to the jurisdiction of the tribe that has jurisdiction over the Indian country where the crime is committed. In a famous case of the last 19th century, the United States tried to relocate a man born as an Indian and raised in the Indian culture but who renounced his status as an Indian in order to live as a non-Indian on lands that were not reserved for Indians.

That man won his case: he was not considered an Indian for purposes of the reach of the long arm of the Federal law. The test today might be different, but generally the Federal law will reach an Indian who commits a crime in Indian country if such Indian is a member of any federally recognized Indian tribe or if such Indian receives any Federal benefits because of his or her status as an Indian.

Mr. President, I look forward to the upcoming debate on this important measure. It is vital to the retained sovereignty of Indian tribese that, at a minimum, the courts of such tribes are able to maintain law and order on Indian lands.●

By Mr. McCAIN:

S. 964. A bill to establish a Social Security Notch Fairness Investigatory Commission; to the Committee on Finance.

SOCIAL SECURITY NOTCH FAIRNESS INVESTIGATORY COMMISSION

● Mr. McCAIN. Mr. President, I rise today to offer legislation to create a bipartisan, blue-ribbon Commission to thoroughly and impartially investigate the issues surrounding what is commonly referred to as the Social Security "notch." The Notch Fairness Investigatory Commission would determine, once and for all, what, if any, statutory change is warranted. It is past time to put this issue to rest.

As a result of legislation passed in 1972, the benefits of certain retirees, born before 1916, are double-indexed to reflect both wage and price inflation. Retirees born after 1916, however, do not receive this windfall, due to additional legislative changes made in 1977 These changes created a transitional benefit formula for those retirees born between 1917 and 1921—the notch.

I won't go through the long history of this issue and the many proposals that have been put forth to deal with it, Mr. President, but as I think every Member of Congress is aware, millions of older Americans are convinced that they are being wronged by the Social Security Administration and the Federal Government. The notch issue is one of the most controversial and persistent issues to face the Congress. While it has been studied in the past, most notably by the General Accounting Office, all these reports have been criticized by one side or the other as being flawed. Consequently, the notch babies continue to believe they are being treated unfairly.

We cannot continue to ignore this issue. Neither can we blindly adopt legislation to correct what may or may not be a problem and which may or may not bankrupt Social Security. Furthermore, if the benefit disparities associated with the notch are consistent with the prior intent of Congress, is this situation fair and equitable? Should it continue? We need an impartial review of the legislative history behind the creation of the notch and a reliable appraisal of the fairness of current benefit levels.

Mr. President, the Commission I am proposing will have one goal: To conclude the endless discussions over the issue and decisively answer these questions. The Notch Fairness Investigatory Commission would be made up of four Members of the Senate and four Members of the House of Representatives, two Democrats and two Republicans from each House, including one proponent and one opponent from each party in each House. These members would be selected by the leadership.

In addition, four private citizens would be appointed by the President. While not specifically designated in the legislation, I hope the President will appoint these members with an eye to the affected age groups, as well as to the various citizens' organizations which have been involved in this issue, such as the National Committee to Preserve Social Security and Medicare.

The Commission will be charged with fully investigating and thoroughly analyzing the legislative history leading to the existence of the notch. It will review every aspect of every issue surrounding the notch including the intent of Congress in orignally creating the Social Security cost-of-living adjustment formula, any flaws in the formula, and the intent of Congress in correcting the flawed formula. The panel will be further charged with determining whether any current beneficiaries are receiving less than Congress intended as a result of legislative actions in 1972 and 1977. Additionally, it will scrutinize the measures that have been put forth to address this issue to determine if they are consistent with any warranted statutory change. Finally, the Commission will make recommendations to the President and the Congress based on its findings.

Mr. President, the Notch Fairness Investigatory Commission will at last provide the necessary information to resolve the continuing debate over the notch and let us move forward. We need to act on this legislation quickly, and I urge my colleagues to support this bill. I ask that the bill be printed in the RECORD immediately following my statement.

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

S. 964

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 "Social Security Notch Fairness Investigatory Commission Act of 1991".

SEC. 2. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the Commission on Social Security Notch Fairness Investigatory Commission (hereafter in this Act referred to as the "Commission").

(b) COMPOSITION.—(1) The Commission shall be composed of 12 members as follows:

(A) 2 members appointed by the majority leader of the Senate, of whom 1 member is a proponent of amending the Social Security Act to correct the benefit disparity known as the notch problem (hereafter in this section referred to as a "proponent") and 1 member is an opponent of such amendments (hereafter in this section referred to as an "opponent").

(B) 2 members appointed by the minority leader of the Senate, of whom 1 member is a proponent and 1 member is an opponent.

(C) 2 members appointed by the Speaker of the House of Representatives, of whom 1 member is a proponent and 1 member is an opponent.

(D) 2 members appointed by the minority leader of the House of Representatives, of whom 1 member is a proponent and 1 member is an opponent.

(E) 4 members who are not employees of the Federal Government or of a State or political subdivision of a State appointed by the President.

(2) The appointments of the members of the Commission shall be made not later than 60 days after the date of the enactment of this Act.

(c) CHAIRMAN AND VICE CHAIRMAN.—The President shall select a Chairman and Vice Chairman from among the members appointed under subparagraphs (A) through (D) of subsection (b)(1).

(d) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(e) INITIAL ORGANIZATIONAL REQUIREMENTS.—The Commission shall convene its first meeting within 60 days after the first date on which all members of the Commission have been appointed.

SEC. 3. DUTIES OF THE COMMISSION.

(a) STUDY.—The Commission shall conduct a study of all matters relating to the disparity under the Social Security Act known as the notch problem.

(b) CRITERIA OF STUDY.—The study conducted by the Commission shall include the following:

(1) A review of the legislative history of the notch problem, including a review of—

(A) the intent of the Congress in enacting legislation establishing the benefit computation formula associated with the notch problem;

(B) any flaw in such formula; and

(C) the intent of the Congress with respect to legislative efforts to make corrections in such formula.

(2) A review of all committee reports, conference reports and records of floor debate of the Congress (for the period of time beginning with the convening of the 92nd Congress through the date of such study) that relate to the matters described in paragraph (1).

(3) A review of the level of benefits of individuals receiving benefits under title II of the Social Security Act to determine whether legislation enacted by the Congress to address the notch problem by making adjustments to the benefit computation formula resulted in an unintended reduction in the level of benefits for certain individuals.

(4) The development of legislative proposals (if determined by the Commission to be appropriate) to address the notch problem.

(5) An assessment of any other legislative proposals (including introduced legislation) relating to the notch problem for the purpose of determining the consistency of such legislative proposals with any legislative proposals developed by the Commission pursuant to paragraph (4).

(6) An assessment of the effect of any legislative proposal determined to be effective in addressing the notch problem by the Commission pursuant to this paragraph on the short-term solvency and long-term solvency of the Federal Old Age Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

SEC. 4. REPORT.

Not later than 9 months after the date on which the Commission convenes its first meeting, the Commission shall transmit to the President and to each House of the Congress, a report containing a detailed statement of the findings and conclusions of the Commission, together with such recommendations for such legislation and administrative actions as the Commission considers appropriate.

SEC. 5. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission or, at its direction, any subcommittee or member of the Commission, may, for the purpose of carrying out the provisions of this Act, hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, administer such oaths, as the Commission or such subcommittee or member considers advisable.

(b) INFORMATION.—The Commission may secure directly from the Department of Health and Human Services and any other Federal department or agency such information as the Commission considers necessary to enable the Commission to carry out its responsibilities under this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

SEC. 6. COMMISSION PROCEDURES.

(a) MEETINGS.—The Commission shall meet at the call of the Chairman.

(b) QUORUM.—(1) A majority of members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(2) The Commission shall act by resolution agreed to by a majority of the members of the Commission present at a properly called meeting.

(c) SUBCOMMITTEES.—The Commission may establish panels composed of less than the full membership of the Commission for the purpose of carrying out the Commission's duties. The actions of each such panel shall be subject to the review and control of the Commission. Any findings and determinations made by such a panel shall not be considered the findings and determinations of the Commission unless approved by the Commission.

(d) AUTHORITY OF INDIVIDUALS TO ACT FOR COMMISSION.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take under this Act.

SEC. 7. COMMISSION PERSONNEL MATTERS; ADMINISTRATIVE MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—(1) The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and not more than the full-time equivalent of 5 additional employees as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate of pay prescribed for level V of the Executive Schedule under section 5315 of title 5, United States Code.

(3) Notwithstanding any other provision of law, the compensation of the personnel described in this subsection shall be paid from funds appropriated to the Department of Health and Human Services.

(d) ADMINISTRATIVE MATTERS.—The Secretary of Health and Human Services shall provide the Commission office space and such supplies and equipment as may be necessary to carry out the duties of the Commission under this Act.

(e) APPLICABILITY OF OTHER FEDERAL LAWS.—A member of the Commission appointed under section 2(b) who is not otherwise employed by the Federal Government shall not be considered to be a Federal employee, except for the purposes of—

(1) chapter 81 of title 5, United States Code, relating to compensation for work-related injuries; and

(2) chapter 171 of title 28, United States Code, relating to torts claims.

SEC. 8. MISCELLANEOUS ADMINISTRATIVE PROVISIONS.

(a) POSTAL AND PRINTING SERVICES.—The Commission may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(b) MISCELLANEOUS ADMINISTRATIVE AND SUPPORT SERVICES.—The Administrator of General Services shall furnish the Commission, on a reimbursable basis, any administrative and support services requested by the Commission.

(c) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(d) PROCUREMENT AUTHORITY.—The Commission may procure supplies, services, and property and make contracts, in any fiscal year, in order to carry out its duties, only to such extent or in such amounts as are provided in appropriation Acts or are donated pursuant to subsection (c). Contracts and other procurement arrangements may be entered into without regard to section 3709 of the Revised Statutes (41 U.S.C. 5) or any similar provision of Federal law.

SEC. 9. TERMINATION OF THE COMMISSION.

The Commission shall terminate 60 days after the date on which Commission submits its report under section 4.●

By Mr. MOYNIHAN (for himself, Mr. SYMMS, Mr. BURDICK, Mr. CHAFEE, and Mr. LAUTENBERG):

S. 965. A bill to amend title 23, United States Code, and for other purposes; to the Committee on Environment and Public Works.

SURFACE TRANSPORTATION EFFICIENCY ACT

● Mr. MOYNIHAN. Mr. President, allow me to report that during the Easter recess the Subcommittee on Water Resources, Transportation and Infrastructure of the Committee on Environment and Public Works held hearings across the Nation on the forthcoming highway bill.

As the Senate knows, the Surface Transportation Act which we regularly enact every 5 years is more than just a highway bill. Transit programs are included, as are highway safety programs.

In his address to a joint session of the Congress on March 6, 1991, President Bush asked specifically that this bill, along with one other, be enacted within 100 days. This is doable, but will take some doing. Our hearings are concluded; we have drafted a bill. It is entirely reasonable to think we might bring it to the floor early in May. In the meantime I have been in touch with my friend and neighbor, Representative ROBERT A. ROE, who is, of course, the distinguished chairman of the House Committee on Public Works and Transportation, with which we will craft our final legislation.

It is too early to predict, but not too soon to hope that this will prove to be the most important transportation bill in 35 years, of 46 years, depending on when you mark congressional authorization of the Interstate Highway System—the National System of Interstate and Defense Highways. It will mark the end of that era. That is certain. It fell on me to manage the Surface Transportation and Uniform Relocation Assistance Act of 1987 at the beginning of the 100th Congress. We were half a year late as the conference had not produced a final bill in 1986. On that occasion, I reminded the Senate that one era was ending and another now in prospect.

"This is a moment the Senate might take to consider: H.R. 2 provides the funding to complete the Interstate and Defense Highway Program begun under President Eisenhower in 1956, the largest public works project in the history of the world. * * * [I]n a sense, we have finished the highway structure of the country, much as the day came when the railroads were built and the airline routes—well, we thought—were com-

pleted, and we would go on to other things. * * *

"After this 5-year bill, the highway program will undergo significant reform. We are about to enter a new era. The system is built. We are now increasingly in the business of restoring and resurfacing and rehabilitating roads and bridges. Between a third and a half of our outlays for highways this year already will be essentially on maintenance. By 1991 we expect that more than half will be. And there are other things yet to do."

That moment is now at hand. We are about to decide how we spend $105 billion over the next 5 years. This is real money. Not another authorization which never comes to anything in real life. As the Senate knows, the money for this program is collected through gasoline and other taxes and deposited in a trust fund. Let there be no doubt. It will be collected and it will be spent.

The question is whether it will be spent wisely.

Our record is not reassuring.

Thirty-one years ago the Reporter magazine, then edited by the all-seeing Irving Kristol, published a cover story on the then new interstate program of which I was the author. It was entitled, "New Roads and Urban Chaos," which will give a sense of the point of view.

It is generally agreed that the concept of a nationwide, multilane, limited access highway system dates back to the General Motors Futurama exhibit at the 1939 World's Fair in Flushing Meadows, Queens, New York. You might say that I was present at the creation, for I knew of a hole in the fence around the Fair and visited the Futurama exhibit over and over again in that idyllic summer.

Later, in the 1950's, I was to serve on the staff of Gov. Averell Harriman in Albany. By that time New York State had built the first segment of the Interstate System as the New York State Thruway. This was, you see, very much a New York conception. President Roosevelt had proposed the idea to Congress, and the system was authorized in 1944. The great breakthrough came under President Eisenhower in 1956, when at the suggestion of Representative Jim Wright and others, the idea of a dedicated tax and trust fund was put in place. But the design for the new system was already in place in New York. In point of fact, the highway commissioner under Governor Dewey who built the thruway, an inspired civil engineer Bertram Tallamy, left Albany in 1956 to start up the national program here in Washington.

I watched all this with some apprehension. In New York we had built our portion of the system as a toll road which had to pay its way. Now the rest of the country was going to be building the exact same road but as freeways—and with what came close to being free money. This is to say the 90-10 split authorized in the 1956 legislation. In some parts of the nation the ratio was actually 95-5. I began my Reporter article thus:

The Wall Street Journal does not commonly describe any undertaking of the Eisenhower administration as "A vast program thrown together, imperfectly conceived and grossly mismanaged, and in due course becoming a veritable playground for extravagance, waste and corruption." It must, to the White House, seem notably unkind for the Journal to speak thus of an enterprise the administration has declared "the biggest public works program ever undertaken anywhere or at any time throughout the world." But even the President has conceded that all is not well with the $45 billion Interstate and Defense Highway Program.

The program was scarcely 5-years-old at this point, but already the cost was getting out of hand. Bryce Harlow, that incomparable counselor, once related to me that President Eisenhower regarded the interstate system as the most important domestic achievement of his administration. But even so, he seems to have sensed the working of that venerable rule of economics, which is that free goods or nearly free goods will be wasted.

Here is the record. The Federal-aid Highway Act of 1956 provided an authorization for $25 billion in Federal funds to build the National System of Interstate and Defense Highways. In addition, a 10 percent state match was required, bringing the total cost of the system to $27.5 billion.

The bill envisioned a 41,000 mile system that would be finished by 1969, that is 13 years.

What actually happened was quite different.

The 1991 estimate for the total cost of the interstate system is $114 billion of Federal funds, for a total of $128 billion.

Thus, we see that the system took three times as long to complete as was originally proposed, and cost almost five times as much.

Actually, the program is not quite finished even yet. Two major urban segments remain. The first is the Glenn Anderson Freeway in Los Angeles, named after our good friend, the distinguished legislator from Long Beach. The other the Boston Central Artery/3d Harbor Tunnel project. The Anderson Freeway is well on its way to completion as an innovative, multimodal transportation corridor. It is a geat tribute to Representative Anderson. I cannot and do not make any predictions about the Boston project. I wrote in that Reporter article 31 years ago that these highways were too big for cities, or at least we had not yet learned how to put something so big in a city. Where half the interstate program money would be spent. That was the trouble. That map made you think of great ribbons of concrete crossing Kansas to the horizon. We should have been thinking of all those Chinese walls smashing through neighborhoods and changing the character of American cities beyond recognition or redemption. It is too late now, but the techniques of opposing Interstate segments in cities have developed to the point where even civilized projects cannot be built, and so I make no projections for Boston. Even so, we will include in our bill some $6.8 billion for these final bits and pieces. But that is it. The Interstate is over.

What now?

I foresee a new Federal transportation program based on three principles.

First, our primary object must be to improve the efficiency of the system we now have.

After 35 years and a 460 percent cost overrun, it is time to think pricing. We have poured enough concrete. The time has come to get more transportation out of the roads we have already built.

Like all public monopolies, highways give the impression of a free good. They are not. However, that impression has led the United States to a perilous dependence on imported oil.

In 1944 we exported oil. In 1956 we imported only 11.5 percent of consumption. In 1990 this ratio had risen to 41.9 percent. It will soon pass the halfway mark.

Indeed, it could be said that the biggest single effect of the Interstate Highway System has been in the field of American foreign policy. We are a Nation that absolutely must have foreign oil, and must shape our defense and foreign policies accordingly.

However, we surely must strive to keep that dependency to a minimum. There are many good features in the bill sent to us by the administration. However, it is, as I remarked at the time, more an energy policy than a transportation policy. Under the proposed Federal aid formula, the more gasoline a State consumes, the more money it gets.

This does not seem to me the right kind of incentive. Can we not devise an arrangement whereby States are rewarded for reducing their gasoline consumption? The answer, of course, is that we can.

At the risk of interfering in the internal affairs of the administration, allow me to say a friendly word on behalf of those young people down at the White House who are talking and writing about a new paradigm as regards the workings of the public sector. I wish I could say I knew any of them personally, but at all events I do know some of their writing. It reminds me very much of the celebrated summation of Joan Robinson concerning the source of economic growth under capitalism. Having spent a lifetime pondering the equations, in the end she decided that the only variable with any explanatory weight was—animal spirits. Thus new paradigmers speak of bu-

reaucracy as a now obsolescent 19th century innovation. So much for Weberian rationality, they seem to say. How's for a little more in the way of high—if not, indeed, animal—spirits. Which is fine by this Senator, if they will take it a step at a time.

A good place to start would be this bill. After all, it was the subject of internal improvements which was the subject of the first great debate about the role of the Federal Government. And it was the Federalist who most favored them.

Our first great project of this kind was called, and properly, the National Road, which ran west from Cumberland, MD to Vandalia, IL. Begun in 1811, it was the principal way west until the Erie Canal opened in 1825. It seems ever the fate of New Yorkers to pay for these improvements on our own. We paid for the canal; we paid for the first segment of the Interstate, The Thomas E. Dewey Thruway. But the wily West Virginians and their neighbors got over $7 million in Federal money for The National Road, a vast sum at that time.

At all events, the great challenge is to introduce into bureaucratic decisionmaking the equivalent of a pricing system. In theory balanced and informed bureaucratic decisions can make optimal resources allocations as well as any market. But in practice bureaucracy is never balanced enough or informed enough. Too bad, but there you are.

I find it interesting that in that Reporter article 31 years ago the one outspoken critic of the Interstate system I could cite was the then-editor of the Economist, that ever-enquiring and frequently skeptical defender of the free market faith:

> A few months after the program was adopted, Geoffrey Crowther of the London Economist, returned from a trans-American tour, told a New York meeting of the Committee for Economic Development: "I have driven myself with my own hands over 12,000 miles . . . I could tell you a great deal about the . . . fabulous development of the highways in the United States. I find myself puzzled by the statements—that are taken for granted in this country now—that your highways are obsolete. I think I can claim to know as much about that now as anybody in this room and I say it is not so. Your highway system is magnificent. It is overburdened in the immediate vicinity of the large cities; but get away from the large cities and your highways are empty."
>
> "I wonder," said Crowther, speaking of the new interstate program, "if the matter has been investigated as thoroughly as it should be." If had been. Any number of congressmen had wondered if it could not be made bigger. It was. The President's proposal was adopted with only one other important change. Ever alert to the call of patriotism, Congress lengthened the title to make it Interstate and Defense Highway program.

It is too late to undo any of the damage, or to recoup any of the losses. Nor do I rise to argue that the Interstate system was on balance a mistake. Instead I ask that we go forward now bearing in mind one simple adage. Just as there is not such a thing as a free lunch, there is no such thing as a freeway. The only real questions are: who pays, who benefits, and how much?

Second, the time has come to turn the initiative in transportation matters back to States and cities.

Here is my thought. The only feasible way to introduce marketplace pricing and competition into our transportation system is to encourage the States, and within States, the cities, to compete with one another in how efficiently they use the money made available to them.

We don't have to invent such competition. It already esists. It has existed from the beginning of the Republic. What do Members of Congress tell their constituents more than any other single thing. That they "bring home the bacon." (Known to detractors as "pork," from the oldtime pork barrel in which food was preserved.) The problem is that most of this largesse comes in the form of a nominally free good. Once you get it, be it an Air Force base or an interchange, it doesn't matter whether anything good follows. To cite that Reporter article one last time, and early study by the General Accounting Office had found in one State that an expensive interchange had been built on one Interstate segment principally to provide access to "some old mines, a power line, four or five small ranches, and a house of ill repute." I made the simple point that "the 90-10 money makes it politically impossible to do anything but take the money as fast as possible" no matter what the results.

Everywhere our subcommittee went we were impressed by the vigor and enterprise of State and local transportation officials. I would especially note our visits to Houston and to Los Angeles. Houston, for example, has developed a high occupancy vehicle lane which is carrying the passenger equivalent of five lanes of regular Interstate.

That is what we want. More from what we have. In one of our hearings in Washington, Dr. Steven Morrison from Northeastern University offered us a simple thought taken from that magical baseball film, "Field of Dreams." "If you build it," he said, "they will come." Meaning cars, not ball players.

It is very hard to develop competition in a setting of public monopoly. The best approach I can think of is to let the states compete among themselves. Let them, as the economist John Kain told our subcommittee, learning from each other's mistakes; copy each other's successes.

One day, for example, a mayor is going to introduce congestion pricing and get reelected by a huge margin. Whereupon something new will appear in American urban policy.

Over and over again in our hearings economists have explained that in and of itself congestion is a form of pricing. You have to think about this for a moment, but it soon becomes obvious. Think of time as money, as Dr. Franklin taught us to do. Think of a congested highway. If the congestion disappears, everyone saves time. Which translates directly, as in the case of a tractor-trailer, or indirectly, as in the case of a passenger car, into money. Happily, congestion is not, in the parlance of economists, a linear function. Reduce the number of vehicles a little bit, and you reduce the congestion quite a lot. In the end you get more product out of your road, which is an increase in productivity.

This is the way we are now beginning to think. Oregon, for example, has set goals running out to the year 2010 for the proportion of other than single-occupancy vehicles that will be commuting to and from work during peak hours (29 percent last year; 60 percent by 2010).

This should be the new spirit of the public sector in America. It may sound odd, but there could be no better place for it to begin than with highways. Highways, after all, is where the public sector of the American economy begins. Before public schools, before public health, before public broadcasting—came public roads. Productivity is the key concept, and calls for the introduction of all manner of existing and developing technologies, especially electronics. In their masterful new study "Productivity and American Leadership: The Long View," William J. Baumol and his associates say all there is to say:

> . . . (P)roductivity growth is essentially a long-run issue. Indeed, it can be said without exaggeration that in the long run probably nothing is as important for economic welfare as the rate of productivity growth.

We need this badly. A half-century ago those Austrian economists were telling us that centrally planned command economies could never succeed because no one could ever know what true prices should be. The situation is replicated within the economic sector where government has a monopoly. You see it in productivity figures. In the period 1981 to 1986, for example, productivity in durable goods manufacturing rose by an astounding 6.0 percent per year. By contrast productivity in transportation grew by 0.7 percent a year.

So much for "just in time" inventory management)

Some areas of the nation are more efficient than others. I am concerned for example, about my own state of New York. We exist because of transportation. We began with the finest harbor on the Atlantic coast of North America. We proceeded to build the Erie Canal, the way west. Then the New York Central Railroad. Then the

Thomas E. Dewey Thruway. But then we slowed down.

On Friday, April 5, in Albany, our most able State Transportation Commissioner Franklin White testified:

. . . the United Parcel Service estimates the cost of its parcel pickup/delivery in this region [New York City and Long Island] to be 30 percent higher than for the rest of the country.

Third, transit should be an option for cities. Which is to say "highway" money should be fungible. The subcommittee heard over and again about rail transit projects financed by the Federal Government and have been ruinously expensive. Again, that rule that free goods will be wasted. Similarly, we saw most impressive new systems, such as the Blue Line from Los Angeles to Long Beach, and the vastly improved New York City subways. Again, the rule should be that cities should compete. Those who make wise decisions will prosper. Those who make poor decisions, will pay.

Of course, expanded bus service is very much the agenda of many cities.

If these three principles seem stern, then so be it. We are about to spend $105 billion in taxpayers' money. Let us, for the first time in a generation, try to put in place incentives to spend it wisely and efficiently.

This is more than a transportation challenge. Like it or not, the public sector takes out about one-third of the American economy. There is much too little incentive for productivity improvements in this sector. This point is vividly made by Prof. Stanley Lebergott of Wesleyan University who would devise means for rewarding public bureaucracies for improving productivity, and alternately punishing those who do not. Let us begin by enacting the Surface Transportation Efficiency Act of 1991. Mr. President, I ask unanimous consent that excerpts from my 1960 Reporter article be included in the RECORD at this point.

There being no objection, the article was ordered to be printed.

[From the Reporter, Apr. 14, 1960]

NEW ROADS AND URBAN CHAOS

(By Daniel P. Moynihan)

The Wall Street Journal does not commonly describe any undertaking of the Eisenhower administration as "A vast program thrown together, imperfectly conceived and grossly mismanaged, and in due course becoming a veritable playground for extravagance, waste and corruption." It must, to the White House, seem notably unkind for the Journal to speak thus of an enterprise the administration has declared "the biggest public works program ever undertaken anywhere or at any time throughout the world." But even the President has conceded that all is not well with the $45-billion Interstate and Defense Highway program.

The program provides for the construction of 41,000 miles of superhighway, connecting ninety per cent of the nearly three hundred cities of the continental United States with populations of 50,000 or more. When completed, the system will carry twenty per cent of the nation's traffic. Up to ninety-five per cent of the cost will be paid by the Federal government. Half of it will be spent in the cities the system connects.

Washington abounds with administration task forces, Congressional committees, and special-interest groups—all investigating this program. Those in Congress who are looking for scandal will likely find no end of it. Those in the President's office looking for ways to cut back the program will have an even easier task, although they may encounter more difficulty getting their findings published during this election year. But very few seem to be asking whether, quite apart from corruption or extravagance, the program is bringing about changes for the worse in the efficiency of our transportation system and the character of our cities.

One of the best-publicized resolves of the administration that took office in 1953 was to redress the balance of Federal-state relations by divesting the national government of such usurpations of state sovereignty as vocational education and aid to the dependent blind. While almost nothing has come to this endeavor, an important change in Federal-state relations has in fact taken place during the Eisenhower years. The Federal government, through the Federal Aid Highway Act of 1956, has assumed the direction of highway construction—one of the few areas of significant government activity in which the states still had the initiative after the New Deal.

Although the Federal government has been providing some highway aid to the states since 1916, road building was almost entirely a state and local affair until 1956. The Federal Bureau of Public Roads was, as late as 1939, a small agency in the Department of Agriculture helping to "get the farmer out of the mud" by supplementing state highway budgets. The states spent the money pretty much as they pleased.

The system was permissive but not disorganized. Standards for highway construction, for example, and national routes (the familiar US sign) were successfully established on a voluntary basis. For the most part, however, these roads followed trails that had originated far back in frontier history. With the coming of the automobile they were just surfaced, and widened and straightened somewhat. Our counterparts of the "rolling English drunkard" who laid out Chesterton's "rolling English road" were the Iroquois war party and the Conestoga wagon: more purposeful but not less circuitous as they sought out the passes and water-level routes north and south, and across the continent. The Roman roads Hilaire Belloc has written of, struck like a lash across the conquered provinces, were not reproduced in America until we too established a dominant central government.

The idea of a Federal system of superhighways arose during the First World War. It was revived by the Roosevelt administration as a public-works project for building 14,000 miles of transcontinental routes. A study made by the Bureau of Public Roads, which the President commended to Congress in 1939, revealed that there was surprisingly little cross-country traffic and suggested that the concept be changed to a 25,700-mile intercity system. The idea was popularized by General Motor's Futurama exhibit at the New York World's Fair.

In 1944, after some further study, Congress authorized construction of a National Interstate Highway system on this basis. The size was increased to 40,000 miles. Thus, from the outset there has been more mileage authorized for the system than anyone knew exactly what to do with.

MORE ROADS FOR MORE CARS

Authorization is the first step in a Federal public-works program. It more or less commits Congress to appropriate money at a future date and provides time for plans and other necessary arrangements to be made. Plans for the interstate system went ahead. In 1947 the Federal government and the states agreed on the location of 37,700 miles of the system, leaving the rest for additional urban connections. The roads were to be limited-access, multilane high-speed routes designed to the highest standards. But no special funds were appropriated to build them; only regular Federal highway-aid funds were made available, on the standard fifty-fifty matching basis. This required the states to take sizable amounts of money from regular projects to spend on interstate mileage.

The result was that the interstate mileage didn't get built. Highway-construction expenditure multiplied by nearly eight times from 1945 to 1952, but the states just wouldn't use their money on interstate highways. It had never, after all, been their idea. Special funds were thereupon appropriated and the Federal share increased to sixty percent, but still with little effect. By 1952, less than one percent of the system had been completed. Three years later President Eisenhower declared: "At the current rate of development, the interstate network would not reach even a reasonable level of extent and efficiency in half a century."

For the highway transportation industry this raised a serious question. Automobile registrations had almost doubled in the first decade after the war. By 1955 there was a motor vehicle for every seven hundred feet of lane in both directions on all the streets and roads of the nation. It was expected that registrations would rise another forty percent in the following decade, to a total of eighty-one million. Yet already the cities were chockablock with cars. Unless more room was made for automobiles, the automobile industry itself might feel the pinch. "Either the roads must be made adequate for the traffic," stated the Engineering News-Record, "or the end of national expansion as we know it must be accepted."

Few pains were spared to popularize this notion. General Motors even went into the essay-sponsoring business, offering $25,000 for the best theme on "How to Build the Roads We Need." (The prize was won, naturally, by Robert Moses.)

But the Eisenhower administration needed little persuading. Highway transport had become, in the words of the Brookings Institution, "the greatest single combination of economic activities in men's history."

In July, 1954, the President proposed a "grand plan" for a national highway system. His plan was to build the interstate system Roosevelt had proposed and Congress had authorized. He next appointed a committee composed of General Lucius D. Clay and assorted men of substance, including Dave Beck, as was de rigueur in those days, to devise means for doing so. The committee quickly reported that the system would cost only $27.5 billion, and could be built, with borrowed money, in ten years. It proposed that the Federal government pay ninety percent of the cost generally and up to ninety-five percent in states with extensive untaxed Federal landholdings. The President submitted this proposal to Congress in February, 1955.

SOMETHING FOR EVERYBODY

In a Democratic Congress dominated by Southern and Western representatives, the program had the further advantage of providing a considerable subsidy to those parts of the country. Far the heaviest concentration of traffic and automobiles in the nation is located in a parallelogram running from Boston to Milwaukee down to St. Louis over to Washington and back up to Boston. The area's fourteen states and the District of Columbia had just under half the nation's motor vehicles in 1955. However, only a quarter of the interstate mileage is located in these states. Mississippi, with one-third to a half as many automobiles as Massachusetts, is to get almost one and a half times the mileage. Texas, with five-sixths as many automobiles as New York, is to get almost three times as much mileage.

It was fortunate for the President that there were so many sound political reasons to support his program. There weren't many others. With the railroads running at fifty percent of capacity, a sudden, sharp increase in intercity transportation facilities represented, if anything, a threat to the economic stability of the entire transportation industry. Almost certainly the 40,000-mile figure was too large: it had no basis other than the enthusiasm of the wartime Congress for a peacetime program that might be years away. In 1944 Congress had little idea where this mileage was to be located, much less whether it would be needed. Ten years later the Clay Committee appointed by President Eisenhower found that only 8,500 miles of the system could expect enough traffic to pay for themselves as toll roads—and of these, all but 3,500 were already built or being built.

There was no question that city streets were jammed, and it was always understood that half the cost of the program would go to urban arterials. But this aspect of the program should have evoked the Malthusian specter raised by New York City's Deputy Administrator Lyle C. Fitch: the number of automobiles increases to fill all the space provided.

WHO RUNS IT?

This is not the end of it: rising costs are built into the interstate system. From the outset the program has been undermined by the administration's desire for Big Government achievements without Big Government. The Clay Committee envisioned the largest public-works program in history being carried on with no increase in public personnel. " . . . The Federal Highway Corporation should consist only of a board of directors with secretarial assistants"—a kind of bureaucratic fantasy in which almost everyone is a member of the board and there is no overhead. The Clay Committee proposed that the interstate program be operated through the Bureau of Public Roads as an ordinary Federal highway-aid program, with all the work of picking sites, drawing plans, letting contracts, and so forth, done by the states. For extra help the states, many of which were altogether incapable of doing such work anyway, would turn to the "private engineering organizations capable of providing sound engineering in this field." All of this, in some way, would further "the President's stated desire for 'a co-operative alliance between Federal Government and the States so that government . . . will be the manager of its own area.'"

The President has had his desire. The Bureau of Public Roads, with only a handful of extra help, depends on the states, which depend on consulting engineers. The consulting engineers, normally paid by a percentage of the cost of projects they design, depend on the Rotary Club for forecasts of the traffic potential of whatever town they happen to be tearing up.

WHERE IS IT BUILT?

Many instances of almost incredible mismanagement have appeared in scathing reports by the Comptroller General, but there is nothing to be done about it. The interstate program is not a Federal enterprise; it is only a Federal expense. Washington is simply committed to keep supplying money until it is finished. But the states have no real freedom of action either. The basic decision to build the system has been made for them: the enormous "bargain" of the 90-10 money makes it politically impossible to do anything but take the money as fast as possible and try to match it. Since all contracts are closely scrutinized by the U.S. Bureau of Public Roads, the states hardly see it as their responsibility to control the costs of the program, as indeed it is not. But the bureau, under equally heavy pressure to keep the program rolling and Congress happy, exercises little real control. It functions rather as a company comptroller who fusses over items on an expense account without ever daring to ask if the trip was necessary. In fairness, the bureau could hardly do otherwise: in 1958 it had two investigators to cover the entire United States.

With no strong direction of the program, there has been no way to resist the political pressures to build a little bit of interstate highway in every county along the 41,000-mile route. Limited-access highways over new locations are more like bridges than ordinary roads. Until they make the complete crossing from one city to another they are relatively useless, starting, likely as not, at one of the cities and ending in a corn-field. A minimum businesslike management would have arranged for the system to be built in complete segments, concentrating on the more important ones. Instead it is being built in fragments strewn across the continent. It will be years before these are connected into anything like a national system.

The only certain consequence of the rising costs of the program is that there is no longer much serious possibility of reimbursing the states that built sections of the system as toll roads. In the postwar years, after the outlines of the interstate system had been established, a number of states did this. From the outset of the present program it has been recognized that justice entitled these states to be reimbursed so that they might either remove the tolls or build additional roads. Five years ago it seemed unthinkable that this would not be done. An administration spokesman told the House Committee on Public Works that not to reimburse these states would be like saying, "Boys, we are sorry, you took care of yourselves, so you do not get anything."

The 1956 legislation declared the intent of Congress to settle this matter, but as one financial crisis has followed another, the intention has grown weaker. It is now practically settled that those states which did not wait around for Uncle Sam to look after them will in fact get nothing. So much for the fate of the bird dogs in the Eisenhower years.

Not surprisingly, seventy per cent of these toll roads are located in the states of the northeastern parallelogram, which as a result will get even less than a quarter of the interstate mileage.

This development only compounds the inequity of paying for the interstate system with gasoline taxes. Drivers on the Massachusetts Turnpike, the Indiana Toll Road, the New York State Thruway, and similar highways will not only have to pay tolls to use their portion of the interstate system, but they will be paying extra gasoline taxes to build the other portions.

WHO BENEFITS MOST?

Apart from any regional imbalance, the gasoline tax is still a highly questionable way of distributing the burden of paying for the interstate system in terms of the benefits that will be derived from it. The fuel levy really amounts to a household tax—more than fifteen dollars a year on the average—on the seven out of ten American families that own an automobile. Most of these families will use the interstate from time to time, but hardly enough to get their money back.

By contrast, the system will provide a great subsidy to industry in the form of cheap road transport. The nature of this subsidy has been obscured by the endless arguments concerning the precise share of highway costs that should be paid by trucks as against private automobiles. (The Federal government and the states are currently spending $22 million running tractor-trailers over a road near Ottawa, Illinois, to determine just how much they damage the pavement.) Although it appears that truckers do not pay a fair portion of highway costs, this in itself is not the secret of their economic success. The truckers' main advantage is that railroads must pay all the cost of building and maintaining their transportation system, while trucks pay only when they actually use the roads. Of each railroad revenue dollar, twenty cents goes to right-of-way costs. For trucks the figure is four and half cents.

As a result of this advantage, in the words of the industry's trade association, "Within one generation, trucking has become the dominant form of transportation in the United States." This dominance will be confirmed by the completion of the interstate system, at a presently estimated cost of some $45 billion. The net investment in our entire 220,000-mile railroad system is only $28 billion. Were it not for the trucking subsidy, the railroads would almost certainly be running at better than their current fifty per cent of capacity.

Some of this imbalance could be righted if the Interstate Commerce Commission were authorized to take the road subsidy into account in fixing trucking rates. But actually only a third of the road transport is conducted by firms operating as common carriers in direct competition with railroads and under regulation by the ICC. Railroad analyst A. Joseph Debe of Standard & Poor's estimates that two-thirds of it is conducted by or for private industries hauling their own products. It is these companies, spread across the entire range of American industry, that benefit most from the highway subsidy.

Because two-thirds of truck traffic is subject to no rate regulation, the only practical way to restore any economic balance in intercity transportation would be to impose a toll on the commercial users of the interstate system. A permit system would not send trucks to parallel routes; they gladly pay as much as ten cents a mile to use a road like the New York State Thruway. (This may give some indication of the size of subsidy on free roads.)

CHAOS IN CONCRETE

It is not true, as is sometimes alleged, that the sponsors of the interstate program ig-

nored the consequences it would have in the cities. Nor did they simply acquiesce in them. They exulted in them. Thanks to highways, declared the Clay Report, "We have been able to disperse our factories, our stores, our people, in short, to create a revolution in living habits. Our cities have spread into suburbs, dependent on the automobile for their existence. The automobile has restored a way of life in which the individual may live in the friendly neighborhood, it has brought city and country closer together, it has made us closer together, it has made us one country and a united people."

This rhapsody startled many of those who have been concerned with the future of the American city. To undertake a vast program of urban highway construction with no thought for other forms of transportation seemed lunatic.

The 1939 report that Roosevelt sent to Congress—prepared in the Department of Agriculture—took it as axiomatic that the new highways would be part of, and provide the occasion for, a "radical revision of the city plan," which would coordinate other urban programs such as slum clearance and provide for a "reintegration of facilities for the various forms of transportation." The 1944 legislation had much the same intent. But so far as the Highway Act of 1956 goes, there is no form of transportation but the automobile, and the act has no objective save providing more room for it.

It had always been understood that a large portion of the interstate funds would be spent in the metropolitan areas, but the 1956 legislation went further to declare that "local needs . . . shall be given equal consideration with the needs of interstate commerce," thus authorizing construction of arterial highways only by courtesy connected with the interstate system.

It was clear at the time that locating the metropolitan portions of the interstate system would constitute an unprecedented venture into national planning. It is estimated that the size of our metropolitan areas would double by 1975. For good or ill, the location of the interstate arterials would, more than any other factor, determine how this growth would take place. Yet no planning provisions of any kind were included.

In the absence of any other provisions, the "planning" would be done by highway engineers. Theirs, admittedly, is an unjustly maligned profession. Nothing in the training or education of most civil engineers prepares them to do anything more than build sound highways cheaply. In the course of doing this job they frequently produce works of startling beauty—compare the design of public highways with that of public housing. Yet, in the words of John T. Howard of the Massachusetts Institute of Technology, "It does not belittle them to say that, just as war is too important to leave to the generals, so highways are too important to leave to the highway engineers."

Highways determine land use, which is another way of saying they settle the future of the areas in which they are built. It stands to reason that engineers should be required to conform their highway plans to metropolitan land-use designed in the context of more general economic and social objectives.

Yet in 1956 we had no metropolitan area plans, as we had no metropolitan area governments. The only one we have now is the Dade County (Miami), Florida, which is just getting started.

In this predicament, there was considerable sentiment for a moratorium on the urban interstate program until planning requirements could be imposed. Most of those concerned however, as the distinguished transportation economist Wilfred Owen is frank to say, felt if the program went ahead it would precipitate such a crisis that something would have to be done at last about our metropolitan areas.

Across the nation there seemed to be an increasing awareness among those who actually run the cities and suburbs that do nothing more than build bigger highways only produced bigger traffic jams. There seemed a growing belief that a complex system of mass transit had to be preserved, or revived, or even indeed created—if only to make automobile transportation feasible.

The sorry results of carrying on a number of Federal urban-development programs completely independent of each other had become increasingly evident. Thus the American Municipal Association formally requested legislation requiring that the urban-renewal and highway program be coordinated.

The crisis has come. It has been impossible for the cities to resist the offer of unprecedented amounts of money, however futile they might know it will be to spend it on highways alone. In one metropolis after another the plans have been thrown together and the bulldozers set to work.

Here and there, as in Milwaukee, a vigorous and established city planning authority has been able to get intolerable plans redrawn. But in general the program is doing about what was to be expected: throwing up a Chinese wall across Wilmington, driving educational institutions out of downtown Louisville, plowing through the center of Reno. When the interstate runs into a place like Newburgh, New York, the wreckage is something to see. Down the Hudson, Robert Mosses is getting set to build the Canal Street Expressway, the first hundred-million dollar mile.

The Bureau of Public Roads recently considered an edict requiring that some area plans be developed before interstate funds are allocated, but the idea was abandoned. Some felt it was too late anyway. As for relating the highway program to urban renewal, a recent policy statement of the American Institute of Planners said simply: "Except for the coordination which may be supplied at the local level . . . each one is apparently operating entirely independently of the other." The legislation asked by the Municipal Association was never introduced. It was with compassion that Paul Ylvisaker of the Ford Foundation recently addressed a meeting of city planners as the "Beaten Profession."

Just ahead for all of us, perhaps, is Los Angeles, in the words of Harrison Salisbury, "nestled" under its blanket of smog, girdled by bands of freeways, its core eviscerated by concrete strips and asphalt fields, its circulatory arteries pumping away without focus . . . the prototype of Gasopolis, the rubber-wheeled living region of the future."

MONEY TALKS

Yet we may be learning our lesson after all: Owen may be right. All across the country, area planners and highway engineers are discussing what they recognize as their common problems with a new sense of urgency. It is clear that if the areas in which Federal highways are to be built were required to work out adequate plans for the use of land and transportation before the money was handed over, the planning would almost certainly be done. The demand for 90-10 highway funds is so great that there is almost nothing, however sensible, that local governments would not do to get their share.

It is true that metropolitan-area planning will not be an easy matter to bring off. Dennis O'Harrow, director of the American Society of Planning Officials, says candidly: "There is a shortage of planners, a shortage of information, a shortage of money to support studies, and more fundamentally, a shortage of information as to what should be done if you could do what you wished." But this is a normal condition of human affairs. Almost any effort to think a bit about what we are doing would help.

Simply by providing some flexibility in the program, we could produce great savings. If the cities were permitted to do what they thought best with, say, fifty per cent of the more than $20 billion of interstate funds allotted to them, much of it would almost certainly go to mass transit and commuter facilities. This kind of money could reshape urban transportation in America: our total national investment in public transit is less than $4 billion, and a combined highway-mass transit-commuter program could almost certainly produce the same results at lower cost than a program dependent on highways alone.

It is becoming increasingly apparent that American government, both national and local, can no longer ignore what is happening as the suburbs eat endlessly into the countryside. Since the spreading pollution of land follows the roads, those who build the roads must also recognize their responsibility for the consequences. There are a number of obvious steps that could be taken. Public authorities could, for example, buy up the development rights of open land in the suburbs—not the property itself, but only an easement to prevent it from being turned into a factory site or a housing development. This could be done, as it is in England, in accordance with an area land-use plan that fixes the perimeter of the metropolitan area, or alternates built-up sections with open spaces. What this really amounts to is effective zoning regulations.

How could the money be found to pay for the development rights? A practical solution would be the technique of "excess-taking" as proposed by President Roosevelt in his 1939 message to Congress. As he put it: "The government, which puts up the cost of the highway, buys a strip on each side of the highway itself, uses it for the rental of concessions and sells it off over a period of years to home builders and others who wish to live near a main artery of travel. Thus the government gets the unearned increment and reimburses itself in large part for the building of the road."

This "unearned increment" can be staggering; a five thousand per cent increase in land values is not uncommon. At a time when state and local governments are reaching a limit of the money they can get out of taxpayers, here is an opportunity to get money that doesn't belong to anyone: it doesn't exist, as it were, until the government builds the highway. It represents a legitimate source of government revenue of great potential. Used to shape the development that the highways make possible, it could transform the suburbs of the next half century.

We may yet impart some sanity and public purpose to this vast enterprise. We may yet establish some equity in paying for the highways and restore some balance between them and other elements of our transportation system. We may even refute Belloc's dictum, "The general rule in history is that a city having reached its highest point of wealth

becomes congested, refuses to accept its only remedy, and passes on from congestion to decay." But we shall not escape his rule that "the Road moves and controls all history."

Roads can make or break a nation.

Mr. MOYNIHAN. Mr. President, I send the bill to the desk on behalf of myself, Mr. SYMMS, Mr. BURDICK, Mr. CHAFEE, and Mr. LAUTENBERG, and ask that it be appropriately referred. I ask unanimous consent that the bill be printed and that it be included in its entirety in the RECORD at the appropriate point. I ask that the attached section-by-section analysis of the bill also be printed in the RECORD.

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

S. 965

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

SECTION 1. SHORT TITLE.—

This Act may be cited as the "Surface Transportation Efficiency Act of 1991".

SEC. 2. TABLE OF CONTENTS.

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TITLE I—FEDERAL-AID HIGHWAY ACT OF 1991

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TITLE II—NATIONAL RECREATIONAL TRAILS TRUST FUND ACT

Sec. 201. Short Title.
Sec. 202. Creation of National Recreational Trails Trust Fund.
Sec. 203. National Recreational Trails Program.
Sec. 204. National Recreational Trails Advisory Committee.

SEC. 3. SECRETARY DEFINED.

As used in this Act, the term "Secretary" means the Secretary of Transportation.

TITLE I—FEDERAL-AID HIGHWAY ACT OF 1991

SEC. 101. SHORT TITLE.

This title may be cited as the "Federal-Aid Highway Act of 1991".

SEC. 102. DECLARATION OF POLICY.

(a) Subsection 101(b) of title 23 United States Code is amended to read as follows:

"(b) DECLARATION OF POLICY.—The National System of Interstate and Defense Highways is completed. The principal purpose of federal highway assistance shall henceforth be to improve the efficiency of the existing surface transportation system.

"It is the policy of the United States to facilitate innovation and competition in transportation modes through Federal and State initiative.

"It is the policy of the United States to increase productivity in the transportation sector of the economy through systematic attention to costs and benefits, pursuing the most efficient allocation of costs and the widest distribution of benefits."

(b) Subsections 101(d) and 101(e) of title 23 United States Code are hereby repealed.

SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

(a) REPEAL OF FISCAL YEAR 1993 AUTHORIZATION FOR INTERSTATE CONSTRUCTION.—Section 108(b) of the Federal-Aid Highway Act of 1956 is amended by—

(1) inserting "and" after "1991";

(2) striking the comma after "1992" and inserting in lieu thereof a period; and

(3) striking "and the additional sum of $1,400,000,000 for the fiscal year ending September 30, 1993".

(b) AUTHORIZATIONS.—The following sums are authorized to be appropriated out of the Highway Account of the Highway Trust Fund:

(1) SURFACE TRANSPORTATION PROGRAM.—For the Surface Transportation Program $7,330,000,000 for fiscal year 1992, $7,700000,000 for fiscal year 1993, $8,260,000,000 for fiscal year 1994, $9,250,000,000 for fiscal year 1995, and $12,260,000,000 for fiscal year 1996.

(2) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the Congestion Mitigation and Air Quality Improvement Program $1,000,000,000 per fiscal year for each of fiscal years 1992, 1993, 1994, 1995 and 1996.

(3) BRIDGE PROGRAM.—For the Bridge Program $2,370,000,000 for fiscal year 1992, $2,460,000,000 for fiscal year 1993, $2,600,000,000 for fiscal year 1994, $2,840,000,000 for fiscal year 1995, and $3,050,000,000 for fiscal year 1996.

(4) INTERSTATE MAINTENANCE PROGRAM.—For resurfacing restoring and rehabilitating the National System of Interstate and Defense Highways, $2,530,000,000 for fiscal year 1992, $2,620,000,000 for fiscal year 1993, $2,770,000,000 for fiscal year 1994, $3,020,000,000 for fiscal year 1995, and $3,250,000,000 for fiscal year 1996.

(5) INTERSTATE CONSTRUCTION PROGRAM.—For construction to complete the Interstate System, $1,800,000,000 for each of fiscal years 1993, 1994, 1995, and 1996, *Provided*, That section 102(c) of the Federal-Aid Highway Act of 1987, regarding minimum apportionments, is hereby repealed, and *Provided Further*, That such sums shall be obligated as if authorized by section 108(b) of the Federal-Aid Highway Act of 1956.

(6) INTERSTATE SUBSTITUTION PROGRAM.—For the Interstate Substitution Program for projects under highway assistance programs $240,000,000 for each of fiscal years 1992, 1993, 1994 and 1995, *Provided*, That such sums shall be obligated as if authorized by 23 U.S.C. 103(e)(4)(G), and *Provided Further*, That section 103(e)(4)(H)(i) and section 103(e)(4)(H)(iii) of title 23 United States Code are amended by striking "and 1991" the three places it occurs and inserting lieu thereof "1992, 1993, 1994, and 1995".

(7) FEDERAL LANDS HIGHWAY PROGRAM.—

(A) For Indian reservation roads $150,000,000 for each of fiscal years 1992, 1993, 1994, 1995 and 1996.

(B) For public lands highways $200,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996.

(C) For parkways and park highways $100,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996.

(8) TERRITORIAL HIGHWAY PROGRAM.—For the Territorial Highway Program $15,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996.

(9) NATIONAL MAGNETIC LEVITATION DESIGN PROGRAM.—For the National Magnetic Levitation Design Program $50,000,000 for fiscal year 1992, $75,000,000 for fiscal year 1993, $125,000,000 for fiscal year 1994, $250,000,000 for fiscal year 1995, and $250,000,000 for fiscal year 1996.

(10) FEDERAL HIGHWAY ADMINISTRATION RESEARCH PROGRAMS.—For the purpose of carrying out research as authorized by Section 307, the amount of $120,000,000 for each of fiscal years 1992, 1993, 1994, 1995 and 1996, *Provided*, That such amount shall be made available from within the amount of the deduction authorized pursuant to section 104(a) of title 23 United States Code.

(11) UNIVERSITY TRANSPORTATION CENTERS PROGRAM.—For carrying out the University Transportation Centers Program pursuant to the Urban Mass Transportation Centers Program pursuant to the Urban Mass Transportation Act of 1964, as amended, $5,000,000 for each of fiscal years 1992, 1993, 1994, 1995 and 1996.

(12) HIGHWAY USE TAX EVASION PROJECTS.—For highway use tax evasion projects $2,000,000 for each of fiscal years 1992, 1993, 1994, 1995 and 1996, *Provided*, That these sums shall be available until expended and may be allocated to the Internal Revenue Service or the States at the discretion of the Secretary, and *Provided Further*, That these funds shall be used to expand efforts to enhance motor fuel tax enforcement, fund additional Internal Revenue Service Staff, supplement motor fuel tax examination and criminal investigation, develop automated data processing tools, evaluate and implement registration and reporting requirements, reimburse state expenses that supplement existing fuel tax compliance efforts and analyze and implement programs to reduce the tax evasion associated with other highway use taxes.

(13) SAFETY BELT AND MOTORCYCLE HELMET USE.—For the purpose of carrying out programs under section 153 of title 23 United States Code $45,000,000 for fiscal year 1992, $30,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994.

SEC. 104. OBLIGATION CEILING.

(a) GENERAL LIMITATION.—Notwithstanding any other provision of law, the total of all obligations for Federal-aid highway programs shall not exceed—

(1) $15,480,000,000 for fiscal year 1992;
(2) $15,940,000,000 for fiscal year 1993;
(3) $16,840,000,000 for fiscal year 1994;
(4) $18,410,000,000 for fiscal year 1995; and
(5) $20,190,000,000 for fiscal year 1996;

Provided, That limitations under this section shall not apply to obligations for emergency relief pursuant to section 135 and obligations for minimum allocation pursuant to section 157.

(b) DISTRIBUTION OF OBLIGATION AUTHORITY.—For each of fiscal years 1992, 1993, 1994,

1995 and 1996, the Secretary shall distribute the limitation imposed by (a) by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways which are apportioned or allocated to each State for such fiscal year bears to the total of the sums authorized to be appropriated for Federal-aid highways which are apportion or allocated to all the States for such fiscal year.

(c) LIMITATION ON OBLIGATION AUTHORITY.—During the period October 1 through December 31 of each of fiscal years 1992, 1993, 1994, 1995, and 1996 no State shall obligate more than 35 percent of the amount distributed to that State under subsection (b) for that fiscal year, and the total of all State obligations during the period shall not exceed 25 percent of the total amount distributed to all States under subsection (b) of the total amount distributed to all States under subsection (b) for that fiscal year.

(d) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsections (c) and (d), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State;

(2) after August 1 of each of fiscal years 1992, 1993, 1994, 1995 and 1996, revise a distribution of funds made available under (c) for that fiscal year if a State will not obligate amounts in addition to those previously distributed during the fiscal year giving priority to those States having large unobligated balances of funds apportioned under section 104 and section 144 of title 23, United States Code; and

(3) not distribute amounts authorized for administrative expenses, the Federal lands highways program, and the National Magnetic Levitation Design Program.

SEC. 105. UNOBLIGATED BALANCES.

Unobligated balances of funds apportioned for the primary, secondary and urban systems and the railway-highway crossing and hazard elimination programs may be obligated for the Surface Transportation Program as if they had been apportioned for that Program.

"SEC. 106. SURFACE TRANSPORTATION PROGRAM.

"(a) ESTABLISHMENT OF PROGRAM.—Title 23 United States Code is amended by adding the following new section:

"SEC. 133. SURFACE TRANSPORTATION PROGRAM.—The Secretary shall establish a Surface Transportation Program in accordance with this section.

"(a) ELIGIBILITY.—Projects eligible under the Surface Transportation program shall include—

"(1) construction, reconstruction, rehabilitation, resurfacing, restoration, and operational improvements for highways (including Interstate highways) and bridges, including any such construction or reconstruction necessary to accommodate other transportation modes, and including the routine painting of facilities;

"(2) capital and operating costs for mass transit, rail, and magnetic levitation systems, including expenditures on rights of way and associated facilities;

"(3) carpool projects and fringe and corridor parking facilities and programs, and bicycle facilities and programs;

"(4) surface transportation safety improvements and programs, including highway safety improvement projects, hazard eliminations, and railway-highway grade crossings.

"(5) surface transportation research and development programs;

"(6) capital and operating costs for traffic monitoring, management and control facilities and programs;

"(7) surface transportation planning programs;

"(8) transportation enhancement activities as defined in section 101; and

"(9) any other purpose approved by the Secretary.

Provided, That projects other than those described in paragraphs (3) and (4) may not be undertaken on roads functionally classified as local or rural minor collector, except as approved by the Secretary.

"(b) GENERAL REQUIREMENTS.—

"(1) For at least 75 percent of funds apportioned to a state for the Surface Transportation Program in any year, the state shall assure that such funds are programmed based on a division between the metropolitan and non-metropolitan areas of the state, as determined pursuant to section 134, in direct proportion to their relative share of the state's population. The remaining 25 percent of funds may be programmed for any area of the state.

"(2) Programming and expenditure of funds for projects in metropolitan areas shall be consistent with the requirements of section 134, regarding metropolitan planning.

"(3) Programming and expenditure of funds for projects in non-metropolitan shall be consistent with the provisions of section 135, regarding statewide planning.

"(4) Of the apportionments made available to a State under this section, each state must assure that no less than 8 percent of such funds are programmed for transportation enhancement activities, as defined in section 101.

"(5) In the case where a state constructs a facility under this program with a federal share of 80 percent and later converts the facility to operation such that the project would originally have been undertaken with a federal share of 75 percent, the state shall repay to the United States, with interest, the amount of the difference in the cost to the United States.

"(c) ADMINISTRATION.—

"(1) If the Secretary determines that a State or local government has failed to comply substantially with any provision of this section, the Secretary shall notify the State, that, if it fails to take corrective action within 60 days from the receipt of the notification, the Secretary will withhold future payments under this section until the Secretary is satisfied that appropriate corrective action has been taken.

"(2) The Governor of each State shall certify prior to the beginning of each fiscal year that the State will meet all the requirements of this section and shall notify the Secretary of the amount of obligations expected to be incurred for Surface Transportation Program projects during the fiscal year, *Provided*, That the State may request adjustment to the obligation amounts later in the fiscal year. Acceptance of the notification and certification shall be deemed a contractual obligation of the United States for the payment of the Surface Transportation Program funds expected to be obligated by the State in that fiscal year for projects not subject to review by the Secretary.

"(3) Projects must be designed, constructed, operated and maintained in accordance with state laws, regulations, directives, safety standards, design standards and construction standards.

"(4) If the Secretary determines that a state or local government has failed to comply substantially with any provision of this section, the Secretary shall notify the State of its noncompliance and, if it fails to take corrective action within 60 days from the receipt of the notification, the Secretary may withhold future payments under this section until the Secretary is satisfied that appropriate action has been taken.

"(5) Any State may notify the Secretary that it no longer wishes the Secretary to review and approve design and construction standards for any project other than a project on an Interstate Highway or other multi-lane limited access control highways, except as provided in section 102(b), regarding resurfacing projects. After any such notification the Secretary shall undertake only such project review as is requested by the State.

"(6) The Secretary shall make payments to a State of costs incurred by it on the program. Payments shall not exceed the Federal share of costs incurred as of the date the State requests payments."

(b) APPORTIONMENT.—Section 104(b) of title 23, United States Code, is amended by—

(1) amending paragraph (1) to read as follows:

"(1) SURFACE TRANSPORTATION PROGRAM.—For the Surface Transportation Program, in a manner such that—

"(A) a state's percent share of all funds allocated or apportioned pursuant to this title for fiscal year 1992 and any fiscal year thereafter, excluding funds apportioned or allocated for the Interstate Construction, Interstate Substitute, Federal Lands Highways, Congestion Mitigation and Air Quality Improvement, Minimum Allocation, and Emergency Relief programs;

shall be equal to—

(B) such state's percent share of all apportionments and allocations received under this title for fiscal years 1987, 1988, 1990 and 1991, excluding apportionments and allocations received for the Interstate Construction, Interstate Substitute, Federal Lands Highways and Emergency Relief Programs, all apportionments and allocations received for demonstration projects, and the portion of allocations received pursuant to section 157, regarding minimum allocation, that is attributable to apportionments made under the Interstate Construction and Interstate Substitute programs in such years: *Provided*, That in calculating a state's percent share under this subparagraph for the purpose of making apportionments for fiscal years 1992, 1993, 1994, and 1995, each state shall be deemed to have received one-half of one percent of all funds apportioned for the Interstate Construction Program in fiscal years 1987, 1988, 1989, 1990, and 1991.";

(2) striking "upon the Federal-aid systems" and inserting in lieu thereof "upon the Surface Transportation Program, the Congestion Mitigation and Air Quality Improvement Program, and the Interstate System";

(3) striking "paragraphs (4) and (5)" and inserting in lieu thereof "subparagraph (5)(A)"; and

(4) striking "and sections 118(c) and 307(d)" and inserting in lieu thereof "and section 307".

(c) FEDERAL SHARE.—Section 120(a) of title 23 United States Code is amended by striking "Subject to the provisions of subsection (d) of this section, the" and inserting in lieu thereof "The"; by striking ", primary, secondary, or urban funds, on the Federal-aid primary system, the Federal-aid secondary

system, and the Federal-aid urban system" and inserting instead "Surface Transportation Program funds"; and by inserting "for capital projects that add capacity available to single occupant vehicles, except where the project consists of a high occupancy vehicle facility available to single occupant vehicles at other than peak travel times, and 80 per centum of the cost of construction for other projects,", in two places after the words "cost of construction".

(d) GUIDANCE.—The Secretary shall develop and make available to the states guidance on how to determine what portion of any project under section 133 of title 23 United States Code is eligible for an 80 percent federal share.

(e) CONFORMING AMENDMENTS.—The analysis of title 23 United States Code is amended by striking "133. [Repealed P.L. 90-495]." and inserting in lieu thereof "133. Surface Transportation Program.".

SEC. 107. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Section 149 of title 23 United States Code is amended to read as follows:

"SEC. 149. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—The Secretary shall establish a congestion mitigation and air quality improvement program pursuant to the requirements of this section.

"(a) ELIGIBLE PROJECTS.—A project may be funded under the congestion mitigation and air quality improvement program only if—

"(1) guidance issued by the Environmental Protection Agency pursuant to section 108(f) of the Clean Air Act, as amended, shows to the satisfaction of the Secretary, after consultation with the Administrator of the Environmental Protection Agency, that the project is likely to contribute to the attainment of any national ambient air quality standard;

"(2) the project is listed in a state implementation plan that has been approved pursuant to the Clean Air Act, as amended, and the project will have air quality benefits; or

"(3) the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that the project is likely to contribute to the attainment of any national ambient air quality standard, whether through reductions in vehicle miles traveled, fuel consumption, or through other factors; and

only if the project does not result in the construction of new capacity available to single occupant vehicles, except where the project consists of a high occupancy vehicle facility available to single occupant vehicles at other than peak travel times.

"(b) PROGRAMMING OF FUNDS.—Funds apportioned pursuant to this section shall be programmed in accordance with the provisions of section 134.

"(c) FEDERAL SHARE.—The Federal Share payable for a project under this section shall not exceed 80 percent of the cost of the project."

(b) APPORTIONMENT.—Section 104(b)(2) is amended to read as follows:

"(2) FOR THE CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—In the ratio which the weighted non-attainment area population of each state bears to the total weighted non-attainment area population of all states, where weighted non-attainment area population shall be calculated by multiplying the population of any non-attainment areas within any state that is in non-attainment for ozone by a factor of—

"(A) 1.0 if the area is classified as a marginal non-attainment area;

"(B) 1.1 if the area is classified as a moderate non-attainment area;

"(C) 1.2 if the area is classified as a serious non-attainment area;

"(D) 1.3 if the area is classified as a severe non-attainment area;

"(E) 1.4 if the area is classified as an extreme non-attainment area;

where the classification of non-attainment areas is that used in the Clean Air Act, as amended, and by further multiplying the population of any non-attainment area by a factor of 1.2 if such area is in non-attainment for carbon monoxide."

(c) PROGRAMMING OF FUNDS.—Apportionments made under this section shall be made available in metropolitan areas within each state in proportion to the relative share of weighted non-attainment area population within the state, and shall be programmed for expenditure by the metropolitan planning organizations for each such area in accordance with the provisions of section 134 of title 23 United States Code.

(d) CONFORMING AMENDMENTS.—The analysis of chapter 1 of title 23, United States Code, is amended by striking "Sec. 149. Truck lanes." and inserting instead "Sec. 149. Congestion Mitigation and Air Quality Improvement Program."

SEC. 108. BRIDGE PROGRAM.

(a) FEDERAL SHARE.—Section 144(f) of title 23, United States Code is amended to read as follows:

"(f) The federal share payable for any project undertaken under this subsection shall be 80 percent, except for any costs attributable to the expansion of the capacity of any bridge or the construction of any new bridge where such new capacity or new bridge is primarily available to single occupant vehicles, in which case the federal share payable shall be 75 percent. In the case where a state constructs a bridge or portion thereof not primarily available to single occupant vehicles pursuant to this section, and later converts the bridge or portion thereof to be available to single occupant vehicles, the state shall repay to the United States, with interest, the amount of the additional cost borne by the United States that would have been borne by the state had the bridge or portion thereof been originally available to single occupant vehicles."

(b) NEW CAPACITY GUIDANCE.—The Secretary shall develop and make available to the States criteria for determining what share of any project undertaken pursuant to section 144 of title 23 United States Code is attributable to the expansion of the capacity of a bridge where the new capacity is available to single occupant vehicles.

(c) BRIDGE PAINTING.—Section 144(e) of title 23 United States Code is amended by adding at the end "Funds apportioned pursuant to this subsection shall be available for the painting of any bridge eligible for assistance under this section."

(d) REPEAL OF DISCRETIONARY BRIDGE PROGRAM.—Paragraphs (1), (2), and (3) of section 144(g) of title 23 United States Code are repealed.

(e) LEVEL OF SERVICE CRITERIA.—The Secretary shall, by January 1, 1992, in consultation with the States, establish level of service criteria for the Bridge Program.

(f) CONFORMING AMENDMENTS.—

(1) The analysis of chapter 1 of title 23 United States Code is amended by striking "Sec. 144. Highway bridge replacement and rehabilitation program." and inserting in lieu thereof "Sec. 144. Bridge program."

(2) Section 144 of title 23 United States Code is amended as follows:

(A) The title is amended to read "Sec. 144. Bridge Program.".

(B) Subsection (b) is repealed; and subsection (c) is amended by striking ", other than those on any Federal-aid system," and by striking "on and off the federal-aid system.".

(C) Subsection (e) is amended by striking "(1) Federal-aid system bridges eligible for replacement, (2) Federal-aid system bridges eligible for rehabilitation, (3) off-system bridges eligible for replacement, and (4) off-system bridges eligible for rehabilitation" and inserting instead "(1) Bridges categorized for rehabilitation and (2) bridges categorized for replacement'; and (2) by striking "on the Federal-aid primary system" and inserting instead "under the Surface Transportation Program"

SEC. 109 INTERSTATE MAINTENANCE PROGRAM.

(A) LIMITATION ON NEW CAPACITY.—Section 119(a) of title 23 United States Code is amended by inserting after the end of the first sentence: "Notwithstanding any other provision of this title, the portion of the cost of any project undertaken pursuant to this section that is attributable to the expansion of the capacity of any Interstate highway, where such new capacity is primarily available to single occupant vehicles, shall not be eligible for funding under this section.";

(b) ADEQUATE MAINTENANCE OF THE INTERSTATE SYSTEM.—Section 119(f)(1) of title 23 United States Code is amended by inserting at the end of the paragraph "The Secretary must find that the State is adequately maintaining the Interstate System to accept such a certification.";

(c) NON-FEDERAL MATCH REQUIREMENT.—

(1) Section 119(a) of title 23 United States Code is amended by striking "section 120(c)" and inserting in lieu thereof "section 120(d)".

(2) Section 120(d) of title 23 United States Code is amended to read as follows:

(d) INTERSTATE MAINTENANCE.—The federal share payable on account of any project undertaken for the maintenance of Interstate highways under the provisions of section 119 shall either—

"(1) not exceed 80 percent of the cost of construction, except that in ther case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved) exclusive of national forests and national parks and monuments, exceeding 5 percent of the total areas of all lands therein, the federal share shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State, is of its total area; or

"(2) not exceed 80 percent of the cost of construction, except that in the case of any state containing nontaxable Indian lands, individual and tribal, public domain lands (both reserved and unreserved), national forests, and national parks and monuments, the federal share shall be increased by a percentage of the remaining cost equal to the percentage of the area of all such lands in such state is of its total area, except that the federal share payable on any project shall not exceed 95 percent of the total cost of the project.

In any case where a state elects to have the federal share as provided in paragraph (2), the State must enter into an agreement with the Secretary covering a period of not less than one year, requiring the State to use solely for purposes eligible under this title (other than paying its share of projects undertaken pursuant to this title) during the period covered by the agreement the difference between the State's share as pro-

vided in paragraph (2) and what its share's would be if it elected to pay the share provided in paragraph (1) for all projects subject to the agreement.".

(d) GUIDANCE TO THE STATES.—The Secretary shall develop and make available to the States criteria for determining—

(1) what share of any project funded under section 119 of title 23 United States Code is attributable to the expansion of the capacity of an Interstate Highway; and

(2) what constitutes adequate maintenance of the Interstate System for the purposes of section 119(f)(1) of title 23 United States Code.

(e) NON-CHARGEABLE SEGMENTS.—Section 104(b)(5)(B) of title 23 United States Code is amended by adding "and routes on the Interstate system designated under section 139(a) of this title before January 1, 1984" after the phrase "under sections 103 and 139(a) of this title" each of the two times it appears in the first sentence.

(f) Conforming Amendments.—

(1) NEW TITLE.—The title of section 119 of title 23 United States Code is amended to read "Sec. 119. Interstate Maintenance Program.";

(2) ANALYSIS.—The analysis for chapter 1 of title 23 United States Code is amended by striking "Sec. 119 Interstate System Resurfacing." and inserting in lieu thereof "Sec. 119. Interstate Maintenance Program.".

(3) Section 119 of title 23 United States Code is amended—

(A) by striking out subsection (c), with regard to reconstruction;

(B) by striking out subsection (e), with regard to toll facilities;

(C) by striking out, in subsection (a), ", rehabilitating, and reconstructing" and inserting in lieu thereof "and rehabilitating";

(D) in subsection (f)—

(i) by striking "PRIMARY SYSTEM" from the title and inserting in lieu thereof "SURFACE TRANSPORTATION PROGRAM"; and

(ii) by striking "rehabilitating, or reconstructing" and inserting in lieu thereof "or rehabilitating".

(4) APPORTIONMENT.—Section 104(b)(5)(B) of title 23 United States Code is amended by striking "rehabilitating, and reconstructing" and inserting instead "and rehabilitating".

SEC. 110. INTERSTATE CONSTRUCTION PROGRAM.

(a) MASSACHUSETTS.—Paragraph 104(b)(5)(A) of title 23 United States Code is amended by striking "upon the approval by Congress, the Secretary shall use the Federal share of such approval estimates in making apportionments for the fiscal year 1993" and inserting in lieu thereof—

"The Secretary shall use the Federal share of the 1991 Interstate Cost Estimate, adjusted to reflect (i) all previous credits, apportionments of Interstate construction funds and lapses of previous apportionments of interstate construction funds, (ii) previous withdrawals of Interstate segments, (iii) previous allocations of Interstate discretionary funds, and (iv) transfers of Interstate construction funds, to make apportionments for fiscal years 1993, 1994, 1995 and 1996 in the ratio in which the Federal share of the estimated cost of completing the Interstate System in a State bears to the Federal share of the sum of the estimated cost of completing the Interstate System in all of the States, except Massachusetts, *Provided* that Massachusetts shall be apportioned $100,000,000 for the fiscal year 1993, $800,000,000 for the fiscal year 1994, $800,000,000 for the fiscal year 1995, and $850,000,000 for the fiscal year 1996.".

(b) CONFORMING AMENDMENTS.—Paragraph 104(b)(5)(A) of title 23 United States Code is further amended by striking "1960 through 1990" the two places it appears and inserting instead "1960 through 1996"; and by striking "1967 through 1990" and inserting instead "1967 through 1996".

SEC. 111. FEDERAL LANDS HIGHWAYS PROGRAM.

(a) ALLOCATIONS.—Section 202 of title 23 United States Code is amended as follows:

(1) Subsection (c) is amended by inserting at the end "The secretary shall allocate 66 percent of the remainder of the authorization for public lands highways for each fiscal year as is provided in section 134 of the Federal-Aid Highway Act of 1987."; and by inserting after "allocate" the words "34 percent of".

(2) Subsection (a) is repealed.

(b) PROJECTS.—Section 204 of title 23 United States Code is amended as follows:

(1) Subsection (b) is amended by inserting at the end "Funds available for each class of federal lands highways shall be available for any kind of transportation project eligible for assistance under this title that is within or adjacent to or provides access to the areas served by the particular class of federal lands highways."; and by striking "forest highways and".

(2) Subsection (a) is amended by striking "forest highways,"; and by inserting at the end "Notwithstanding any other provision of this title, no project may be undertaken in any State pursuant to this section unless the State concurs in the selection and planning of the project.".

(3) Subsection (c) is amended by striking "on a federal aid system and inserting in lieu thereof "eligible for funds apportioned under section 104 or section 144 of this title".

(c) CONFORMING AMENDMENTS.—Section 203 of title 23 United States Code is amended by striking "forest highways" in two places.

SEC. 112. TOLL FACILITIES.

(a) REPEAL OF NATIONAL POLICY.—Section 301 of title 23 United States Code is hereby repealed.

(b) NEW REQUIREMENTS.—Section 129 of title 23 United States Code is amended to read as follows:

"SEC. 129. TOLL FACILITIES.

"(a) PROHIBITION.—Tolls may not be imposed on any existing free Interstate Highway.

"(b) FEDERAL SHARE PAYABLE.—Except as provided in subsection (e), the federal share payable for any project under this section shall not exceed 35 percent of the cost of the project for construction of new toll facilities, and shall not exceed 80 percent of the cost of the project for rehabilitation of existing toll facilities or conversion of existing free facilities to toll facilities.

"(c) CONSTRUCTION OR CONVERSION OF FACILITIES.—Except as otherwise provided in this section, federal funds to carry out this title may not be obligated on toll facilities or to convert free facilities to toll facilities. The Secretary may permit federal participation, on the same basis and in the same manner as participation in projects on free highways under this title, in the construction of any toll highway, bridge, tunnel, or approach thereto, or the conversion of any free highway, bridge, tunnel or approach thereto to a toll facility, upon compliance with the provisions of this subsection, except that no federal funds may be used to impose tolls on any existing free Interstate Highway. The highway, bridge, tunnel, or approach thereto must be publicly owned. The appropriate State transportation or highway department or departments must be party to an agreement with the Secretary that provides that—

"(1) all tolls received from the operation of the facility, less the actual cost of operation and maintenance, shall be applied to repayment, including debt service and reasonable return on investment, of the party financing the facility, except for amounts contributed by the United States; and

"(2) after the date of final repayment, revenues from tolls in excess of revenues needed to recover actual costs of operation and maintenance shall be used for any transportation project eligible under this chapter.

"(d) CONSTRUCTION OF FERRYBOATS AND FERRY APPROACHES.—The Secretary may permit Federal participation under this title in the construction of ferryboats and ferry approaches, whether toll or free, subject to the following conditions:

"(1) It is not feasible to build a bridge, tunnel, or other normal highway structure in lieu of the ferry.

"(2) The operation of the ferry shall not be on a route that is classified as local, as a rural minor collector, or as a route on the Interstate System.

"(3) The ferry shall be publicly owned and operated.

"(4) The operating authority and the amount of fares charged for passage on the ferry shall be under the control of the State, and all revenues shall be applied to actual and necessary costs of operation, maintenance, and repair, including replacement of ferryboats.

"(5) The ferry shall be operated only within the State (including the islands which comprise the State of Hawaii and the islands which comprise the Commonwealth of Puerto Rico) or between adjoining States. Except with respect to operations between the islands which comprise the State of Hawaii, operations between the islands which comprise the Commonwealth of Puerto Rico, operations between the islands of Maine, and operations between any two points in Alaska and between Alaska and Washington, including stops at appropriate points in the Dominion of Canada, no part of the ferry operations shall be in any foreign or international waters.

"(6) No ferry shall be sold, leased, or otherwise disposed of without the approval of the Secretary. The Federal share of any proceeds from a disposition shall be credited to the unprogrammed balance of Surface Transportation Program funds last apportioned to the State. Any amounts credited shall be in addition to other funds then apportioned to the State and shall be available for expenditure in accordance with the provisions of this title.

"(e) CONGESTION PRICING PILOT PROGRAM.—(1) The Secretary shall solicit the participation of State and local governments and public authorities for one or more congestion pricing pilot projects. The Secretary may enter into cooperative agreements with as many as five such State or local governments or public authorities to establish, maintain, and monitor congrestion pricing projects.

"(2) Notwithstanding subsection (c), the federal share payable for such programs shall be 100 percent. The Secretary shall fund all of the development and other start up costs of such projects, including salaries and expenses, for a period of at least one year, and thereafter until such time that sufficient revenues are being generated by the program to fund its operating costs without federal participation, except that the Secretary may not participate at 100 percent federal cost in any project for more than 3 years.

"(3) Revenues generated by any pilot project under this section must be applied to projects eligible under this title.

"(4) The Secretary shall monitor the effect of such projects for a period of at least 10 years, and shall report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives every 2 years on the effects such programs are having on driver behavior, traffic volume, transit ridership, air quality, and availability of funds for transportation programs.

"(5) Of the sums made available the Secretary pursuant to section 104(a), not to exceed $5,000,000 shall be made availabale each fiscal year to carry out the requirements of this subsection.".

(c) EXISTING TOLL FACILITY AGREEMENTS.—At the request of the non-federal parties to any toll facility agreement reached before October 1, 1991 under section 105 of the Federal-Aid Highway Act of 1978 or section 129 of title 23 United States Code as in effect immediately prior to the date of enactment of this Act, the Secretary shall renegotiate such agreement to allow for the continuance of tolls without repayment of federal funds.

SEC. 113. METROPOLITAN PLANNING.

(a) NEW REQUIREMENTS.—Section 134 of title 23, United States Code is amended to read as follows:

"SEC. 134. METROPOLITAN PLANNING.

"(a) METROPOLITAN PLANNING ORGANIZATIONS.—A metropolitan planning organization shall be designated for each urbanized area of a state of over 50,000 in population by agreement among Governor and the units of general purpose local government representing at least 90 percent of the affected population. Each metropolitan planning organization shall designate boundaries for a metropolitan area pursuant to subsection (b) and shall carry out the transportation planning process required by this section. With the cooperation of the affected states, metropolitan planning organizations that represent portions of multi-state metropolitan areas shall, where feasible, provide for coordinated transportation planning for the entire metropolitan area.

"(b) METROPOLITAN AREA BOUNDARIES.—For the purposes of this title, the boundaries of any metropolitan area shall be determined by the metropolitan planning organization. Each metropolitan area shall cover at least the existing urbanized area and the area expected to become urbanized within the forecast period, and may encompass the entire Metropolitan Statistical Area/Consolidated Metropolitan Statistical Area (MSA/CMSA) as defined by the Bureau of the Census. For areas designated as non-attainment for ozone or carbon monoxide under the Clean Air Act, as amended, the boundaries of the metropolitan area shall be the boundaries of the nonattainment area, except as otherwise provided by the metropolitan planning organization.

"(c) GENERAL REQUIREMENT FOR PLANNING.—In developing transportation plans and programs pursuant to this section, the metropolitan planning organization shall, at a minimum—

"(1) consider preservation of existing transportation facilities and, where practical, meet transportation needs by using existing transportation facilities more efficiently;

"(2) provide that transportation planning is consistent with applicable federal, state and local energy conservation programs, goals and objectives;

"(3) consider the need to relieve congestion;

"(4) conform with the applicable requirements of the Clean Air Act as amended;

"(5) consider the effect of transportation policy decisions on land use and development, and the provisions of all applicable short- and long-term land use and development plans;

"(6) recommend, where appropriate, the use of innovative financing mechanisms, including value capture, tolls, and congestion pricing to finance needed projects and programs;

"(7) provide for the programming of expenditure on transportation enhancement activities as required in section 133;

"(8) consider the effects of all transportation projects to be undertaken within the metropolitan area, without regard to whether such projects are publicly funded;

"(9) consider the overall social, economic, and environmental, affects of transportation decisions; and

"(10) develop a long range transportation plan.

"(d) TRANSPORTATION IMPROVEMENT PROGRAMS.—

"(1) DEVELOPMENT OF PROGRAMS.—The metropolitan planning organization, in cooperation with the State and relevant transit operators, shall develop a transportation improvement program that includes all projects within the metropolitan area proposed for funding pursuant to this title and the Urban Mass Transportation Act, and that is consistent with the long range plan developed by the metropolitan planning organization. The program may only include a project if full funding can be reasonably anticipated to be available for such project within the period of time contemplated for its completion. The program shall be updated at least annually.

"(2) PRIORITY OF PROJECTS.—The program shall establish sets of projects that shall be carried out for each three-year period after the initial adoption of the program.

"(3) PROGRAMMING OF FUNDS.—Notwithstanding any other provision of law, all projects carried out with federal participation pursuant to this title or the Urban Mass Transportation Act within the boundaries of a metropolitan area shall be programmed by the metropolitan planning organization with regard to the transportation improvement plan for such area and the priorities established therein.

"(e) ADDITIONAL REQUIREMENTS FOR AREAS OF OVER 250,000 POPULATION.—

"(1) For metropolitan areas of more than 250,000 population, transportation plans and programs shall be based on a continuing and comprehensive transportation planning process carried out by a metropolitan planning organization in cooperation with the State and transit operators.

"(2) The planning process shall include a congestion management system that provides for effective management of new and existing transportation facilities through the use of travel demand reduction and operational management strategies. In non-attainment areas for transportation-related pollutants, the development of the congestion management system shall be coordinated with the development of the transportation element of the State Implementation Plan required by the Clean Air Act as amended.

"(3) The Secretary shall assure that each metropolitan planning organization is carrying out its responsibilities under applicable provisions of federal law, and shall so certify at least once per annum. The Secretary shall fail to certify a metropolitan planning organization that is not carrying out applicable requirements of federal law. The provisions of subsection (d)(3) shall not apply in areas where the metropolitan planning organization has not received certification from the Secretary.

"(f) ADDITIONAL REQUIREMENTS FOR NON-ATTAINMENT AREAS.—

"(1) Notwithstanding any other provision of law, for areas classified as non-attainment for ozone or carbon monoxide pursuant to the Clean Air Act, as amended, federal funds may not be programmed in such area for any highway project that will result in a significant increase in carrying capacity for single occupant vehicles unless the project is part of an approved congestion management system.

"(2) If, at the end of any three year planning period established pursuant to subsection (d), a project to be carried within such period has not been carried out, any changes in emissions of pollutants that contribute to non-attainment for ozone or carbon monoxide pursuant to the Clean Air Act, as amended, that have been attributed to such project shall be discounted for the purposes of conformity review pursuant to section 176(c) of the Clean Air Act, as amended, (42 U.S.C. 7506(c)) until such time as binding commitments have been made to complete the project by a date certain.

"(3) For the purpose of determining conformity pursuant to section 176(c) of the Clean Air Act, as amended, (42 U.S.C. 7506(c)), the metropolitan planning organization shall take into account emissions expected to result from all projects to be carried out within the metropolitan area, without regard to whether such projects are publicly or privately funded.

"(g) REPROGRAMMING OF SET ASIDE FUNDS.—Any funds set aside pursuant to section 104(f) of this title that are not used for the purpose of carrying out this subsection may be made available by the metropolitan planning organization to the state for the purpose of funding activities under section 135.".

(b) ONE PERCENT SET ASIDE.—Section 104(f)(1) of title 23 United States Code is amended by striking "one-half per centum" and inserting in lieu thereof "one percent"; by striking "the Federal-aid systems" and inserting in lieu thereof "programs authorized under this title"; and by striking all after the third comma and inserting in lieu thereof "except that the amount from which such set aside is made shall not include funds authorized to be appropriated for the Interstate Construction and Interstate Substitute programs.".

(c) APPORTIONMENT WITHIN A STATE.—Section 104(f)(4) of title 23 United States Code is amended by striking "and metropolitan area transportation needs" and inserting in lieu thereof "attainment of air quality standards, metropolitan area transportation needs, and other factors necessary to provide for an appropriate distribution of funds to carry out the requirements of section 134 and other applicable federal law.".

(d) CONFORMING AMENDMENTS.—

(1) The analysis of chapter 1 of title 23 United States Code is amended by striking "Sec. 134. Transportation planning in certain urban areas." and inserting in lieu thereof "Sec. 134. Metropolitan Planning.".

(2) Section 104(f)(3) of title 23 United States Code is amended by striking "designated by the State as being".

SEC. 114. STATEWIDE PLANNING.

(a) NEW REQUIREMENTS.—Section 135 of title 23, United States Code is amended to read as follows:

"SEC. 135. STATEWIDE PLANNING.

"(a) MANAGEMENT SYSTEMS.—Each State shall have a Bridge Management System, a Pavement Management System, a Safety Management System, and Congestion Management System developed in accordance with regulations prescribed by the Secretary. Systems shall include inventories and use current condition data to identify needs. The Secretary may withhold project approvals under section 106 and may decline to accept a notice and certification under section 133(c)(2) if a State fails to have approved systems. The regulations shall provide for periodic Federal review of the Management Systems.

"(b) TRAFFIC MONITORING SYSTEM.—Each State shall have a Traffic Monitoring System to provide statistically based data necessary for pavement management, bridge evaluation, safety management, congestion management, national studies, and other activities under this title. The Secretary shall establish guidelines and requirements for the Traffic Monitoring System."

"(c) STATE PLANNING PROCESS.—Each State shall undertake a continuous transportation planning process which shall—

"(1) take into account the results of the management systems required pursuant to subsection (a);

"(2) take into account any Federal, State or local energy use goals, objectives, programs or requirements;

"(3) take into account any valid State or local development or land use plans, programs, or requirements;

"(4) take into account international border crossings and access to ports, airports, intermodal transportation facilities, major freight distribution routes, national parks, recreation areas, monuments and historic sites, and military installations.

"(5) provide for comprehensive surface transportation planning for non-metropolitan areas;

"(6) be consistent with any metropolitan area plan developed pursuant to section 134; and

"(7) be coordinated with the development of any State implementation plan required under the Clean Air Act, as amended, and provide for compliance with any relevant requirements of such plan and such Act.

"(d) ADDITIONAL REQUIREMENTS FOR STATES CONTAINING NON-ATTAINMENT AREAS.—Any State containing an area in non-attainment for ozone or carbon monoxide pursuant to the Clean Air Act, as amended, shall develop and update on an annual basis a State transportation plan. In addition to the requirements in subsection (c), such plan shall—

"(1) incorporate without amendment the provisions of any metropolitan area plan developed pursuant to section 134; and

"(2) provide for coordination in the development of the State transportation plan required pursuant to this section and the state implementation plan required pursuant to the Clean Air Act, as amended.

"(e) FUNDING.—Funds set aside pursuant to section 307(c)(1) and section 307(c)(2) of title 23 United States Code shall be available to carry out the requirements of this section."

(b) CONFORMING AMENDMENTS.—The analysis of chapter 1 of title 23 United States Code is amended by striking "Sec. 135. Traffic operations improvement programs." and inserting in lieu thereof "Sec. 135. Statewide Planning.".

SEC. 115. RESEARCH AND DATA COLLECTION.

(a) RESEARCH PROGRAM.—Section 307 of title 23 United States Code is amended as follows:

(1) NEW REQUIREMENTS.—Subsection (b) is redesignated (b)(1), and the following new paragraphs are added thereafter:

"(2) The highway research program shall include a coordinated long term program of research on Intelligent Vehicle Highway Systems.

"(3) The highway research program shall include a coordinated long term program of research for the development, use and dissemination of performance indicators to measure the performance of the surface transportation system, including indicators for productivity, efficiency, energy use, air quality, congestion, safety, maintenance, and other factors that reflect the overall performance of the surface transportation system.

"(4) The highway research program shall continue those portions of the work of the Strategic Highway Research Program that the Secretary deems to be important.

"(5) The Secretary shall create and administer a transportation research fellowship program to attract qualified students to the field of transportation engineering and research, which shall be known as The Dwight David Eisenhower Transportation Fellowship Program. No less than $2 million per fiscal year of the funds set aside pursuant to section 307 shall be made available to carry out this paragraph."

(2) Subsection (c) is amended by striking "highway programs and local public transportation systems" and inserting in lieu thereof "transporation programs"; by striking "highway usage" and inserting in lieu thereof "transportation"; and by striking "highways and highway systems" and inserting in lieu thereof "transportation systems".

(b) FEDERAL SHARE FOR STATE RESEARCH ACTIVITIES.—Section 120(j) is amended by striking "85 per centum" and inserting in lieu thereof "80 percent"; and by striking "exclusive of" and inserting in lieu thereof ", and".

(c) STATE AUTHORITY TO PROGRAM FUNDS.—Section 307(c) of title 23 United States Code is amended by striking "upon the request of the State highway department, with the approval of the Secretary, with or without State funds," in paragraph (1); and by repealing paragraph (3).

(d) DATA COLLECTION AND ANALYSIS.—

(1) BUREAU OF TRANSPORTATION STATISTICS.—There is hereby established within the Department of Transportation a Bureau of Transportation Statistics. The Bureau shall be headed by a Director (hereafter referred to as 'the Director'), who shall be appointed by the President with the advice and consent of the Senate, and who shall be removable only for cause.

(2) NEW REQUIREMENTS.—Section 303 of title 23 United States Code is amended to read as follows:

"SEC. 303. DATA COLLECTION AND ANALYSIS.

"(a) PROGRAM.—The Director of the Bureau of Transportation Statistics, in cooperation with the states, shall pursue a comprehensive, long-term program for the collection and analysis of data relating to the performance of the national transportation system. This effort shall—

"(1) be coordinated with the efforts undertaken pursuant to section 307(b)(3) to develop performance indicators for the national transportation system;

"(2) assure that data and other information is collected in a manner to maximize the ability to compare data from different regions and time periods; and

"(3) assure that data is quality controlled for accuracy and is disseminated to the states and other interested parties.

"(b) ESTIMATES.—The Director shall produce, on an annual basis, unbiased and comparable estimates of factors including but not limited to productivity in the various portions of the transportation sector, traffic flows, travel times, vehicle weights, variables influencing traveller behavior including choice of mode, travel costs of intracity commuting and intercity trips, frequency of vehicle and transportation facility repairs and other interruptions of service, accidents, collateral damage to the human and natural environment, and the condition of the transportation system, which estimates shall be suitable for conducting cost-benefit studies and other analysis necessary for prioritizing transportation system problems and analyzing proposed solutions.

"(c) REPORTS.—Beginning on October 1, 1992, and every 12 months thereafter, the Director shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report containing the estimates described in subsection (b) and otherwise describing the status of the transportation system in the United States.

"(d) COLLECTION OF DATA.—The Secretary may use any authority granted under this or any other title, or any Act to collect data the Secretary deems to be important in carrying out the provisions of this section.

"(3) FUNDING.—Section 104(a) of title 23 United States Code is amended by inserting ", data collection, and other programs" after "research"; and by inserting ", and section 303" after "section 307".

"(4) ANALYSIS.—The analysis for chapter 3 of title 23 United States Code is amended by striking "Sec. 303. [Repealed. P.L. 97-449]." and inserting in lieu thereof "Sec. 303. Data Collection and Analysis.".

SEC. 116. MAGNETIC LEVITATION TRANSPORTATION.

"(a) DECLARATION OF POLICY.—Section 101(c) of title 23 United States Code is amended to read as follows:

"(c) It is the policy of the United States to establish in the shortest time practicable a United States designed and constructed magnetic levitation transportation technology capable of operating along federal-aid highway rights-of-way, as part of a national transportation system of the United States.".

(b) NATIONAL MAGNETIC LEVITATION DESIGN PROGRAM.—

(1) MANAGEMENT OF PROGRAM.—There is hereby established a National Magnetic Levitation Design Program to be managed jointly by Secretary and the Assistant Secretary of the Army for Civil Works (hereafter referred to as 'the Assistant Secretary'.) In carrying out such program, the Secretary and the Assistant Secretary shall consult with appropriate federal officials, including the Secretary of Energy and the Administrator of the Environmental Protection Agency. The Secretary and the Assistant Secretary shall establish a National Maglev Joint Project Office (hereafter referred to as the 'Maglev Project Office') to carry out such program, and shall enter into such arrangements as may be necessary for funding, staffing, office space, and other requirements that will allow the Maglev Project Office to carry out its functions.

(2) PHASE ONE GRANTS.—(A) Not later than 3 months after the date of enactment of this

Act, any eligible participant may submit to the Maglev Project Office a proposal for research and development of a conceptual design for a maglev system and an application for a grant to carry out that research and development.

(B) Not later than 6 months after the date of enactment of this Act, the Secretary and the Assistant Secretary shall award grants for one year of research and development to no less than six applicants. If fewer than six complete applications have been received, grants shall be awarded to as many applicants as is practical.

(C) The Secretary and the Assistant Secretary may approve a grant under subparagraph (B) only after consideration of factors relating to the construction and operation of a magnetic levitation system, including the cost-effectiveness, ease of maintenance, safety, limited environmental impact, ability to achieve sustained high speeds, ability to operate along the Interstate highway rights of way, the potential for the guideway design to be a national standard, and the bidder's resources, capabilities, and history of successfully designing and developing systems of similar complexity, *Provided that* the applicant agrees to submit a report to the Maglev Project Office detailing the resuls of the research and development, and agrees to provide for matching of the phase one grant at a 90 percent federal, 10 percent non-federal cost share.

(D) For purposes of this section, the term 'eligible participant' means United States private businesses, United States public and private education and research organizations, Federal laboratories, and consortia of such businesses, organizations and laboratories.

(3) PHASE TWO GRANTS.—Within 3 months of receiving the reports under paragraph (2), the Secretary and the Assistant Secretary shall select not more than 3 participants to receive one-year grants for research and development leading to a final design for a maglev system. The Secretary and the Assistant Secretary may only award grants under this paragraph if they determine that the applicant has demonstrated technical merit for the conceptual design and the potential for further development of such design into a national system, and if the applicant agrees to provide for matching of the phase two grant at a 80 percent federal, 20 percent non-federal cost share.

(4) PROTOTYPE.—(A) Within 6 months of receiving the final designs developed under paragraph (3), the Secretary and the Assistant Secretary shall select one design for development into a full scale prototype. Not more than 3 months after the selection of such design, the Secretary and the Assistant Secretary shall award one prototype construction grant to a State government, local government, organization of State and local governments, consortium of United States private businesses or any combination of these entities for the purpose of constructing a prototype maglev system in accordance with the selected design.

(B) Selection of the grant recipient under this paragraph shall be based on the following factors:

(i) The project shall utilize Interstate highway rights of way.

(ii) The project shall have sufficient length to allow significant full speed operations between stops.

(iii) No more than 75 percent of the cost of the project shall be borne by the United States.

(iv) The project shall be constructed and ready for operational testing within 3 years after the award of the grant.

(v) The project shall provide for the conversion of the prototype to commercial operation after testing and technical evaluation is completed.

(vi) The project shall be located in an area that provides a potential ridership base for future commercial operation.

(vii) The project shall be located in an area that experiences climatic and other environmental conditions that are representative of such conditions in the United States as a whole.

(viii) The project shall be suitable for eventual inclusion in a national magnetic levitation system network.

(c) LICENSING.—

(1) PROPRIETARY RIGHTS.—No trade secrets or commercial or financial information that is privileged or confidential, under the meaning of section 552(b)(4) of title 5, United States Code, which is obtained from a United States business, research, or education entity as a result of activities under this Act shall be disclosed.

(2) COMMERCIAL INFORMATION.—The research, development and use of any technology developed pursuant to an agreement reached pursuant to this section, including the terms under which any technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701–3714). In addition, the Secretary and the Assistant Secretary may require any grant recipient to assure that research and development shall be performed substantially in the United States, and that the products embodying the inventions made under any agreement pursuant to this section or produced through the use of such inventions shall be manufactured substantially in the United States.

(d) AVAILABILITY OF FUNDS.—Funds authorized to be appropriated to carry out this section shall remain available until expended.

(e) REPORTS.—The Secretary and the Assistant Secretary shall provide periodic reports on progress made under this section to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

SEC. 117. ACCESS TO RIGHTS OF WAY.

(a) AVAILABILITY OF RIGHTS OF WAY.—Subsection 142(g) of title 23 United States Code is amended to read as follows:

"(g) In any case where sufficient land exists within the publicly acquired rights-of-way of any highway, constructed in whole or in part with Federal-aid highway funds, to accommodate needed passenger or commuter rail, high speed ground transportation systems including magnetic levitation systems, highway and non-highway public mass transit facilities the Secretary shall authorize a State to make such lands and rights-of-way available without charge to a publicly or privately owned authority or company for such purposes.".

(b) AVAILABILITY OF AIRSPACE.—Section 156 of title 23 United States Code is amended by adding before the period at the end of the first sentence the following: ", *Provided* that the States may permit governmental use, use by public or private entities for high speed ground transportation systems, including magnetic levitation systems, or other transit, utility use and occupancy where such use or occupancy is necessary for a transportation project allowed under this section, or use for transportation projects eligible for assistance under this title, without charge.".

(c) CONFORMING AMENDMENTS.—Section 142 of title 23, United States Code, is amended as follows:

(1) Paragraph (a)(1) is amended by striking "of the Federal-aid systems"; and by striking "project on any Federal-aid system" and inserting in lieu thereof "Surface Transportation Program project or as an Interstate construction project".

(2) Paragraph (a)(2) is repealed.

(3) Subsection (c) is repealed.

(4) Paragraph (e)(2) is repealed.

(5) Subsections (i), (j), and (k) are repealed.

SEC. 118. REPORT ON REIMBURSEMENT FOR SEGMENTS CONSTRUCTED WITHOUT FEDERAL ASSISTANCE.

The Secretary shall update the findings of the report required by Section 114 of the Federal-Aid Highway Act of 1956 to determine what amount the United States could pay to the States to reimburse the States for segments incorporated into the Interstate System that were constructed at non-Federal expense. The report required under this section shall be completed by October 1, 1993, and shall be transmitted to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

SEC. 119. DISADVANTAGED BUSINESS ENTERPRISES.

(a) CONTINUATION OF CURRENT LAW.—Section 106(c)(1) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended by striking "I and III of this Act or obligated under " and inserting instead "I of the Surface Transportation Efficiency Act of 1991 or obligated under titles I and III of this Act and ".

(b) ADJUSTMENT FOR INFLATION.—Sec. 106(c)(2)(A) of such 1987 Act is amended by striking "14,000,000" and inserting instead "15,370,000".

SEC. 120. AVAILABILITY OF FUNDS.

(a) Section 118 of title 23 United States Code is amended to read as follows:

"(a) DATE AVAILABLE FOR OBLIGATION.—Except as otherwise specifically provided, authorizations from the Highway Account of the Highway Trust Fund to carry out this title shall be available for obligation when apportioned or allocated, or on October 1 of the fiscal year for which they authorized, whichever first occurs.

"(b) PERIOD OF AVAILABILITY.—

"(1) INTERSTATE CONSTRUCTION FUNDS.—Funds apportioned or allocated for Interstate Construction in a State shall remain available for obligation in that State until the close of the fiscal year in which they are apportioned or allocated; *Provided*, That all sums apportioned or allocated on or after October 1, 1994 shall remain available in the State until obligated: *And provided further*, That all sums apportioned or allocated to Massachusetts on or before October 1, 1989 shall remain available until obligated.

"(2) OTHER FUNDS.—Except as otherwise specifically provided, funds (other than Interstate Construction) apportioned or allocated pursuant to this title in a State shall remain available for obligation in that State for a period of three years after the close of the fiscal year for which the funds are authorized. Any amounts so apportioned or allocated that remain unobligated at the end of that period shall lapse.

"(c) ALASKA AND PUERTO RICO.—Funds made available to the State of Alaska and the Commonwealth of Puerto Rico under this title may be expended for construction

of access and development roads that will serve resource development, recreational, residential, commercial, industrial, and other like purposes.".

SEC. 121. PROGRAM EFFICIENCIES.

(a) Section 102 of title 23 United States Code is amended to read as follows:

"SEC. 102. PROGRAM EFFICIENCIES.

"(a) DESIGN, SAFETY AND CONSTRUCTION STANDARDS.—Except as provided in section 133(c), projects undertaken pursuant to the Surface Transportation Program must be designed, constructed, operated, and maintained in accordance with State laws, regulations, directives, safety standards, design standards, and construction standards.

"(b) PAVEMENT REHABILITATION PROJECT.—Notwithstanding any other provision of this title, a State highway or transportation department may approve the design of a pavement rehabilitation project or highway resurfacing project on any project constructed pursuant to this title.

"(c) HIGHWAY MAINTENANCE STANDARDS.—Notwithstanding any other provision of this title, a State highway or transportation department may establish maintenance standards for projects constructed pursuant to this title, which shall be subject to annual approval by the Secretary. The Secretary may not withhold project approval pursuant to section 166 if a State is meeting maintenance standards approved by the Secretary under this section.

"(d) HOV PASSENGER REQUIREMENTS.—A State highway or transportation department shall establish the occupancy requirements of vehicles operating in high occupancy vehicle lanes; *Provided*, That no fewer than two occupants may be required.

"(e) ENGINEERING COST REIMBURSEMENT.—A State shall refund to the Highway Trust Fund all Federal funds for preliminary engineering for any project if the project has not yet advanced to construction or acquisition of right-of-way within 10 years.".

(b) HISTORIC AND SCENIC VALUES.—Section 109 of title 23 United States Code is amended by adding at the end the following new subsection:

"(p) Where a proposed project under section 103(e)(4), 133, or 144 involves a historic facility or where such project is located in an area of historic or scenic value, the Secretary may approve such project notwithstanding the requirements of subsections (a) and (b) and section 133(c) only if such project is designed to standards that allow for the preservation of these values; *Provided*, That such project is designed with mitigation measures to allow preservation of these values and ensure safe operation of the project.".

(c) DELEGATION OF RESPONSIBILITIES.—Section 302 of title 23 United States Code is amended by adding at the end the following new subsection:

"(c) At the request of the Governor of any State, the Secretary is authorized to interact with the highway or transportation department of a municipality of over 1 million population within the State in lieu of the state highway or transportation department for the purpose of project review for projects proposed to be undertaken within the municipality.".

(d) CONFORMING AMENDMENTS.—The analysis of chapter 1 of title 23 United States Code is amended by striking "Sec. 102. Authorizations." and inserting in lieu thereof "Sec. 102. Program efficiencies.".

SEC. 122. USE OF SAFETY BELTS AND MOTORCYCLE HELMETS.

(a) NEW REQUIREMENTS.—Section 153 of title 23, United States Code, is amended to read as follows:

"153. Use of Safety Belts and Motorcycle Helmets.

"(a) STATE LAWS.—

"(1) FISCAL YEAR 1995.—IF, AT ANY TIME IN FISCAL YEAR 1994 A STATE DOES NOT HAVE IN EFFECT—

"(A) a State law which makes it unlawful for an individual to operate a motorcycle if an individual on the motorcycle is not wearing a motorcycle helmet; and

"(B) a State law which makes it unlawful for an individual to operate a passenger vehicle if an individual in a front seat of the vehicle (other than a child who is secured in a child restraint system) does not have a safety belt properly fastened about the individual's body;

the State shall expend for highway safety programs in accordance with subsection (b) 1.5 percent of the amount apportioned to such State for fiscal year 1995 under section 104(b)(1).

"(2) AFTER FISCAL YEAR 1995.—If, at any time in a fiscal year beginning after September 30, 1994, a State does not have in effect—

"(A) a State law which makes it unlawful for an individual to operate a motorcycle if an individual on the motorcycle is not wearing a motorcycle helmet; and

"(B) a State law which makes it unlawful for an individual to operate a passenger vehicle if an individual in a front seat of the vehicle (other than a child who is secured in a child restraint system) does not have a safety belt properly fastened about the individual's body;

the State shall expend for highway safety programs in accordance with subsection (b) 3 percent of the amount apportioned to such State for the succeeding fiscal year under section 104(b)(1). A State which is required to expend funds for highway safety programs in this subsection shall expend such funds for purposes eligible under section 402.

"(3) FEDERAL SHARE.—The federal share of the cost of any project carried out under this subsection shall be 100 percent.

"(4) AVAILABILITY.—Notwithstanding the requirements of section 118, funds subject to the set aside under this subsection shall be available only in year for which they were apportioned, and shall thereafter lapse. For the purposes of making expenditures of such funds, a State shall use an amount of the obligation authority distributed for the Surface Transportation Program for the fiscal year in which the set aside apportionments were made equal to the amount required to be expended under this subsection.

"(b) GRANTS TO STATES.—

"(1) STATE ELIGIBILITY.—The Secretary may make grants to a State in accordance with this section if such State has in effect—

"(A) a State law which makes it unlawful for an individual to operate a motorcycle if an individual on the motorcycle is not wearing a motorcycle helmet; and

"(B) a State law which makes it unlawful for an individual to operate a passenger vehicle if an individual in a front seat of the vehicle (other than a child who is secured in a child restraint system) does not have a safety belt properly fastened about the individual's body.

"(2) USE OF GRANTS.—A grant made to a State under this section shall be used to adopt and implement a traffic safety program to carry out the following purposes:

"(A) To educate the public about motorcycle and passenger vehicle safety and motorcycle helmet, safety belt, and child restraint system use and to involve public health education agencies and other related agencies in these efforts.

"(B) To train law enforcement officers in the enforcement of State laws described in paragraph (1).

"(C) To monitor the rate of compliance with State laws described in subsection (a).

"(D) To enforce State laws described in paragraph (1).

"(3) MAINTENANCE OF EFFORT.—A grant may not be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for any traffic safety program described in subsection (b) at or above the average level of such expenditures in the State's fiscal years preceding the date of the enactment of this section.

"(4) FEDERAL SHARE.—A State may not receive a grant under this section in more than 3 fiscal years. The Federal share payable for a grant under this section shall not exceed—

"(A) in the first fiscal year such State receives a grant, 75 percent of the cost of implementing in such fiscal year a traffic safety program described in subsection (b);

"(B) in the second fiscal year such State receives a grant, 50 percent of the cost of implementing in such traffic safety program; and

"(C) in the third fiscal year such State receives a grant, 25 percent of the cost of implementing in such fiscal year such traffic safety program.

"(5) MAXIMUM AGGREGATE AMOUNT OF GRANTS.—The aggregate amount of grants made to a State under this section shall not exceed 90 percent of the amount apportioned to such State for fiscal year 1990 under section 402.

"(6) ELIGIBILITY FOR GRANTS.—

"(A) A State is eligible in a fiscal year for a grant under this section only if the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State implements in such fiscal year a traffic safety program described in subsection (b).

"(B) A State is eligible for a grant under this section in a fiscal year succeeding the first fiscal year in which a State receives a grant under this section only if the State in the preceding fiscal year—

"(i) has in effect at all times a State law described in paragraph (1)(A) and achieves a rate of compliance with such law of not less than 75 percent; and

"(ii) has in effect at all times a State law described in paragraph (1)(B) and achieves a rate of compliance with such law of not less than 50 percent.

"(C) A State is eligible for a grant under this section in a fiscal year succeeding the second fiscal year in which a State receives a grant under this section only if the State in the preceding fiscal year—

"(i) has in effect at all times a State law described in paragraph (1)(A) and achieves a rate of compliance with such law of not less than 85 percent; and

"(ii) has in effect at all times a State law described in paragraph (1)(B) and achieves a rate of compliance with such law of not less than 70 percent.

"(c) MEASUREMENTS OF RATES OF COMPLIANCE.—For the purposes of subsection (b)(2) and (3), a State shall measure compliance

with State laws described in subsection (b)(1) using methods which conform to guidelines to be issued by the Secretary ensuring that such measurements are accurate and representative.

"(d) DEFINITIONS.—For the purposes of this section, the following definitions apply:

"(1) The term 'child restraint system' means a device which is designed for use in a passenger vehicle to restrain, seat, or position a child who weighs 50 pounds or less.

"(2) The term 'motorcycle' means a motor vehicle with motive power which is designed to travel on not more than three wheels in contact with the surface.

"(3) The term 'passenger vehicle' means a motor vehicle with motive power which is designed for transporting 10 individuals or less, including the driver, except that such term shall not include a vehicle which is constructed on a truck chassis, a motorcycle, a trailer, or any motor vehicle which is not required on the date of the enactment of this section under a Federal motor vehicle safety standard to be equipped with a belt system.

"(4) The term 'safety belt' means—

"(A) with respect to the open-body vehicles and convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

"(B) with respect to other passenger vehicles, an occupant restraint system consisting of integrated lap and shoulder belts.".

"(e) AUTHORITY.—All provisions of chapter 1 of this title that are applicable to Surface Transportation Program funds, other than provisions relating to the apportionment formula, shall apply to funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section and except that sums authorized by this section shall remain available until expended.".

(b) STUDY.—The Secretary shall conduct a study to collect and analyze data from trauma centers regarding differences in injuries, medical costs, payor mix, and unreimbursed costs of restrained and unrestrained, helmeted and non-helmeted victims of motor vehicle and motorcycle crashes. Of the amounts authorized to be appropriated for fiscal year 1992 to carry out the requirements of this section, not less than $5,000,000 shall be available to carry out this subsection. Public education and information activities in support of State and community motorcycle safety and safety belt programs shall be eligible for funds authorized to be appropriated for this study. Approval by the Secretary of Transportation of the payment of such sums shall establish a contractual obligation of the United States to pay such sums.

(c) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall issue regulations to carry out section 153 of title 23, United States Code.

(d) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23 United States Code is amended by striking "SEC. 153. [Repealed.] and inserting in lieu thereof "SEC. 153. Use of Safety Belts and Motorcycle Helmets.".

SEC. 123. DEFINITIONS.

(a) NEW DEFINITIONS.—Section 101(a) of title 23 United States Code is amended adding definitions for "carpool project", "hazard elimination", "magnetic levitation system", "metropolitan area", "open to public travel", "operational improvement", "public authority", "public lands highway", "railway-highway crossing", "reconstruction", and "transportation enhancement activities" as follows:

"The term 'carpool project' means any project to encourage the use of carpools and vanpools, including but not limited to provision of carpooling opportunities to the elderly and handicapped, systems for locating potential riders and informing them of carpool opportunities, acquiring vehicles for carpool use, designating existing highway lanes as preferential carpool highway lanes, providing related traffic control devices, and designating existing facilities for use for preferential parking for carpools.

"The term 'hazard elimination' means the correction or elimination of hazardous locations, sections or elements, including roadside obstacles and unmarked or poorly marked roads which may constitute a danger to motorists or pedestrians.

"The term 'magnetic levitation system' means any facility (including vehicles) using magnetic levitation for transportation of passengers or freight that is capable of operating at high speeds, and capable of operating along interstate highway rights of way.".

"The term 'metropolitan area' means an area so designated by a metropolitan planning organization pursuant to section 134.".

"The term 'open to public travel' means that the road section is available, except during scheduled periods, extreme weather or emergency conditions, passable by four-wheel standard passenger cars, and open to the general public for use without restrictive gates, prohibitive signs, or regulations other than restrictions based on size, weight, or class of registration. Toll plazas of public toll roads are not considered restrictive gates."

"The term 'operational improvement' means a capital improvement other than (1) a reconstruction project; (2) additional lanes except high occupancy vehicle lanes; (3) interchange and grade separations; or (4) the construction of a new facility on a new location. The term includes the installation of traffic surveillance and control equipment; computerized signal systems; motorist information systems, integrated traffic control systems; incident management programs; transportation demand management facilities, strategies, and programs; high occupancy vehicle preferential treatments including the construction of high occupancy vehicle lanes; and spot geometric and traffic control modifications to alleviate specific bottlenecks and hazards."

"The term 'public authority' means a Federal, State, county, town, or township, Indian tribe, municipal or other local government or instrumentality with authority to finance, build, operate or maintain toll or toll-free facilities.

"The term 'public lands highway' means any highway through national forest lands, unappropriated or unreserved federal lands, nontaxable Indian lands, or other Federal reservations, which is under the jurisdiction of, and maintained by, a public authority and open to public travel.

"The term 'railway-highway crossing project' means any project for the elimination of hazards of railway-highway crossings, including the protection or separation of grades at crossings, the reconstruction of existing railroad grade crossing structures, and the relocation of highways to eliminate grade crossings.

"The term 'reconstruction' means the addition of travel lanes and the construction and reconstruction of interchanges and overcrossings, including acquisition of right-of-way where necessary.

"The term 'transportation enhancement activities' means, with respect to any project or the area to be served by the project, highway safety improvement projects, railway-highway crossing projects, provision of facilities for pedestrians and bicycles, acquisition of scenic easements and scenic or historic sites, scenic or historic highway programs, landscaping and other scenic beautification, historic preservation, rehabilitation and operation of historic transportation buildings, structures or facilities including historic railroad facilities and canals, preservation of abandoned railway corridors including the conversion and use thereof for pedestrian or bicycle trails, control and removal of outdoor advertising, archaeological planning and research, and mitigation of water pollution due to highway runoff.

(b) CONFORMING AMENDMENTS.—

(1) The definition for "highway" is amended by inserting "scenic easements" after "and also includes".

(2) The definitions for "Federal-aid highways", "Federal-aid system", "Federal-aid primary system", "Federal-aid secondary system", "Federal-aid urban system", "forest highway", "project", and "urban area" are repealed.

(3) The definition for "Indian reservation roads" is amended by striking ", including roads on the Federal-aid systems,".

SEC. 124. FUNCTIONAL RECLASSIFICATION.

A functional reclassification, which shall be updated periodically, should be undertaken by each State (as that term is defined in section 101 of title 23, United States Code), the United States Virgin Islands, American Samoa, Guam and the Commonwealth of the Northern Mariana Islands, by September 30, 1992, and shall be completed by September 30, 1993 in accordance with guidelines that will be issued by the Secretary. The functional reclassification shall classify all public roads (as that term is defined in section 101 of title 23, United States Code).

SEC. 125. REPEAL OF CERTAIN SECTIONS OF TITLE 23 UNITED STATES CODE

(a) The following portions of title 23 United States Code are hereby repealed:

(1) Section 105, relating to programs;

(2) Section 117, relating to certification acceptance;

(3) Section 122, relating to bond retirement;

(4) Section 124, relating to advances to States;

(5) Section 126, relating to diversion of funds;

(6) Section 130, relating to railway-highway crossings;

(7) Section 137, relating to parking facilities;

(8) Section 146, relating to carpools;

(9) Section 147, relating to priority primary projects;

(10) Section 148, relating to a national recreational highway;

(11) Section 150, relating to urban system funds;

(12) Section 152, relating to hazard elimination;

(13) Section 155, relating to lake access highways;

(14) Section 201, relating to authorizations;

(15) Section 210, relating to defense access roads;

(16) Section 212, relating to the Inter-American Highway;

(17) Section 216, relating to the Darien Gap Highway;

(18) Section 218, relating to Alaska Highway;

(19) Section 309, relating to foreign countries;

(20) Section 310, relating to civil defense;

(21) Section 311, relating to strategic highway improvements;

(22) Section 312, relating to military officers;

(23) Section 318, relating to highway relocation; and

(24) Section 320, relating to bridges on Federal dams;

SEC. 126. CONFORMING AND TECHNICAL AMENDMENTS.

(a) AMENDMENTS TO TITLE 23, UNITED STATES CODE.—Title 23, United States Code is amended as follows:

(1) Section 103 is amended as follows:

(A) Subsections (a), (b), (c), (d), and (g) are repealed.

(B) Paragraph (e)(1) is amended by striking "All highways or routes included in the Interstate System as finally approved, if not already coincident with the primary system, shall be added to said system without regard to the mileage limitation set forth in subsection (b) of this section".

(C) Paragraph (e)(4)(B) is amended by striking the last two sentences and inserting instead "Each highway project constructed under this paragraph shall be subject to the provisions of this title applicable to highway projects constructed under the Surface Transportation Program."

(D) Paragraph (e)(4)(H)(i) is amended by striking "and 1991" the three places it appears and inserting instead "1991, 1992, 1993, 1994 and 1995".

(E) Subsection (f) is amended to read as follows: "(f) The Secretary shall have authority to approve in whole or in part the Interstate System, or to require modifications or revisions thereof."

(2) Section 104 is amended as follows:

(A) Subsection (a) is amended by striking "the Federal-aid systems" and inserting in lieu thereof "a program authorized by this chapter".

(B) Subsection (b)(6) is repealed.

(C) Subsections (c) and (d) are repealed.

(3) Section 105 is amended as follows:

(A) Subsection (a) is amended by (i) striking "for the Federal-aid systems" and (ii) by striking ", but he shall not approve any project in a proposed program which is not located upon an approved Federal-aid system".

(B) Subsections (b), (c) and (d) are repealed.

(C) Subsection (f) is amended by striking "on the Federal-aid systems".

(4) Section 106 is amended as follows:

(A) Subsection (a) is amended by striking "117" and inserting instead "133".

(B) Subsection (b) is repealed.

(C) Subsection (d) is amended by striking "on any Federal-aid System".

(5) Section 108 is amended as follows:

(A) Subsection (a) is amended by striking "on any of the Federal-aid highway systems, including the Interstate System," in two places.

(B) Paragraph (c)(2) is amended by striking "on any Federal-aid system".

(C) Paragraph (c)(3) is amended by striking "on any Federal-aid system of which such project is to be a part".

(6) Section 109 is amended as follows:

(A) Subsection (a) is amended by striking "on any Federal-aid system".

(B) Subsection (c) is repealed.

(C) Subsection (i) is amended by striking "on any Federal-aid system" in two places; and by striking "the Federal-aid system on which such project will be located".

(D) Paragraph (*l*)(1) is amended by striking "on any Federal-aid system".

(7) Section 112 is amended by striking subsection (f).

(8) Section 113 is amended—

(A) by striking "on the Federal-aid systems, the primary and secondary, as well as their extensions in urban areas, and the Interstate System,";

(B) by striking "upon the Federal-aid systems,"; and

(C) by striking "on any of the Federal-aid systems".

(9) Section 114 is amended as follows:

(A) Subsection (a) is amended by (1) striking "located on a Federal-aid system" and inserting instead "constructed under this chapter" and (2) striking "117" and inserting "133".

(B) Paragraph (b)(3) is amended by striking "located on a Federal-aid system" and inserting instead "under this chapter".

(10) Section 115 is amended as follows:

(A) The title of subsection (a) is amended by striking "Urban, Secondary," and inserting instead "Surface Transportation Program".

(B) Subparagraph (a)(1)(A)(i) is amended by striking "section 104(b)(2), section 104(b)(6)" and inserting instead "section 104(b)(1)".

(C) The title of subsection (b) is amended by striking "And Primary".

(D) Paragraph (b)(1) is amended (i) by striking "the Federal-aid primary system or"; (ii) by striking "104(b)(1) or"; and (iii) by striking ", as the case may be,".

(11) Section 116 is amended as follows:

(A) Subsection (a) is amended by striking "The State's obligation to the United States to maintain any such project shall cease when it no longer constitutes a part of a Federal-aid system."

(B) Subsection (b) is amended by striking "on the Federal-aid secondary system, or within a municipality," and inserting instead "within a county or municipality".

(12) Section 120 is amended as follows:

(A) Subsection (c) is amended by striking the last sentence.

(B) Subsection (f) is amended by striking "project on a Federal-aid highway system, including the Interstate System, shall not exceed the Federal share payable on a project on such system as provided in subsections (a) and (c) of this section" and inserting instead "project on the Interstate System shall not exceed the Federal share payable on a project on that system as provided in subsection (c) of this section and any project off the Interstate System shall not exceed the Federal share payable as provided in subsection (a) of this section".

(C) Subsection (k) is amended by striking "for any Federal-aid system" and inserting instead "under section 104"; by striking ", and 155 of this title and for those priority primary routes under section 147"; and by striking "and for funds allocated under the provisions of section 155".

(D) Subsection (m) is repealed.

(13) Subsection 121(c) is amended by inserting "For projects obligated under section 106" in two places before the word "No"; and by striking "located on a Federal-aid system".

(14) Section 123 is amended by striking "on any Federal-aid system".

(15) Section 125 is amended as follows:

(A) Subsection (a) is amended (i) by striking "highways on the Federal-aid highway systems, including the Interstate System" and inserting instead "public roads except roads functionally classified as local or rural minor collector" and (ii) by striking "authorized on the Federal-aid highway systems, including the Interstate System" and inserting instead "authorized on public roads except roads functionally classified as local or as rural minor collector".

(B) Subsection (c) is amended by striking ", whether or not such highways, roads, or trails are on any of the Federal-aid highway systems".

(16) Section 139 is amended as follows:

(A) Subsection (a) is amended (i) by striking "on the Federal-aid primary system"; (ii) by striking "sections 104(b)(1) and" and inserting instead "section"; and (iii) by striking "rehabilitating and reconstructing" and inserting instead "and rehabilitating".

(B) Subsection (b) is amended (i) by striking "on the Federal-aid primary system"; (ii) by striking "sections 104(b)(1) and" and inserting instead "section"; (iii) by striking "rehabilitating and reconstructing" and inserting instead "and rehabilitating"; and (iv) by striking "section" in the last sentence and inserting instead "subsection".

(C) Subsection (c) is amended (i) by striking "on the Federal-aid primary system"; (ii) by striking "sections 104(b)(1) and" and inserting instead "section"; and (iii) by striking "restoration, and reconstruction" and inserting instead "and restoration".

(17) Section 140 is amended as follows:

(A) Subsection (a) is amended by striking "on any of the Federal-aid systems,".

(B) Subsection (c) is amended by striking "104(a)" and inserting instead "104(b)".

(18) Section 141(b) is amended striking "on the Federal-aid primary system, the Federal-aid urban system, and the Federal-aid secondary system" and inserting instead "on public roads except roads functionally classified as local or rural minor collector".

(19) Section 157 is amended as follows:

(A) Subsection (b) is amended (i) by striking "primary, secondary, Interstate, urban" and inserting instead "Interstate, Surface Transportation Program" and (ii) by striking the period at the end of the last sentence and inserting instead "and section 105(c) of the Federal-Aid Highway Act of 1991.".

(B) Subsection (d) is amended by striking "154(f) or".

(20) Paragraph (a)(2) of section 158 is amended by striking "104(b)(2), 104(b)(5), and 104(b)(6)" and inserting instead "and 104(b)(5)".

(21) Section 215 is amended as follows:

(A) Clause (2) of subsection (c) is amended by inserting at the beginning "except as provided in section 129".

(B) Subsection (e) is repealed.

(C) Subsection (f) is amended by (1) striking "federal-aid primary highway" and inserting instead "Surface Transportation Program" and by (2) striking "and provisions limiting the expenditure of such funds to the Federal-aid systems".

(22) Section 217 is amended as follows:

(A) Subsection (a) is amended by striking ", (2) and (6)".

(B) Subsection (b) is amended by striking ", (2) and (6)".

(23) Section 302(b) is amended by striking ", for the construction of projects on the Federal-aid secondary system, financed with secondary funds, and for the maintenance thereof".

(24) Section 304 is amended by striking "the Federal-aid highway systems, including the Interstate System" and inserting instead "Federal-aid highways".

(25) Section 315 is amended by striking "sections 204(d), 205(a), 206(b), 207(b), and 208(c)" and inserting instead "section 205(a)".

(26) Section 317(d) is amended by striking "on a Federal-aid system" and inserting instead "with Federal aid".

(27) Subsection (d) of section 402 is amended (A) by striking "Federal-aid primary highway" and inserting instead "Surface Transportation Program" and (B) by striking "and provisions limiting the expenditure of such funds to the Federal-aid system".

(28) Subsection (g) of section 408 is amended (A) by striking "Federal-aid primary highway" and inserting instead "Surface Transportation Program" and (B) by striking "and provisions limiting the expenditure of such funds to Federal-aid systems".

(b) AMENDMENTS TO THE HIGHWAY SAFETY ACT OF 1978.—Subsection (i) of section 209 of the Highway Safety Act of 1978 is amended by (1) striking Federal-aid primary highway" and inserting instead "Surface Transportation Program" and by (2) striking "and provisions limiting the expenditure of such funds to the Federal-aid systems".

(c) AMENDMENTS TO THE SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982.—(1) Section 411 of the Surface Transportation Assistance Act of 1982 is amended as follows:

(A) Subsection (a) is amended by striking "Federal-aid Primary System highways" and inserting instead "highways which were designated as Federal-aid primary system highways before the enactment of the Federal-aid Highway Act of 1991".

(B) Subsection (c) is amended by striking "Federal-aid Primary System highways" and inserting instead "highways which were designated as Federal-aid Primary System highways before the enactment of the Federal-aid Highway Act of 1991".

(C) Subsection (e) is amended by striking "Federal-aid Primary System highways" and "Primary System highways" and inserting instead in two places "highways which were designated as Federal-aid Primary System highways before the enactment of the Federal-aid Highway Act of 1991".

(2) Section 412(a) of the Surface Transportation Assistance Act of 1982 is amended by striking "Federal-aid Primary System highways" and inserting instead "highways which were designated as Federal-aid Primary System highways before the enactment of the Federal-aid Highway Act of 1991".

(3) Section 416 of the Surface Transportation Assistance Act of 1982 is amended as follows:

(A) Subsection (a) is amended by striking Federal-aid highway" in two places and inserting instead "highway which was on a Federal-aid system on the date of the enactment of the Federal-aid Highway Act of 1991"; and by striking "Federal-aid Primary System highway" and inserting instead "highway which was on the Federal-aid Primary System on the date of enactment of the Federal-aid Highway Act of 1991".

(B) Subsection (d) is amended by striking "Federal-aid highway" and inserting instead "highway which was on a Federal-aid system on the date of the enactment of the Federal-aid Highway Act of 1991".

(d) AMENDMENTS TO TITLE 42 UNITED STATES CODE.—Section 5122(8)(B) of title 42, United States Code, is amended by striking "any non-Federal-aid street, road or highway" and inserting instead "any street, road or highway not eligible for emergency relief under title 23, United States Code."

(e) OPERATION LIFESAVER.—Whenever apportionments are made under section 104(a) of title 23 United States Code, the Secretary shall deduct such sums as he deems necessary, not to be less than $250,000 per fiscal year, for carrying out Operation Lifesaver.

SEC. 127. RECODIFICATION.

The Secretary shall, by October 1, 1993, prepare a recodification of title 23, United States Code, related Acts and statutes and submit the recodification to the Congress for consideration.

TITLE II—NATIONAL RECREATIONAL TRAILS TRUST FUND ACT

SEC. 201. SHORT TITLE.

This title may be cited as the National Recreational Trails Fund Act of 1991.

SEC. 202. CREATION OF NATIONAL RECREATIONAL TRAILS TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end thereof the following new section:

"SEC. 9511. NATIONAL RECREATIONAL TRAILS TRUST FUND.

(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'National Recreational Trails Trust Fund', consisting of such amounts as may be appropriated, credited, or paid to it as provided in this section, section 9503(c)(6), or section 9602(b).

"(a) EXPENDITURES FROM TRUST FUND.—Amounts in the National Recreational Trails Trust Fund shall be available for making expenditures to carry out the purposes of the National Recreational Trails Fund Act of 1991."

(b) DEPOSIT OF UNREFUNDED HIGHWAY TRUST FUND MONEYS.—Section 9503(c) of the Internal Revenue Code of 1986 (relating to Highway Trust Fund) is amended—

(1) by adding at the end thereof the following new paragraph:

"(6) TRANSFERS FROM THE TRUST FUND FOR NONHIGHWAY RECREATIONAL FUEL TAXES.—

"(A) TRANSFER TO NATIONAL RECREATIONAL TRAILS TRUST FUND.—The Secretary shall annually pay from the Highway Trust Fund into the National Recreational Trails Trust Fund amounts (as determined by the Secretary) equivalent to 0.3% of total Highway Trust Fund receipts, as adjusted by the Secretary pursuant to subparagraph (B).

"(B) ADJUSTMENT OF PERCENTAGE.—

"(i) FIRST YEAR.—Within one year after the date of enactment of this Act, the Secretary shall, based on studies of nonhighway recreational fuel usage in the various States, adjust the percentage of receipts paid into the National Recreational Trails Trust Fund to correspond to the revenue received from nonhighway recreational fuel taxes.

"(ii) SUBSEQUENT YEARS.—Not more frequently than once every 3 years, the Secretary may increase or decrease the percentage established under clause (i) to reflect, in the Secretary's estimation, changes in the amount of revenues received from nonhighway recreational fuel taxes.

"(iii) AMOUNT OF ADJUSTMENT.—The amount of an adjustment in the percentage stated in clause (ii) shall be not more than 10 percent of that percentage in effect at the time the adjustment is made.

"(iv) USE OF DATA.—The Secretary shall make use of data on off-highway recreational vehicle registrations and use in making adjustments under clauses (i) and (ii).

"(C) DEFINITIONS.—For the purposes of this paragraph—

"(i) NONHIGHWAY RECREATIONAL FUEL TAXES.—The term 'nonhighway recreational fuel taxes' means the taxes under sections 4041, 4081, and 4091 (to the extent attributable to the Highway Trust Fund financing rate) with respect to fuel used as nonhighway recreational fuel.

"(ii) NONHIGHWAY RECREATIONAL FUEL.—The term 'nonhighway recreational fuel' means—

"(I) fuel used in vehicles and equipment on recreational trails or back country terrain, including use in vehicles registered for highway use when used on recreational trails or back country terrain; and

"(II) fuel used in campstoves and other outdoor recreational equipment."; and

(2) by striking paragraph (2)(C) and inserting the following:

"(C) EXCEPTION FOR USE IN AIRCRAFT AND MOTORBOATS, AND AS NONHIGHWAY RECREATIONAL FUEL.—This paragraph shall not apply to amounts estimated by the Secretary as attributable to—

"(i) use of gasoline and special fuels in motorboats or in aircraft, and

"(ii) use of gasoline as nonhighway recreational fuel as defined in paragraph (6)(C)(ii).".

(c) CONFORMING AMENDMENT.—Section 6421(e)(2) of the Internal Revenue Code of 1986 (defining off-highway business use) is amended by adding at the end thereof the following new subparagraph:

"(C) EXCEPTION FOR USE AS NONHIGHWAY RECREATIONAL FUEL.—The term 'off-highway business use' does not include any use as nonhighway recreational fuel as defined in section 9503(c)(6)(C)(ii).".

(d) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new item:

"Sec. 9511. National Recreational Trails Trust Fund.".

SEC. 203. NATIONAL RECREATIONAL TRAILS PROGRAM.

(a) IN GENERAL.—The Secretary, using amounts available in the Fund, shall administer a program allocating moneys to the States for the purposes of providing for and maintaining recreational trails.

(b) STATE ELIGIBILITY.—

(1) TRANSITIONAL PROVISION.—Until the date that is 3 years after the date of enactment of this Act, a State shall be eligible to receive moneys under this Act only if such State's application proposes to use the moneys as provided in subsection (d).

(2) PERMANENT PROVISION.—On and after the date that is 3 years after the date of enactment of this Act, a State shall be eligible to receive moneys under this Act only if—

(A) the State has established a State Recreational Trails Advisory Board on which both motorized and nonmotorized recreational trail users are represented;

(B) in the case of a State that imposes a tax on nonhighway recreational fuel, the State by law reserves a reasonable estimation of the revenues from that tax for use in providing for and maintaining recreational trails; and

(C) the Governor of the State has designated the State official who will be responsible for administering moneys received under this Act; and

(D) the State's application proposes to use moneys received under this Act as provided in subsection (d).

(c) ALLOCATION OF MONEYS IN THE FUND.—

(1) ADMINISTRATIVE COSTS.—No more than 3 percent of the expenditures made annually from the Fund may be used to pay the cost to the Secretary for—

(A) approving applications of States for moneys under this Act;

(B) paying expenses of the National Recreational Trails Advisory Committee; and

(C) conducting national surveys of nonhighway recreational fuel consumption by State, for use in making determinations and estimations pursuant to this Act.

(2) ALLOCATION TO STATES.—

(A) AMOUNT.—Amounts in the Fund remaining after payment of the administrative costs described in paragraph (1), shall be allocated and paid to the States annually in the following proportions:

(i) EQUAL AMOUNTS.—50 percent of such amounts shall be allocated equally among eligible States.

(ii) AMOUNTS PROPORTIONATE TO NONHIGHWAY RECREATIONAL FUEL USE.—50 percent of such amounts shall be allocated among eligible States in proportion to the amount of nonhighway recreational fuel use during the preceding year in each such State, respectively.

(B) USE OF DATA.—In determining amounts of nonhighway recreational fuel use for the purpose of subparagraph (A)(ii), the Secretary may consider data on off-highway vehicle registrations in each State.

(d) USE OF ALLOCATED MONEYS.—

(1) PERMISSIBLE USES.—A State may use moneys received under this Act for—where such construction is approved by the administering agency of the State, a majority of the State's Recreational Trail Advisory Board, and the federal agency or agencies charged with management of all impacted lands, such approval to be contingent upon compliance by the federal agency with all other applicable laws, including the National Environmental Policy Act (42 U.S.C. 4321 et seq.), the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended, (16 U.S.C. 1600, et seq.), and the Federal Land Policy and Management Act (43 U.S.C. 1701, et seq.).

(2) USE NOT PERMITTED.—A State may not use moneys received under this Act for—

(A) condemnation of any kind of interest in property, or

(B) construction of any recreational trail for motorized use on or through lands which have been recommended by any agency of the federal government for inclusion in the National Wilderness Preservation System.

(3) GRANTS.—

(A) IN GENERAL.—A State may provide moneys received under this Act as grants to private individuals, organizations, city and county governments, and other government entities as approved by the State's Recreational Trail Advisory Board, for uses consistent with this section.

(B) COMPLIANCE.—A State that issues such grants under subparagraph (A) shall establish measures to verify that recipients comply with the specified conditions for the use of grant moneys.

(4) BALANCE OF MOTORIZED AND NONMOTORIZED BENEFITS.—Not less than 30 percent of the moneys received annually by a State under this Act shall be expended for benefits directed to motorized recreation, and not less than 30 percent of those moneys shall be expended for benefits directed to nonmotorized recreation.

(5) DIVERSIFIED TRAIL USE.—

(A) REQUIREMENT.—To the extent practicable and consistent with other requirements of this section, a State shall expend not less than 40 percent of moneys received under this Act in a manner that gives preference to project proposals which—

(i) provide for the greatest number of recreational purposes including, but not limited to, those described under the definition of "recreational trail" in subsection (f)(5); and

(ii) provide for innovative recreational trail corridor sharing to accommodate motorized and non-motorized recreational trail use.

(B) COMPLIANCE.—The determination as to whether a project or grant meets the requirements of subparagraph (A) shall be made by the State Recreational Trail Advisory Board.

(6) SMALL STATE EXCLUSION.—Any State with a total land area of less than 3,500,000 acres, and in which nonhighway recreational fuel use accounts for less than one percent of all such fuel use in the United States, shall be exempted from the requirements of paragraphs (4) and (5)(A)(ii) of this subsection upon application to the Secretary by the State demonstrating that it meets the conditions of this paragraph.

(7) RETURN OF MONEYS NOT EXPENDED.—Moneys paid to a State that are not expended or dedicated to a specific project within 2 years after receipt for the purposes stated in this subsection shall be returned to the Fund and shall thereafter be reallocated under the formula stated in subsection (c).

(e) COORDINATION OF ACTIVITIES.—

(1) COOPERATION BY FEDERAL AGENCIES.—Each agency of the United States Government that manages land on which a State proposes to construct or maintain a recreational trail pursuant to this Act is encouraged to cooperate with the State and the Secretary in planning and carrying out the activities described in subsection (d). Nothing in this Act diminishes or in any way alters the land management responsibilities, plans and policies established by such agencies pursuant to other applicable laws.

(2) COOPERATION BY PRIVATE PERSONS.—

(A) WRITTEN ASSURANCES.—As a condition to making available moneys for work on recreational trails that would affect privately owned land, a State shall obtain written assurances that the owner of the property will cooperate with the State and participate as necessary in the activities to be conducted.

(B) PUBLIC ACCESS.—Any use of a State's allocated moneys on private lands must be accompanied by an easement or other legally binding agreement that ensures public access to the recreational trail improvements funded by those moneys.

(f) DEFINITIONS.—For the purposes of this section—

(1) ELIGIBLE STATE.—The term "eligible State" means a State that meets the requirements stated in subsection (b).

(2) FUND.—The term "Fund" means the National Recreational Trails Fund established by section 9511 of the Internal Revenue Code of 1986.

(3) NONHIGHWAY RECREATIONAL FUEL.—The term "nonhighway recreational fuel" has the meaning stated in section 9503(c)(6)(C)(ii) of the Internal Revenue Code of 1986.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(5) RECREATIONAL TRAIL.—The term "recreational trail" means a thoroughfare or track across land or snow, used for recreational purposes such as bicycling, cross-country skiing, day hiking, equestrian activities, jogging or similar fitness activities, trail biking, overnight and long-distance backpacking, snowmobiling, and vehicular travel by motorcycle, four-wheel drive on all-terrain off-road vehicles, without regard to whether it is a "National Recreation Trail" designated under section 4 of the National Trails System Act (16 U.S.C. 1243).

SEC. 204. NATIONAL RECREATIONAL TRAILS ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established the National Recreational Trails Advisory Committee.

(b) MEMBERS.—There shall be 10 members of the advisory committee, consisting of—

(1) 8 members appointed by the Secretary from nominations submitted by recreational trail users organizations, one each representing the following recreational trail uses:

(A) Hiking,

(B) Cross country, skiing,

(C) Off-highway motorcycling,

(D) Snowmobiling,

(E) Horseback riding,

(F) All terrain vehicles riding,

(G) Bicycling,

(H) Four-wheel driving;

(2) an appropriate government official, including any official of State of local government, designated by the Secretary; and

(3) 1 member appointed by the Secretary from nominations submitted by water trail user organizations.

(c) CHAIR.—The Chair of the advisory committee shall be the government official referenced in subsection (b)(2), who shall serve as a non-voting member.

(d) SUPPORT FOR COMMITTEE ACTION.—Any action, recommendation, or policy of the advisory committee must be supported by at least 5 of the members appointed under subsection (b)(1).

(d) TERMS.—Members of the advisory committee appointed by the Secretary shall be appointed for terms of 3 years, except that the members filling five of the ten positions shall be initially appointed for terms of 2 years, with subsequent appointments to those positions extending for terms of 3 years.

(e) DUTIES.—The advisory committee shall meet at least twice annually to—

(1) review utilization of allocated moneys by States;

(2) establish and review criteria for trailside and trail-head facilities that qualify for funding under this Act; and

(3) make recommendations to the Secretary for changes in Federal policy to advance the purposes of this Act.

(f) ANNUAL REPORT.—The advisory committee shall present to the Secretary an annual report on its activities.

(g) REIMBURSEMENT FOR EXPENSES.—Nongovernmental members of the advisory committee shall serve without pay, but, to the extent funds are available pursuant to section 203(c)(1)(B), shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

(h) REPORT TO CONGRESS.—Not later than 4 years after the date of enactment of this Act, the Secretary shall prepare and submit to the Committee on Environment and Public Works of the Senate, and the Committee on Public Works and Transportation of the House of Representatives, a study which summarizes the annual reports of the National Recreational Trails Advisory Committee, describes the allocation and utilization of moneys under this Act, and contains recommendations for changes in federal policy to advance the purposes of this Act.

THE SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991—SECTION BY SECTION SUMMARY

Sec. 1. Short Title.—The bill is entitled "The Surface Transportation Efficiency Act of 1991."

Sec. 2. Table of Contents.

Sec. 3. Secretary Defined.—Any reference in the bill to "the Secretary" means the Secretary of Transportation.

TITLE I—THE FEDERAL-AID HIGHWAY ACT OF 1991

Sec. 101. Short Title.—Title I is named "The Federal-Aid Highway Act of 1991."

Sec. 102. Declaration of Policy.—It is declared that the National System of Interstate and Defense Highways is complete, and that the purpose of Federal highway assistance shall now be to improve the efficiency of the transportation system.

It is further declared that this is best done by giving greater flexibility to the States to make transportation decisions.

Sec. 103. Authorization of Appropriations.—Surface Transportation Program: $44.8 billion is authorized for the Surface Transportation Program created by Section 106, as follows: $7.3 billion for fiscal year 1992, $7.7 billion for fiscal year 1993, $8.3 billion for fiscal year 1994, $9.2 billion for fiscal year 1995, $12.3 billion for fiscal year 1996.

Congestion Mitigation and Air Quality Improvement Program: $5 billion is authorized for the Congestion Mitigation and Air Quality Improvement Program created by Section 107, at $1 billion per year.

Bridge Program: $13.3 billion is authorized for the Bridge Program, as follows: $2.4 billion for fiscal year 1992, $2.5 billion for fiscal year 1993, $2.6 billion for fiscal year 1994, $2.8 billion for fiscal year 1995, $3.0 billion for fiscal year 1996.

Interstate Maintenance Program: $14.2 billion is authorized for the Interstate Maintenance Program, as follows: $2.5 billion for fiscal year 1992, $2.6 billion for fiscal year 1993, $2.8 billion for fiscal year 1994, $3.0 billion for fiscal year 1995, $3.3 billion for fiscal year 1996.

Interstate Construction Program. $7.2 billion is authorized to complete construction of all remaining Interstate System projects. (This is $1.8 billion per year for fiscal years 1992–1996.) The existing FY 1993 authorization of $1.4 billion is repealed. These amounts are taken from the administration bill. (This program is apportioned to the States one year ahead of the authorization. This means the program will actually end in FY 1995.)

Interstate Substitution Program. A total of $960 million ($240 million per year for fiscal years 1992–1995) is authorized to fund all outstanding commitments under the highway portion of the Interstate Substitution program.

Federal Lands Highways Program. This program has 3 parts. $200 million per year is authorized for public lands highways, $100 million per year for parks and parkways, and $150 per year for Indian roads.

Territorial Highway Program. $15 million per year is authorized for Territorial highways.

National Magnetic Levitation Design Program. $750 million over 5 years is authorized for this program created by section 115 of this bill, as follows: $50 million for fiscal year 1992, $75 million for fiscal year 1993, $125 million for fiscal year 1994, $250 million for fiscal year 1995, $250 million for fiscal year 1996.

Federal Highway Administration Research Programs. $120 million per year is authorized for the Federal Highway Administration to conduct research. This amount is to be made available from within funds deducted each year for program administration.

University Transportation Centers Research Program. $5 million per year is authorized for the highway component of this program. In the past, one-half of this program has been funded from the highway account and one-half from the mass transit account.

Highway Use Tax Evasion Projects. $2 million per year is authorized to fund federal or state highway use tax enforcement programs.

Use of Safety Belts and Helmets. $100 million is authorized over 3 years to fund the grant program created in section 122.

Sec. 104. Obligation Ceiling.—Obligation ceilings for FY 1992–1996 would be as follows: $15.5 billion for fiscal year 1992, $16.8 billion for fiscal year 1993, $16.6 billion for fiscal year 1994, $18.4 billion for fiscal year 1995, $20.2 billion for fiscal year 1996.

These ceilings apply to all programs except for emergency relief and minimum allocation, and would lead to outlays in fiscal years 1992–1996 equal to CBO baseline outlays.

Sec. 105. Unobligated Balances.—Unobligated contract authority created in past years for the Primary, Secondary, Urban, Hazard Elimination and Railway-Highway Crossings programs will be available for obligation under the Surface Transportation program.

Sec. 106. Surface Transportation Program.—A new Surface Transportation funding program is created to fund transportation projects of all kinds. Fifty percent of the funds authorized for the next 5 years would go to this program.

States and metropolitan planning organizations (described below in section 113) would choose whether to spend federal funds on highways, transit, passenger and commuter rail, high speed rail, magnetic levitation systems, HOV lanes, bus systems, carpool programs, or other eligible projects.

The federal/State cost share for these funds would be 80/20 for projects to maintain existing facilities or use them more efficiently, and 75/25 for projects to build new facilities that could be used by single occupant vehicles.

Each State is required to spend 8 percent of the funds received under this program on "transportation enhancement activities." This includes highway safety programs, scenic and historic preservation, control of billboards, and environmental mitigation.

Funds would be given out under this program so that each State would receive a share of *total* federal funds given out each year (other than funds to complete the Interstate Construction and Substitute programs, and funds given out under the Congestion Mitigation and Air Quality Improvement Program) equal to the percent of federal funds from 1987 to 1991 (other than those for the Interstate Construction and Substitute Programs.)

Sec. 107. Congestion Mitigation and Air Quality Improvement Program.

Apportionment. Funds will be apportioned to states based on their non-attainment area population, adjusted for the severity of the non-attainment problem. Each area's population will be multiplied by a severity factor. The adjustments are: a factor of 1.0 for marginal areas; a factor of 1.1 for moderate areas; a factor of 1.2 for serious areas; a factor of 1.3 for severe areas; a factor of 1.4 for extreme areas.

The population of carbon monoxide non-attainment areas would be subject to an additional factor of 1.2.

The federal-state match will be 80/20.

Eligible Projects. Funds can be spent on projects that will contribute to attainment of air quality standards. This will be determined by EPA guidance to be issued under the Clean Air Act, a state implementation plan under the Clean Air Act, or review of proposed projects by DOT and EPA.

Sec. 108. Bridge Program.—The bridge program is continued as before with the following changes:

Consistent with the Surface Transportation Program, the federal-state match to repair or replace existing bridges without increasing capacity is 80/20. The match for construction of new capacity on existing bridges or construction of new bridges is 75/25.

Bridge painting is made an eligible use of federal funds.

The discretionary bridge program is repealed.

DOT is directed to issue "level of service" criteria for determining apportionment of bridge program funds.

Sec. 109. Interstate Maintenance Program.—The Interstate 4R program is renamed "Interstate Maintenance" and continued as before with the following changes:

Interstate Maintenance funds can no longer be used to widen existing interstate highways.

States could transfer up to 20 percent Interstate Maintenance money to the Surface Transportation Program. Larger amounts could be transferred if the State can demonstrate to DOT that they are adequately maintaining their Interstate highways.

The federal-state match would change from 90/10 to 80/20.

Segments added to the Interstate System before January 1, 1984 would be counted towards a state apportionment of Interstate Maintenance funds.

Sec. 110. Interstate Construction Program.—Apportionments will be made to the states to finish outstanding Interstate System projects, except that specific amounts are enacted for Massachusetts. This special provision will allow other states to receive their funds for FY 1992 and FY 1993 on October 1 rather than August 1 of these years due to anticipated lapses by Massachusetts.

Sec. 111. Federal Lands Highways Program.—The current federal lands program is simplified by combining the Public Lands Highways and Forest Highways accounts. Funds are apportioned based on the existing formula for the Forest Highways program.

Sec. 112. Toll Facilities.—The current national policy against tolls on roads built or maintained with federal funds is repealed. Federal funds could be used to build new toll roads at a 35/65 federal/non-federal cost share. Federal funds could be used to convert existing non-tolled facilities to toll facilities at an 80/20 cost share.

New tolls would continue to be prohibited on the Interstate system.

A pilot program to introduce and test congestion pricing programs in up to 5 cities would be set up by DOT. Cities that volunteered to introduce congestion pricing would receive federal funds to plan their programs and install necessary equipment.

Sec. 113. Metropolitan Planning.—Current requirements for transportation planning in metropolitan areas would be strengthened. New requirements include:

Projects in any metropolitan area that involve federal funds would be controlled by a metropolitan planning organization (MPO), which would include representatives of local communities and the State.

Plans developed by an MPO would take into account the requirements of the Clean Air Act, local land use or energy plans, and other factors.

The MPO would decide how to split federal funds between highway and transit projects.

Each MPO would have to receive an annual certification from DOT that it was carrying out its responsibilities and treating the different portions of the metropolitan area fairly.

The current federal set-aside for metropolitan planning of 0.5 percent of federal highway funds is increased to 1 percent.

Sec. 114. Statewide Planning.—Each state is required to have management systems for bridges, pavement, safety and congestion, and a monitoring system for congestion. All states must have a planning process that takes into account land use, energy requirements, transportation needs, and other factors.

States that contain areas that are in nonattainment under the Clean Air Act will be required to produce an annual state transportation plan. This plan will incorporate any plan produced for a metropolitan area under section 113 without amendment.

State planning would continue to be funded by the current 1.5 percent set aside States must make for planning and research.

Sec. 115. Research and Data Collection.—The Federal Highway Administration is directed to conduct research on Interactive Vehicle Highway Systems (IVHS) and other new technologies, develop indicators for the performance of the surface transportation system with respect to productivity, efficiency, energy use, air quality and other factors. DOT would create a Dwight D. Eisenhower transportation research followship program.

The federal-state match for state research activities would change from 85/15 to 80/20. States would be allowed to program research funds without the approval of DOT.

A Bureau of Transportation Statistics is created inside DOT to collect, analyze and disseminate information about the condition and performance of the entire transportation system. This Bureau is headed by a Director who is appointed by the President. The Bureau must produce annual reports.

Sec. 116. National Magnetic Levitation Design Program.—A federal program run by DOT and the Corps of Engineers will solicit bids from the private sector to design and construct a prototype magnetic levitation system.

Phase one grants would be given to up to 6 applicants to develop system concepts at a 90/10 cost share. Phase two grants would be given to up to 3 participants to develop detailed plans at an 80/20 cost share. A contract for construction of a prototype system of approximately 30 miles in length would be awarded at a 75/25 cost share.

The prototype would be constructed within 5 years, and would be converted to revenue producing commercial service after testing is complete. The location of the prototype would be chosen based on bids submitted for various potential corridors.

Sec. 117. Access to Rights of Way.—States would be allowed to make rights-of-way available with or without charge for mass transit, high speed rail or magnetic levitation systems.

Sec. 118. Report on Reimbursement for Segments Constructed Without Federal Assistance.—The Secretary of Transportation must produce a report by October 1, 1993 that describes what the federal government may potentially owe States that allowed existing roads built at State expense to be incorporated into the Interstate system. This updates a report completed in 1958 to current dollars.

Sec. 119. Disadvantaged Business Enterprises.—Current law is continued, except that the dollar amount used to define a small business is adjusted for inflation, from $14 million to $15.4 million. Provision is taken from the administration bill.

Sec. 120. Availability of Funds.—Funds are available in the year in which they are apportioned or allocated and in the next 3 years.

Sec. 121. Program Efficiencies.—This section makes several procedural changes to the highway program:

States may design, construct, and maintain many projects without federal engineering review;

States may set their own occupancy requirements for HOV lanes.

States may have up to ten years before they must reimburse DOT for engineering costs on projects that have yet to be built.

Projects that affect historic and scenic values may be designed to protect these values.

A State may authorize the transportation department of any city if over 1 million people to deal directly with the Federal Highway Administration.

Sec. 122. Use of Safety Belts and Motorcycle Helmets.—States that do not adopt laws requiring the use of safety belts and motorcycle helmets would be required to set aside a portion of funds received under the Surface Transportation Program for safety programs. This fraction is 1.5 percent for noncompliance in 1994 and 3 percent thereafter.

States will receive grants for safety education, training, monitoring and enforcement if they adopt safety belt and helmet laws.

Sec. 123. Definitions.—New definitions are created for the terms carpool project, hazard elimination, magnetic levitation system, metropolitan area, open to public travel, operational improvement, public authority, public lands highway, railway-highway crossing, reconstruction, and transportation enhancement activities.

Existing definitions for highway and Indian reservation roads are conformed to the new program.

Existing definitions for federal-aid highways, federal-aid system, federal-aid primary system, federal-aid secondary system, federal-aid urban system, forest highway, project, and urban area are repealed.

Sec. 124. Functional Reclassification.—The Secretary of Transportation is directed to cooperate with the states on a comprehensive revision of the functional classifications of all public roads. This revision must be completed by the end of FY 1992.

Sec. 125. Repeal of Certain Sections of Title 23 United States Code.—Sections of title 23 United States Code no longer in use or made unnecessary by this bill are repealed. Sections to be repealed are: Section 105, relating to state program submissions; Section 117, relating to certification of state programs; Section 122, relating to bond retirement; Section 124, relating to advances to States; Section 126, relating to diversion of state funds; Section 130, relating to railway-highway crossings; Section 137, relating to parking facilities; Section 146, relating to carpools; Section 147, relating to priority primary projects; Section 148, relating to a national recreational highway; Section 150, relating to urban system funds; Section 152, relating to hazard elimination; Section 155, relating to lake access highways; Section 201, relating to authorizations; Section 212, relating to the Inter-American Highway; Section 216, relating to the Darien Gap Highway; Section 218, relating to the Alaska Highway; Section 309, relating to foreign countries; Section 310, relating to civil defense; Section 311, relating to strategic highway improvements; Section 312, relating to military officers; Section 318, relating to highway relocation; and Section 320, relating to bridges on federal dams.

Other portions of the bill have the effect of repealing section 102, relating to pre-1956 authorizations, and section 149, relating to truck lanes, by replacing them with new sections.

Sec. 126. Conforming and Technical Amendments.—This section makes conforming and technical amendments to title 23 United States Code, the Highway Safety Act of 1978, the Surface Transportation Assistance Act of 1978, and title 42 United States Code. The most common change is to remove all references in these statutes to the federal-aid primary, secondary and urban systems.

In addition, this section continues the authorization for the Department of Transportation's public information program Operation Lifesaver at $250,000 per year. This program has been funded by a set aside from the railway-highway crossing program, which is repealed by this bill.

Sec. 127. Recodification.—This section requires the Secretary of Transportation to submit a proposed recodification of title 23 United States Code to the Congress.

TITLE II—THE NATIONAL RECREATIONAL TRAILS TRUST FUND ACT

Sec. 201. Short Title.—This title is named "The National Recreational Trails Trust Fund Act."

Sec. 202. Creation of Fund.—A National Recreational Trails Trust Fund is established. The Secretary of the Treasury is required to deposit non-highway recreational fuel taxes (defined as 0.3 percent of total, adjusted as necessary to track actual receipts) into the National Recreational Trails Trust Fund. All current refund provisions for such taxes are eliminated.

Sec. 203. Administration of Fund.—A national recreational trails program is created to spend money from the trust fund. A State can receive money under the program during the three years after enactment by applying for it for recreational trail projects. To receive money after the first three years, States must establish a State Recreational Trails Advisory Board, and dedicate any tax imposed on non-highway recreational fuel to recreational trails.

No more than 3 percent of money spent from the trust fund may be used to cover administrative costs. The remainder must be allocated to States under a formula that allocates one-half of the money evenly among eligible States (each State gets the same base amount) and one-half based on each State's proportion of non-highway recreational fuel use.

Money may be used for maintenance, rehabilitation, and construction of recreational trails (where a need is demonstrated), acquisition of easements, development of trail-side and trail-head facilities, urban trail linkages, and environmental and safety education programs.

Money may not be used for building motorized trails in recommended wilderness areas. Motorized and non-motorized recretion uses must each receive the benefit of no less than 30 percent of a State's money.

Sec. 205. Recreational Trails Committee.—A National Recreational Trails Advisory Committee is established, which is composed of 10 members representing various recreational trail interests. Duties of the Committee include reviewing utilization of Fund moneys, establishing criteria for trail-side and trail-head facilities, and making recommendations on pertinent federal policies.●

● Mr. SYMMS. Mr. President, on September 30 this year, the Federal-Aid Highway Program, the Urban Mass Transportation Program, and most of our highway safety programs will expire. Today, the Chairman of the Envi-

ronment and Public Works Committee, Senator BURDICK, the ranking Republican, Senator CHAFEE, the chairman of our Subcommittee on Transportation, Senator MOYNIHAN, and I are introducing legislation that will become the Senate vehicle for reauthorizing those important surface transportation programs. Our bill, the Surface Transportation Efficiency Act, authorizes the Federal-Aid Highway Program through fiscal 1996, and we will be working with our colleagues on the Banking, Commerce, and Finance Committees to put together all the necessary parts of the Surface Transportation Program.

My friend, Secretary Sam Skinner, forwarded to Congress the administration's proposal for the surface transportation bill on February 13 this year, and I was pleased to join Senators CHAFEE and DANFORTH in sponsoring the bill, S. 610, at the Secretary's request. The administration's bill is the product of hearings held across the country and recommendations from hundreds of groups and thousands of individuals who are interested in the future of our transportation programs. S. 610 would restructure those programs to account for the changing mobility needs of this geographically and demographically diverse Nation, and I believe the Secretary, President Bush, and all those in the administration who worked on S. 610 should be complimented highly for the fine product of their efforts. With varying degrees of success, I have recommended much of the administration's proposal to my colleagues for inclusion in the Surface Transportation Efficiency Act.

Indeed, the President's bill, in the Secretary's words, is a 5 year "transition to the 'postinterstate' era," and that is what we are proposing today in the Surface Transportation Efficiency Act. This is a 5-year bill to move America beyond the interstate construction program that has been the engine driving our highway program for 35 years. Like S. 610, our legislation will provide sufficient funds over the next 4 years to complete construction of the Interstate System, based on the 1991 interstate cost estimate. At the end of those 4 years, some construction work will remain on certain interstate projects, but the necessary Federal funds will have been paid and the $128.9 billion Interstate Highway System will be completed.

In addition, we have adopted in whole or in part the administration's proposal to: First, give the States greater authority to program highway projects without categorical funding constraints; second, limit Federal Highway Administration review of design standards on a project-by-project basis; third, give the States authority to mix certain highway and transit funds—that authority in our bill anticipates similar funding flexibility to be provided in the Banking Committee's transit title; fourth, authorize the construction of toll facilities on highways built with Federal-aid funds; fifth, require pavement, bridge, congestion, and safety management systems to be administered by State transportation departments; and sixth, combine the Public Lands Highway Program with the Forest Highway Program so that those funds can be apportioned and allocated in a single, more workable process.

We have not included in this bill the administration's proposed National Highway Program, which is the centerpiece of S. 610. I have stated publicly my support for the National Highway Program, and I continue to believe there is merit in having the States designate a system of highway including the Interstate System and a portion of the primary system where Federal funds and oversight would be focused. However, that is not the direction we have taken in this bill for reasons I believe deserve careful consideration by all parties.

It seems to this Senator that the National Highway Program only makes sense for long-term national transportation policy if it is carried out pretty much as the administration has proposed. That is, designating a national system of highways that will be first-class carriers of the Nation's commercial and recreational traffic only makes sense if we are willing to put the bulk of our Federal funds into those designated routes and focus Federal oversight and review there. I doubt, however, whether we can muster the political support necessary to adopt this proposition.

Can we find enough Members of Congress who are willing to say to their constituents at home, "We've finished the Interstate System and approved a highway program of $16–$20 billion per year, but two-thirds of the funds our State receives must be spent on the National Highway Program routes, while the remaining one-third will be available for all the other roads in the State and maybe some transit projects, too"? It is a difficult proposition, particularly given that we began the interstate construction program with a promise that once the system was completed, the States would be able to redouble their efforts to improve the primary and other highways. Yet, if the bulk of Federal funds are not reserved for the National Highway Program, as the administration proposes, then I am not sure we will have accomplished much in the end.

In any case, we propose to continue the Interstate Maintenance Program and create a new Surface Transportation Program that will replace six existing funding categories, including primary, secondary, urban, rail/highway grade crossing, hazard elimination, and section 402 highway safety. We continue the current authorization for States to transfer up to 20 percent of their interstate maintenance funds to noninterstate projects without the Secretary's approval.

The Surface Transportation Program is funded at $7–$9 billion in the first 4 years. In 1996, the $2 billion previously distributed annually to finish the interstate construction and substitution programs will be folded into the Surface Transportation Program, where funding will rise to $12 billion. STP funds will be highly flexible. Eligible projects will include any highway or bridge construction or reconstruction project; mass transit projects; passenger rail and magnetic levitation systems; carpool and vanpool projects; highway safety programs; and transportation research and planning. Combined with the transferability of interstate maintenance funds, this proposal goes further than any previously proposed highway authorization bill in terms of allowing States to decide what transportation projects best meet their needs, without facing a host of Federal funding constraints.

In addition, we continue the Federal Lands Highway Program to improve highways running through national forests and other Federal lands. The existing Federal lands program is comprised of the forest highway, public lands highway, Indian lands highway, and parks and parkways categories. We propose to combine the forest highways and public lands highway category under one account, and the entire Federal Lands Highway Program will be funded at $450 million per year, as opposed to the current level of $250 million per year. This is an important highway improvement program for Idaho and most of our Western States with large Federal land holdings, and I am very pleased our bill includes a substantial funding increase for the Federal lands program.

We also continue the $100 million annual authorization for the Emergency Relief Program; we create a new congestion/air quality program funded at $1 billion per year; and we provide $750 million over 5 years for maglev research and development.

I am particularly pleased my colleagues have agreed to include the legislation Senator MOYNIHAN and I and others introduced separately to create a new recreational trails trust fund and recreational trails program.

Recreational trails provide millions of Americans with an opportunity to get out and enjoy nature. These trails do more than just provide access from point A to point B. There is an old saying that "half the fun is in getting there." For many of the scenic areas of our country, that saying is exactly the case. It doesn't matter whether you are just taking a leisurely stroll, pedaling as fast as you can, or whisking by on your snowmobile, the trails we use are

a critical part of almost all of our outdoor recreational enjoyment.

Unfortunately, trail construction and maintenance is costly, and far too often, is neglected at the expense of the safety and environmental soundness of the recreational experience.

In Idaho, in particular, where the vast majority of trails are on U.S. Government land, Federal land management agencies have underfunded the upkeep and maintenance of recreational trails.

When a trail is either poorly maintained, or perhaps never constructed properly in the first place, everyone suffers—access to certain areas become more difficult and often for the handicapped it becomes impossible, the scenic beauty of the area is harder to enjoy, the likelihood of an accident on the trail increases, as does the incidence of erosion, trampling of vegetation, and general environmental degradation.

That is why the national recreational trails fund is necessary. It will provide a dedicated and consistent fund, very similar in concept to the Wallop-Breaux fund which employs the taxes paid by motorboat users for water resources development and boat safety. Likewise, the national recreational trails fund will tap the revenues generated by nonhighway recreational fuels to provide for and maintain the Nation's recreational trail infrastructure.

Finally, we propose an across-the-board Federal/State match of 75-25 for projects that increase capacity for single-occupant vehicles and 80-20 for projects that do not increase capacity. In addition, we continue the existing overmatch provision that allows States with large Federal land holdings to increase the Federal match. This sliding scale, or overmatch, is a matter of great importance to Idaho and other Western, federally owned States, and I am pleased my colleagues have agreed to continue it without modification.

Let me say this proposal is only a starting point, and I believe substantial improvements can be made yet. As one member of the committee, I would prefer and will propose higher authorizations, beginning at $17 billion in 1992 and rising by approximately $1 billion per year over the levels proposed in our bill today. In addition, I believe the provisions on tolls and transportation planning requirements need a good deal of work. And I absolutely oppose the provision allowing Surface Transportation Program funds to be used for transit operating assistance. We will work with the Banking Committee on all aspects of the proposition to mix highway and transit funds, and I believe in that process we can alleviate this particular problem.

I look forward to hearing from constituents and other interested parties with respect to any portion of this bill they believe should be modified. And we will be working with Senators on and off the committee to put together legislation that can be adopted and signed by the President prior to the September 30 expiration of the current program.●

● Mr. CHAFEE. Mr. President I am pleased to join with my distinguished colleagues, Senator BURDICK, Senator MOYNIHAN and Senator SYMMS, in introducing the Surface Transportation Efficiency Act of 1991. I believe it is very important that the name of this legislation is not the highway bill. It is a surface transportation bill.

This legislation, which reauthorizes the Federal-Aid Highway Program for 5 years, will take us nearly into the next century. More importantly, it will bring our transportation program into a new era which is long overdue.

The interstate system is 99.3 percent complete. This bill will fund the few remaining pieces. The interstate system was a significant accomplishment in many ways. It helped make us a very mobile society and it has increased the safety of our highways. But the interstate system has also had some costs. It has contributed to increasing air pollution, to destroying and isolating neighborhoods, and to decreasing the acreage of farmlands and wetlands.

Hopefully, we have learned something from the experience of building the interstate system. We cannot build our way out of congestion problems by merely adding more lanes of highways. Before we know it, each new lane is as congested as the old.

A highway program can no longer meet all of this country's needs. We need an integrated transportation program. And the highway portion of the transportation framework of this country is largely in place.

This legislation will encourage us to use our existing transportation system more efficiently. It will do this in several ways. First, it provides a higher Federal match for the maintenance of the existing system and operational improvements than is provided for new construction. This will encourage the improvement of existing facilities and their most efficient use before costly new construction is undertaken.

Second, it will also encourage efficiency by requiring States and local officials to look at alternative ways to solve transportation problems, including different transportation modes. Half the money in this bill will be available at the State's option for either transit or highway projects depending on what the best transportation solution happens to be for a particular area.

This approach can work well. There is a model for this in the current highway program and that is the interstate substitute program. Funds in that program can be spent on either highway or transit problems. State and local officials have worked well together in making project decisions which solve transportation problems. The best solution can be chosen because the program has provided a level playing field for highway and transit projects.

Third, States will have more control over the design and construction of certain projects which will reduce costs and save time.

And finally, the planning process is strengthened. Good planning at the initial stages of a project will result in better projects that are built more efficiently.

Last year Congress passed and the President signed into law a landmark Clean Air Act. Transportation sources have been, and continue to be, major contributors to clean air problems. They can also contribute to clean air solutions.

This bill takes major steps to ensure that transportation will be part of the solution in meeting our clean air goals. It provides a higher match for maintaining the existing system, for operational improvements and for projects that encourage vehicles carrying multiple passengers. It provides a strong planning process that makes State and local officials partners in solving transportation problems and meeting clean air goals. Transportation planning in nonattainment areas will complement, rather than conflict with, clean air planning requirements. And the bill nearly triples funds available to States and localities for carrying out their planning requirements.

This bill also creates a new Congestion Mitigation and Air Quality Improvement Program which provides funds to States with nonattainment areas for projects which will directly benefit air quality.

This bill recognizes that transportation projects must be done in an environmentally sensitive way. States must continue to comply with all Federal environmental requirements for all Federal-aid highway projects. The planning process must also look at environmental impacts. At least 8 percent of the Surface Transportation Program funds must be spent on transportation enhancement activities. These activities will have environmental and safety benefits. And finally, States will have the flexibility to design highway projects in ways that will preserve scenic and historic values.

Mr. President, the highway system has made our citizens the most mobile people in the world. But there has also been a price to pay for this: Over 45,000 people die on the highways every year and millions more are seriously injured.

I am particularly gratified that the bill we are introducing today includes provisions of a bill I introduced in the last Congress, the National Highway

Fatality and Injury Reduction Act of 1989.

One of the great domestic problems facing our Nation in the balance of this century is the constant spiraling costs of health care and the availability of health care to all our citizens. We are, as a country, spending more than $600 billion per year attempting to provide decent medical care. How to share the increasingly heavy burden of health care costs continues to be a difficult issue.

Prevention must be a big part of the solution to this problem. We must seize every opportunity to prevent deaths and serious injuries from occurring, for reasons of compassion and to hold down health care costs.

One of the most effective ways to achieve this goal is to reduce the slaughter and cruel injuries, resulting from crashes, on our highways. Every 10 minutes someone dies and every 10 seconds someone is injured. Motor vehicle crashes are the leading cause of death in the USA for men, women, and children from the age of 1 to 44.

Safety belts and motorcycle helmets make a difference; they save lives and reduce injuries. If you don't believe the many studies that have produced statistics showing this, ask a highway patrolman who has to remove victims from crashed vehicles; ask an emergency room doctor or nurse who treats these victims; or ask a safety belt or helmet survivor. They will tell you that safety belts and helmets make a difference.

There are many costs associated with motor vehicle crashes. Too often the victim has no insurance or, because of serious injuries, insurance benefits are soon exhausted. It is the Federal Treasury, through Medicaid, which must pay a major portion of the bill and that means every taxpayer in our country must contribute. The State Hospital in Rhode Island is caring for five individuals who are now comatose from head injuries suffered while riding motorcycles without helmets, at a cost to the State and Federal taxpayers of $300 per day. That is $109,000 per year per patient. One of these individuals has been in this condition for 16 years, at a total cost to taxpayers, so far, of $1,750,000.

We know safety belts and motorcycle helmets work, and we know laws dramatically increase usage. This bill encourages States to pass safety belt and helmet laws. It provides incentive grants to States who already have or who pass both safety belt and helmet laws. In addition, if a State has not passed both laws within 3 years, it will have to spend 1½ percent of its Surface Transportation Program funds the first year, and 3 percent thereafter, on certain safety activities.

Title II of this bill sets aside revenues received from nonhighway recreational fuel taxes in a new national recreational trails trust fund. This fund will be allocated to States for projects related to the use of recreational trails. For instance, States may use this money to carry out environmental protection and safety educations programs, to maintain and restore existing trails, to construct new trails, and to acquire easements and property from willing sellers. While I have some reservations about this trails fund, I believe that it provides resources that, if used wisely, can greatly enhance recreational opportunities across our Nation.

Mr. President, there is a tremendous backlog in trail maintenance and reconstruction needs. I hope that States will take advantage of the funds available through the national recreational trails fund by giving top priority to projects to repair and maintain existing trails and to restore areas damaged by negligent use of recreational trails. This fund must not be viewed as a means to criss-cross natural areas and back country with new trails. Rather, it is an opportunity to plan and provide facilities for hiking, biking, horsebackriding, backpacking, cross-country skiing, off-road vehicular travel, and other recreational activities in a responsible manner that reflects an outdoor ethic based on appreciation and conservation of our open spaces.

While the bill we are introducing today lays a good foundation for reauthorizing the Federal-Aid Highway Program, there are areas that are not addressed which I believe need to be addressed. It is my hope that these issues will be favorably considered by the Committee on Environment and Public Works when it considers this bill.

First, the committee favorably reported the Visual Pollution Control Act of 1990 last October by a vote of 11 to 4, and I intend to offer this bill as an amendment to the transportation bill. The Highway Beautification Act needs major reform if States and localities are going to be allowed to effectively regulate billboards.

The Visual Pollution Control Act would restore the choice of amortization to States and localities. It allows amortization or cash compensation to be used to remove nonconforming billboards, or the nonconforming billboards can be left standing if the State or locality chooses not to remove them. The bill also provides for a moratorium on the placement of new billboards on the interstate and primary system. This will give States and localities an opportunity to determine how they want to regulate billboards without undue pressure to put up new billboards before a decision is made.

Second, there is a major problem in this country with old tires. Enormous piles of these tires exist throughout the country. Some of these piles have been ignited accidentally and burned uncontrollably for weeks. They have created other environmental and health problems. These tires are a direct result of our transportation system and the transportation program will have to provide part of the solution in the safe disposal of these tires.

In 1982 a provision I supported was included in the Surface Transportation Assistance Act which provided a higher match incentive for States that used asphalt containing recycled tires. Several States have used this asphalt and now have some experience with this material. While there are some unanswered questions, it is time to take the next step in solving our tire problem. If asphalt with the ground tire additive continues to prove effective, all States should be using at least some small percentage of this asphalt. I intend to pursue this issue with the committee and hope we can make further progress in solving this problem.

Finally, I want to commend the President and the Secretary of Transporation for submitting a surface transportation bill to Congress early this year. This proposed legislation was the result of a lengthy study and an extensive process of talking to people around the country. While the bill we are introducing today differs in some respects from the administration bill, it builds on many basic concepts contained in the President's bill, including the completion of the interstate, funding flexibility for highway and transit projects, consolidation of categories, and an emphasis on maintaining the existing system and using it more efficiently.

I believe this bill is an excellent start in shaping a transportation program for the future. I hope our colleagues will join with us in moving this process along quickly so that the States will receive their transportation funds on time.●

● Mr. LAUTENBERG. Mr. President, I am pleased to join my colleagues on the Environment and Public Works Committee in introducing the Surface Transportation Efficiency Act of 1991. I want to commend Senators MOYNIHAN, BURDICK, CHAFEE, and SYMMS for their efforts in putting this legislation together.

Few issues are as fundamental to our national well-being as transportation. The important role of transportation was highlighted recently in the face of a national rail strike. When the system is working everyday, nobody seems to pay any attention. But, if it threatens to shut down, it suddenly becomes front-page news. The same is true every time that a bridge or highway is closed because of an accident, cutting off the flow of traffic.

Transportation plays a crucial role in our economy, and it plays an important role in our environment. Unfortunately, under current policies, often

it's too much a part of the problem, and not enough of the solution.

This legislation would start to change that. It represents a significant shift in Federal policy that was largely set back in the 1950's. This bill would take steps in the direction of addressing the demands on our transportation systems today, and the challenges we'll face in the coming years.

They are challenges faced by a nation whose interstate system is virtually complete, but is, in many places, crumbling, as are many of our bridges. We face the challenge to increase the efficiency of the roads we have. We face the challenge to increase our Nation's mobility while reducing our pollution of the air.

These are challenges that vary from State-to-State and region to region. In some States, additional new construction may be needed to meet the needs of growing population. In a State like mine, our transportation needs are complicated by shifted commuting patterns, clean air reduction goals, and population densities that make new highway construction often unwise and inefficient.

This bill would address these varying challenges by granting the States the flexibility to devise targeted solutions that would be impossible under the strict categorical funding scheme of the current law. Mr. President, we should not try to force the varied needs of 50 States into a few rigid funding categories. Let's allow the States to decide for themselves how to best meet their needs.

In New Jersey, we don't need a lot of new roads. We need to maintain what we've got, and provide more capacity through alternatives, such as mass transit. But, in other States, roads may be the transportation of choice. New Jersey shouldn't be restricted in meeting its needs by a program designed to meet the needs of Idaho, or North Dakota, the home of our distinguished chairman. Conversely, those States shouldn't have to live with a program designed for New Jersey or New York. If we compromise, nobody comes out ahead.

So, the sensible thing to do is to let the decisions be made at the State and local level. That's what this bill would do. Half of the $89 billion provided under this program could be spent at the discretion of State and local officials, on whatever mode of transportation is most appropriate to meet local needs.

The bill would begin to harmonize our transportation policy with our environmental policy. Last year, we worked to pass an ambitious clean air bill. The President signed that into law. Unfortunately, when the administration submitted its proposal for reauthorizing the Nation's highway and transit programs, it seemed to forget that he did.

The administration bill would encourage more and more consumption of gasoline, by basing the distribution of highway funds on the fuel consumption. The more a State uses, the more it gets for highways. That's a wrong-direction policy in terms of energy, and for the environment. The legislation that we're introducing today would head us in the right direction.

Each year $1 billion would be provided to help States with air quality problems meet the clean air goals that we enacted last year. This is critical to my State, which is in nonattainment of air quality standards.

This bill would be good news for New Jersey for another reason—it would finally mean that the State would get back what it put into the highway trust fund.

For years, New Jersey has been what is called a donor State. For every dollar State drivers paid in gas taxes, they received only about 90 cents in return. Over the last few years, in part because of increased discretionary funding that has come into the State, the actual return on the dollar has increased to the breakeven point, and at times even slightly above that. With this legislation, by distributing funds on the basis of receipts over the last 4 years, my State would continue to receive its fair share of funding.

Mr. President, this bill is not a final product. There are changes I'd like to see made, some things included that are not now there, but this bill takes important steps in changing outdated Federal policies and setting us on a course to meet the challenges of the 1990's and beyond. Over the next few weeks, we in the Committee on Environment and Public Works will be working to fine-tune this legislation. Additionally, we anticipate the addition of transit, highway safety, and motor carrier titles by other committees.

One area I would like to see given more attention is the development and use of technology to improve highway safety and efficiency. I am introducing another bill which would authorize a comprehensive intelligent vehicles-highway system to promote such technology. I look forward to working with my colleagues to see that bill incorporated into the reauthorization.

What we do in this reauthorization is likely to set national transportation policy well into the next century. The directions this bill would take are the right way to go.•

• Mr. BURDICK. Mr. President, I am pleased to join with my colleagues on the Environment and Public Works Committee today in introducing the Surface Transportation Efficiency Act of 1991. The legislation has been developed in a cooperative, bipartisan manner, and I want to commend Senator MOYNIHAN, the subcommittee chairman, Senator CHAFEE, ranking member on the full committee, and Senator SYMMS, ranking member on the subcommittee, for their very able efforts. Senator LAUTENBERG, a member of the committee and the distinguished chairman of the Transportation Appropriations Subcommittee, is a cosponsor as well.

Authorizations for surface transportation programs expire at the end of the current fiscal year. The Committee on Environment and Public Works has jurisdiction over the Federal-Aid Highway Program, the Committee on Banking, Housing, and Urban Affairs has responsibility for transit, and the Committee on Commerce, Science, and Transportation oversees highway safety programs. Highway revenue legislation, of course, is within the purview of the Finance Committee. I look forward to working closely with all these committees as we seek timely enactment of this legislation.

We have a little over 5 months to pass a bill. Early last month, the President urged the Congress to complete action on a highway bill in 100 days. This has been a top legislative priority for the Senate and the House of Representatives since the start of the 102d Congress. The Environment and Public Works Committee's goal is to have comprehensive, multiyear legislation passed well ahead of our September 30 deadline.

This Nation must have a sound, integrated surface transportation system—highways, transit, rail, and research on new modes. Specific needs vary. For some regions, a good two-lane, rural road system matters most. For others, the focus is on transportation technology for the 21st century.

It is the end of the interstate era, and the Federal role in transportation must be redefined. Our view must be broadened too to consider highways in conjunction with equally important national concerns about air quality, energy conservation, safety, economic productivity, and fiscal responsibility.

The legislation we are introducing today is more than just a highway bill. The Environment and Public Works Committee is connecting, as it properly should, the transportation control measures in the landmark clean air act passed last year to reauthorization of surface transportation legislation this year. Unlike the administration's highway proposal, the committee bill does not reward increased fuel use. Instead it contains a new program to mitigate congestion and improve air quality. It emphasizes maintenance of our existing highway system and alternatives to single occupant travel.

This is a 5-year bill covering fiscal years 1992 through 1996 and providing nearly $90 billion in funding. The Federal-Aid Highway Program has been simplified to include five major categories: Interstate construction and substitute, bridge, interstate mainte-

nance, congestion mitigation and air quality improvement, and a newly created surface transportation program that will give States flexibility to fund an array of transportation programs and related activities. It is a bill that successfully balances the needs of rural, suburban, and urban areas of this country.

I am pleased to note that the bill also contains a significant increase in funding for the Indian Reservation Road Program.

To date, 13 field hearings have been held around the country on reauthorization of the highway program. Beginning in August 1989, hearings have taken place in Twin Falls, ID, Idaho Falls, ID, Lewistown, MT, Fort Lauderdale, FL, St. Paul, MN, Boise, ID, Reno, NV, Tampa, FL, Houston, TX, Los Angeles, CA, Hartford, CT, Albany, NY, and Billings, MT.

Four additional hearings were held earlier this year in Washington, DC. Testimony was received from economists, planners, transportation specialists, financing experts, the Congressional Budget Office, the General Accounting Office, and Transportation Secretary Skinner.

Let me conclude with what I see as the particular strengths of The Surface Transportation Efficiency Act of 1991. As the North Dakota Department of Transportation has observed: "* * * the number one priority of the next highway bill should be system preservation." And so it is in this bill. I think most States will agree that maintenance of our existing investment is critical.

The bill contains favorable matching ratios. It continues the 90/10 match for the interstate, has an 80/20 ratio for most programs, and a 75/25 match for new construction under the Surface Transportation Program. These are realistic Federal/State share requirements, unlike the administration's 60/40 match proposal.

States will have greater flexibility in transferring funds from one category to another and in using highway funds for alternative transportation projects. There is a strong planning provision in the bill which should help in improving how decisions are made about projects.

The administration bill (S. 610) was introduced by request early last month. While I disagree with some of their proposals, many concepts in that bill are interesting and deserve serious consideration. Last week Senators REID and BAUCUS introduced a highway bill (S. 823) to address the specific needs of rural, Western States. I am sure that bill will also receive careful attention. Shortly, the House Public Works and Transportation Committee will complete drafting of their bill. I look forward to a spirited discussion of those bills and the legislation the leadership of Environment and Public Works Committee is introducing today.

Highway, transit, and highway safety programs are vital to local communities, counties, the States, and our Nation as a whole. Let us debate these important issues, move decisively, and in the end achieve a stronger, more effective Federal-Aid Highway Program for the 1990's and beyond.

By Mr. HARKIN (for himself, Mr. PACKWOOD, Mr. HATFIELD, Ms. MIKULSKI, Mr. SIMON, Mr. CRANSTON, and Mr. LIEBERMAN):

S. 966. A bill to amend the Public Health Service Act to provide for the development and operation of centers to conduct research with respect to contraception and centers to conduct research with respect to infertility, and for other purposes; to the Committee on Labor and Human Resources.

CONTRACEPTIVE AND INFERTILITY RESEARCH CENTERS ACT

• Mr. HARKIN. Mr. President, I rise today on behalf of myself and Senators PACKWOOD, HATFIELD, MIKULSKI, SIMON, CRANSTON, and LIEBERMAN to introduce the Contraceptive and Infertility Research Centers Act of 1991. A companion measure is being introduced in the other body today by Congresswomen SCHROEDER and SNOWE.

Mr. President, the United States is without question the world leader in biomedical research. Yet, when it comes to research and development in the areas of contraception and infertility, we have lagged behind a number of industrialized nations and even some in the developing world.

Infertility and contraception are central concerns of millions of Americans of child-bearing age. Nearly 2½ million couples desiring to have children struggle with the heartbreak and frustration of infertility. And each year about 3 million American women become pregnant who do not wish to do so.

Their anguish is great. All of these individuals can benefit from intensified research on these basic family planning issues.

We can all agree that abortion is no one's first choice for avoiding unintended births. Yet, of the 3 million women who become pregnant unintentionally each year, about half will terminate their pregnancies. And, nearly half of the abortions that occur each year are among women who have become pregnant unintentionally because the contraceptive method they were using failed.

The fact is, that there are only a limited number of safe and effective methods of preventing pregnancy. More research is needed into improved contraceptive methods that will reduce unintended pregnancies, and the less often such pregnancies occur, the fewer the number of abortions. That is the result we can all embrace—regardless of our political or religious beliefs.

And just as those who are not prepared to bear children should have access to safe and effective contraceptive methods, those who want to become parents should have access to safe and effective methods to help them conceive and bear children.

The causes of infertility are not always easy to diagnose, nor are they uniformly treatable. Treatments are often expensive, costing Americans approximately $1 billion in 1987. Yet even with such a large expenditure of funds, today only about 60 percent of infertility cases are treated successfully. Clearly, more research is needed into the causes of, and treatment for, infertility in both men and women.

The need for enhanced contraceptive research was highlighted by a recent report by the Institute of Medicine. After reminding us that "since the introduction of the pill and the use of the IUD in the early 1960's, no fundamentally new contraceptive methods have been approved for use in the United States," the report goes on to note a number of facts I believe are important for all of us to keep in mind. These points are well summarized in the conclusion of the chapter of contraceptive research, and I quote:

> People in the United States currently have limited options for fertility control and fewer contraceptive choices than people in several other industrialized countries and in some developing countries as well. Some improvements in existing methods will be made in the next decade, and some highly effective new methods may become available in other countries. Some of these new methods will probably be safer, easier to use, less expensive, and more acceptable than existing methods.* * * The prospects for having one or more fundamentally new methods available in the United States by the year 2000 are negligible. Contraceptive methods that are fundamentally different from existing technology, such as a contraceptive vaccine, are likely to have a greater positive impact on the consumer and society as a whole but will take considerable time to develop.
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> Some promising new methods, such as the contraceptive vaccine, for which most of the basic research has been completed, are not being developed at a rate that scientific knowledge would allow. Other methods have been approved by one or more European countries, but additional clinical trials in the United States are needed to qualify for FDA approval. Moreover, there are continuing opportunities for basic research in reproductive biology, which may yield significant contraceptive leads.
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> Accelerated efforts to develop and introduce new contraceptive products to the market would lead to a wider variety of contraceptive options for women and men in the United States and would result in safer, more effective, and more acceptable contraception for a much broader population than is being served by existing methods.

The need is clear. We simply must do more to encourage quality research in this country on contraception and infertility, and that is what this bill does. This bill gives specific authorization for the establishment of three research centers focused on developing

improved methods of contraception and two research centers focused on developing better diagnosis and treatment of infertility through the National Institute of Child Health and Human Development.

The centers authorized in this bill will conduct clinical and applied research; train physicians, scientists, and other allied health professionals; develop model continuing education programs for such professionals; and, disseminate information to them. The bill also provides for a loan repayment program for individuals involved in contraceptive or infertility research, in order to address the shortage of researchers in these fields.

Mr. President, this bill was introduced last Congress and was approved by the Labor and Human Resources Committee as an amendment to the bill reauthorizing programs at the National Institutes of Health. However, much to my disappointment, it was dropped from the bill prior to its consideration by the full Senate. I am pleased to say that we were able to provide $3 million in the fiscal year 1991 National Institutes of Health appropriation to begin the process of establishing these critically important research centers. However, in order to assure that these centers are maintained and allowed to grow, as they need to, passage of this legislation is imperative. I was greatly encouraged by the new Director of the NIH, Dr. Bernadine Healy's response to a question I posed. She said:

> There is a critical need for both types of these centers—contraceptive research and infertility. Establishment and implementation of these centers with adequate funding are among my highest priorities.

Mr. President, this is a commonsense common ground bill. Whatever positions we take on the question of abortion, if we are committed to helping couples have children who want them, and to reducing the incidence of abortion in the case of those who do not, this bill is a step in the right direction. I urge my colleagues to examine and to support it.

I ask unanimous consent that a summary and copy of the bill be printed in the RECORD at this point.

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

S. 966

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 "Contraceptive and Infertility Research Centers Act of 1991".

SEC. 2. CONTRACEPTIVE AND INFERTILITY RESEARCH CENTERS.

(a) RESEARCH CENTERS.—Subpart 7 of part C of title IV of the Public Health Service Act (42 U.S.C. 285g et seq.) is amended by adding at the end the following new section:

"SEC. 452A. RESEARCH CENTERS WITH RESPECT TO CONTRACEPTION AND INFERTILITY.

"(a) IN GENERAL.—The Director of the Institute, after consultation with the advisory council for the Institute, shall make grants to, or enter into contracts with, public or nonprofit private entities for the development and operation of centers to conduct activities for the purpose of improving methods of contraception and centers to conduct activities for the purpose of diagnosing and treating infertility.

"(b) NUMBER OF CENTERS.—In carrying out subsection (a), the Director of the Institute shall, subject to the extent of amounts made available in appropriations Acts, provide for the establishment of three centers with respect to contraception and for two centers with respect to infertility.

"(c) DUTIES.—

"(1) IN GENERAL.—Each center assisted under this section shall, in carrying out the purpose of the center involved—

"(A) conduct clinical and other applied research, including—

"(i) for centers with respect to contraception, clinical trials of new or improved drugs and devices for use by males and by females (including barrier methods); and

"(ii) for centers with respect to infertility, clinical trials of new or improved drugs and devices for the diagnosis and treatment of infertility in both males and females;

"(B) develop protocols for training physicians, scientists, nurses, and other health and allied health professionals;

"(C) conduct training programs for such individuals;

"(D) develop model continuing education programs for such professionals; and

"(E) disseminate information to such professionals.

"(2) STIPENDS AND FEES.—A center may use funds provided under subsection (a) to provide stipends for health and allied health professionals enrolled in programs described in subparagraph (C) of paragraph (1), and to provide fees to individuals serving as subjects in clinical trials conducted under such paragraph.

"(d) COORDINATION OF INFORMATION.—The Director of the Institute shall, as appropriate, provide for the coordination of information among the centers assisted under this section.

"(e) CONSORTIUM.—Each center assisted under this section shall use the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such requirements as may be prescribed by the Secretary, after consultation with the Director of the Institute.

"(f) TERM OF SUPPORT AND PEER REVIEW.—Support of a center under subsection (a) may be for a period of not to exceed 5 years. Such period may be extended for one or more additional periods of not to exceed 5 years if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director and if such group has recommended to the Director that such period should be extended.

"(g) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated $15,000,000 for each of the fiscal years 1992 through 1994, $20,000,000 for fiscal year 1995, and such sums as may be necessary for fiscal year 1996.".

(b) LOAN REPAYMENT PROGRAM FOR RESEARCH WITH RESPECT TO CONTRACEPTION AND INFERTILITY.—Part F of title IV of such Act (42 U.S.C. 288 et seq.) is amended by inserting after section 487A the following new section:

"SEC. 487B. LOAN REPAYMENT PROGRAM FOR RESEARCH WITH RESPECT TO CONTRACEPTION AND INFERTILITY.

"(a) ESTABLISHMENT.—The Secretary, after consultation with the Director of the National Institute of Child Health and Human Development, shall establish a program to enter into agreements with appropriately qualified health professionals (including graduate students) under which such health professionals shall agree to conduct research with respect to contraception, or with respect to infertility, in consideration of the Secretary agreeing to repay, for each year of such service, not to exceed $20,000 of the principal and interest of the educational loans incurred by such health professionals.

"(b) ADMINISTRATIVE PROVISIONS.—With respect to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III, the provisions of such subpart shall, except as inconsistent with subsection (a), apply to the program established in such subsection to the same extent and in the same manner as such provisions apply to the National Health Service Loan Repayment Program.

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—To carry out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992 through 1994.

"(2) AVAILABILITY OF FUNDS.—Amounts appropriated under paragraph (1) for a fiscal year shall remain available until the expiration of the second fiscal year beginning after the fiscal year for which the amounts were appropriated.".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1991, or on the date of enactment of this Act, whichever occurs later.

SUMMARY OF THE CONTRACEPTIVE AND INFERTILITY RESEARCH CENTERS ACT OF 1991

The Contraceptive and Infertility Research Centers Act of 1991 amends the Public Health Service Act by authorizing the establishment of centers to conduct contraceptive and infertility research. The bill calls for three contraceptive and two infertility research centers, which could conduct clinical and other applied research, develop protocols for training physicians, scientists, nurses, and other health professionals. The centers would receive support in the form of grants.

The Director of the National Institute of Child Health and Human Development [NICHD] Advisory Council would oversee the program. The Director is directed, as appropriate, to provide for the coordination of information among the centers. Each center will use the facilities of a single institution, or be formed from a consortium of cooperating institutions. Support for a center is not to exceed a period of 5 years. However, grants may be extended for more than 5 years if approved by the Director in consultation with a scientific peer review group.

As a method of addressing the shortage of qualified investigators in this field of research, the bill also authorizes a loan repayment program for graduate students or health professionals agreeing to conduct contraceptive and infertility research. The program is modeled after the National Health Service Corps Loan Repayment Program. The Federal Government would repay, for each year of service, not more than $20,000 of the principal and interest of the educational loan.

The bill authorizes $15,000,000 for the fiscal year 1992, $15,000,000 for the fiscal year 1993, $15,000,000 for the fiscal year 1994, $20,000,000

for the fiscal year 1995, and such sums as necessary for fiscal year 1996.●

● Mr. HATFIELD. Mr. President, the introduction of this legislation, the Contraceptive and Infertility Research Centers Act, should send a strong signal that there is a commitment to the science of reproductive health. I am pleased to join my colleagues Senator HARKIN and Senator PACKWOOD in reintroducing this bill.

The basic research necessary to identify and treat the causes of infertility and create new contraceptive methods has long been neglected. Yet, it is clear that our society pays a painful price for the problems these centers will address. Unwanted pregnancies are on the rise and the heartbreak of infertility continues to threaten thousands of American couples. The work of these centers cannot be underestimated.

I am proud to note that last year Senator HARKIN and I were able to begin the process establishing these centers. I expect to continue funding this year and we hope to provide the full $15 million recommended for next year's appropriations. There are many worthy research programs competing for scarce funds, but I look forward to working with my colleagues to see that this project gets the support it needs.

When we were initially researching this proposal last year, I had many discussions about the politics of the bill. It is an unfortunate fact that anything to do with reproductive health issues is likely to become mired in the abortion debate. As a prolife member of this body, I urge my colleagues to avoid rejecting this proposal out of hand and to recognize the value of contraceptive research. Abortion exists because unplanned pregnancies exist—and there are 3 million unexpected pregnancies every year in our country. Safer, more reliable contraceptives that are available to anyone who wants them will go a long way toward lowering the number of abortions.

Finally, I want to commend the new Director of the National Institutes of Health for her interest in this area of science. I look foward to working with her on this and many other issues related to the improvement of health research.●

By Mr. DECONCINI:

S. 967. A bill providing for a 14-year extension of the patent for the badge of the American Legion Auxiliary; to the Committee on the Judiciary.

S. 968. A bill providing for a 14-year extension of the patent for the badge of the Sons of the American Legion; to the Committee on the Judiciary.

S. 969. A bill providing for a 14-year extension of the patent for the badge of the American Legion; to the Committee on the Judiciary.

DESIGN PATENT EXTENSIONS FOR THE EMBLEMS OF THE AMERICAN LEGION

● Mr. DECONCINI. Mr. President, since 1919 the emblems of the American Legion, the symbols that represent our brave veterans, have been protected under our Patent Code. Every 14 years, Congress has granted the American Legion an extension for its three design patents—the U.S. American Legion, the American Legion Women's Auxiliary, and the Sons of the American Legion. I introduced design patent extensions for the emblems of the American Legion last Congress and these measures passed easily through the Senate. Unfortunately, these measures did not survive in the House and as a result the emblems of the American Legion are no longer protected.

Mr. President, I rise today to reintroduce 14-year extensions for design patents for the emblems of the American Legion. This legislation is needed to renew patent protection for the emblems that enshrine the ideals of the men and women who so gallantly served the United States.

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

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

S. 967

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Commerce, acting through the Commissioner of Patents and Trademarks, shall, when a certain design patent numbered 55,398 (for the badge of the American Legion Auxiliary) expires, extend such patent for a period of 14 years after such date, with all the rights and privileges pertaining thereto.

S. 968

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Commerce, acting through the Commissioner of Patents and Trademarks, shall, when a certain design patent numbered 92,187 (for the badge of the American Legion Auxiliary) expires, extend such patent for a period of 14 years after such date, with all the rights and privileges pertaining thereto.

S. 969

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Commerce, acting through the Commissioner of Patents and Trademarks, shall, when a certain design patent numbered 54,296 (for the badge of the American Legion Auxiliary) expires, extend such patent for a period of 14 years after such date, with all the rights and privileges pertaining thereto.●

By Mr. DECONCINI (for himself and Mr. GORTON):

S. 971. A bill to promote the development of microenterprises in developing countries; to the Committee on Foreign Relations.

MICROENTERPRISE DEVELOPMENT ACT

● Mr. DECONCINI. Mr. President, I am pleased today to be joined by Senator GORTON in introducing the Senate companion legislation to H.R. 1608, the Microenterprise Development Act of 1991, recently introduced in the House by Congressmen FEIGHAN and GILMAN.

I believe that this legislation is a constructive means of helping to alleviate poverty for the poorest of the poor in the developing world. Statistics show that an excess of 1 billion people attempt to survive on incomes of less than $370 per year. In addition, nearly 4,000 children die every day from malnutrition and disease. These deplorable figures call for additional efforts to ensure that U.S. foreign aid dollars are adequately combating poverty in the developing world. Clearly, there is a desperate need for this legislation to be enacted into law.

It is my belief that microenterprise credit lending can effectively alleviate obstacles of credit extension to the poorest of the poor. Microenterprise is a foreign aid program that fosters the development of self-sustaining businesses in poverty-stricken areas. Microenterprise loans provide a means for those living in poverty to establish a flow of capital to avoid starvation and help themselves out of the cycle of poverty. Furthermore, microenterprise loans assist poor women whose duties often include the caring and raising of children, the provision of adequate nourishment, and the accumulation of supplemental income for the family.

I have been particularly impressed by projects initiated by the Grameen Bank of Bangladesh, Indonesia's Badan Kredit Kecamatan, and ADEMI in the Dominican Republic. Existing repayment rates of 95 percent or higher reveal a significant level of success in these lending programs which extend credit to the poor. Encouraging studies note that participants in these programs have increased their incomes an average of 30 percent over a 2-year period. As of October 1990, the Grameen Bank credits its microenterprise approach with turning nearly 800,000 landless villagers into owners of small businesses. In addition, borrowers are spending their additional income on improved standards of living and reinvesting in their established businesses. These positive results indicate that it is possible to "bank on the poor."

Congress has already incorporated the microenterprise concept into our foreign aid strategy. In 1988, $50 million was first earmarked in the fiscal year 1989 foreign assistance bill for microenterprise credit and assistance. Congress later increased this amount to $75 million for fiscal year 1990 and fiscal year 1991. Yet, continued refinement of the Microenterprise Assistance Program in conjunction with the Agency for International Development [AID] is necessary in order to successfully obtain the program's objectives.

The legislation I am introducing today creates a number of obtainable goals, including:

First, the continuation and expansion of AID's commitment to microenterprise strategies for the development of self-sustaining businesses;

Second, an expansion in the amount of assistance appropriated to credit activities designated to reach the poorest sectors of the developing world, and

Third, the establishment of increased credit targets for women beneficiaries.

This legislation authorizes appropriations of no less than $85 million for the Microenterprise Development Assistance Program in each of the next 2 fiscal years. The bill calls for AID to devote a significant portion of its assistance to "poverty lending" activities.

The bill specifies that no less than $20 million of the overall $85 million is to be spent for credit activities and institutional support for poverty lending in fiscal year 1992, and $30 million in fiscal year 1993. The bill also requires AID to establish a system to monitor its microenterprise activities and report to Congress on its methods for accomplishing these objectives.

Several voices on this young foreign aid scheme have been heard. There has already been considerable debate over the concept of loan caps. It is important to realize that the $300 loan cap called for in this legislation assists the poorest of the poor, who all too often are excluded from larger AID projects and are overlooked by other commercial credit programs.

The loan cap adequately fulfills the need of targeting a portion of our foreign aid to poor, business-minded workers rather than allowing all of it to go to established entrepreneurs. Limiting the loan size also eliminates the need to devise complicated criteria for eligibility. Lastly, small-scale loans encourage investment for tools, training, and other resources necessary for the business's success. The $300 loan cap protects the underlying intent of our microenterprise foreign aid dollars, providing capital for the poorest of the poor.

The remaining $65 million of the Microenterprise Program complements the preceding portion by meeting the additional needs of microentrepreneurs. It provides for the development of commercially sound, nontargeted financial institutions answering short-term liquidity needs. This money supports training and technical assistance programs responding to business needs. Additional captial from this portion may be used to develop programs and institutions that have the financial, organizational, and management capacity to be sustainable. Furthermore, this $65 million allows viable microenterprise candidates who need small business loans exceeding the $300 loan cap to participate in the program.

In closing, we must examine the program's overall ability to create self-sustaining businesses and alleviate starvation for those in poverty. The program's strong track record in other countries warrants its initiation into our foreign aid strategy. Certainly American ingenuity can improve this concept to ensure positive results. The primary goal of this foreign aid program should be to help the world's poor out of their cycle of poverty and desperation. That is what the American people want, and that is what our bill aims to do.

Mr. President, I ask that the text of the bill be printed at this point in the RECORD, and I urge my colleagues to join me in cosponsoring this important legislation.

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

S. 971

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 "Microenterprise Development Act of 1991".

SEC. 2. FINDINGS.

The Congress makes the following findings and declarations:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 3. PURPOSES.

The purposes of this Act are—

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

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

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

SEC. 4. ASSISTANCE FOR MICROENTERPRISE DEVELOPMENT.

(a) GENERAL AUTHORITY.—The President, acting through the Administrator of the Agency for International Development, is authorized to provide assistance for programs of credit and other assistance for microenterprises in developing countries. In addition to providing financial resources for direct credit activities of indigenous financial intermediaries, assistance under this Act may include assistance for institutional development of such intermediaries (including assistance to enable private and voluntary organizations to develop the capability to serve as financial intermediaries), technical assistance, training, and policy reform. Microenterprise credit and related activities assisted under this Act shall be carried out primarily through those indigenous financial intermediaries and private and vol-

untary organizations that are oriented toward working directly with the poor and women.

(b) ELIGIBILITY CRITERIA FOR FINANCIAL INTERMEDIARIES.—The mission of the Agency for International Development that is responsible for a country receiving assistance under this Act shall establish criteria for determining the financial intermediaries that will receive assistance under this Act, taking into account the following:

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

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

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

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

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

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

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

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

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

SEC. 5. FUNDING SOURCES.

(a) SOURCES.—Funds to carry out this Act shall be derived from the following sources:

(1) Funds available to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to the functional development assistance accounts).

(2) Funds available to carry out chapter 10 of part I of that Act (relating to the Development Fund for Africa).

(3) Funds available to carry out chapter 4 of part II of that Act (relating to the economic support fund).

(4) Local currency accruing as a result of assistance provided under chapter 1 of part I, chapter 10 of part I, or chapter 4 of part; II of that Act.

(5) Local currency proceeds available for use under section 306(a)(9) of the Agricultural Trade Development and Assistance Act of 1954 (as amended by section 1512 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624)).

(6) Local currency which accrues as a result of assistance provided under the Agricultural Trade Development and Assistance Act of 1954 as in effect immediately before the effective date of the amendment made by section 1512 of the Agricultural Development and Trade Act of 1990.

(7) Local currency generated under subsection (b) of this section.

(b) AUTHORITY TO GENERATE LOCAL CURRENCIES.—In order to generate local currencies for use in providing assistance under this Act, the President is authorized to use funds made available to carry out chapter 1 of part I, chapter 10 of part I, or chapter 4 of part II of the Foreign Assistance Act of 1961 to provide assistance to the governments of developing countries on a loan basis repayable in local currencies, at a rate of exchange to be negotiated by the President and the foreign government. Such loans shall have a rate of interest and a repayment period determined by the President. Section 122 of the Foreign Assistance Act of 1961 shall not apply with respect to loans pursuant this subsection.

(c) NONAPPLICABILITY OF CERTAIN LAWS.—Local currencies used under this section shall not be subject to the requirements of section 1306 of title 31, United States Code, or other laws governing the use of foreign currencies owned by, owed to, or accruing to the United States.

SEC. 6. FUNDING LEVELS FOR FISCAL YEARS 1992 AND 1993.

(a) MINIMUM LEVEL OF ASSISTANCE.—The Administrator of the Agency for International Development shall use not less than $85,000,000 for fiscal year 1992, and not less than $85,000,000 for fiscal year 1993, for microenterprise assistance pursuant to this Act.

(b) ASSISTANCE FOR THE POOREST SECTORS.—

(1) MINIMUM FUNDING LEVEL.—Of the amounts used pursuant to subsection (a), not less than $20,000,000 for fiscal year 1992 and not less than $30,000,000 for fiscal year 1993 shall be used to support loans having a purchasing power equal to or less than $300 (in United States dollars) with initial loans, to the maximum extent practicable, equal to or less than $150 (in United States dollars).

(2) CRITERIA FOR ATTRIBUTION TO MINIMUM FUNDING LEVEL.—In addition to amounts made available for direct credit activities involving loans having a purchasing power equal to or less than $300 (in United States dollars), amounts used for institutional development of a financial intermediary described in section 4(c) shall be considered to support such loans for purposes of paragraph (1) to the same extent as the aggregate amount loaned by such institution represents loans having a purchasing power equal to or less than $300 (in United States dollars) with initial loans, to the maximum extent practicable, equal to or less than $150 (in United States dollars).

(c) USE OF LOCAL CURRENCIES.—In order to meet the minimum funding requirements of this section, local currencies described in section 5(a) may be used in lieu of an equivalent amount of dollars.

SEC. 7. MONITORING OF MICROENTERPRISE ASSISTANCE ACTIVITIES.

The Administrator of the Agency for International Development shall develop a monitoring system to evaluate the Agency's microenterprise development activities, including their effectiveness in reaching the poor and women and their overall impact on economic development in each beneficiary developing country. In developing this system, the Administrator shall consult with the Congress and with appropriate private and voluntary organizations.

SEC. 8. REPORTS TO CONGRESS.

The Administrator of the Agency for International Development shall report to the Congress annually on the Agency's microenterprise development activities, including the Agency's strategy for complying with the minimum funding requirements of sections 6(a) and (b).●

By Mr. BRADLEY (for himself, Mr. JOHNSTON, and Mr. KERREY):

S. 972. A bill to amend the Social Security Act to add a new title under such Act to provide assistance to States in providing services to support informal caregivers of individuals with functional limitations; to the Committee on Finance.

FAMILY CAREGIVER SUPPORT ACT

● Mr. BRADLEY. Mr. President, I rise to introduce a piece of legislation that will help strong families stay together and provide care for those family members who need help with the responsibilities of daily life.

The people I've met who provide care for one of the 2.4 million Americans who need constant help have the toughest job I've ever seen: They're on call 24 hours a day, 7 days a week; they face enormous stress; they need special skills and physical strength; they earn nothing. They do it out of love. But all too often, the demands of daily care become too much, and under the stress of other family demands, children, career, crises—the bonds of family love begin to fray.

The legislation I'm introducing today, the Family Caregiver Support Act of 1991, would give these families a way to take a break—an hour, a day, maybe a week—so that they can return to the job of fulltime care rejuvenated and refreshed. It's time for Government to recognize that if you want to keep families together, you have to support and respect strong families that are caring for each other.

Mr. President, when an elderly person becomes too frail to live alone, when a smart, lively person suddenly develops Alzheimer's disease, when a person is severely disabled, it's a family problem. There's no substitute for the family solution. Four out of five of these individuals who need care receive the best care possible, at home, from their families. Caregiver support can make that solution possible for families that thought it might be too much.

I've visited families in New Jersey that have participated in a respite care demonstration project. Mrs. Florence Kotarski, 68, and recently widowed, is caring for her 87-year-old mother and her 46-year-old paraplegic son. "What the family caregiver support program has meant to me," she said, "is that when my other son was ready to graduate from college, I was able to go." With this legislation, every State will provide family caregiver support through new or existing agencies, and every family that's trying to do the right thing by caring for a parent, spouse, or relative at home will have a new way to handle it.

Mr. President, it would cost the American people over $50 billion to provide this care in institutions. But,

these family caregivers don't want their mothers, fathers, daughters, sons, sisters, or brothers in an institution. They want them home and they can keep them in our communities with a little support. For as little as $7 a day, which this bill provides, we could save over $70 a day in institutional costs. To allow caregivers to continue to provide the quality of life, dignity, and love that they want to provide to their family members who have functional limitations, is more than a good investment; it's common sense.

The American family is changing. People are living longer. Our elderly population is increasing rapidly. By the year 2020 there will be 57 million citizens over the age of 65. That is 25 million more than today. Three generational families are becoming common and four generational families are not unusual. Families are postponing childbearing and having fewer children. The cost of living often requires that both parents work outside the home to sustain the family. Frequently, we find caregivers sandwiched between caring for parents and children. Advances in medical care and technology have succeeded in facilitating the efforts of our disabled citizen to attain greater degrees of independence with the support and care of their families.

Mr. President, the demands that this increasingly complex configuration of responsibilities and stresses make on the caregivers can be unremitting and frequently threatens the stability of the family unit or the health of the primary caregiver. The primary family caregivers can and should be bolstered and supported in their desire to keep their loved ones at home and in the community. Often a minimal amount of timeout from the tasks of providing basic human needs is enough to prevent the disintegration of the family.

Mr. President, this legislation establishes a cost effective alternative to institutionalization. It is intergenerational in scope. It provides support for families who care for their loved ones who are functionally limited, whether the disability is from birth, or from injury, or from illness, or from aging. The beneficiary is not only the individual who has functional limitations, but just as importantly it is the family and each of its members.

Mr. President, if there was ever a place where a little bit goes a long way, it is here. This informal network of support really should be deepened and broadened. It represents the embodiment of family values, and is the backbone of every community's effort to offer humane and dignified care while maintaining the highest possible quality of life and independence for its frail and disabled citizens. I strongly urge my colleagues to support this bill.

I ask unanimous consent that a copy of the summary of the bill and two letters related to the bill be printed in the RECORD.

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

SUMMARY OF THE FAMILY CAREGIVER SUPPORT ACT OF 1991

The Family Caregiver Support Act of 1991 establishes a program which bolsters and strengthens informal support systems to help ensure that the functionally disabled are maintained in the community as long as possible. When families or friends finally turn to formal community agencies, it usually repesents a last-ditch attempt either to forestall institutional placement or to avoid the physical or mental breakdown of the family caregiver. This act will lighten the "caregiver burden"; the social, emotional, and financial costs associated with caregiving.

Purpose: This program will support and sustain unpaid primary caregivers of persons with functional limitations of all ages by providing temporary relief from the stresses and demands of daily caregiving.

Eligibility: The services are available for persons with functional limitations who required assistance with three out of five activities of daily living (dressing, eating, toileting, bathing, transferring) or need substantial supervision, as well as, children declared disabled through SSI.

Services may not supplant or duplicate services otherwise available to the eligible person under Medicare, Medicaid or private insurance.

Services: The services provided for the caregiver may include any of the following on a planned or emergent basis: Companion services (non-medical); Homemaker services; Personal assistance (to assist with provision of personal needs); Adult Day Care (social and medical); or other respite services such as temporary care in accredited/licensed hospitals or nursing homes, or peer support and training for caregivers.

The eligible person is entitled to $2400 in services per year. Persons with incomes exceeding 200 percent of poverty must pay on a sliding fee scale (established by the states) up to a maximum benefit limit of $75,000 income.

Administrative Structure: The statute creates a new Title XXI of the Social Security Act. The Federal expenditures are capped at $2,400 per eligible recipient and 50 percent of the administrative costs. States are required to support 50 percent of the administrative costs, with a maintenance of effort provision.

ALZHEIMER'S ASSOCIATION,
Washington, DC, April 25, 1991.

Hon. BILL BRADLEY,
U.S. Senate, Washington, DC.

DEAR SENATOR BRADLEY: The Alzheimer's Association enthusiastically endorses "The Family Caregiver Support Act of 1991" which you are introducing today. This Act will offer minimal but absolutely essential support to the women and men who are providing the continuous care that is making it possible for their severely disabled loved ones to remain in the community.

These informal caregivers are the lifeblood of the long term care system in our country. More than 1 million of them are providing care for a loved one—a spouse, a parent, a grandparent, a sibling, a friend—who has Alzheimer's disease. Caring for an Alzheimer patient is an unrelenting, physically and emotionally exhausting job that goes on twenty-four hours a day, often for many years.

These family caregivers repeatedly and overwhelmingly report that the one thing they need most to continue in their role is brief time out—respite—from the constant demands of caregiving. That is what The Family Caregiver Support Act would provide—occasional help in the home, in a day setting outside the home, or in an overnight facility, to enable caregivers to get away for a few hours, to catch their breath, to keep going.

The Alzheimer's Association, through its 209 local chapters, has been directly involved in delivery of respite services for families throughout the country. We have demonstrated that it is a service that makes a critical difference for Alzheimer families and can be provided at relatively low cost—particularly when compared with the cost of full-time paid care. We have also learned that the need for services far exceeds the capacity of the voluntary sector to respond. While we are absolutely committed to continuing our own family caregiver support, it is time for government to do its part as well.

We are particularly encouraged by the emphasis this Act places on flexibility and family choice—assuring services that are tailored to meet the specific needs of the individual caregiver and the person receiving care. This is essential for persons with Alzheimer's for whom traditional services based on medical models of care are typically inappropriate and who require care from persons who understand the particular needs of persons suffering from a cognitive impairment.

We support the definitions of eligibility that make the program available to persons with severe functional limitations without regard to age or cause of disability. Persons suffering from Alzheimer's disease or related disorders make up the largest group of severely disabled older persons who are receiving care from unpaid caregivers—and we particularly appreciate the care with which eligibility language has been written to assure that services under the Act will be available to them.

The Alzheimer's Association supports a social insurance approach to long term care. Given current budget realities, however, we understand the pressure to impose some income limitations on programs at this time and believe that the limits and cost-sharing requirements of the proposed legislation are reasonable in that context.

The Family Caregiver Support Act represents an affordable and very substantial first step toward implementation of the Pepper Commission's bipartisan long term care recommendations. The services offered under this Act are an essential part of the continuum of care for an Alzheimer patient. They may not provide an alternative to full-time paid care at home or in a nursing home when that is what a patient needs. But they will help families who are dealing with Alzheimer's disease, and other families in similar situations, stay together as long as that is possible.

The Alzheimer's Association commends you for your commitment to our nation's caregivers and for your leadership in introducing this legislation.

Sincerely,

STEPHEN MCCONNELL,
Senior Vice President, Public Policy.

UNITED CEREBRAL PALSY ASSOCIATIONS,
Washington, DC, April 25, 1991.

Senator BILL BRADLEY,
U.S. Senate, Washington, DC.

DEAR SENATOR BRADLEY: On behalf of United Cerebral Palsy Associations' 162 affiliates throughout the country, and the 700,000 children and adults with cerebral palsy, and the millions of children and adults with other development disabilities for whom we advocate, we are pleased to lend our support to your introduction of the Family Caregivers' Support Act.

We commend you for recognizing that families with a member with a substantial disability face extraordinary challenges in raising their child and maintaining a strong family. Your legislation begins to address a significant public policy issue; America's financial and policy incentives must support rather than supplant the family—this nation's greatest resource. The federal policy must also recognize that families are competent, that they know best what they need and must be given the power to assert their preferences and choices of what constitutes "family support" for their family rather than being told by professionals and service providers what is "good for them."

We look forward to continuing to work with you and your staff in the months ahead to refine this legislation and to achieve enactment of a Family Caregivers' Support Act that will send a positive message to families and to people with disabilities that they are valued Americans.

Sincerely,

ALLAN I. BERGMAN,
DEPUTY DIRECTOR,
Governmental Activities.

By Mr. ADAMS (for himself, Mr. GRAHAM, Mr. PRYOR Mr. BURDICK, and Mr. DODD):

S. 973. A bill to amend the Older Americans Act of 1965 to provide congregate nutrition services and intergenerational activities on elementary and secondary school facilities, and for other purposes; to the Committee on Labor and Human Resources.

SCHOOL-BASED MEALS FOR OLDER INDIVIDUALS AND INTERGENERATIONAL PROGRAMS ACT

Mr. ADAMS. Mr. President, in September of last year, I had the chance to visit a special program that provides hot and nutritious meals to the elderly in and around Seattle. The program, School Programs Involving Community Elders, is known as SPICE. It is unique among nutrition programs for senior citizens because each of SPICE's eight nutrition sites is located in a local public school.

I was so impressed with what I saw and know about SPICE that I want to see the concept of SPICE used throughout the country. At the end of the 101st Congress, I introduced legislation to amend the Older Americans Act to provide grants to States specifically for this purpose.

I rise today to reintroduce that measure. As you will see, the benefits of the School-Based Meals for Older Individuals and Intergenerational Programs Act of 1990 would go way beyond the meals provided.

In brief, the legislation I am introducing today will serve two key purposes. First, it will help bring seniors and kids together—so both benefit—and will make fuller use of our public schools and their many facilities. Second, it would provide a way to ensure expanded nutrition services for the elderly. The facts are clear: Senior nutrition services are essential for many older Americans and the need today far exceeds yesterday's need, much less tomorrow's needs.

Additionally, opening up schools to older Americans will provide valuable intergenerational opportunities and will be very helpful in generating more much-needed public support for our public education system. As one who benefited directly from a sound public education system, I am deeply distressed by the scope of the problems plaguing our schools and our disadvantaged youth. I believe programs like SPICE can be part of an answer to some of these problems.

Earlier this summer, when I accepted the chairmanship of the Subcommittee on Aging of the Senate Labor and Human Resources Committee, which is responsible for the Federal Older Americans Act, I stated that one of my top priorities would be to seek ways to link older and younger Americans together; to make more of our efforts truly intergenerational.

Therefore, it was exciting to me to find that one of the most innovative and effective ways to do just that is in my own backyard—so to speak—right in Seattle.

I want to submit for the RECORD a list of activities occurring at SPICE locations in my State. The list is broad, but I would like to mention just a few examples.

At Wilson/Pacific Indian Heritage School, SPICE participants volunteer to accompany special education students to swimming classses and physical therapy sessions. Seniors also help feed disabled students. Whittier Elementary SPICE participants take part in a program called Reading With a Friend, where seniors are teamed with readers in the library each week for tutoring sessions. Also at Whittier, SPICE sponsors holiday shopping parties for the entire school. Each student chooses a gift for his or her family. The gifts are donated by Whittier SPICE seniors. These are just a few examples of intergenerational programming and the potential is truly exciting.

Throughout my visit to SPICE, I was deeply touched by the rewards reaped by young and old who are involved in the SPICE program. By providing important nutrition services to older Americans in our public schools, we create the opportunity for good interaction between young and old. Most senior nutrition sites are located in other settings—not in our schools. Since 1974, SPICE has demonstrated the value of bringing youngsters, from kindergarten to high school, together with our older citizens.

It seems to me that one of the most disappointing and distressing developments in our society has been the increasing segregation of our older citizens from our younger citizens. We all know this is the product of various changes in our society that have had a dramatic effect on the traditional notion of large extended families whose members live close to each other.

As we agonize with the many difficulties facing so many of our young citizens today—from not having a mother and father in the same household, to inadequate funding for educational opportunities, to the plague of drugs—we know that the lack of meaningful role models and adult guidance is a significant contributing factor to our youth's problems. Simply put, if kids don't have positive ongoing experiences with parents, grandparents, and other adults, something significant will be missing from their lives and may well lead to serious difficulties. On the other side of the coin, as adults, we benefit from interactions with kids of all ages.

Federal support to encourage the nationwide development of programs modeled after SPICE is a wise investment. Now, more than ever before, we must utilize the resources available to us as effectively as possible as we struggle to provide important services to our Nation's elderly and youth. With that, I conclude my remarks. I hope to have your support for this bill.

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

S. 973

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 "School-Based Meals for Older Individuals and Intergenerational Programs Act of 1990".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) there are millions of older individuals who could benefit from congregate nutrition services, but live in areas where meals are unavailable or limited;

(2) there are millions of students who need positive role models, tutors, enhancement of self-esteem, and assistance with the problems the students face in the complex society of the United States;

(3) older individuals have a unique range of knowledge, talents, and experience, which can be of immeasurable value to students as a part of the educational process;

(4) intergenerational programs can provide older individuals with the opportunity to contribute skills and talents in the public schools;

(5) programs that create and foster communication between older individuals and youth are effective in improving awareness and understanding of the aging process, promoting more positive and balanced views of the realities of aging, and reducing negative stereotyping of older individuals;

(6) unused or underused space in school buildings can be shared for intergenerational programs serving older individuals in exchange for good faith commitments to provide volunteers to assist the schools; and

(7) school districts need broad-based community support for school initiatives, and intergenerational programs can help to enrich the support.

(b) PURPOSES.—The purposes of this Act are—

(1) to create and foster intergenerational opportunities for older individuals and students in the schools, where meals and social activities are provided;

(2) to create a program to assist students with the greatest needs, as measured by dropout rates, substance abuse, poverty, limited English-speaking ability, and other measures;

(3) to provide older individuals with opportunities to improve their self-esteem and make major contributions to the educational process of the youth of the United States by contributing the unique knowledge, talents, and sense of history of older individuals through roles as tutors, teacher aides, living historians, special speakers, playground supervisors, lunchroom assistants, and many other volunteer support roles;

(4) to provide an opportunity for older individuals to obtain access to school facilities and resources, such as libraries, gymnasiums, theaters, cafeterias, audiovisual resources, and transportation; and

(5) to create other programs for group interaction between students and older individuals, including class discussions, dramatic programs, shared school assemblies, field trips, and mutual classes.

SEC. 3. SCHOOL-BASED MEALS FOR VOLUNTEER OLDER INDIVIDUALS AND INTERGENERATIONAL PROGRAMS.

(a) PROGRAM AUTHORIZED.—Part C of title III of the Older Americans Act of 1965 (42 U.S.C. 3030e et seq.) is amended by adding at the end the following new subpart:

"Subpart 3—School-Based Meals for Volunteer Older Individuals and Intergenerational Programs

"SEC. 338. ESTABLISHMENT.

"(a) IN GENERAL.—The Commissioner shall establish and carry out, under State plans approved under section 307, a program for making grants to States to pay for the Federal share of establishing and operating projects in elementary and secondary schools that—

"(1) provide hot meals, each of which ensures a minimum of one-third of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council, to volunteer older individuals—

"(A) while such schools are in session;

"(B) during the summer; and

"(C) unless waived by the State involved, on the weekdays in the school year when such schools are not in session;

"(2) provide intergenerational activities in which volunteer older individuals and students interact;

"(3) provide social and recreational activities for volunteer older individuals;

"(4) develop skill banks that maintain and make available to school officials information on the skills and preferred activities of volunteer older individuals, for purposes of providing opportunities for such individuals to serve as tutors, teacher aides, living historians, special speakers, playground supervisors, lunchroom assistants, and in other roles; and

"(5) provide opportunities for volunteer older individuals to participate in school activities (such as classes, dramatic programs, and assemblies) and use school facilities (such as cafeterias, libraries, gymnasiums, and auditoriums).

"(b) FEDERAL SHARE.—The Federal share of the costs of establishing and operating nutrition and intergenerational activities projects under this subpart shall be 85 percent.

"SEC. 338A. APPLICATION AND SELECTION OF PROVIDERS.

"(a) CONTENTS OF APPLICATION.—To be eligible to carry out a project under the program established under this subpart, an entity shall submit an application to the State agency designated under section 305(a)(1). Such application shall include—

"(1) a plan describing the project proposed by the applicant and comments on such plan from the appropriate area agency on aging and the appropriate local educational agency;

"(2) an assurance that the entity shall pay not more than 85 percent of the cost of carrying out such project from funds awarded under this subpart;

"(3) an assurance that the entity shall pay not less than 15 percent of such cost, in cash or in kind, from non-Federal sources;

"(4) information demonstrating the need for such project, including a description of—

"(A) the nutrition services and other services currently provided under this part in the geographic area to be served by such project; and

"(B) the manner in which the project will be coordinated with such services; and

"(5) such other information and assurances as the Commissioner may require by regulation.

"(b) SELECTION AMONG APPLICANTS.—In selecting grant recipients from among entities that submit applications under subsection (a) for a fiscal year, the State agency shall—

"(1) give first priority to entities that carried out a project under this subpart in the preceding fiscal year;

"(2) give second priority to entities that carried out a nutrition project under subpart 1 in the preceding fiscal year; and

"(3) give third priority to entities whose applications include a plan that involves a school with greatest need (as measured by the dropout rate, the level of substance abuse, the number of children who have limited English-speaking ability or who participate in programs under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.), the National School Lunch Act (42 U.S.C. 1751 et seq.), or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), or other measures).

"SEC. 338B. REPORTS.

"(a) REPORTS BY STATES.—Not later than 60 days after the end of a fiscal year for which a State receives a grant under this subpart, such State shall submit to the Commissioner a report evaluating the projects carried out under this subpart by such State in such fiscal year. Such report shall include for each project—

"(1) a description of—

"(A) persons served;

"(B) intergenerational activities carried out; and

"(C) additional needs of volunteer older individuals and students; and

"(2) recommendations for any appropriate modifications to satisfy the needs described in paragraph (1)(C).

"(b) REPORTS BY COMMISSIONER.—Not later than 120 days after the end of a fiscal year for which funds are appropriated to carry out this subpart, the Commissioner shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report summarizing, with respect to each State, the reports submitted under subsection (a) for such fiscal year.".

(b) LIMITATION ON ADMINISTRATIVE COSTS.—Section 303(c) of the Act (42 U.S.C. 3023(c)) is amended—

(1) in the matter preceding paragraph (1), by striking "parts B and C" and inserting "part B, and subparts 1 and 2 of part C,"; and

(2) in paragraph (2), by inserting "under subparts 1 and 2 of part C" after "nutrition services".

(c) STATE PLANS.—Section 307(a)(13)(B) of the Act (42 U.S.C. 3027(a)(13)(B)) is amended by inserting "(other than under section 303(b)(3))" after "available under this title".

(d) LIMITATION ON TRANSFER OF FUNDS.—Section 308(b)(5) of the Act (42 U.S.C. 3028(b)(5)) is amended—

(1) in subparagraph (A), by striking "and subsection (b)" and inserting ", and paragraphs (1) and (2) of subsection (b),"; and

(2) in subparagraph (B), by striking "subsections (a)(1) and (b)" and inserting "subsection (a)(1), and paragraphs (1) and (2) of subsection (b),".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

Section 303 of the Older Americans Act of 1965 (42 U.S.C. 3023) is amended—

(1) in subsection (b), by adding at the end the following new paragraph:

"(3) Subject to subsection (i), there are authorized to be appropriated $20,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995 to carry out subpart 3 of part C of this title (relating to congregate nutrition services and intergenerational activities of schools).."; and

(2) by adding at the end the following new subsection:

"(i) No funds may be appropriated under subsection (b)(3) for a fiscal year unless the amounts appropriated for subparts 1 and 2 of part C, respectively, exceed 100 percent of the amounts appropriated for fiscal year 1990 for subparts 1 and 2 of part C.".

SEC. 5. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on October 1, 1992.

By Mr. ADAMS (for Mr. PRYOR, for himself, Mr. BRADLEY, Mr. BURDICK, Mr. GRAHAM, Mr. HATFIELD, Mr. HEFLIN, Mr. KOHL, Mr. REID, Mr. SHELBY, Mr. WALLOP, Mr. INOUYE, Mr. DECONCINI, Mr. SANFORD, Mr. COHEN, Mr. GORTON, Mr. ROCKEFELLER, Mr. STEVENS, Mr. GLENN, Mr. BREAUX, Mr. RIEGLE, Mr. MCCAIN, Mr. JOHNSTON, and Mr. PRESSLER):

S. 974. A bill to improve the Older Americans Act of 1965, and for other purposes; to the Committee on Labor and Human Resources.

HEINZ ELDER LIFE PROGRAM ACT

Mr. ADAMS. Mr. President, I am very honored to rise today to introduce legislation on behalf of Senator PRYOR, who, as we are all aware, is recuperating from his recent heart attack. While we are all deeply shaken by this very unhappy news, we must all be encouraged that DAVID PRYOR has said the "show must go on." It is so char-

acteristic of this fine man that we all admire that instead of resting quietly and thinking about golf and other relaxing things, he is focused on his responsibilities as a Senator and advocate for the Nation's elderly.

I feel it is a privilege to do this for Senator PRYOR. It is also an honor for another important reason: The legislation that Senator PRYOR had intended to introduce is called the "Heinz Elder Life Program Act" in dedication to the memory of our friend and colleague, Senator John Heinz. It is a fitting way to acknowledge the many important contributions Senator Heinz made to the well-being of older Americans, particularly in his roles as chairman and ranking member of the Special Committee on Aging.

This legislation would amend the Older Americans Act of 1965 which is up for reauthorization this year. The legislation builds upon the solid foundation laid by the OAA and reflects legislative recommendations made during a series of workshops conducted last year by the Special Committee on Aging.

As chairman of the Subcommittee on Aging, I have responsibility for this year's reauthorization of the Older Americans Act. I am conducting a series of hearings concerning the reauthorization and have received testimony on many different important issues. Senator PRYOR's legislation addresses a number of key concerns that have been brought to my attention. As I complete this process and prepare amendments to be considered in the Labor Committee, I intend to consider carefully Senator PRYOR's thoughtful amendments, and to work closely with him in crafting a responsive reauthorization bill. I look forward to his speedy recovery and return to the Senate, and working with him on this and many other issues.

Mr. President, I ask unanimous consent that the "Dear Colleague" that Senator PRYOR circulated prior to his hospitalization, as well as the legislative language and the bill specifications for this legislation to be printed in the RECORD.

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

S. 974

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 "Heinz Elder Life Program Act".

SEC. 2. FINDINGS.

Congress finds that additional authority is necessary to improve and strengthen existing services under the Older Americans Act of 1965, in order to maintain the independence and dignity of all older persons.

SEC. 3. DEFINITIONS.

(a) IN GENERAL.—Section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002) (referred to in this Act as the "Act") is amended—

(1) in paragraph (11), to read as follows:

"(11) The term 'information and assistance service' means a service for older individuals, as defined in section 302(9), that—

"(A) provides the individuals with current information on all opportunities and services available to the individuals within their communities, including information relating to assistive technology;

"(B) assesses the problems and capacities of the individuals;

"(C) links the individuals to the opportunities and services that are available;

"(D) ensures that the individuals receive the services needed by the individuals, and are aware of the opportunities available to the individuals, by establishing adequate followup procedures; and

"(E) serves the entire community of older individuals, particularly individuals with the greatest social and economic need, as defined in paragraphs (18) and (19) of section 302."; and

(2) by adding at the end the following new paragraphs:

"(13) The term 'Administration' means the Administration on Aging established in section 201.

"(14) The term 'aging network' means the network of agencies established in section 305, including the Administration, State agencies, and area agencies on aging.

"(15) The term 'area agency on aging' means an agency designated under section 305(a)(2)(A).

"(16) The term 'State agency' means an agency designated under section 305(a)(1).".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Sections 102(2), 201(c)(1), 211, 301(b)(1), 402(a), 411(b), 503(a), and 505(a) (42 U.S.C. 3002(2), 3011(c)(1), 3020b, 3021(b)(1), 3030bb(a), 3031(b), 3056a(a), and 3056c(a)) are amended by striking "Administration on Aging" and inserting "Administration".

SEC. 4. DATA COLLECTION.

Title II of the Act (42 U.S.C. 3011 et seq.) is amended by adding at the end the following new section:

"SEC. 214. DATA COLLECTION.

"(a) ESTABLISHMENT.—The Assistant Secretary shall establish a Commission to study data collection under this Act.

"(b) DUTIES.—

"(1) STUDY.—The Commission described in subsection (a) shall conduct a study of the reporting requirements under this Act and related programs and make recommendations for legislative and administrative reform, consistent with the following objectives:

"(A) Collection of detailed national information concerning monetary expenditures for services provided under title III.

"(B) Collection of accurate information concerning the social, economic, and demographic characteristics of program participants.

"(C) Collection of data to effectively measure compliance with the regulations and mandates of the Administration.

"(D) Minimization of duplication with the reporting requirements of other Federal, State, and private programs.

"(E) Collection of data to measure the impact of nutrition services on elderly beneficiaries.

"(F) Achievement of other important objectives.

"(2) REPORT.—Not later than 15 months after the date of the enactment of this section, the Commission shall prepare and submit to the President and the appropriate committees of Congress a written report containing—

"(A) the findings and conclusions of the Commission resulting from the study conducted under paragraph (1); and

"(B) the recommendations for legislative and administrative reform described in paragraph (1).".

SEC. 5. INFORMATION AND ASSISTANCE.

(a) FUNCTIONS OF ASSISTANT SECRETARY.—Section 202(a) of the Act (42 U.S.C. 3012(a)) is amended—

(1) by striking "and" at the end of paragraph (19);

(2) by striking the period at the end of paragraph (20) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(21) establish information and assistance services as priority services for the aged and aging.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 302(2), paragraphs (2)(A) and (4) of section 306(a) and sections 307(a)(9), 422(c)(3), 614(a)(6), and 624(a)(7) of the Act (42 U.S.C. 3022(2), 3026(a)(2)(A) and (4), 3027(a)(9), 3035a(c)(3), 3057e(a)(6), and 3057j(a)(7)) are amended by striking "information and referral" each place the term appears and inserting "information and assistance".

SEC. 6. LEGAL ASSISTANCE.

(a) FUNCTIONS OF ASSISTANT SECRETARY.—Section 202(a) of the Act (42 U.S.C. 3012(a)) (as amended by section 5(a) of this Act) is further amended—

(1) by striking "and" at the end of paragraph (20);

(2) by striking the period at the end of paragraph (21) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(22) develop guidelines for area agencies on aging to follow in choosing and evaluating providers of legal assistance; and

"(23) develop guidelines and a model job description for choosing and evaluating legal assistance developers.".

(b) AREA PLANS.—Section 306(a)(6) of the Act (42 U.S.C. 3026(a)(6)) is amended—

(1) by striking "and" at the end of subparagraph (O); and

(2) by adding at the end the following new subparagraphs:

"(Q) establish an informal grievance procedure for older individuals who are dissatisfied with or denied services under this title, with further appeal to the appropriate area agency on aging; and

"(R) in providing legal assistance, give priority to legal problems related to income, health care, long-term care, nutrition, housing and utilities, defense of guardianship, abuse and neglect, and age discrimination;".

(c) STATE PLANS.—Section 307(a)(15) of the Act (42 U.S.C. 3027(a)(15)) is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by striking the period and inserting "; and" at the end of subparagraph (D); and

(3) by adding at the end the following new subparagraph:

"(E) the plan contains assurances that area agencies on aging will give priority to legal problems related to income, health care, long-term care, nutrition, housing and utilities, defense of guardianship, abuse and neglect, and age discrimination.".

SEC. 7. OMBUDSMAN SERVICES.

(a) TECHNICAL ASSISTANCE AND TRAINING.—Section 301(c) of the Act (42 U.S.C. 3021(c)) is amended by adding at the end the following new sentences: "The assistance shall include assistance in recruiting and retaining volunteers for ombudsman programs by establish-

ing a national program for recruitment efforts. Such a program should utilize the organizations that have established a successful record in recruiting and retaining volunteers for ombudsman or other programs.".

(b) STATE PLANS.—Section 307(a)(12)(G) of the Act (42 U.S.C. 3027(a)(12)(G)) is amended—

(1) by striking "and" at the end of clause (i);

(2) by striking the period and inserting "; and" at the end of clause (ii); and

(3) by adding at the end the following new clause:

"(iii) encourage adoption of memoranda of understanding between legal assistance providers and ombudsman providers that will ensure that the providers will coordinate services to the greatest extent possible.".

(c) PREVENTION OF ABUSE, NEGLECT, AND EXPLOITATION.—Section 371 of the Act (42 U.S.C. 3030p) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4), and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(5) require that State agencies make all reasonable efforts to resolve any conflicts with other public agencies with respect to confidentiality of the information described in paragraph (4) by entering into memoranda of understanding that narrowly limit disclosure of information, consistent with the requirements described in paragraph (4).".

SEC. 8. TRANSPORTATION.

(a) ESTABLISHMENT.—Title III of the Act (42 U.S.C. 3021 et seq.) is amended by adding at the end the following new part:

"PART H—TRANSPORTATION FOR OLDER INDIVIDUALS

"SEC. 381. TRANSPORTATION SERVICES.

"(a) AUTHORIZATION.—The Assistant Secretary shall carry out a program for making grants to States under State plans approved under section 307 to provide transportation services under this Act. Services provided under this part shall include services to facilitate access to supportive services under part B, nutrition services under part C, health care, and other important services.

"(b) CONSULTATION.—In carrying out this title, the Assistant Secretary shall consult, and enter into memoranda of understanding, where appropriate, with the heads of other Federal agencies, including the Administrator of General Services, the Secretary of Transportation, and the Secretary of Education, in order to obtain policy guidance and to augment available resources for transportation services.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 303 of the Act (42 U.S.C. 3023) is amended by adding at the end the following new subsection:

"(i) There are authorized to be appropriated such sums as may be necessary for fiscal year 1992 and each of the subsequent fiscal years, for the purpose of carrying out part H (relating to transportation services).".

SEC. 9. OMBUDSMAN DEMONSTRATION PROJECTS.

(a) DEMONSTRATION PROJECTS.—Section 427(a) of the Act (42 U.S.C. 3035f(a)) is amended by inserting ", legal assistance agencies," after "ombudsman program".

(b) REAUTHORIZATION.—Section 431(a)(2) of the Act (42 U.S.C. 3037(a)(2)) is amended—

(1) in the first sentence, by striking "$1,000,000 for fiscal year 1989" and inserting "$1,000,000 for fiscal year 1992"; and

(2) in the second sentence, by striking "fiscal year 1990" and inserting "fiscal year 1993".

SEC. 10. LONG-TERM CARE SERVICES.

(a) ESTABLISHMENT.—Title IV of the Older Americans Act of 1965 (42 U.S.C. 3030aa et seq.) is amended by adding at the end the following new section:

"SEC. 429. LONG-TERM CARE DEMONSTRATION PROJECTS.

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

"(1) LONG-TERM CARE SERVICE.—The term 'long-term care service' means one of a broad continuum of services that shall include institutional care and community-based health and social services.

"(2) OLDER INDIVIDUAL.—The term 'older individual' has the meaning given the term in section 302(9).

"(b) ESTABLISHMENT.—The Assistant Secretary shall establish not fewer than eight demonstration projects to determine the feasibility of using the aging network as the infrastructure for a comprehensive long-term care system. The Assistant Secretary shall award grants to State agencies and, in consultation with State agencies, to area agencies on aging, to pay for the costs of carrying out the projects.

"(c) USE OF GRANTS.—An agency shall use a grant awarded under subsection (b) to carry out a demonstration project in which the agency—

"(1) implements an integrated system of long-term care services, with a single point of entry for all recipients of the services and a mechanism for managing the care process across a range of settings; or

"(2) evaluates the effectiveness of an integrated system of long-term care services, as described in paragraph (1), that exists on the date of the enactment of this Act.

"(d) AWARD OF GRANTS.—In making grants to agencies under subsection (b), the Assistant Secretary shall—

"(1) award an appropriate number of grants to agencies that serve individuals with the greatest social and economic need, including minorities;

"(2) award an appropriate number of grants to agencies that serve predominantly rural communities; and

"(3) distribute an appropriate number of grants among agencies that use different administrative approaches to implementing a system providing long-term care services, such as—

"(A)(i) agencies that separate the case assessment and case management functions of the system, as described in subparagraphs (A) and (B) of subsection (e)(1); and

"(ii) agencies that merge the case assessment and case management functions;

"(B)(i) agencies in communities in which multiple agencies provide long-term care services; and

"(ii) agencies in communities in which a single agency provides the services; and

"(C)(i) agencies with a high ratio of clients to case managers; and

"(ii) agencies with a low ratio of clients to case managers.

"(e) APPLICATION.—To be eligible to receive a grant under this section, a State agency shall submit an application jointly with an area agency on aging, at such time, in such manner, and containing such information as the Assistant Secretary may prescribe. At a minimum, the application shall include information that—

"(1) demonstrates the ability of the area agency on aging to establish an effective system of long-term care services that—

"(A) utilizes case assessors to perform case assessment functions, including—

"(i) assessing the financial status, disability status, and social services needs of individuals who enter the system;

"(ii) determining the eligibility of each such individual for long-term care services, both public and private;

"(iii) screening each such individual to determine whether the individual should be referred to a case manager or assisted in institutional placement; and

"(iv) periodically auditing case managers; and

"(B) utilizes case managers to perform case management functions, including—

"(i) coordinating the provision of long-term care services;

"(ii) working with families to develop individual care plans, and overseeing the plans;

"(iii) authorizing long-term care services and funding;

"(iv) monitoring and accounting for the provision and use of the services and funding;

"(v) making periodic reassessments to determine whether changes in the amount or type of the services are warranted; and

"(vi) coordinating long-term care services for individuals with all other appropriate public and private entities to the greatest extent possible;

"(2) provides assurances that the agency will take such measures as the Assistant Secretary may determine to be necessary to minimize conflicts of interest in systems in which the agency merges the case assessment functions described in paragraph (1)(A) and the case management functions described in paragraph (1)(B);

"(3) demonstrates an ability to provide sufficient training and to enforce adequate certification requirements so that case assessors and case managers can perform the functions described in subparagraphs (A) and (B) of paragraph (1), respectively;

"(4) certifies that the area agency on aging has the authority to authorize and administer services and benefits under title XIX and title XX of the Social Security Act (42 U.S.C. 1396 et seq. and 1937 et seq.);

"(5) demonstrates the capacity to work with other social services agencies in implementing the system;

"(6) demonstrates a presence within the community and the ability to develop an effective mechanism for outreach within the community; and

"(7) provides assurances that, if the agency receives fees for providing any or all long-term care services under contract with private insurers, the agency will make all reasonable efforts to avoid any agreement or contract that—

"(A) obligates the agency to promote a company or the products of the company; or

"(B) places the agency in a conflict of interest with the public mission of the agency.

"(f) EVALUATION AND REPORT.—

"(1) EVALUATION.—The Assistant Secretary shall establish procedures for evaluating, and shall evaluate, the demonstration projects established under this section to determine the appropriateness of the aging network for implementing, and the capability of the network to implement, a system for the provision of long-term care services. In conducting the evaluation, the Assistant Secretary shall take into account variations in administrative approaches toward providing the services, including but not limited to—

"(A) the effectiveness of merging the case assessment and case management functions

described in subparagraph (A) and (B) of subsection (e)(1), respectively, as opposed to separating the functions;

"(B) the impact of providing services through multiple agencies in a community, as opposed to providing the services through a single agency; and

"(C) the impact of systems with a high ratio of clients to case managers, as opposed to systems with a low ratio.

"(2) ANNUAL REPORT.—The Assistant Secretary shall include in the annual report to the Congress required by section 207—

"(A) the evaluation described in paragraph (1);

"(B) information on the impact of grants made under this section; and

"(C) information on the experiences of grantees in meeting the requirements of this section.

"(g) MAINTENANCE OF EFFORT.—Funds made available to carry out this section shall be in addition to, and may not be used to supplant, any funds that are or would otherwise be expended under any Federal, State, or local law by a State or unit of general purpose local government (including area agencies on aging that have in the planning and services areas of the agencies existing services that primarily provide long-term care services for older individuals).".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 431 of the Act (42 U.S.C. 3037) is amended—

(1) in subsection (a)—

(A) by striking "the provisions of this title (other than sections 427 and 428)" and inserting "sections 401 through 426,"; and

(B) by adding at the end the following new paragraph:

"(4) There are authorized to be appropriated to carry out section 429, $5,000,000 for each of the fiscal years 1992 through 1994, of which—

"(A) not less than $400,000 shall be used in each fiscal year for making grants for each demonstration project described in section 429(c)(1); and

"(B) not more than $500,000 shall be used in each fiscal year for making grants for each demonstration project described in section 429(c)(2).."; and

(2) in subsection (b), by striking "this title (other than sections 427 and 428)" and inserting "sections 401 through 426".

SEC. 11. LEGAL ASSISTANCE GRANTS.

(a) ESTABLISHMENT.—Title IV of the Act (as amended by section 10(a) of this Act) is further amended by adding at the end the following new section:

"SEC. 430. LEGAL ASSISTANCE GRANTS.

"(a) ESTABLISHMENT.—The Assistant Secretary shall establish a program of grants to State agencies to support and assist older individuals by providing legal assistance in areas such as living wills, durable powers of attorney, and other life planning areas.

"(b) APPLICATION.—To be eligible to receive assistance under this section, a State agency shall submit an application to the Assistant Secretary at such time, in such manner, and containing such information as the Assistant Secretary shall require.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 431(a) of the Act (42 U.S.C. 3037(a)) (as amended by section 10(b) of this Act) is further amended by adding at the end the following new paragraph:

"(5) There are authorized to be appropriated to carry out section 430, $2,000,000 for each of the fiscal years 1992 through 1994.".

SEC. 12. ELEVATION OF STATUS OF THE COMMISSIONER ON AGING TO ASSISTANT SECRETARY.

(a) OLDER AMERICANS ACT OF 1965.—The Act is amended—

(1) in section 102(2) (42 U.S.C. 3002(2)), by striking "Commissioner" each place the term appears and inserting "Assistant Secretary";

(2) in section 201 (42 U.S.C. 3011)—

(A) in subsection (a)—

(i) in the first sentence, by striking "(hereinafter in this Act referred to as the 'Administration') which shall be headed by a Commissioner on Aging (hereinafter in this Act referred to as the 'Commissioner')" and inserting ", which shall be headed by an Assistant Secretary of Aging"; and

(ii) in the third, fourth, and fifth sentences, by striking "Commissioner" each place the term appears and inserting "Assistant Secretary";

(B) in subsection (b), by striking "Commissioner" and inserting "Assistant Secretary"; and

(C) in subsection (c)—

(i) in paragraphs (2) and (3), by striking "Associate Commissioner" and inserting "Deputy Assistant Secretary"; and

(ii) except as provided in clause (i) of this subparagraph, by striking "Commissioner" each place the term appears and inserting "Assistant Secretary";

(3) in section 202 (42 U.S.C. 3012), by striking "Commissioner" each place the term appears and inserting "Assistant Secretary";

(4) in section 203(a) (42 U.S.C. 3013(a)), by striking "Commissioner" each place the term appears and inserting "Assistant Secretary";

(5) in section 204(d)(3) (42 U.S.C. 3015(d)(3)), by striking "Commissioner" and inserting "Assistant Secretary";

(6) in section 205 (42 U.S.C. 3016), by striking "Commissioner" each place the term appears and inserting "Assistant Secretary";

(7) in section 207 (42 U.S.C. 3018), by striking "Commissioner" each place the term appears and inserting "Assistant Secretary";

(8) in section 211 (42 U.S.C. 2020b), by striking "Commissioner" each place the term appears and inserting "Assistant Secretary of Aging';

(9) in section 212 (42 U.S.C. 2020c)—

(A) by striking "Associate Commissioner" and inserting "Deputy Assistant Secretary"; and

(B) by striking "Commissioner)" and inserting "Assistant Secretary)";

(10) in section 301 (42 U.S.C. 3021), by striking "Commissioner" each place the term appears and inserting "Assistant Secretary";

(11) in section 304 (42 U.S.C. 3024), by striking "Commissioner" each place the term appears and inserting "Assistant Secretary";

(12) in section 305 (42 U.S.C. 3025), by striking "Commissioner" each place the term appears and inserting "Assistant Secretary";

(13) in section 306 (42 U.S.C. 3026), by striking "Commissioner" each place the term appears and inserting "Assistant Secretary";

(14) in section 307 (42 U.S.C. 3027), by striking "Commissioner" each place the term appears and inserting "Assistant Secretary";

(15) in section 308 (42 U.S.C. 3028), by striking "Commissioner" each place the term appears and inserting "Assistant Secretary";

(16) in section 309(a) (42 U.S.C. 3029(a)), by striking "Commissioner" and inserting "Assistant Secretary";

(17) in section 310 (42 U.S.C. 3030), by striking "Commissioner" each place the term appears and inserting "Assistant Secretary";

(18) in section 311(a)(4) (42 U.S.C. 3030a(a)(4)), by striking "Commissioner" and inserting "Assistant Secretary";

(19) in section 312(2) (42 U.S.C. 3030b(2)), by striking "Commissioner" and inserting "Assistant Secretary";

(20) in section 313(a) (42 U.S.C. 3030c(a)), by striking "Commissioner" and inserting "Assistant Secretary";

(21) in section 321 (42 U.S.C. 3030d), by striking "Commissioner" each place the term appears and inserting "Assistant Secretary";

(22) in section 331 (42 U.S.C. 3030e), by striking "Commissioner" and inserting "Assistant Secretary";

(23) in section 336 (42 U.S.C. 3030f), by striking "Commissioner" and inserting "Assistant Secretary";

(24) in section 337 (42 U.S.C. 3030g), by striking "Commissioner" and inserting "Assistant Secretary";

(25) in section 341(a) (42 U.S.C. 3030h(a)), by striking "Commissioner" and inserting "Assistant Secretary";

(26) in section 351 (42 U.S.C. 30301), by striking "Commissioner" each place the term appears and inserting "Assistant Secretary";

(27) in section 361 (42 U.S.C. 3030m), by striking "Commissioner" each place the term appears and inserting "Assistant Secretary";

(28) in section 371 (42 U.S.C. 3030p), by striking "Commissioner" and inserting "Assistant Secretary";

(29) in section 402 (42 U.S.C. 3030bb), by striking "Commissioner" each place the term appears and inserting "Assistant Secretary";

(30) in section 411 (42 U.S.C. 3031), by striking "Commissioner" each place the term appears and inserting "Assistant Secretary";

(31) in section 412 (42 U.S.C. 3032), by striking "Commissioner" each place the term appears and inserting "Assistant Secretary";

(32) in section 421 (42 U.S.C. 3035), by striking "Commissioner" each place the term appears and inserting "Assistant Secretary";

(33) in section 422 (42 U.S.C. 3035a), by striking "Commissioner" each place the term appears and inserting "Assistant Secretary";

(34) in section 423 (42 U.S.C. 3035b), by striking "Commissioner" each place the term appears and inserting "Assistant Secretary";

(35) in section 424 (42 U.S.C. 3035c), by striking "Commissioner" each place the term appears and inserting "Assistant Secretary";

(36) in section 425 (42 U.S.C. 3035d), by striking "Commissioner" each place the term appears and inserting "Assistant Secretary";

(37) in section 427 (42 U.S.C. 3035f)—

(A) in subsection (a), by striking "Commissioner" and inserting "Assistant Secretary"; and

(B) in subsection (b), by striking "Commissioner on Aging" each place the term appears and inserting "Assistant Secretary";

(38) in section 428 (42 U.S.C. 3035g), by striking "Commissioner" each place the term appears and inserting "Assistant Secretary";

(39) in section 431(c)(1) (42 U.S.C. 3037(c)(1)), by striking "Commissioner" and inserting "Assistant Secretary";

(40) in section 432 (42 U.S.C. 3037a), by striking "Commissioner" each place the term appears and inserting "Assistant Secretary";

(41) in section 433 (42 U.S.C. 3037b), by striking "Commissioner" each place the

term appears and inserting "Assistant Secretary";

(42) in section 503(a) (42 U.S.C. 3056a(a)), by striking "Commissioner of the Administration on Aging" and inserting "Assistant Secretary";

(43) in section 505(a) (42 U.S.C. 3056c(a)), by striking "Commissioner of the Administration on Aging" and inserting "Assistant Secretary";

(44) in section 613 (42 U.S.C. 3057d), by striking "Commissioner" and inserting "Assistant Secretary";

(45) in section 614 (42 U.S.C. 3057e), by striking "Commissioner" each place the term appears and inserting "Assistant Secretary";

(46) in section 623 (42 U.S.C. 3057i), by striking "Commissioner" and inserting "Assistant Secretary";

(47) in section 624 (42 U.S.C. 3057j), by striking "Commissioner" each place the term appears and inserting "Assistant Secretary";

(48) in section 631 (42 U.S.C. 3057l), by striking "Commissioner" and inserting "Assistant Secretary"; and

(49) in section 632 (42 U.S.C. 3057m), by striking "Commissioner" and inserting "Assistant Secretary".

(b) EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code, is amended in the item regarding Assistant Secretaries of Health and Human Services by striking "(5)" and inserting "(6)".

(c) NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES ACT OF 1965.—Section 9(b) of the National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 958(b)) is amended by striking "Commissioner on Aging" and inserting "Assistant Secretary of Aging".

(d) HOME HEALTH CARE AND ALZHEIMER'S DISEASE AMENDMENTS OF 1990.—Section 302(a) of the Home Health Care and Alzheimer's Disease Amendments of 1990 (42 U.S.C. 242q-1(a)) is amended by striking "Commissioner on Aging" and inserting "Assistant Secretary of Aging".

(e) NATIONAL SCHOOL LUNCH ACT.—Section 17(o)(3)(A) of the National School Lunch Act (42 U.S.C. 1766(o)(3)(A)) is amended by striking "Commissioner on Aging" and inserting "Assistant Secretary of Aging".

(f) ALZHEIMER'S DISEASE AND RELATED DEMENTIAS SERVICES RESEARCH ACT OF 1986.—Sections 911(a)(8) and 921(a)(2) of the Alzheimer's Disease and Related Dementias Services Research Act of 1986 (42 U.S.C. 11211(a)(8) and 11221(a)(2)) are amended by striking "Commissioner on Aging" and inserting "Assistant Secretary of Aging".

SEC. 13. TECHNICAL AND CONFORMING AMENDMENTS.

(a) DEFINITIONS.—Section 302 of the Act (42 U.S.C. 3022) is amended by redesignating paragraphs (14) through (21) as paragraphs (12) through (19), respectively.

(b) STATE PLANS.—Section 307(a)(31)(A)(i) of the Act (42 U.S.C. 3027(a)(31)(A)(i)) is amended by striking "(as defined in section 302(20))".

U.S. SENATE,
SPECIAL COMMITTEE ON AGING,
Washington, DC, April 15, 1991.

DEAR COLLEAGUE: This year the Older Americans Act (OAA) (the Act) is scheduled for reauthorization. On Tuesday, April 23, I will introduce legislation amending the Act and I would like to take this opportunity to invite you to become an original cosponsor.

The amendments I am proposing will not dramatically restructure the Act's provisions, but will rather build upon the solid foundation laid by the OAA. It is my hope that this legislation will be incorporated into the OAA reauthorization amendments now under consideration by Labor and Human Resources Subcommittee on Aging.

My proposal will include significant modifications in information and referral programs, legal assistance, ombudsman services, and the role of the Administration on Aging. In addition, I will propose to establish senior transportation as a separate subtitle within Title III of the OAA and a demonstration project to determine how effectively the Act's Aging Network can serve as an important cornerstone for the delivery of long-term care services.

Although transportation was traditionally viewed as an urban issue it now represents a number one priority for many aging advocates concerned with rural health and social service needs of older Americans. Today, almost 50 percent of rural counties in the United States do not have a public transit system and nearly 60 percent of the elderly are not licensed to drive. When transportation is provided, the elderly take advantage of it at three times the rate of their population. In addition, it is estimated that 30 percent of the nation's elderly individuals experience restricted mobility due to lack of access to transportation. It is my belief that a separate subtitle for transportation will highlight this desperately needed service, as well as attract additional funding.

Last year, the Pepper Commission identified the need for an infrastructure to support any future long-term care system. In order to build upon the Commission's suggestions, and to explore new ways to ensure the continued independence of our nation's seniors, my proposal will include authorization of a demonstration project that will examine whether the Aging Network can effectively serve as the infrastructure for an integrated system of long-term care services ranging from institutional care to community-based social services.

Under the proposed project, Area Agencies on Aging would serve as the central point where older individuals access the long-term care system, providing assessment, referral, and coordination with other appropriate private and public funding entities. A $5 million authorization level will be proposed for funding this demonstration project for each of the fiscal years 1992-94.

While fiscal restraints currently make it extraordinarily difficult to provide for a comprehensive long-term care program, we cannot continue to ignore the reality of the growing long-term care needs of our ever increasing elderly population. Regardless of how we as a nation decide to address the long-term care challenge, we must begin to take steps necessary for us to effectively meet this challenge. I believe the Pepper Commission demonstration project is one way we can accomplish this goal.

The reauthorization of the OAA presents us with a unique opportunity to illustrate our continuing strong support for this tremendously successful program and to make contributions to make it even better. I believe my bill will serve as one important vehicle to accomplish these positive goals. After reviewing the enclosed specifications and legislative language I hope you will come to the same conclusion. Already, a number of major aging advocacy organizations have offered their support for this bill including, the American Association of Retired Persons and the National Association of Area Agencies on Aging.

This package of OAA amendments will make significant improvements to the Act. However, all combined the legislation will require no more than $8 million a year in new authorizations.

If you have any questions, or wish to cosponsor this bill, please feel free to contact me, or Anna Kindermann of my staff at 4-5364. I look forward to working with you on this important legislation.

Sincerely,

DAVID PRYOR,
Chairman.

HEINZ ELDER LIFE PROGRAM ACT

Section 1.—Special demonstration and support project for implementing the Pepper Commission recommendations for long-term care. Add the following section to Title IV: Revise, build upon and update the language in Sec. 423 to incorporate the following provisions:

The Commissioner shall make grants to selected State agencies, and in consultation with State agencies, selected Area Agencies on Aging, to demonstrate and evaluate the Aging Network as an infrastructure for implementing the Pepper Commission's recommendations for long-term care;

To carry out this project selected Area Agencies on Aging shall be designated to serve as the central point where older Americans access the long-term care system, providing assessment, referral, and coordination with other appropriate public and private entities that fund services (language should reflect that the additional responsibilities of the AAAs by no means be to the exclusion of social services currently provided under the Act, but rather shall build upon the structure of the already established Aging Network); and

There are authorized to be appropriated $5 million for each of the fiscal years 1992 through 1994 to carry out the provisions of this section.

Section 2. Transportation.—Establish senior transportation as a separate subtitle under Title III (Part H); and

Pursuant to Title II, Sec. 205(b), the Commissioner shall be required to utilize the Department of Transportation as well as the Department of Education in order to augment available resources and vehicles for transportation services.

Section 3. Information and Assistance.—Add to Title II, Sec. 202(a) "establish information and assistance as a priority service for the aged and aging".

Modify the definition of information and referral under Title II to include the following:

Assesses the problems and capacities of older individuals, links older individuals to the opportunities and services which are available, and ensures that these individuals receive the services they need and the opportunities available to them by establishing adequate follow-up procedures;

A supportive service which provides older Americans with current information with respect to all opportunities and services available to older individuals within their communities; and

Serves the entire older community.

Section 4. Ombudsman Services.—Amend Title III, Sec. 307(a)(12)(G) by including a provision (iii) encourage memoranda of understanding between legal assistance providers and ombudsman providers that will assure that these services are coordinated to the greatest extent possible.

Amend Title III, Sec. 371(4) to include a provision that State Agencies will make all reasonable efforts to resolve any conflicts

with other public agencies with respect to confidentiality of older individuals' records.

Reauthorize Sec. 427, Demonstration Project exploring coordination between the ombudsman program and protection and advocacy systems, adding to the project legal assistance. There are authorized to be appropriated $1 million for fiscal year 1992. Such sums shall remain available for expenditure for fiscal year 1993.

Amend Title II, Sec. 301(c) by adding at the end the following: "Such assistance shall include assistance in recruiting volunteers for ombudsman programs by establishing a national program for such efforts.

Section 5. Legal Assistance—Amend Title III, Sections 306 and 307 with respect to legal assistance programs to include the following provision, "priority ought to be given to legal problems in areas of income, health care and long-term care, nutrition, housing and utilities, defense of guardianships and age discrimination;"

Add to Title II, Sec. 202(a): develop standards for Area Agencies on Aging to follow in choosing and evaluating providers of legal assistance;

Add to Title III, Sec. 306 to include a provision which provides for the establishment of an informal grievance procedure for older Americans when they are denied services, with further appeal to the local area agency on aging; and

Add to Title IV, AoA shall establish a program of grants to state agencies to provide for the establishment of a program to support and assist older Americans who need protective services in areas such as living wills, durable powers of attorney, and other life planning areas. There are authorized to be appropriated $2 million for each of fiscal years 1992–1994 to carry out this program.

Section 6. Elevation of Status of the Commissioner on Aging to Assistant Secretary.

Section 7. Data Collection.—Add to Title II, Sec. 202: Establish a blue ribbon panel to study existing reporting requirements and make legislative and regulatory recommendations that achieve to the greatest extent possible the following objectives:

1. Collection of detailed national information about monetary expenditures for Title III services;

2. Collection of data to effectively measure compliance with the Administration's regulations and mandates;

3. Minimization of duplication with reporting requirements of other Federal, State and private programs;

4. Collection of accurate information concerning social, economic, and demographic characteristics of program participants;

5. Collection of data to measure the impact of nutrition services on elderly beneficiaries; and

7. Other important objectives.

Mr. BURDICK. Mr. President, I am pleased to be an original cosponsor of the Older Americans Act Amendments of 1991. For 25 years, the Older Americans Act has played an important role in helping America's elderly. These amendments will help our Nation more fully address the needs of our rapidly aging population.

As cochair of the Senate Rural Health Caucus, I am particularly concerned with the availability of services to elderly residents of isolated rural communities. My home State of North Dakota has a shortage of health and social service professionals serving rural areas. Seniors, who generally have a greater need for these services, must now travel greater distances to find them. This legislation authorizes a demonstration project using area agencies on aging to refer older individuals to appropriate facilities in the long-term care system. If successful, this program could help rural seniors receive the care they need more quickly and efficiently.

I am pleased that this legislation creates a separate transportation title to stress the importance of transportation systems to the elderly. With nearly half of our rural counties lacking a public transit system and 30 percent of older Americans' activities restricted due to lack of access, there is a tremendous need across this nation for better transportation services.

Native Americans have a long history of venerating the elderly. At the very least, we should make sure we address the health care and social service needs of our senior population, particularly the increasing number over age 85. The Older Americans Act Amendments of 1991 will be a major step forward in helping the seniors of North Dakota and the rest of the country maintain self-sufficiency and dignity.

Mr. SANFORD. Mr. President, I am pleased that one of my first acts as the newest member of the Senate Special Committee on Aging is to cosponsor the Older Americans Act amendments.

Since its inception in 1965, the Older Americans Act has provided Federal funding for many far-ranging social services of vital importance to our Nation's senior citizens. Services include congregate and home-delivered meals, ombudsman activities, activities to prevent the abuse of the elderly, and in-home supportive services. The activities made possible for the past 25 years through the Older Americans Act assist millions of older adults in maintaining independence and dignity, social relationships, access to community services, and various opportunities for interaction which enrich their daily lives.

Today's introduction of the proposed amendments to the Older Americans Act represents the first step in this year's reauthorization process. These proposed changes modify the Older Americans Act to make it best suited to meet the needs of older adults in the 21st century. The amendments, for example, build on the Pepper Commission's recommendations for long-term care, an issue of major importance to today's senior citizens. In response to our ever-more technical, legalistic society, the amendments also improve information and referral systems, ombudsman services and legal assistance programs. Of particular interest to older Americans in my state of North Carolina, the amendments emphasize the need for improved transportation services in rural areas.

I commend Senator PRYOR for his leadership in this area. I look forward to working with him and with the Special Committee on Aging as we prepare to reauthorize the Older Americans Act.

By Mr. BAUCUS (for himself, Mr. CHAFEE, and Mr. BURDICK):

S. 976. A bill entitled the "Resource Conservation and Recovery Act Amendments of 1991"; to the Committee on Environment and Public Works.

RESOURCE CONSERVATION AND RECOVERY ACT AMENDMENTS

• Mr. BAUCUS. Mr. President, I rise to introduce the Resource Conservation and Recovery Act Amendments of 1991, along with the cosponsorship of Chairman BURDICK of the Committee on Environment and Public Works and Senator CHAFEE, who serves both as the ranking full-committee Republican and the ranking Republican of my Environmental Protection Subcommittee.

Mr. President, the RCRA Amendments of 1991 is a major, comprehensive piece of environmental legislation. It seeks to reorient what has come to be known as our "throwaway society." It will affect the consumer, the homeowner, the worker, and the manufacturer.

The bill which we are introducing today directly addresses the concerns of the American people. Since its enactment in 1976, the Resource Conservation and Recovery Act, or, RCRA, has focused on the management of wastes once produced. This bill takes the title of the solid waste disposal statute more seriously. It puts real resource conservation and recovery into the law. It establishes a new environmental hierarchy in solid waste. At the top will be toxics use and source reduction in order to eliminate the use of unnecessary hazardous substances and to minimize the generation of wastes in the first instance.

The next rung of the environmental ladder is recycling of municipal wastes. Creating new substances from secondary or recyclable materials can save natural and energy resources, minimize the use of incineration, and preserve landfill space. Waste treatment would be the third priority and, finally, containment or incineration.

I have concluded that this redirection of the RCRA statute is necessary because we are overwhelming ourselves with garbage and we are runnng out of safe and secure places in which to place it. Individually, we each toss out about 1,500 pounds of trash. And this doesn't even count all the industrial waste produced in the manufacture of products.

We are creating mountains of garbage and dumping much of it into landfills that do, or will, leak. Many of our industrial landfills and surface impoundments are leaking, as well. We no longer have the luxury of concentrating on the regulation of wastes after

their generation. Rather, we must reduce, or eliminate, their production in the first place. And then, to foster as much materials recycling and composting as possible.

And to make it work, everyone, the manufacturer, the packager, the consumer, recycler, and generator, not to mention the householder, will have to pitch in and shoulder more of the burden and responsibility for the public's environmental good.

Cities and States will be required to do more. And the Federal Government will need to provide new and creative leadership.

That leadership will include discouraging waste diposal by making it more expensive. But it will also encourage recycling and reduction in the use of hazardous substances and hazardous waste generation. These goals can be achieved by providing economic incentives, whether by opening profit making opportunities, or by avoiding costs such as landfill tipping fees and liability insurance.

An important byproduct of waste reduction and recycling efforts will be better protection of the public's health as some wastes, especially those containing potentially hazardous substances, are diverted from landfills where they might migrate into ground water and from incinerators where they might be emmitted into the air.

I am also convinced that an emphasis on waste reduction and recycling will cause American industry to look more closely at its manufacturing processes—without Federal interference, I would emphasize—and in doing so, it will develop heretofore unrealized efficiencies. Such efficiency improvements can help make American goods more competitive.

This bill would close down the sham recycling loophole. It would assure that recycling businesses actually recover materials and have real markets for such materials. However, it avoids complex and costly rules that could stymie legitimate recycling efforts.

In the waste reduction arena, this legislation would assist in the elimination of excess packaging, and would reduce or eliminate the use of toxic or hazardous substances in products and packaging. The RCRA Reauthorization Act of 1991 also provides an important tool for industrial facilities to develop and implement plans to reduce the use of toxic substances and the generation of hazardous wastes.

This will challenge plant engineers and managers to find substitutes for some of their toxic materials, to reformulate processes, to improve housekeeping procedures, and in general, to operate more efficiently. But then, this is just good business practice. And, it is sound environmental policy.

If waste reduction is the first critical element of a sound solid waste policy, then recycling is the second. In the United States today, however, we recycle only 13 percent of our trash.

While we are recycling over 60 percent of all aluminum cans that we use annually, only 1 percent of plastics get similar treatment.

We can do better—much better. The bill we are introducing includes a number of initiatives to move us along this path.

It is important that we set overall recycling rates. This bill establishes a 25-percent goal by 1995 and a 50-percent goal by 2000. But overall goals, by themselves, are not enough. Rather, each commodity of importance to the recycling effort must be dealt with individually if the amount of actual recycling is to be maximized. Different commodities may need different incentives. And, in fact, different commodities are at different stages in recycling market development.

Let me also say that I am concerned about recycling in rural areas. Too often experts in the field are quick to write off rural America from the recycling efforts because of the transportation costs associated with getting recyclable materials to the appropriate markets.

Well, I'm not going to write off rural Americans. Like the rest of us, they're very interested in recycling what they can. Our bill provides for a Rural Recycling Demonstration Program that will help to ensure the involvement of rural Americans in recycling efforts. And by involving them, and all other citizens, recycling will be a national phenomenon—not just an urban fad.

The bill strengthens Federal procurement of goods with recycled content. But Government purchases alone will not make recycling a permanent fixture on the American landscape. We need to have an adequate supply of recyclable materials. Curbside and other community recycling are springing up all over America to resolve this issue. Indeed, with enactment of this bill, more and more communities are likely to do so.

But somebody must use the recyclable materials collected in these programs. The RCRA Reauthorization Act Amendments of 1991 responds to this demand-side issue by requiring minimum content standards, or utilization rates, for various commodities. This will ensure that once collected, recyclable materials won't simply pile up. They will be used, or reused, as useful, new products.

With a broad combination of programs, we can reinforce the value—to the economy, to the environment, and to society—of reuse rather than disposal. Individuals and businesses should see their disposal policies as a conscious choice. And we must reward the right choice.

We must make it easier to choose recycling. We must make it cheaper to recycle than to discard. We must fashion policies that favor the nondisposal alternative.

While I believe that the Federal Government must play a vigorous role in solid waste management, it must not interfere with State and local solid waste management responsibilities. Siting and land use planning, among other activities, are appropriately left to States and localities.

At the same time, however, we ought to have Federal environmental standards for our waste management and recycling facilities. All waste sites—municipal and private landfills and nonhazardous industrial waste lagoons among them—must meet these standards. This will ensure the safe management of our wastes. It will also ensure that no one area will become a pollution haven. And, it will help to restore public confidence in waste management practices.

One of the toughest issues I have had to deal with in this legislation—and one that is of keen interest to many of my colleagues—is that of the interstate transportation of municipal waste.

I have spent considerable time trying to balance the various concerns some of my colleagues have expressed about this matter. While I don't claim perfection, I think my proposal will be fair to all concerned.

It will allow importing States to impose fees on waste exported from other States. And, States that have approved waste management plans of their own may ban the import of waste outright.

In conclusion, I wish to say to my colleagues that there is no simple answer to our solid waste problems. There is no silver bullet solution.

We have tried to create in this legislation a program that recognizes that our waste problems are interrelated. We desperately need a comprehensive solid waste solution, even if that means trying something totally new and different.

The problems and issues that I have been discussing are very complex. Each of my colleagues may have an interest in some aspect of this bill. And so I say to you—let the debate begin today. Let us work together to find the best solutions by which our Nation can resolve its outstanding environmental problems.

And speaking of working together, I would share some thoughts with the administration, which has yet to engage on this matter. An environmental Presidency does not end with the Clean Air Act. The administration was a significant player during the clean air debate. The President's own involvement and commitment assisted us in passing a good, proenvironment bill.

I would suggest that the administration join us in addressing this issue. The American people want action—soon. On recycling, on waste reduction, on solid waste matters, generally. The

administration's participation, now, would help speed up the legislative process.

Mr. President, this bill is a starting point. It is not the final word. Above all, this is a focus for the hearings, which will begin next month. Through the testimony, we hope to improve and refine this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD along with a section-by-section summary.

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

S. 976

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

This Act may be cited as the "Resource Conservation and Recovery Act Amendments of 1991".

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TITLE I—GENERAL AMENDMENTS

SEC. 101. CONGRESSIONAL FINDINGS.—(a) Section 1002(b) of the Solid Waste Disposal Act is amended as follows:

(1) strike "and" at the end of paragraph (7);

(2) strike the period at the end of paragraph (8) and insert in lieu thereof a semicolon; and

(3) add the following after paragraph (8):

"(9) the Nation continues to generate substantial and increasing volumes of both hazardous and solid waste each year which may pose a threat to human health and the environment if not properly managed; and

"(10) new waste management facilities are not being sited and many communities are managing waste in existing facilities without the best available environmental controls, or are engaged in long-distance transportation of wastes to other management and disposal facilities in other States, or both.".

SEC. 102. OBJECTIVES AND NATIONAL POLICY.—(a) Section 1003(a)(4) of the Solid Waste Disposal Act is amended by inserting "and solid waste" after "hazardous waste".

(b) Section 1003(a)(5) of the Solid Waste Disposal Act is amended by inserting "and solid waste" after "hazardous waste".

(c) Section 1003(a)(6) of the Solid Waste Disposal Act is amended by inserting "and solid waste" after "hazardous waste" each time it appears."

(d) Section 1003(a) of the Solid Waste Disposal Act is amended as follows—

(1) strike "and" at the end of paragraph (10);

(2) strike the period at the end of paragraph (11) and insert in lieu thereof a semicolon; and

(3) add the following after paragraph (11)—

"(12) establishing a Federal-State partnership that assures waste management practices protective of human health and the environment; and

"(13) promoting interjurisdictional cooperation in the planning and provision of waste management services.".

(e) Section 1003(b) of the Solid Waste Disposal Act is amended to read as follows—

"(b) NATIONAL POLICY.—(1) The Congress hereby establishes a toxics use and source reduction and waste management policy that gives highest priority: first, to toxics use and source reduction, second, to recycling, third, to waste treatment and fourth, to contained disposal and incineration, so as to minimize the present and future threat to human health and the environment and to maximize energy efficiency and to optimize the use of resources.

"(2) The Congress hereby declares it to be the national policy of the United States that the most effective means to protect human health and the environment is through the elimination or reduction of hazardous substances used in production activities or generated as solid or hazardous waste.

"(3) The Congress hereby further declares it to be the national policy of the United States that, wherever feasible, hazardous substances in wastes shall be eliminated or reduced through product redesign, process modification, materials substitution, packaging redesign, and other resource conservation measures to reduce both the toxicity and the volume of such wastes. Wastes that are nevertheless generated should be recycled including the utilization of materials within a manufacturing process, and should be recycled to the maximum extent consistent with market demand for recycled materials.".

SEC. 103. GENERAL AUTHORIZATION.—Section 2007(a) of the Solid Waste Disposal Act is amended by striking "and" after "1987" and inserting before the period at the end thereof ", and $140,000,000 for each of the fiscal years 1992 through 1996".

SEC. 104. DEFINITIONS.—Section 1004 of the Solid Waste Disposal Act is amended by adding at the end thereof—

"(40) The term 'solid waste incineration unit' shall have the meaning provided in section 129(g)(1) of the Clean Air Act.

"(41) The Term 'hazardous substance' means (A) any substance designated pursuant to section 311(b)(2)(A) of the Federal Water Pollution Control Act, (B) any element, compound, mixture, solution, or substance designated pursuant to section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act, (C) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of this Act, (D) any toxic pollutant listed under section 307(a) of the Federal Water Pollution Control Act, (E) any hazardous air pollutant listed under section 112 of the Clean Air Act, (F) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 7 of the Toxic Substances Control Act, (G) any substance listed pursuant to section 302 or 313 of Title III of the Emergency Planning and Community Right-to-Know Act, and (H) any contaminant regulated pursuant to the Safe Drinking Water Act.

"(42) The term 'release' means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles) of any hazardous substance.

"(43)(A) The Term 'toxics use and source reduction' means any practice, process, or activity that reduces or eliminates the quantity and toxicity of hazardous substances used in production processes or generated as solid or hazardous waste during production activities prior to recycling or solid hazardous waste management.

"(B) The term 'toxics use and source reduction' does not include hazardous and solid waste management, or physical, chemical, or biological treatment designed to prevent releases of hazardous substances that have been produced or otherwise created.

"(C) The term 'toxics use and source reduction' includes, but is not limited to, equipment modifications; process changes; materials or feedstock substitution; design modifications; technological modifications; modifications in the production activities including housekeeping practices, training and inventory controls; operating efficiencies; product reformulation and product redesign.

"(44) The term 'recycling' means any process by which solid waste or secondary materials are collected, diverted from a waste stream, separated, or processed to reclaim useful materials which are used or reused as either a raw material or a product, including the adaptation of the material to a new use or function without processing but such term does not include combustion of waste for purposes of energy recovery or volume reduction or use constituting disposal of any solid wastes or secondary material or hazardous secondary materials.

"(45) The term 'secondary materials' includes any intentional or unintentional byproduct or process residue that is recycled that results from any manufacturing, extraction, servicing, or other processing (including pollution control) or use, or any material that is spent, contaminated, or out of date, and is recycled and would be a solid waste except for the fact it is not discarded.

"(46) The term 'hazardous secondary materials' means a secondary material that is recycled and would be required to be managed as a hazardous waste except for the fact that it is not discarded.

"(47) The term 'reclaim' means to recover material values (such as metallic elements) from secondary materials, which are then used as raw materials for another industrial process, or to regenerate a material (such as a solvent) by removing contaminants that render it unable to serve the purpose for which it was produced.

"(48) The term 'municipal waste' means refuse (and refuse derived fuel) generated by the general public and from residential, commercial, institutional, and industrial sources consisting of paper, wood, yard wastes, food wastes, plastics, leather, rubber, and other combustible materials and noncombustible materials such as metal, glass and rock, provided that the term does not include (i) industrial process wastes which are not identical to municipal wastes as to physical and chemical state, and composition or (ii) medical wastes that are segregated from or not mixed with such other municipal wastes.

"(49) The term 'toxic chemical' means any substance on the list established pursuant to section 313 of the Emergency Planning and Community Right-to-Know Act.".

"(50) The term 'industrial waste' means any solid waste except—

"(A) hazardous waste;

"(B) municipal solid waste;

"(C) solid waste from the extraction, beneficiation, and processing of ores and minerals, including phosphate rock and overburden from the mining of uranium ore; or

"(D) drilling fluids, produced waters and other wastes associated with the exploration, development or production of crude oil, natural gas, and geothermal energy.

SEC. 105. ADMINISTRATIVE REVIEW OF REGULATIONS.—Subtitle G of the Solid Waste Disposal Act is amended by adding the following new section:

"SEC. 7011. Administrative Review of Regulations.—Whenever the Office of Management and Budget or the Presidents Council on Competitiveness or other body given comparable authority to review regulations pursuant to Executive Order 12291 (hereafter referred to as the "reviewing office"), reviews any Agency rule or regulation (including any proposed, draft, or final rule or regulation) issued under this Act the following procedures shall apply:

"(1) For each agency rule or regulation the reviewing office shall upon receipt of the draft rule or regulation establish a public docket and shall include in such docket the following information:

"(A) copies of all written material received by the office concerning the Agency rule or regulation under review that originates from persons who are not employees of the Federal Government at the time of receipt; and

"(B) a list and a descriptive summary of all meetings and all other communications, including oral communications, with persons who are not employees of the Federal Government concerning the Agency rule or regulation under review promptly after the date of such meeting.

"(2) The reviewing office shall inform the Administrator of all scheduled meetings with persons who are not employees of the Federal Government concerning any Agency rule or regulation under review by the reviewing office and shall provide the Agency with a reasonable opportunity to attend such meetings.

"(3) The Administrator shall place in the rulemaking record for any rule or regulation reviewed by the reviewing office the following information:

"(A) copies of all drafts of any proposed or final rule submitted to the reviewing office for review at the time of submission;

"(B) copies of all written materials pertaining to any proposed rule or final rule submitted to the reviewing office for review at the time of submission; and

"(C) a written explanation of the specific reasons for any significant changes made by the Agency in the draft of any proposed or final rule submitted to the reviewing office for review as a result of such review.

"(4) The time for review of Agency rules or regulations by the reviewing office shall not exceed sixty days following receipt of such submission by the reviewing office. The time for review may be extended for good cause by the reviewing office for an additional thirty days. Notice of any such extension, together with a succinct statement of the reasons therefore, shall be placed in the rulemaking record.

"(5) Nothing in this section alters in any manner—

"(A) rulemaking authority vested by law in the Administrator to initiate or complete a rulemaking proceeding or to issue, modify, or rescind a rule or regulation;

"(B) the criteria for rulemaking applicable under other statutes; or

"(C) any legally applicable deadline for action by the Administrator.".

TITLE II—TOXICS USE AND SOURCE REDUCTION

SEC. 201. TOXICS USE AND SOURCE REDUCTION DATA COLLECTION AND TECHNICAL ASSISTANCE.—(a) The title of subtitle E of the Solid Waste Disposal Act is amended to read "Subtitle E—Toxic Use and Source Reduction".

(b) Sections 5001 through 5006 of the Solid Waste Disposal Act are redesignated as sections 6010 through 6015.

(c) Subtitle E of the Solid Waste Disposal Act is amended by redesignating sections 6604 through 6610 of the Pollution Prevention Act of 1990 (P.L. 101-508) as new sections 5001 through 5007, of the Solid Waste Disposal Act respectively.

(d) Section 5001 of the Solid Waste Disposal Act as redesignated by subsection (c) is amended by adding the following new subsection (a) and redesignating the existing subsections accordingly:

"(a) IN GENERAL.—The Administrator in promulgating or issuing any regulations, guidance or guidelines concerning any standard, policy or other requirement, or in taking any other action under this Act; the Comprehensive Emergency Response, Compensation and Liability Act; the Toxic Substances Control Act, the Federal Water Pollution Control Act; the Clean Air Act; the Emergency Planning and Community Right-to-Know Act; the Safe Drinking Water Act; the Marine Protection, Research, and Sanctuaries Act and the Federal Insecticide, Fungicide, and Rodenticide Act, whether to be implemented by the Administrator, any other Federal department, agency, or instrumentality, any State, any municipality, or any other person; and each State (and political subdivision thereof with responsibility for solid waste management) in developing or implementing any State or regional solid waste management plan under subtitle D of this Act, or in taking any other action required under this Act, is encouraged to make toxic use and source reduction considerations an integral part of the planning and decisionmaking process, to achieve the maximum degree of toxics use and source reduction that is practicable, consistent with other requirements of this Act and other Federal environmental laws. Nothing in this subsection shall alter in any manner any otherwise legally applicable deadline for action by the Agency or State.".

(e) Section 5001(c)(5) of the Solid Waste Disposal Act as redesignated by subsection (c) is amended by inserting: ", local governments, State governments, and Federal departments, agencies and instrumentalities" after "businesses" each time it appears.

(f) Section 5001(c) of the Solid Waste Disposal Act as redesignated by subsection (c) is amended by renumbering paragraph "(8)" as "(7)" and by renumbering the succeeding paragraphs accordingly, and by striking "and" at the end of paragraph (11); by striking the period at the end of paragraph (12) and inserting in lieu thereof a semicolon; adding the following new paragraphs:

"(13) convey to the appropriate Agency offices the nature of any impediments to toxics use and source reduction which are determined to exist with a request for recommendations to eliminate such impediments."

"(14) receive, review, and comment upon toxics use and source reduction strategies developed by other Federal departments, agencies, and instrumentalities.

"(15) provide assistance to the educational community to promote the introduction of toxics use and source reduction principles into design, engineering, management, and environmental sciences curricula.".

(g) Section 5001(c) (8) and (9) of the Solid Waste Disposal Act as redesignated by subsections (c) and (f) is amended to read:

"(8) establish an advisory panel of technical experts comprised of representatives from industry, public interest groups, states, local governments, and other Federal departments, agencies, and instrumentalities to advise the Administrator on ways to improve collection and dissemination of toxics use and source reduction data, and on goals for toxics use and source reduction for industrial categories and subcategories required to report pursuant to section 313 of the Emergency Planning and Community Right-to-Know Act and for other purposes;

"(9) provide for opportunities to educate Environmental Protection Agency staff, staff of other Federal departments, agencies, and instrumentalities, and State and local government staff of opportunities for cross-media environmental protection either through training programs or through other means sufficient to promote such opportunities in everyday work products, including, but not limited to guidance, guidelines, rulemaking, and permit writing;.

(g) Section 5007 of the Solid Waste Disposal Act as redesignated by subsection (c) of this Act is amended by striking the "and" after the second "1992" and adding "1994, 1995 and 1996" after the second "1993".

(h) Section 5004(e) of the Solid Waste Disposal Act as redesignated by subsection (c) is amended by adding at the end thereof the following—

"In addition, if the public disclosure of any quantity specified in section 5004 paragraphs (1), (2), and (8) of subsection (b) would divulge information qualifying as a trade secret under section 322 of the Superfund Amendments and Reauthorization Act of 1986, the Administrator of State shall only make available the percentage by which the volume of the toxic chemical has changed.

(i) Section 5005(a) of the Solid Waste Disposal Act as redesignated by subsection (c) is

amended by striking "section 4(b)" and inserting in lieu thereof, "section 5001(d)".

(j) Sections 5001 through 5007 of the Solid Waste Disposal Act as redesignated by subsection (c) is amended by striking the term "source reduction" each time it appears and inserting in lieu thereof the term, "toxics use and source reduction".

SEC. 202. TOXICS USE AND SOURCE REDUCTION PLANS.—Subtitle E of the Solid Waste Disposal Act is amended further by adding the following new subsection:

"SEC. 5008. TOXICS USE AND SOURCE REDUCTION PLANNING.

"(a)(1) SURVEYS.—The Administrator, in consultation with the advisory panel established pursuant to section 5001(c)(8), shall develop a survey instrument and conduct a survey of a representative sample of owners and operators of facilities within Standard Industrial Code Classifications 20 through 39 in fiscal year 1992 to determine the following—

"(A) the nature and extent of production, use, and consumption of hazardous substances and the generation of solid and hazardous wastes; and

"(B) the nature and extent of the toxic use and source reduction that has occurred or is planned.

"(2) In developing the survey instrument and selecting the sample, the Administrator shall give priority to those industrial facilities and wastes which use the greatest quantities of hazardous substances or generate the highest quantities of hazardous substances as solid or hazardous waste.

"(3) The survey instrument shall avoid duplication of data required to be reported to the Administrator pursuant to the Federal Water Pollution Control Act; the Clean Air Act; the Comprehensive Emergency Response, Compensation and Liability Act; the Emergency Planning and Community Right-to-Know Act; the Toxic Substances Control Act; the Safe Drinking Water Act; the Marine Protection, Research and Sanctuaries Act; the Federal Insecticide, Fungicide, and Rodenticide Act; and other provisions of this Act.

"(4) For the purposes of this subtitle, Federal Facilities conducting activities similar to those in industrial categories and subcategories are required to report pursuant to section 313 of the Emergency Planning and Community Right-to-Know Act.

"(b) TOXIC USE AND SOURCE REDUCTION GOALS.—The Administrator, in consultation with the advisory panel established pursuant to section 5001(c)(8) and based on information obtained from the surveys required pursuant to subsection (a) and other information, shall; (1) establish guidelines for hazardous substance accounting practices; and (2) shall establish and publish toxic use and source reduction goals for industrial categories or subcategories required to report pursuant to section 313 of the Emergency Planning and Community Right-to-Know Act consistent with the schedule published pursuant to subsection (c)(1)(B). The administrator in establishing such goals shall consider the degree of the toxics use and source reduction methods currently available within each industrial category and subcategory, taking into account the cost of achieving such reduction.

"(c) GENERATOR TOXIC USE AND SOURCE REDUCTION PLAN.—(1)(A) Owners or operators of facilities who are required to submit a toxic chemical release form pursuant to Section 313 of the Emergency Planning and Community Right-to-Know Act shall perpare and at the request of the Administrator, submit to the Administrator, or at the request of a State with an authorized program under section 3006 of this Act, submit to the State according to the schedule established in subparagraph (B), a toxics use and source reduction plan.

"(B) Not later than twenty-four months after the date of enactment of the Resource Conservation and Recovery Act Amendments of 1991, the Administrator in consultation with the advisory panel established pursuant to section 5001(c)(8) shall establish and publish a schedule for requiring preparation and submission of toxics use and source reduction plans for generators in each industrial category and subcategory required to report pursuant to section 313 of the Emergency Planning and Community Right-to-Know Act. Such schedule shall phase in the date for requiring preparation and submission of toxics use and source reduction plans beginning not later than 36 months after the date of the Resource Conservation and Recovery Act Amendments of 1991 and each year for the ensuring five years. In establishing a schedule, the Administrator shall consider—

"(i) the quantities of hazardous substances used or generated as solid and hazardous wastes by industrial categories and subcategories as reported in the latest toxic chemical release form pursuant to Section 313 of the Emergency Planning and Community Right-to-Know Act;

"(ii) the known or anticipated adverse effects on public health and the environment of wastes or hazardous substances generated or released by industrial categories or subcategories;

"(iii) the efficiency of grouping industrial categories and subcategories according to the wastes generated and hazardous substances released, or the processes or technologies used; and

"(iv) the availability of toxics use and source reduction practices to categories or subcategories of industry.

"(2) For the purposes of this section, the term hazardous substance means any substance defined pursuant to section 1004(41) or at the discretion of the Administrator, a site-specific hazardous substance for an individual facility. Such site-specific hazardous substances shall be based, at a minimum, on such criteria established by the Administrator by rulemaking, including:

"(A) the potential that the hazardous substances used or generated as solid of hazardous wastes at the facility pose a threat to human health or the environment;

"(B) reporting of hazardous substances in the survey required pursuant to subsection (b) of this section, or reported historically as a hazardous or toxic constituent under this Act; the Comprehensive Emergency Response, Compensation and Liability Act; the Federal Water Pollution Control Act; and the Clean Air Act; the Toxic Substances Control Act; the Marine Protection, Research and Sanctuaries Act; the Federal Insecticide, Fungicide, and Rodenticide Act; the Safe Drinking Water Act; or the Emergency Planning and Community Right-to-Know Act; and

"(C) data on hazardous substances routinely collected through the use of environmental monitoring, auditing or other recognized devices.

"(3) The toxics use and source reduction plan required by paragraph (1) shall be prepared in a format adopted by the Administrator by rule in consultation with the advisory panel established in section 5001(c)(8), and shall include at a minimum the following:

"(A) the name and location of the generator;

"(B) the Standard Industrial Classification Code of the generator;

"(C) a statement of the overall scope and objectives of the plan;

"(D) a quantification of the amounts and types of hazardous substances manufactured, processed or otherwise used for each production unit, and the quantity of solid and hazardous waste generated;

"(E) two and five year numerical goals to: (i) reduce the quantity of hazardous substances used in production and generated as solid and hazardous wastes for the facility as a whole; and (ii) reduce the quantity of hazardous substances used in production or generated as solid and hazardous waste per unit of product produced; and (iii) to achieve the goals established pursuant to subsection (b);

"(F) an identification of technologies, procedures and training programs to be implemented to achieve the two and five year goals pursuant to subparagraph (E), including a description of the costs of implementing each and anticipated savings from each.

"(G) a schedule of implementation of each technology, procedure, and training program identified in subparagraph (F).

"(H) a certification by the chief executive officer or a senior corporate officer designated by the chief executive officer as to (i) the accuracy and completeness of the Plan; (ii) that the Plan complies with the requirements of this Act; and (iii) that the measures in the Plan are being implemented.

"(I) any other information that documents toxic use and source reduction progress achieved prior to the enactment of the Resource Conservation and Recovery Act Amendments of 1991.

"(d) TOXICS USE AND SOURCE REDUCTION PERFORMANCE REPORTS.—(1) Sixty months after the date of enactment of the Resource Conservation and Recovery Act Amendments of 1991, and every two years thereafter, each person required to submit a plan under subsection (c) shall prepare and at the request of the Administrator submit to the Administrator, or at the request of a State with an authorized program under section 3006 of this Act, submit to the State, a toxics use and source reduction performance report documenting toxics use and source reduction activities implemented by the generator.

"(2) The toxics use and source reduction performance report required by paragraph (1) shall be prepared in a format prescribed by the Administrator by rule in consultation with the advisory panel established pursuant to section 5001(c)(8) and shall include at a minimum, all of the following—

"(A) the name and location of the generator;

"(B) the Standard Industrial Classification Code for the generator;

"(C) all of the following information for each waste stream identified in the plan—

"(i) for the facility, the quantities of hazardous substances manufactured, processed, otherwise used, consumed, recycled, generated as solid or hazardous wastes, and incorporated in product;

"(ii) for each production unit, the quantity of hazardous substance used per unit of product, and the quantity of hazardous substances generated as solid or hazardous waste per unit of product;

"(iii) a description of each production unit, including but not limited to, primary processes, products, and hazardous substances used or manufactured;

"(iv) a numerical statement demonstrating progress towards meeting the two and five year goals established pursuant to subsection (c)(3)(E) and toward meeting the

goals established pursuant to subsection (b) or an explanation of the reasons why sufficient progress has not been achieved.

"(f) RETENTION OF RECORDS.—(1) Each person required to prepare a plan pursuant to this section shall maintain a copy of the current plan and performance report at each facility, or for a multi-site plan or performance report, at a central location, and upon request, shall make it available to any authorized representative of the Administrator or an authorized State conducting an inspection pursuant to section 3007 of this Act.

"(2) Any person who can make a showing that a facility is not making a good faith effort to produce and comply with an applicable toxics use and source reduction plan may request the Agency or an authorized State to certify whether the facility is in compliance with the requirements of this section. The Agency or authorized State may so certify if the facility has properly completed the toxics use and source reduction plan or performance report required pursuant to subsections (c) and (d). The Agency or authorized State shall respond within 60 days to a request for certification. Upon receiving a request for certification, the Agency or authorized State shall request from the facility, which is the subject of the request, a copy of the facility's toxics use and source reduction plan or performance report pursuant to subsections (c) and (d) if the Agency or authorized States does not have these documents. If the Administrator or authorized state determines that a facility is not in compliance with its toxics use and source reduction plan the Agency or authorized State shall forward a copy of the toxics use and source reduction plan and performance report to the person requesting certification within 10 days. The Administrator or authorized State shall protect trade secrets in toxics use and source reduction reports and performance reports subject to section 322 of the Superfund Amendments and Reauthorization Act and in the same manner as data collected under section 313 of the Superfund Amendments and Reauthorization Act of 1986, and section 5004(e).

"(g) PLAN MODIFICATIONS.—For each facility that fails to implement or achieve the objectives of the plan, the Administrator or an authorized State may require a facility audit to provide recommendations for improved toxics use and source reduction practices and shall require the facility to modify its plan to implement improved toxics use and source reduction practices after considering the technical and economic feasibility of achieving such reductions, and after notice and public hearing, if in the judgment of the Administrator or authorized State, the toxics use and source reduction plan needs improvement.

(h) APPLICABILITY.—(1) The requirements of this section apply to owners or operators of facilities who are required to submit a toxic chemical release form pursuant to Section 313 of the Emergency Planning and Community Right-to-Know Act, and federal facilities that conduct comparable operations.

"(2) The Administrator may adopt regulations to establish procedures for exempting categories of facilities from the requirements of this section where the Administrator determines that toxic use and source reduction opportunities do not reasonably exist for such facilities in the category.

SEC. 203. PRODUCTS AND PACKAGING ADVISORY BOARD.—Subtitle E of the Solid Waste Disposal Act is amended by adding the following new section:

"SEC. 5009. PRODUCTS AND PACKAGING ADVISORY BOARD.—"(a) ESTABLISHMENT AND COMPOSITION OF THE BOARD.—The Administrator shall, as soon as promptly after the enactment of the Resource Conservation and Recovery Act Amendments of 1991, establish a Products and Packaging Advisory Board that shall consist of not less than eleven members, including—

"(1) an individual with expertise in packaging and product design;

"(2) a representative of product and packaging manufacturers;

"(3) a representative of consumer interests;

"(4) a representative from environmental organizations;

"(5) an elected or appointed State government official;

"(6) an elected or appointed local government official;

"(7) a representative from the federal government; and

"(8) a representative from each of the following industries: paper, glass, aluminum, and plastic.

"(b) REPORT OF THE BOARD.—(1) The Board, within eighteen months following its establishment, shall submit a report to the Administrator containing recommendations concerning the development and implementation of a comprehensive voluntary program to: (A) minimize the quantity of packaging and other material in the waste stream; (B) minimize the consumption of scarce natural resources in the production and use of packaging; (C) maximize the recycling and reuse of packaging; (D) reduce litter; and (E) assure that human health and the environment will not be affected adversely as a result of the use and disposal of packaging and products.

"(2) In making its recommendations to the Administrator, the Board shall consider: (A) cost, convenience, and safety of consumer products; (B) environmental impacts of production, use, and disposal of various products and packaging; and (C) the availability of alternatives to current products and packaging.

"(3) The Board's report shall include recommendations relating to, but not limited to, the following topics:

"(A) a labeling system for plastic containers of household goods, and other plastic containers or packaging, which will identify the plastic resin used to produce the container and facilitate the separation of various plastic containers on the basis of plastic type by recycling groups, businesses, or individuals; and

"(B) national packaging standards which address the design, composition, volume, reuse, recyclability and degradability and disposal of packages and packaging materials that will further the purposes of this Subtitle, when implemented on a voluntary basis by entities in the packaging industry and by other commerce.

"(c) EPA ACTION.—Not later than eighteen months after the date of enactment of the Resource Conservation and Recovery Act Amendments of 1991, the Administrator shall publish the report and recommendations of the Product and Packaging Advisory Board.

"(2) The Administrator may, after considering the report and recommendations of the Product and Packaging Advisory Board publish guidelines to: (A) minimize the quantity of packaging material in the waste stream; (B) minimize the consumption of scarce natural resources used in packaging; (C) maximize the recycling and reuse of packaging through the use of labeling and other methods; (D) reduce litter; and (E) assure that human health and the environment will not be affected adversely as a result of the use and disposal of packaging.

SEC. 204. HAZARDOUS CONSTITUENTS IN PRODUCTS.—Subtitle E of the Solid Waste Disposal Act is amended by adding the following new section:

"SEC. 5010. HAZARDOUS CONSTITUENTS IN PRODUCTS.—"(a) INFORMATION COLLECTION.—The Administrator shall determine the extent to which hazardous substances as defined in section 1004 (41) are contained in products distributed in commerce. Not later than one year after enactment of the Resource Conservation and Recovery Act Amendments of 1991, the Administrator shall publish and submit to Congress a list which identifies products containing hazardous substances which, because of their toxicity, volume, and exposure pathways may present a risk to human health or the environment when disposed or incinerated. The Administrator shall update this list as necessary and publish and submit to Congress a revised list on an annual basis.

"(b) STANDARDS FOR DISPOSAL OF HAZARDOUS CONSTITUENTS IN PRODUCTS. (1) The Administrator is authorized to promulgate regulations for the disposal or incineration of products containing hazardous substances listed under subsection (a) of this section as may be necessary to protect human health and the environment from the significant adverse affects resulting from disposal or incineration of such products.

"(2) Not later than six months after the date a product is listed pursuant to subsection (a) the Administrator shall determine whether to promulgate regulations under paragraph (1) of this section. If the Administrator determines that regulation under paragraph (1) will not adequately protect human health and the environment, the Administrator shall establish a schedule, not to exceed twenty-four months for review pursuant to section 6 of the Toxic Substances Control Act to regulate the manufacture and distribution in commerce of products listed pursuant to subsection (a)."

SEC. 205. RESEARCH.—Subtitle E of the Solid Waste Disposal Act is amended by adding the following new section:

"SEC. 5012. RESEARCH.—The Administrator is authorized to establish at the Hazardous Substance Research Centers operated pursuant to section 311(d) of the Comprehensive Environmental Response, Compensation, and Liability Act, a research program to assist the Agency's Office of Pollution Prevention in performing its functions. The program shall include—

"(a) basic research into technological barriers limiting toxic use and source reduction and the development of strategies for overcoming these barriers;

"(b) basic research into social, economic and institutional barriers to reducing the reliance of society on hazardous substances and the development of strategies for overcoming these barriers;

"(c) developing, evaluating, and demonstrating toxic use and source reduction methods; and

"(d) research or pilot projects to develop and demonstrate innovative technologies for toxic use and source reduction methods.".

SEC. 206. REGULATORY INCENTIVES.—Subtitle E of the Solid Waste Disposal Act is amended by adding the following new section—

"SEC. 5013. REGULATORY INCENTIVES.—(a) REPORT TO CONGRESS ON REGULATORY INCENTIVES.—Within twelve months after the date of the enactment of the Resource Conserva-

tion and Recovery Act Amendments of 1991, the Administrator shall report to the Congress on the criteria that would be used in establishing a legislative or administrative program of regulatory incentives to promote toxics use source reduction shall evaluate the benefits to human health and the environment that can be achieved from such a program.

"(2) The Administrator shall include in the report an evaluation of options for providing regulatory incentives for toxics use and source reduction including the use of existing authority, if any, to modify permits issued under this Act. In evaluating the benefits of a regulatory incentives program that authorizes permit modifications, the Administrator shall include an identification and assessment of—

"(A) the anticipated benefits to human health and the environment that would reasonably be expected to be achieved under such modified permits,

"(B) whether the risks will be shifted from one environmental medium to another;

"(C) the expected toxics use and source reductions that would result, as compared to the reductions that would have resulted without such modified permits; and

"(D) the facilities that would achieve greatest toxics use and source reduction under a modified permit."

TITLE III—RECYCLING

SEC. 301. NATIONAL RECYCLING GOAL.—(a) The title of subtitle F of the Solid Waste Disposal Act is amended to read as follows:

"Subtitle F—Recycling and Federal Responsibilities".

(b) Subtitle F of the Solid Waste Disposal Act is amended by adding the following new section—

"SEC. 6005. NATIONAL WASTE REDUCTION AND RECYCLING GOAL.—The Congress hereby declares it to be the national goal of the United States that at a minimum the generation of municipal solid waste be reduced by not less than 10 per centum by year 2000 and that not less than 25 per centum of the municipal solid waste stream be recycled by 1995 (excluding domestic sewage sludge, white goods and automobiles, yard wastes, and construction and demolition wastes) and not less than 50 per centum of such municipal solid waste stream should be recycled by 2000. The Administrator, in consultation with the Secretary of Commerce, is directed to promulgate (a) minimum recovery and utilization rates for products or groups of products (b) commodity specific minimum recycled content requirements as necessary to meet this goal."

SEC. 302. COMMODITY SPECIFIC RECYCLING STANDARDS.

Subtitle F of the Solid Waste Disposal Act is amended by adding the following new section:

"SEC. 6006. (a) COMMODITY SPECIFIC RECYCLING.—The Administrator shall within twenty-four months of the date of enactment of the Resource Conservation and Recovery Act Amendments of 1991, promulgate commodity specific recovery and utilization standards for paper, glass, metals, plastic products and other such commodities as the Administrator determines.

"(1) Such standards shall specify minimum recovery and utilization rates for each such commodity on the basis of individual products, product lines or groups of products, or such other aggregated basis as the Administrator deems appropriate to meet the goals established in section 6005.

"(2) Such standards shall be based upon a determination by the Administrator of the maximum feasible recovery and utilization rates of such commodities on the basis of the best available recycling and manufacturing technology and practices. The Administrator shall consider the size of the affected manufacturing facilities, the costs of production, and the economic feasibility of compliance in determining the maximum feasible recovery and utilization rates of commodities.

"(3) The Administrator shall review the standards established under this section not less frequently than every five years, and revise them as necessary to reflect the maximum feasible recovery and utilization of commodities.

"(b) MINIMUM RECYCLING RATES.—(1)(A) Notwithstanding the provisions of subsection (a), the minimum recovery and utilization rate by December 31, 1995 shall be no less than:

"(i) 52 per centum annually for newsprint;

"(ii) 66 per centum annually for corrugated paper products;

"(iii) 20 per centum annually for mixed paper grades;

"(iv) 50 per centum annually for high-grade deinking papers; and

"(v) 100 per centum annually for pulp substitutes; or

"(vi) 40 per centum annually for all grades of paper products.

"(B) If the recovery and utilization rate established pursuant to subparagraph (A)(vi) has not been achieved by December 31, 1995, as determined by reports submitted to the Administrator in accordance with the requirements in paragraph (4), the Administrator shall promulgate for each paper grade that has not met the requirements pursuant to subparagraph (A) clauses (i) through (v), standards establishing minimum recycled materials content. Such standards shall require that the annual average percentage of recycled fiber contained in newsprint, utilized by persons using more than two-thousand tons of newsprint annually in a commercial printing or publishing operation, be no less than twenty per centum by January 1, 1997, thirty per centum by the year ending January 1, 1999, forty per centum by January 1, 2001.

"(2)(A) Notwithstanding the provisions of subsection (a), the minimum annual recovery and utilization rate shall be no less than 25 per centum by December 31, 1995 for plastic bottles and containers having thickness of seven mils or greater and which retain their shape when unsupported.

(B) If the recovery and utilization rate has not been achieved as determined by reports in accordance with the requirements of paragraph (4), the Administrator shall require that for plastic bottles and containers the average annual minimum content contained in plastic bottles and containers such shall be 30 per centum by no later than December 31, 2000.

"(3) Notwithstanding the provisions of subsection (a), the annual average percentage of cullet in glass bottles and containers shall be no less than 65 per centum by January 1, 2005."

"(4)(A) The Administrator shall promulgate the necessary reporting requirements to evaluate compliance with the requirements established under this subsection. Such requirements shall be at a minimum require paper manufacturers and manufacturers of glass, metal, and plastic bottles and containers to, on or before March 31, 1992, and annually thereafter submit a report to the Administrator. The report shall indicate for each manufacturer of glass, metal, and plastic bottles and containers, and paper by grade of paper, the amount produced, the amount of recycled material or fiber used, and the average annual per centum of recycled content used in production during the preceding calendar year along with any other information required by the Administrator.

(B) Not later than April 31, 1992 and annually thereafter, the Administrator shall compile and publish a list indicating the average annual amount of recycled material used by commodities, and the average annual per centum of recycled content for each (i) paper manufacturer and each grade of paper; (ii) manufacturers of glass bottles and containers; (iii) manufacturers of metal containers and each type of metal container; and (iv) manufacturers of plastic bottles and containers having a thickness of 7 mils or greater and which retain their shape when unwrapped.

"(C) Publishers of daily newspapers with an annual circulation of 25,000 or more shall publish, as part of their circulation statement, the average annual recycled content used in the production of the newspaper during the previous calendar year.

"(c) IMPLEMENTATION OF COMMODITY SPECIFIC RECYCLING ENFORCEMENT REPORTS.—Twelve months after the date of enactment of the Resource Conservation and Recovery Act Amendments of 1991, the Administrator shall report to the Congress on the mechanisms for implementing and enforcing commodity specific recycling requirements. At a minimum, the Report shall consider and evaluate the adequacy of the following mechanisms for implementing and enforcing commodity specific recycling requirements:—

"(1) self-implementing, industry-specific recycling plans including an evaluation of criteria by which the Administrator would evaluate such plans;

"(2) a credit system under which producers of recycled commodities would create credits for using recycled materials in greater amounts than required under regulations established in subsection (a), and be authorized to transfer such credits to other producers for the purposes of complying with regulations established in subsection (a); and

"(3) any other mechanisms.".

SEC. 303. RURAL RECYCLING DEMONSTRATION PROGRAMS AND COLLECTION OF SECONDARY MATERIALS.—Subtitle F of the Solid Waste Disposal Act is amended by adding the following new section—

"SEC. 6007. COLLECTION SYSTEM.—(a)(1) DEMONSTRATION PROGRAMS.—The Administrator shall conduct demonstration projects and shall develop model programs for both urban and rural locations for the purpose of general or widespread adoption by States and municipalities of programs for the collection of materials for recycling in urban and rural areas.

"(2)(A) Such demonstration projects and model programs shall seek to identify collection methods, recycling techniques and technologies, markets for recycled materials, methods for stimulating such markets, methods of financing necessary investments, and education and training programs that are particularly adapted for successful recycling in rural areas.

"(B) Based on such demonstration projects, the Administrator shall identify realistic recycling goals for rural areas.

"(b) COLLECTION SYSTEMS.—In conducting demonstration projects and evaluating collection and separation systems for use in rural areas, the Administrator shall consider—

"(1) providing special containers to households for the separation of recyclable materials, with subsequent collection either at central points or on a periodic house-to-house basis; and

"(2) cooperative projects for the collection of recyclable materials at commonly available commercial facilities such as franchised fast-food restaurants, grocery markets, service stations, other retail outlets or comparable high-traffic volume facilities.

"(d) RANGE OF CHARACTERISTICS.—The Administrator shall identify various types of rural patterns characteristic of different regions of the Nation and varying population densities and proximity to urban areas, and undertake demonstration projects that represent the range of such types of rural patterns.

"(e) STATE COLLECTION PROGRAMS.—States are authorized to adopt such model programs or establish their own program for collecting materials for the purpose of recycling. At a minimum States shall require the separation of batteries, tires, and used oil from the municipal waste stream and shall establish or arrange for a system for collecting, processing and recycling such wastes. States should also, at a minimum, establish or arrange for a system to collect waste papers, plastic containers, cans (aluminum and steel), glass, yard waste and hazardous waste in all urban areas, and should include as appropriate, curbside collection, materials recovery facilities or other methods to separate, collect and process materials to be recycled.".

SEC. 304. FEDERAL PROCUREMENT OF RECYCLED MATERIALS.—

(a) Section 6002(a) of the Solid Waste Disposal Act is amended by adding at the end thereof the following: "As a general matter, each procuring agency (including any person contracting with such agency with respect to work performed under such contract) shall give preference in procurement to items produced with the highest percentage of recovered materials practicable, regardless of whether there are procurement guidelines applicable to such items. For the purposes of section 7002, the term 'Adminstrator' includes the head of each Federal agency subject to this section.".

(b) Section 6002(c) of the Solid Waste Disposal Act is amended by adding the following new paragraph—

"(4)(A) Notwithstanding paragraph (1)(C) in the fiscal year beginning after the date of enactment of the Resource Conservation and Recovery Act Amendments of 1991, each procuring agency shall purchase a quantity of section 6002 items, the value of which constitutes 20 per centum of the total dollar amount spent by that agency on procurement in such fiscal year. For purposes of this section, "section 6002 items" means items for which there are procurement guidelines under section 6002 of the Act.

"(B) The percentage of total procurement required under paragraph (4)(A) shall increase by an additional 2 per centum of total procurement every second fiscal year thereafter. The percentage of total procurement reached at the end of the tenth year after the date of enactment of the Resource Conservation and Recovery Act Amendments of 1991 shall be required for every fiscal year thereafter.

"(C) The requirements of this paragraph are subject to determinations under paragraph (1) (A) and (B). In order to assist procuring agencies and the Administrator with such determinations, the Administrator shall contract with the American Society for Testing and Materials to prepare guidelines as to reasonable performance standards for items containing recovered materials.

"(D) In no event shall any agency or contractor pay more than 10 percent above the price of a similar item not meeting the guidelines under section 6002.".

(c) Section 6002(e)(2) of the Solid Waste Disposal Act is amended by inserting before "In making the designation required under paragraph (1)" the following: "The Administrator shall prepare final guidelines for glass, ferrous metals, nonferrous metals, and lead-acid batteries within twelve months after the date of enactment of the Resource Conservation and Recovery Act Amendments of 1991; for compost (to be used in lieu of alternative materials for plant nutrition, mulch or fill), plastic products (including containers), and used tire fragments used in road cover within twenty-four months after the date of enactment of the Resource Conservation and Recovery Act Amendments of 1991; and for rubber products within thirty-six months after the date of enactment of the Resource Conservation and Recovery Act Amendments of 1991.".

(d) The first sentence of section 6002(g) of the Solid Waste Disposal Act is amended to read as follows: "The Office of Procurement Policy in the Executive Office of the President, in cooperation with the Administrator, shall have an affirmative duty and responsibility to implement the requirements of this section and the policy of this section and the national policy established in section 1003(b), including the enforcement of such requirements with respect to procuring agencies. The Administrator, with the assistance of the Office of Procurement Policy, shall provide technical assistance to procuring agencies in complying with the requirements of this section.".

(e) Section 6002 of the Solid Waste Disposal Act is amended by adding the following new subsections:

"(j) USDA PURCHASE OF FERTILIZER.—The Secretary of Agriculture shall establish a program to assure that purchases of fertilizer by the Department of Agriculture or assisted with funds administered by the Secretary of Agriculture include the purchase of fertilizer made with composted solid waste or secondary materials.

"(k) MILITARY SPECIFICATIONS REVIEW.—The Secretary of Defense, in cooperation with the Administrator, shall undertake a review of all specifications for military procurement items and make such modifications as may be necessary in such specifications to eliminate requirements that discriminate against the use or acquisition of items that contain recovered materials. The Secretary of Defense, in cooperation with the Administrator, may establish priorities for conducting such review, such that the review of all items is completed not later than five years after the enactment of the Resource Conservation and Recovery Act Amendments of 1991, and the review of no less than forty percent of all such items are completed within the first two years after such date of enactment.

"(l) FEDERAL AGENCY REPORTING.—The head of each Federal procuring agency shall submit an annual report to the Administrator on progress in implementing this section, including compliance with guidelines under this section and the development and implementation of a procurement program under subsection (i).".

SEC. 305. MARKET DEVELOPMENT.—Section 6014 of the Solid Waste Disposal Act as redesignated by section 201(b) of this Act and is amended by—

(1) inserting "(a) IDENTIFYING MARKETS.—" after "6014.";

(2) striking "within two years after September 1, 1979", and inserting in lieu thereof ", in cooperation with the Administrator,"; and

(3) by adding the following new subsections:

"(b) MARKET DEVELOPMENT.—The Secretary of Commerce, in cooperation with the Administrator, shall take such actions as may be necessary to stimulate the development of new markets for recovered materials and products containing recovered materials.

"(c) INTERNATIONAL MARKETS.—(1) The Secretary of Commerce and the United States Trade Representative shall take such actions as may be necessary to identify foreign markets for recovered materials and products containing recovered materials, and to assist exporters of recovered materials and products containing recovered materials in selling in such markets.

"(2) The Secretary of Commerce shall use the services and capabilities of the United States and Foreign Commercial Service, to the extent practicable.

"(3) Actions implementing this subsection shall include assistance in arranging favorable financial terms for exporters of recovered materials and products containing recovered materials.

"(4)(A) The Secretary of Commerce shall acquire information regarding the world demand and competition for recyclable materials and products containing recovered materials, the marketing and distribution of such materials and products in foreign countries, and factors influencing the export of such materials and products from the United States (including any barriers to such export). The Secretary of Commerce, in cooperation with the Administrator, shall be responsible for the interpretation and dissemination of such information in the United States.

"(B) The Secretary of Commerce shall undertake demonstration abroad of the standards of quality of recovered materials and products containing recovered materials from the United States.".

SEC. 306. FEDERAL CONTRACTS.—Subtitle E of the Solid Waste Disposal Act is amended by adding the following new section—

"SEC. 6008. FEDERAL CONTRACTS.—Any Federal contract for $1,000,000 or more with any private party or other Federal agency shall require that at least 50 per centum of section 6002 materials used in the performance of the contract be produced from recycled materials. For purposes of this section, "section 6002 materials" means materials for which there are procurement guidelines under section 6002 of the Act. The procuring agency, in consultation with the Administrator and pursuant to applicable procurement guidelines, shall specify in the contract specifications those aspects of contract performance that can be fulfilled with recycled materials. The requirements of this section shall not be imposed if the contractor certifies that recycled materials are not available.".

SEC. 307. FEDERAL AGENCY ACTIONS.—Subtitle E of the Solid Waste Disposal Act is amended by adding the following new section:

"SEC. 6009. FEDERAL AGENCY ACTIONS.—(A)(1) WASTE REDUCTION PETITION—Any person may petition a Federal agency to undertake a waste reduction action, and such action shall be undertaken by the agency if—

"(A) undertaking the action which is the subject of the petition would bring about at

least a 5 per centum increase in recycled content of an item described in the petition or would reduce by at least 5 per centum the total volume or toxic constituents of a solid waste described in the petition;

"(B) undertaking the petitioned action would be consistent with existing law or, if not consistent with agency regulations or policy, that such regulations or policies can be modified to accommodate the petitioned act and remain in accordance with statutory requirements; and

"(C) undertaking the petitioned action would bring about a net saving in cost to the Federal Government or would be neutral in effect or cost.

For purposes of this subsection, a waste reduction action includes any action with this effect that is authorized, funded or carried out by a Federal agency.

"(2)(A) Within ninety days after receipt of a petition, the Federal agency shall notify the petitioner whether the petition presents substantial evidence warranting review. If the agency finds that the petition does not present such evidence, the petition shall be denied.

"(B) If the agency finds that the petition presents substantial evidence in respect to the requirements of paragraph (1) of this subsection, the agency shall notify the petitioner of the finding and conduct a review based upon the information in the petition and any other information available to the agency. No later than twelve months after the finding of substantial evidence, the agency shall deny the petition or grant the petition in whole or in part and explain the steps that will be taken to implement any parts of the petition that are granted. If the agency denies the petition, the agency shall notify the petitioner and shall explain in writing the basis for concluding that the requirements of paragraph (1) of this subsection are not met.

"(b) FEDERAL WASTE REDUCTION OFFICER.—Each Federal agency shall designate a waste reduction officer to oversee compliance with Federal agency waste reduction requirements of this Act. Waste reduction officers shall prepare agency waste reduction plans and shall report annually to the Administrator on implementation of the plans including estimates of any cost savings achieved through waste reduction.".

TITLE IV—WASTE AND SECONDARY MATERIALS MANAGEMENT

SEC. 401. OBJECTIVES OF SUBTITLE D.—(a) The title of subtitle D of the Solid Waste Disposal Act is amended to read "SUBTITLE D—SOLID WASTE MANAGEMENT".

(b) The first sentence of section 4001 of the Solid Waste Disposal Act is amended to read as follows—"The objectives of this subtitle are—

"(1) to assist in developing and encouraging methods for the management of solid waste that are environmentally sound and that maximize the utilization of valuable resources including materials that are recoverable from solid waste;

"(2) to assist in developing methods to encourage resource conservation;

"(3) to assist in developing and encouraging permitted capacity pursuant to the permit requirements in section 4010, to meet the Nation's solid waste recycling, treatment, storage and disposal needs estimated pursuant to section 4003;

"(4) to use a waste management hierarchy for solid waste management planning that is consistent with the policy and priorities set forth in section 1003(b);

"(5) to assist in stabilizing and developing markets for recycled materials; and

"(6) to upgrade existing waste management capacity to protect human health and the environment.".

SEC. 402. STATE AND REGIONAL PLANNING.

(a) Section 4002(b) of the Solid Waste Disposal Act is amended to read as follows—

"(b) GUIDELINES FOR STATE PLANS.—Not later than nine months after the date of enactment of the Resource Conservation and Recovery Act Amendments of 1991, and after consultation with appropriate Federal, State, and local authorities and after notice and opportunity for public comment, the Administrator shall publish guidelines that include measures to assist in the development and implementation of State solid waste management plans (hereinafter in this subtitle referred to as 'State plans'), and that contain minimum criteria for any plan required to be submitted to the Administrator pursuant to section 4003. The criteria shall include the information listed under subsection (c) and such other information as the Administrator deems necessary to determine whether the plan submission complies with section 4003 and the provisions of this Act.".

(b) Section 4004(b) of the Solid Waste Disposal Act is amended by striking "section 4003(2)" wherever it appears and inserting in lieu thereof "section 4003(a)".

(c) Section 4005(a) of the Solid Waste Disposal Act is amended by striking "sections 4003(2) and 4003(3)" and inserting in lieu thereof "section 4003(a),".

(d) Section 4006(b) of the Solid Waste Disposal Act is amended by striking "Within one hundred and eighty days after the Governor promulgates regulations under subsection (a)," and inserting in lieu thereof "Not later than one hundred and eighty days after the date of enactment of the Resource Conservation and Recovery Act Amendments of 1991,".

(e) Section 4003(a) of the Solid Waste Disposal Act is amended to read as follows—

"(a) MINIMUM REQUIREMENTS.—For each State and for each planning area identified under sections 4002(a) and 4006, the solid waste management plan shall comply with the following minimum requirements:

"(1) The plan shall establish a solid waste management strategy for the State or planning area that implements the national policy stated in section 1003(b).

"(2) The plan shall include measures to assure compliance with section 4005 to prohibit the disposal of solid waste in any facility that does not comply with the criteria promulgated under sections 4004(a), 4010, and 4011, and shall provide that all solid waste management facilities located in the State meet all applicable Federal and State laws.

"(3) The minimum planning period under this section shall be ten years. The plan shall be reviewed and revised, as necessary, no less often than every five years.

"(4)(A) The plan shall include and be based upon information on the type and amount of each solid waste stream that can reasonably be expected to be generated within the State or planning area during the planning period, or to be accepted from other States under existing contracts or local or regional agreements, based on current information, past levels, and representative receipts from such States during the planning period. Solid waste streams identified under this section shall include municipal waste, industrial waste, and waste residuals, and shall include information on the sources of such waste streams, the characteristics of such waste streams (including potential threats to human health or the environment as a result of disposal or treatment of the waste stream or residuals of treatment) and current patterns of waste management of such waste streams.

"(B) The plan shall identify each solid waste management facility and recycling facility within the State or planning area and its capacity and projected remaining useful life.

"(C) The plan shall estimate the amount of the total solid waste identified under paragraph (A) that is reasonably expected to be—

"(i) reduced annually in such State or planning area, based on the toxics use and source reduction plans required under section 5004;

"(ii) recycled annually, based on the rate of wastes diverted from the waste stream during the year prior to the submission plus anticipated future progress that can be documented;

"(iii) transported annually to another State for treatment or other disposition under existing contracts or local or regional agreements; and

"(iv) disposed or incinerated annually within the State based on the net volumes identified in (i) through (iii) of this subparagraph.

"(5)(A) The plan shall include a process for identifying and collecting recyclable materials contained in municipal waste, and for developing and supporting markets for such recycled materials. At a minimum, the plan shall demonstrate the steps needed to maximize recycling and achieve the recycling goals established pursuant to section 6005. The plan should establish measurable goals for the fraction of the total solid waste identified under paragraph (4)(C)(ii) (and for particular waste streams identified under such paragraph) to be recycled annually in such State or planning area, including interim goals, taking into consideration the nature of waste streams within the State or planning area, the population density and urban or rural character of the State or planning area, the availability of markets for recycled materials and products with high recycled materials content (including efforts to develop such markets), the projected availability of treatment, incineration and disposal capacity within such State or planning area, and other relevant factors.

"(B) The plan shall identify existing markets for recovered materials and products containing significant amounts of recycled materials, together with actions that may be undertaken to develop or create such markets, and shall identify current and proposed programs to promote waste reduction and recycling, including activities at the household.

"(C) The plan shall address and provide for, in the manner determined appropriate for the State or planning area, the management of (i) household hazardous waste, (ii) tires, (iii) yard waste, (iv) batteries, (v) plastic products (vi) waste paper, (vii) glass containers, and (viii) scrap metal and containers. The State or regional planning agency shall consider requirements or programs for separate handling, special collection, prohibitions on co-disposal in landfills, recycling, composting of yard wastes, and special treatment facilities.

"(D) The plan shall establish measurable goals for the fraction of the total solid waste identified under paragraph (4) (and for particular waste steams identified under such paragraph) to be reduced through waste reduction annually in such State or planning area.

"(6)(A) The plan shall assure that all solid waste generated in the State or planning area is either (i) avoided through toxics use and source reduction, (ii) recycled, or (iii) treated or disposed of in an environmentally acceptable manner, as provided in the plan.

"(B) In implementing subparagraph (A), the plan shall establish the fraction of the total solid waste identified under paragraph (4) (and of particular waste streams), as of particular milestone dates, that is expected and intended to be (i) avoided through toxics use and source reduction, (ii) recycled, and (iii) treated and disposed of, and shall identify the capacity of recycling facilities, treatment facilities and disposal facilities necessary as of such milestone dates to implement the plan.

"(7)(A) The plan shall identify specific measures including laws, regulatory requirements, ordinances for development, siting, permitting pursuant to section 4010, and enforcement pursuant to section 4014, for the establishment of new municipal solid waste management facilities and recycling facilities necessary to meet the capacity development requirements identified under paragraph (6) and 9(B)(i) of this subsection. The plan shall include the establishment of a process for the siting of such facilities and a schedule for the permitting, approval, and construction of such facilities.

"(B) In any case in which the authority of a planning agency or a regional planning agency, or of a local government implementing the plan, is insufficient to carry out the requirements of this paragraph, or the planning agency is unwilling or otherwise unable to carry out such requirements, it shall be the responsibility of the State to assure that the requirements of this paragraph are carried out in such planning area or for such local government. The State may meet such responsibility by establishing an effective, binding mechanism for resolving local disputes or by directly implementing such requirements under State law.

"(8) The plan shall provide for revision of the plan, after notice and public hearing, and submission of the revised plan to the Administrator for approval, whenever (i) guidelines or regulations under section 4002 or this section are revised and such plan is no longer in compliance, (ii) information becomes available that circumstances have changed or that otherwise demonstrates that the plan no longer complies with this section, or (iii) the Administrator has notified the State or regional planning agency that revision is necessary.

"(9)(A) The plan shall include written certification by the Governor (or a designee of the Governor) that the State, general purpose local governments, or other competent authorities have adopted by statute, regulation, ordinance, or other legally enforceable document, the necessary requirements and schedules for compliance required by such plan and this section.

"(B)(i) Except as provided in clause (ii), the Governor (or a designee of the Governor) shall annually certify in the report required by paragraph (11) to the Administrator, beginning in 1995, that the State or other permitting authority has issued permits consistent with all the requirements of the Solid Waste Disposal Act for capacity sufficient to recycle, or manage the amount of municipal waste identified in this section that is expected to need management during the ensuing five-year period, and that the State or other relevant authority has identified and approved sites for capacity sufficient to recycle, or manage the amount of such wastes expected to need management during the ensuing eight-year period. In no case may a State identify or certify as capacity any facilities that are classified as open dumps under the Solid Waste Disposal Act.

"(ii) The plan may provide for meeting the identification and certification requirement at a date beyond 1995, but in no case beyond 1998, if the State demonstrates to the satisfaction of the Administrator that unforeseen loss of existing capacity, due to events beyond the State's control, or construction or financing schedules preclude the availability by 1995 of capacity sufficient to recycle, or manage the amount of municipal solid waste identified in this section that is expected to need management during the ensuing five-year period, and the State is in compliance with all other requirements of this Act, to include the establishment of a schedule for the permitting, approval, and construction of such facilities prior to 1998.

"(10)(A) Not later than twelve months after the date of enactment of the Resource Conservation and Recovery Act Amendments of 1991, each State shall submit to the Administrator a preliminary capacity management report that identifies or reasonably estimates, by weight—

"(i) the amount per annum of municipal waste generated within the State;

"(ii) the amount per annum of such municipal solid waste that is exported to another State or States for purposes of recycling, incineration or disposal; and

"(iii) the amount per annum of municipal solid waste that is transported into the State from other States for the purposes of incineration or disposal.

Such report shall describe the methodology upon which the information is based, shall include all assumptions used in estimations, and shall include the most recent information available.

"(B) Not later than fifteen months after enactment the Resource Conservation and Recovery Act Amendments of 1991, the Administrator shall—

"(i) publish a compilation of the information submitted by the States pursuant to subparagraph (A), for which the Administrator is authorized to estimate such information for any State which fails to submit a preliminary capacity management report pursuant to paragraph (1), or for any State which fails, in the judgment of the Administrator, to reasonably estimate the amounts of municipal waste so managed, based on reasonable information readily available to the State;

"(ii) identify in such compilation the cumulative amount per annum of municipal solid waste that is transported across State lines for purposes of incineration or disposal as a per centum of all municipal solid waste that is incinerated or disposed in the United States; and

"(iii) identify each State for which the per annum amount by weight of municipal waste exported to other States for purposes of incineration or disposal, net of all municipal waste imported to the State for purposes of incineration or disposal, exceeds, as a per centum of all municipal waste generated within the State, the per centum identified in clause (ii) of this subparagraph.

"(C) Any State identified by the Administrator pursuant to subparagraph (B)(iii) of this section shall include, in its solid waste management plan submitted pursuant to this section, a schedule with interim milestones and supporting information which demonstrates, to the satisfaction of the Administrator, that the State shall, within five years after date of enactment of the Resource Conservation and Recovery Act Amendments of 1991, be exporting no greater than the per centum identified in subparagraph (B)(ii). At a minimum, such plan shall demonstrate that the State has achieved, no later than three years after date of enactment of the Resource Conservation and Recovery Act Amendments of 1991, at least fifty per centum of the reduction in exports of municipal waste required by this subparagraph.

"(11) The plan shall provide for annual reports to the Administrator by the State and by each agency with a responsibility for implementing a portion of the plan, on progress in implementing the plan and in achieving the goals established under paragraph (5) and providing the capacity identified under paragraph (6). Such reports shall be available to the public.".

(b) Section 4007 of the Solid Waste Disposal Act is amended to read as follows:

"ENVIRONMENTAL PROTECTION AGENCY ACTION ON PLAN SUBMISSIONS.

"SEC. 4007. (a) PLAN REQUIRED.—For each State and for each planning area identified under sections 4002(a) and 4006, a solid waste management plan in accordance with the requirements of section 4003 shall be submitted to the Administrator not later than thirty months after the enactment of the Resource Conservation and Recovery Act Amendments of 1991, and after notice and public hearing.

"(b) COMPLETENESS FINDING.—Within sixty days of the Administrator's receipt of a plan or plan revision, but no later than six months after the date by which a State is required to submit the plan or revision, the Administrator shall determine whether the minimum criteria established pursuant to section 4002(b) have been met. Any plan or plan revision which the Administrator determines meets all minimum criteria established pursuant to section 4002(b) and will achieve the goals of this subtitle shall be approved. Failure to take action on any plan or plan revision that a State submits to the Administrator by the date six months after receipt of the submission shall on that date be deemed approval.

"(c) EFFECT OF FINDING OF INCOMPLETENESS.—Where the Administrator determines that a plan submission (or part thereof) does not meet the minimum criteria established pursuant to section 4002(b), the State shall be treated as not having made the submission (or, in the Administrator's discretion, part thereof) and may submit a revised plan.

"(d) FULL AND PARTIAL DISAPPROVAL.—Within twelve months of a determination by the Administrator pursuant to subsection (c) of this section or a failure by the Administrator to take action under subsection (b), the Administrator shall act further on the submission and either disapprove the plan in total or disapprove the portion of the submittal that fails to meet the applicable requirements of the Act. The plan shall not be treated as approved and meeting the requirements of this subtitle until the entire plan or revision complies with the minimum criteria promulgated pursuant to section 4002(b).

"(e) CONDITIONAL APPROVAL.—The Administrator is not required to disapprove a plan or plan revision based on a failure to include certain specific enforceable measures, if the plan contains a commitment of the State to adopt specific enforceable measures by a date certain not later than one year after the date of approval of the plan or plan revision. Any such conditional approval shall be treated as disapproval if the State fails to comply with such commitment.

"(f) PLAN REVISIONS.—The Administrator shall review approved plans from time to time (but no less often than every five years) and if revisions are necessary to bring any such plan into compliance with the requirements of section 4003 (including any new or revised requirements), the Administrator shall notify the State or regional planning agency of the need for such revision. If such revisions are not submitted and approved within a reasonable period, or if the State or affected local governments fail to implement an approved solid waste management plan, the Administrator, after notice and opportunity for public hearing, shall withdraw approval of such plan.

"(g) ANNUAL SUBMISSIONS.—After approval of the plan, the Administrator shall review the annual submissions and certifications required under paragraphs (9) and (11) of section 4003(a). The Administrator shall notify the State of any material deficiency in a submission or certification, and the State shall correct any such deficiency within ninety days of notification. In the event that the State fails to correct deficiencies or obtain a conditional approval pursuant to subsection (e) the Administrator shall withdraw approval of such plan.

"(h) JUDICIAL REVIEW.—(1) A petition for review of the Administrator's action on any solid waste management plan under section 4003 may be filed in the United States District Courts. Any petition for review shall be filed within sixty days from the date of such final action.

"(2) Any person may petition the Administrator to make a finding that a plan under Section 4003 is deficient and should be disapproved. The administrator shall take final action on any such petition within 180 days after its submission.".

SEC. 403. PERMITS FOR SOLID WASTE MANAGEMENT.—Section 4010 of the Solid Waste Disposal Act is amended to read as follows:

"SEC. 4010. PERMITS FOR SOLID WASTE MANAGEMENT.—(a)(1) NOTIFICATION REQUIREMENT.—Effective one year after the enactment of the Resource Conservation and Recovery Act Amendments of 1991, owners or operators of facilities that store (excluding transportation-related facilities including loading docks, parking areas, storage areas and other similar areas where shipments of solid waste are held during the normal course of transportation), treat or dispose of solid waste or facilities that recycle solid waste or secondary material shall notify the state pursuant to paragraph (2). Effective one year after the enactment of the Resource Conservation and Recovery Act Amendments of 1991, transportation of solid waste for storage, treatment, incineration, or disposal to any facility, or arrangement for the storage, treatment, or disposal of solid waste, at any facility that has not notified the State pursuant to this section is prohibited.

"(2) For purposes of the requirement in subsection (a), and until such time as permits are reissued pursuant to subsection (f) by the State or the Administrator, units shall be treated as having satisfied the notification requirement if—

"(A) in States with an existing system of solid waste management permitting or prior approval, existing units obtain such permit or prior approval no later than twelve months after date of enactment of this Act, and new units obtain such permit or prior approval prior to commencing construction.

"(B) in States without an existing system of solid waste management permits or prior approval, new and existing units submit to the State and to the Administrator a notification and exposure assessment which contains, at a minimum, information regarding the facility and unit's location, general facility information, waste types and volumes managed, number of households, schools, hospitals and other public and private buildings within one mile of the facility in which the unit is located, facility monitoring programs and results, proximity to surface water and ground waters, number of local drinking water wells, number of municipal water intakes downstream from the facility, and any other information deemed appropriate by the Administrator in order to carry out the requirements of the Resource Conservation and Recovery Act Amendments of 1991. The manner and form of this submission shall be determined by the Administrator within ninety days of enactment of the Resource Conservation and Recovery Act Amendments of 1991. Existing units shall submit this information no later than twelve months after such date of enactment. New units shall submit this information prior to commencing operation.

"(b)(1) PERMIT REQUIREMENTS.—Effective 48 months after the enactment of the Resource Conservation and Recovery Act Amendments of 1991, or on the date of a permit issued pursuant to subsection (f), whichever is sooner, storage (excluding transportation-related facilities including loading docks, parking areas, storage areas and other similar areas where shipments of solid waste are held during the normal course of transportation), treatment or disposal of solid waste and the recycling of solid waste or secondary material, except in accordance with a permit issued pursuant to this section is prohibited. Effective 48 months after the enactment of the Resource Conservation and Recovery Act Amendments of 1991, or on the date of the permit issued pursuant to subsection (f) whichever is sooner, transportation of solid waste or secondary material for recycling for storage, treatment, incineration, or disposal to any facility, or arrangement for the recycling storage, treatment, or disposal of solid waste or secondary materials, at any facility that does not have a permit issued pursuant to this section is prohibited.

"(2) The State is authorized to exempt recycling facilities from the permit requirement if in the judgment of the State, a permit is not necessary to ensure protection of human health and the environment.

"(3) Notwithstanding the provisions of this section, the management of hazardous wastes and hazardous secondary materials shall be regulated in accordance with the provisions of Subtitle C of this Act.

"(c) STATE CERTIFICATION.—Not later than one year after the enactment of the Resource Conservation and Recovery Act Amendments of 1991, the Governor of each State shall submit to the Administrator a statement certifying that the laws of such State provide such regulatory authority and personnel as may be necessary to implement the permit requirements required by this section, including, but not limited to, authority to—

"(1) issue permits under State law that—

"(A) meet the requirements of this section and assure compliance with any applicable standards promulgated by the Administrator under section 4011 within eighteen months after such promulgation or such earlier date as the Administrator may by rule establish;

"(B) can be terminated, modified or revoked for cause including, but not limited to, the violation of any condition of a permit or obtaining a permit by misrepresentation, or failure to disclose fully all relevant facts;

"(2) provide for periodic inspections, monitoring, access at reasonable times, and require reports to the extent necessary to assure compliance with this subtitle;

"(3) assure that the public receives notice of each application for a permit and provide an opportunity for public hearing before ruling on each such application;

"(4) collect permit fees pursuant to subsection (j) from all facilities required to be issued a permit under subsection (a); and

"(5) enforce permits, permit fee requirements, and the requirement to obtain a permit including authority to recover civil and criminal penalties.

"(d) STATE AUTHORITY TO ISSUE PERMITS.—(1) After submission of the certification required by subsection (c), and except as provided in subsection (e), upon a determination that a solid waste management facility complies with the requirements of this section including protection of human health and the environment with considerations of practical capability, and any other applicable requirements of State law, the State in which the facility is located may issue a permit to such facility pursuant to the authority under subsection (c).

"(2) No permit may be issued under this Act by an agency, instrumentality, or person (other than a Governor) that is also responsible, in whole or in part, for the design and construction or operation of the unit.

"(e) ISSUANCE OF PERMITS BY THE ADMINISTRATOR.—(1) The Administrator shall act in lieu of a State to issue or deny permits to solid waste management facilities within the State—

"(A) if such State has failed to submit the certification required under subsection (c) of this section;

"(B) if, following notice and opportunity for a public hearing, the Administrator finds that the State lacks adequate regulatory powers under State law to implement the permitting requirement and enforce against violations of permits or requirements of this subtitle;

"(C) if a State has failed to submit a plan pursuant to section 4006 of this Act which meets the requirements of this Act; or

"(D) if following notice and opportunity for a public hearing, the Administrator finds that the State fails to exercise its regulatory authority as required by this Act.

"(2) Any permit issued by a State prior to the date of enactment or pursuant to subsection (a) of this section shall remain in effect until the Administrator acts.

"(f) PERMIT CONDITIONS.—Any permit issued pursuant to this section shall, within eighteen months after promulgation of applicable standards by the Administrator pursuant to section 4011, contain such conditions as will assure compliance with such standards. In the absence of applicable standards under section 4011 of this Act, the permit shall contain such conditions as the State (or Administrator), based on the exercise of its best professional scientific and engineering judgment, consideration of appropriate regulations and requirements adopted by other States or solid waste management authorities and after consideration of the factors listed in this subsection, deems necessary to protect human health and the environment with consideration of practical capability. Any permit issued under this section by the State (or the Administrator) shall contain provisions appropriate for each category or subcategory of waste pursuant to section 4011 specifying—

"(1) the types of wastes handled by the facility, their toxicity, mobility or other po-

tential to adversely affect human health or the environment, and include measures to mitigate such potential, including but not limited to special handling requirements, liners and leachate collection systems as appropriate;

"(2) design of the facility in relation to the location of the facility, including its hydrogeologic and climatological settings, and its proximity to biological or cultural resources and sources of ground water or surface water;

"(3) air and ground water monitoring necessary to identify any potential adverse effects on human health and the environment from a discharge from such facility;

"(4) financial assurance for closure and postclosure care;

"(5) measures necessary to prevent the unlawful disposal of hazardous waste;

"(6) measures necessary to control precipitation run-on and run-off;

"(7) restrictions on the receipt of liquids or measures necessary to mitigate the potential adverse effects of such receipt; and

"(8) the authority to require any necessary corrective action to prevent adverse effects on human health and the environment. Nothing in this Act shall be construed to limit the State from adopting or enforcing additional or more stringent permit requirements than are required by this Act.

"(g) PERMIT TERM.—Any permit issued pursuant to State authority certified under subsection (c) of this section or by the Administrator pursuant to subsection (e) of this section shall be for a fixed term not to exceed five years, and shall be modified to require compliance with any applicable standard promulgated under section 4011 of this Act within eighteen months after promulgation of such standard. Nothing in this subsection shall preclude a State (or the Administrator) from reviewing and otherwise modifying a permit at any time during its term.

"(h) SINGLE PERMIT.—A single permit may be issued for a facility with multiple units.

"(i) PERMIT FEE.—(1) The owner or operator of any facility subject to the permit requirement under subsection (a) of this section except recycling facilities shall pay an annual fee, or the equivalent over some other period, sufficient to cover all reasonable (direct and indirect) costs required to develop and administer the permit program requirements of this section, including the reasonable costs of—

"(A) reviewing and acting upon any application for such a permit;

"(B) if the owner or operator receives a permit for such facility, whether before or after the date of the enactment of the Resource Conservation and Recovery Act Amendments of 1991, implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action);

"(C) monitoring; and

"(D) preparing generally applicable regulations or and guidance.

"(2) The total amount of fees collected by the permitting authority shall conform to the following requirements—

"(A) The Administrator shall not approve a permit program as meeting the requirements of this paragraph unless the State demonstrates that, except as otherwise provided in (i) through (iii) of this subparagraph, the program will result in the collection, in the aggregate, from all sources subject to subsection (a), of an amount not less than two dollars per ton of solid waste, or other such amount as the Administrator may determine adequately reflects the reasonable cost of the permit program.

"(i) In determining the amount under subparagraph (A) the permitting authority is not required to include any amount of regulated solid waste managed by any source in excess of 50,000 tons per year.

"(ii) The requirements of this subparagraph shall not apply if the permitting authority demonstrates that collecting an amount less than the amount specified under this subparagraph will meet the requirements of paragraph (1).

"(iii) The fee calculated under this subparagraph shall be increased consistent with the need to cover the reasonable costs authorized by paragraph (1) in each year beginning after the year of the enactment of the Resource Conservation and Recovery Act Amendments of 1991 by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year exceeds the Consumer Price Index for the calendar year 1990. For purposes of this clause—

"(I) the Consumer Price Index for any calendar year is the average of the Consumer Price Index for all urban consumers published by the Department of Labor, as of the close of the 12 month period ending on August 31 of each calendar year, and

"(II) the revision of the Consumer Price Index which is most consistent with the Consumer Price Index for calendar year 1990 shall be used.

"(3)(A) If the Administrator determines, under subsection (e) that the fee provisions of the operating permit program do not meet the requirements of paragraph (2) or that the permitting authority is not adequately administrating or enforcing an approved program, the Administrator may, in addition to taking any other action authorized under this Act, collect reasonable fees from the facilities identified in subsection (a). Such fees shall be designed solely to cover the Administrator's cost of administering the provisions of the permit program promulgated by the Administrator.

"(B) Any source that fails to pay fees lawfully imposed by the Administrator under this paragraph shall pay a penalty of 50 percent of the fee amount plus interest on the fee amount computed in accordance with section 6621(a)(2) of the Internal Revenue Code of 1986 (relating to computation of interest on underpayment of Federal taxes).

"(C) Any fees, penalties, and interest collected under this paragraph shall be deposited in a special fund in the United States Treasury for licensing and other services, which thereafter shall be available for appropriation, to carry out the Agency's activities for which the fees were collected. Any fee required to be collected by a State under this section shall be utilized solely to cover all reasonable (direct and indirect) costs required to support the permit program as set forth in paragraph (1).

"(k) PERMIT BY RULE.—(1) The State may promulgate regulations under subsection (a) which provide for one or more specified classes of facilities that shall be deemed to have a permit for the purpose of this subtitle and to be operating in compliance with such permit, if such facility is constructed and operating in compliance with the requirements of such regulations.

"(2) A class of facilities may be specified in a permit by rule under this subsection only if the State or Administrator determines that no single facility in a class is likely to cause significant damage to human health or the environment, and that the class will have minimal cumulative adverse effect on human health and the environment.

"(3) Regulations promulgated under this subsection shall require—

"(A) provisions for public notice that require the owner or operator of the facility to notify the permitting authority and other interested persons of the intent to construct or commence operations of such facility or unit, sufficiently in advance of such action as specified by the Administrator in such regulations;

"(B) provisions for monitoring;

"(C) provisions for annual on-site inspections by the permitting authority; and

"(D) such additional measures as the Administrator considers appropriate to ensure that such facilities are designed and operated in a manner that protects human health and the environment.".

SEC. 404. CRITERIA FOR SOLID WASTE MANAGEMENT.—(a) Subtitle D of the Solid Waste Disposal Act is amended by adding at the end thereof the following new section:

"SEC. 4011. (a)(1) IN GENERAL.—The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall develop and promulgate guidelines establishing minimum requirements for facilities that manage solid waste in the following categories—

"(A) for municipal solid waste, within twelve months of enactment of this Act;

"(B) for municipal waste combustion ash, including the management, handling, treatment, transportation, reuse, recycling, and disposal within eighteen months of enactment of this Act;

"(C) for medical wastes including infectious hospital and laboratory wastes, within twelve months of enactment of this Act;

"(D) for industrial solid wastes handled in surface impoundments, landfills, waste piles and industrial boilers within twenty-four months of enactment of this Act;

"(E) for industrial solid wastes handled in underground injection wells not otherwise covered by this title within thirty-six months of enactment of this Act; and

"(2) Within twelve months after the enactment of this Act, and from time to time thereafter, the Administrator shall publish a notice in the Federal Register identifying any other solid waste categories for which guidelines are necessary or appropriate and specifying a schedule for the promulgation of those guidelines. The Governor of any State may petition the Administrator to propose guidelines for a category of waste not described in this paragraph.

"(b) GUIDELINES.—The guidelines promulgated by the Administrator pursuant to section 4011(a) of this Act shall be those necessary to protect human health and the environment from the solid wastes for each category or subcategory and shall take into consideration the circumstances presented by the particular solid waste category, and the practicable capability of such facilities as well as—

"(1) the sources and volumes of the solid wastes within the category, including their toxicity, mobility, or other potential for adverse impacts on human health and the environment;

"(2) the potential danger, if any, to human health and the environment from current management practices;

"(3) documented cases of actual or threatened harm to human health or the environment;

"(4) the types of solid waste management facilities and measures that can be used to mitigate any potential adverse effect on

human health and the environment that are appropriate for the solid wastes generated within each source category and consistent with the climatological and hydrogeological setting and proximity to biological or cultural resources and sources of ground water or surface water. The Administrator shall consider and promulgate guidelines as appropriate for each solid waste category that include but are not limited to—

"(A) requirements with respect to siting of any source in the category including its proximity to karst terrain, seismic zones, wetlands, floodplains, and vulnerable or unmonitorable ground water;

"(B) requirements with respect to construction quality assurance for the installation of any source in the category;

"(C) requirements with respect to licensing or training for persons who install or operate any source in the category;

"(D) requirements with respect to the design of any source in the category including liners, leachate collection systems and cover requirements;

"(E) requirements with respect to the operation and maintenance of any source in the category;

"(F) requirements for monitoring releases to air, surface water, soil, and ground water;

"(G) requirements with respect to source separation or treatment prior to disposal or incineration;

"(H) requirements for taking corrective action in response to releases;

"(I) requirements for closure and postclosure care;

"(J) requirements for maintaining records of any leak detection, sampling or monitoring system associated with any source in the category;

"(K) requirements for maintaining evidence of financial responsibility for closure, postclosure care, and corrective action; and

"(L) other Federal and State laws and regulations with a view toward avoiding duplication of effort.

"(5) Nothing in this section shall be construed to limit the authority of the Administrator pursuant to section 3001 of this Act to regulate any category or subcateogry of solid waste under subtitle C of this Act.

"(c)(1) MUNICIPAL SOLID WASTE LANDFILLS.—Guidelines promulgated under subsection (a)(1)(A) of this section shall include, at a minimum, for each new and existing landfill the following requirements—

"(A) controls to detect and prevent the disposal of hazardous waste, nonhazardous bulk liquids and nonhazardous liquids in containers (other than household wastes). Such controls shall include random inspections of incoming loads, inspection of suspicious loads, records of inspections, training of facility personnel to recognize illegal materials, procedures for notifying the proper authorities if any regulated hazardous wastes are found, and precautions and penalties to prevent such offenses;

"(B) daily cover as necessary to control disease vectors, fires, odors, blowing litter and scavenging;

"(C) landfill gas monitoring and controls to ensure that concentrations of explosive gases beneath, around, or in facility structures (excluding gas control or recovery components) shall not exceed twenty-five per centum of the lower explosive limit for methane. Such concentrations shall not exceed the lower explosive limit at the property boundary (or perimeter of a dedicated buffer zone);

"(D) access controls to protect human health and the environment and to prevent unauthorized vehicular traffic and to prevent illegal dumping of wastes;

"(E) run-on and run-off controls that will accommodate a twenty-four hour, twenty-five year storm without overtopping and with sufficient freeboard to accommodate expected set-up and wave action; diversion of all run-on around the landfill by means of ditches, berms, dikes or grading, and relocation of surface water bodies to flow around the perimeter of the landfill;

"(F) landfill closure that—

"(i) minimizes the need for further maintenance;

"(ii) ensures no adverse effects will be caused from postclosure releases to the ground water, surface water, or atmosphere;

"(G) closure and postclosure care plans which identify for each facility the steps necessary to ensure closure and postclosure care, time estimates, modifications to monitoring and collection systems, final cover, and cost estimates. The postclosure care period shall be determined by results from the monitoring in the landfill including leachate quality and quantity and methane gas generation or some alternative;

"(H) financial responsibility for closure and postclosure care;

"(I) ground water monitoring. The Administrator is authorized to promulgate regulations to allow a variance from ground water monitoring requirements if the owner or operator can demonstrate to the satisfaction of the Administrator that there is no potential for migration of hazardous constituents from the landfill to the uppermost aquifer during the active life, closure, and postclosure. Such demonstration shall be certified by a qualified geologist or geotechnical engineer and shall be based on site specific data; and

"(J) corrective action of releases to air, water, and land to protect health and the environment.

"(2) At a minimum, the guidelines promulgated under subsection (a)(1)(A) of this section shall require for each new landfill and lateral expansion to existing landfills for which new permits are required the following requirements—

"(A) a composite liner consisting of an upper component consisting of a minimum 30-mil flexible membrane liner (FLM) or a 60-mil High Density Polyethylene liner (HDPE) and a lower component consisting of at least a two-foot layer of compacted soil with a hydraulic conductivity of no more than 1×10–7 cm/sec. or an alternative design capable of preventing the migration of wastes or leachate out of the landfill to the uppermost aquifer during the life of the facility, including the post-closure period;

"(B) leachate collection and removal systems unless the owner or operator demonstrates to the satisfaction of the permitting authority that no leachate will be generated. The leachate collection and removal system shall be installed immediately above the liner, which shall be sufficiently permeable to allow the leachate collection and removal system to function, and designed and constructed to maintain less than thirty centimeters of leachate head from the landfill during the active life and postclosure care period;

"(C) construction quality assurance plan specifying the materials to be used in liner construction, the construction techniques, the engineering plans, the installation test procedures, and a description of the methods to be used to modify work which does not meet project specifications; and

"(D) landfills shall not be located in the following locations—

"(i) within the one hundred-year flood plain unless it can be demonstrated by the owner or operator that engineering measures have been incorporated into the landfill design to ensure the landfill shall not restrict the flow of the one hundred-year base flood, reduce the temporary water shortage capacity of the floodplain, or result in the washout of solid waste so as to pose a hazard to human health or the environment;

"(ii) within a wetland except in accordance with sections 301 and 404 of the Clean Water Act;

"(iii) within two hundred feet of a fault that has had displacement in Holocene time; and

"(iv) within a seismic impact zone and other unstable areas unless it can be demonstrated by the owner or operator that engineering measures have been incorporated into the landfill design to ensure the structural stability of the landfill capable of protecting human health and the environment.

"(3) For the purpose of complying with subsection (a)(1)(A) of this section, the notice of proposed rulemaking by the Administrator in accordance with section 4010 of this Act (as in effect immediately prior to the enactment of the Resource Conservation and Recovery Act Amendments of 1991) shall be deemed the notice of proposed rulemaking for municipal solid waste landfills under this section, together with such changes of additions as are necessary to comply with the requirements of this section.

"(d) MUNICIPAL WASTE COMBUSTION ASH.—(1) Guidelines promulgated under subsection (a)(1)(B) shall establish requirements for the management, handling, storage, treatment, transportation, reuse, recycling, and disposal of ash from municipal waste incineration units, as may be necessary to protect human health and the environment. Notwithstanding the provisions of the Federal Advisory Committee Act, prior to promulgation of any regulations, requirements, or guidelines pursuant to section 130 of the Clean Air Act or section 4011 of the Solid Waste Disposal Act, the Administrator shall consult with elected officials of State and local governments, or their representatives or representatives of their organizations which may develop plans, administer programs, issue permits, promulgate regulations or take corrective action under such sections to receive their advice and recommendations on such regulations, requirements and guidelines. Notwithstanding other provisions of this Act, the management, handling, storage, treatment, transportation, reuse, recycling, and disposal of ash from municipal waste incineration units shall be subject to this section and subtitle and not subject to the provisions of subtitle C. The provisions of section 3007, 3008 and 3013 shall apply to ash from municipal waste incineration units and the requirements of this section to the same extent that such sections apply to hazardous wastes and the requirements of subtitle C.

"(2) For the purposes of this section, the term 'treatment' means any method, technique, or process designed to change the physical, chemical, or biological character or composition of any ash so as to remove or permanently fix in place any constituent of the ash which, in the event of mismanagement during transportation, storage, reuse or disposal, may pose a threat to human health or the environment and includes testing of such ash to assure the criteria promulgated under subsection (e) are satisfied.

"(3) Regulations promulgated under this section may establish requirements that apply to fly ash separately, to bottom ash

separately, or to the combination of fly ash and bottom ash.

"(b) DISPOSAL.—(1) Regulations promulgated under subsection (a) for the disposal of ash from municipal waste incineration units in landfills shall require—

"(A) the installation of a double liner consisting of one flexible membrane liner and a composite liner with a leachate collection system above and between such liners, in accordance with paragraph (2); and

"(B) groundwater monitoring.

"(2) The requirement of paragraph (1)(A) may be satisfied by the installation of liners designed, operated, and constructed of materials to prevent the migration of any constituent into and through such liners during the period such facility remains in operation (including any post-closure monitoring period). For the purposes of this section the term 'composite liner' means a liner which consists of a flexible membrane liner and at least a 3-foot thick layer of recompacted clay or other natural material with a hydraulic conductivity of no more than 1×10^{-7} centimeter per second. The provisions of this paragraph apply prior to and after the promulgation of regulations under paragraph (1).

"(3)(A) Notwithstanding the requirement of paragraph (1)(A), regulations promulgated under subsection (a) shall authorize the placement of ash from municipal waste incineration units in a monofill (containing only ash from such units) with a composite liner designed, operated and constructed of materials to prevent the migration of any constituent into and through such liner during the period the monofill remains in operation (including any post-closure monitoring period), ground water monitoring and a leachate collection system.

"(B) For the purpose of paragraph (4), a monofill (containing only ash from municipal waste incineration units) with two or more flexible membrane liners, a leachate collection system above and between such liners and ground water monitoring is determined to be an alternative design which will prevent the migration of any hazardous constituent into ground water or surface water at least as effectively as the design requirements of subparagraph (A).

"(C) If fly ash is to be disposed in a monofill containing solely or substantially fly ash, such ash shall be treated pursuant to treatment standards established under this section before disposal or such monofill shall be constructed with an additional liner and a leachate detection and collection system between the liners.

"(D) Requirements under this paragraph are minimum requirements and the Administrator shall promulgate more stringent requirements applicable where necessary to assure that releases from a monofill will not contaminate ground water or surface water or otherwise pose a threat of adverse effects on human health or the environment.

"(4) The design requirements of paragraphs (1) and (3) shall not apply if the owner or operator of a solid waste management unit utilizing an alternative design demonstrates to the State, and the State finds, that the alternative design will prevent the migration of any hazardous constituent into the ground water or surface water at least as effectively as the design requirements of paragraphs (1) or (3) of this subsection. The State shall not solely or substantially rely upon location characteristics to make any determination under this paragraph. States may authorize such alternative design requirements only under a permit program approved by the Administrator as required under subsection (f) of this section. The Administrator may review, on appeal by any person or on the Administrator's own motion, and reverse any determination made by a State under this subsection. The Administrator shall make a decision on any appeal within one hundred and eighty days.

"(5) Liner requirements imposed under paragraph (1) or (3) of this subsection or subsection (c) shall include provisions for quality control and quality assurance with respect to the design and installation of the liners.

"(6) Nothing in this section shall be interpreted, construed or applied to require the routine testing of ash which is disposed in a landfill or monofill meeting the requirements of this subsection.

"(c) Disposal in Sanitary Landfills.—Regulations promulgated under subsection (a) may allow disposal of ash from municipal waste incineration units in sanitary landfills with at a minimum one liner, leachate collection and ground water monitoring and otherwise meeting the requirements of revised criteria promulgated under section 4010(c), if (1) such ash is routinely tested and does not fail any criteria under subsection (e); and (2) any fly ash so disposed (including any fly ash combined with bottom ash) has undergone treatment (as defined in subsection (a)) in accordance with regulations for treatment promulgated under this section and such treated fly ash is separately tested and does not fail any criteria established under subsection (e). For the purposes of this section, the mixing of fly ash and bottom ash, or the mixing of such ash with other solid waste, without the introduction of chemical stabilization agents, does not constitute treatment. Ash may not be disposed of in units that are created as a result of vertical expansion of an existing waste disposal facility unless the owner or operator of such facility demonstrates, and the State finds, that there will be no settling (that would impair the integrity of any required liner, leachate collection or leak detection system, final cover, or any other structural component of the landfill containment system) of the waste upon which the proposed unit is to be built. In no event may such ash be disposed in a landfill from which the Administrator or the State has determined there is a release into ground water or surface water, unless such release would not require corrective action pursuant to Federal or State law or regulation or landfill that is in violation of Federal or State regulations or other requirements.

"(d) REUSE.—(1) The regulations under this section shall include such requirements applicable to the reuse and recycling of the ash from municipal waste incineration units, including criteria and routine testing procedures, as may be necessary to protect human health and the environment. The Administrator shall develop such regulations for the specific end uses of such reused or recycled ash. In developing such regulations, the Administrator shall consider, to the extent feasible and appropriate, all potential pathways of human and environmental exposure, including both short-term and long-term, to hazardous constituents of such ash from recycling and reuse. The pathways to be considered shall include, but not be limited to, inhalation, ingestion as a consequence of incorporation of the ash or any hazardous constituents into the food chain, ingestion of potable water or aquatic organisms contaminated by surface runoff, leaching or percolation of such ash or its hazardous constituents into ground water or surface water, ingestion or inhalation of soil particles contaminated with such ash, and dermal contact with such ash. At a minimum the Administrator shall consider with respect to such recycling and reuse, appropriate methods to determine leaching, total chemical analysis, respirability, and toxicity.

"(2) Such regulations shall require treatment of ash from municipal waste incineration units before any such ash is recycled or reused to protect human health and the environment. Such regulations shall specify those levels or methods of treatment that, taking into account the potential pathways of exposure identified in paragraph (1)—

"(A) substantially reduce the toxicity of the ash or substantially reduce the likelihood of migration of ash or its hazardous constituents so that short-term and long-term threats to human health and the environment are minimized;

"(B) satisfy any criteria and routine testing procedures included in the regulations under paragraph (1); and

"(C) assure that the recycling or reuse of such ash is protective of human health and the environment.

"(3) If the Administrator fails to promulgate regulations under this subsection, no person may reuse or recycle ash from a municipal waste incineration unit after the date thirty-six months after the date of enactment of this section unless such ash is treated and leachate from an extraction procedure toxicity test applied to such ash does not exceed standards established pursuant to section 1412 of the Safe Drinking Water Act.

"(e) CRITERIA AND TESTING.—(1) For the purposes of developing regulations for the management, handling, storage, treatment, transportation, reuse, recycling, and disposal of ash from municipal waste incineration units under this section, the Administrator shall, not later than 18 months after the date of enactment, promulgate criteria and testing procedures for identifying the characteristics of ash from municipal waste incineration units that may pose a hazard to human health or the environment. In considering potential hazards to human health and the environment, the Administrator shall consider, to the extent appropriate and feasible, all potential pathways of human or environmental exposure to constituents of such ash, including, but not limited to, inhalation, ingestion as a consequence of incorporation of the ash or any constituent into the food chain, ingestion of potable water or aquatic organisms contaminated by surface runoff, leaching or percolation of such ash or its constituents into ground water or surface water, ingestion or inhalation of soil particles contaminated with such ash, and dermal contact with such ash (including, for all such pathways, situations of disposal or reuse). At a minimum, the Administrator shall consider appropriate methods to determine leaching, total chemical analysis, respirability, and toxicity. The criteria and accompanying testing procedures promulgated by the Administrator under this subsection shall reflect the heterogeneous characteristics of municipal solid waste and ash from municipal waste incineration units, including seasonal variations in the constituents of such solid waste and ash. Leaching procedures established under this subsection shall include testing under acidic and native conditions. Test leachate from any ash containing a substance in concentrations exceeding the maximum contaminant level for such substance established pursuant to section 1412 of the Safe Drinking Water Act by

a factor of one hundred or more shall, unless the Administrator establishes a more stringent requirement, constitute a failure of the test required by this section.

"(2) When disposal of ash occurs pursuant to subsection (c) or (d), the Administrator shall require the owner or operator of any municipal waste incineration unit or any facility handling, transporting, storing, treating, reusing, recycling, or disposing of ash from such unit to test such ash in accordance with the appropriate criteria and testing procedures promulgated under this subsection. If fly ash and bottom ash are combined, such combined ash must also be tested in accordance with such criteria and testing procedures, including, as the Administrator determines necessary, the separate testing of bottom ash and fly ash.

"(3) Any ash which fails in any characteristic under the appropriate criteria and testing procedures promulgated by the Administrator under this subsection shall be disposed of in a facility in compliance with subsection (b)(1) or (3), or shall be treated (as defined in subsection (a)) in accordance with regulations promulgated under subsection (a) and shall be demonstrated to satisfy all applicable criteria promulgated under this subsection before disposal (pursuant to subsection (c)) or reuse (pursuant to subsection (d)).

"(4) The Administrator shall seek to validate the criteria and testing procedures established pursuant to this subsection by conducting a program of analysis of leachate produced at facilities disposing or reusing ash from municipal waste incineration units.

"(f) CORRECTIVE ACTION.—(1) Whenever on the basis of any information the Administrator determines that there is or has been a release of any hazardous constituent from a facility regulated under this section, the Administrator may issue an order requiring corrective action of such other response measure as the Administrator deems necessary to protect human health or the environment or the Administrator may commence enforcement action pursuant to section 4014.

"(2) Regulations promulgated under subsection (a) shall require corrective action for all releases of hazardous constituents from any solid waste management unit at a facility seeking a permit under this section, regardless of the time at which waste was placed in such unit. Permits issued under section 4010 shall contain schedules of compliance for such corrective action and assurances of financial responsibility for completing such corrective action.

"(g) CLOSURE.—Regulations promulgated under subsection (a) shall establish requirements for the proper closure of facilities treating, storing, or disposing of ash from municipal waste incineration units, for the post-closure monitoring and care of such facilities for a period of not less than thirty years, and for assurances of financial responsibility for closure, post-closure care and corrective action.

"(h) EFFECTIVE DATES.—(1) Regulations promulgated under this section shall be effective upon promulgation, except that requirements promulgated pursuant to subsection (b) or (c) with respect to the disposal of ash from municipal waste incineration units shall be effective on and after the date forty-eight months after the date of enactment of this section.

"(2) Beginning eighteen months after the date of enactment of this section and until the effective date of disposal requirements promulgated pursuant to subsection (b) or (c), ash from municipal waste incineration units shall not be disposed in landfills unless such landfills have, at a minimum, one liner, leachate collection and ground water monitoring and otherwise meet the criteria for sanitary landfills issued under this subtitle.

"(3) Notwithstanding the provisions of paragraph (2), the Administrator or a State may grant on a case-by-case basis a variance from the requirement that ash from each municipal waste incineration unit be disposed in a facility with a liner, leachate collection and ground water monitoring beginning eighteen months after enactment of this section, on a showing by the owner or operator of any such unit that sufficient capacity to dispose of ash in compliance with such requirements is not available for the unit taking cost into consideration. No variance granted under this paragraph shall extend for a period longer than thirty months after the date of enactment of this section.

"(4) Notwithstanding the provisions of paragraph (1), the Administrator or a State may grant on a case-by-case basis a variance from the requirement that ash from municipal waste incineration units be disposed only in landfills meeting the requirements of subsection (b) or (c) beginning forty-eight months after the date of enactment of this section, on a showing by the owner or operator of any such unit that good faith efforts were made to satisfy such requirement but the unit will fail to do so for reasons not in control of the owner or operator of such unit. No variance granted under this paragraph shall extend for a period longer than seventy-two months after the date of enactment of this section.

"(5) If the Administrator fails to promulgate regulations under subsection (a) for the disposal of ash from municipal incineration units, no person may dispose of ash in a landfill after forty-eight months after the date of enactment of this section unless such landfill satisfies the requirements of subsections (b)(1) or (b)(3).

"(i) PROHIBITION.—(1) Beginning on the effective date of any regulation or requirement under this section it shall be unlawful to manage, handle, store, treat, transport, reuse, recycle, or dispose ash from a municipal waste incineration unit otherwise than in accordance with such regulation or requirement or a State program approved pursuant to subsection (i).

"(2) Prior to and after the effective date of regulations under this section, the Administrator may use the authorities of section 3008 to enforce the requirements of this section. In the case of a violation in a State which is authorized to implement and enforce a program under subsection (i), the Administrator shall give notice to the State in which a violation has occurred prior to issuing an order or commencing civil action under section 3008.".

(b) Subsection (i) of section 3001 of the Solid Waste Disposal Act is repealed.

"(e) MEDICAL WASTES.—(1) For the purpose of promulgating guidelines under subsection (a)(1)(C) of this section, medical wastes shall include such wastes as are determined by the Administrator, in consultation with the director of the Centers of Disease Control and the Administrator of the Occupational Safety and Health Administration, to pose a threat to human health and the environment. Such wastes shall include at a minimum, pathological wastes of human origin, contaminated animal wastes when such wastes have been exposed to infectious agents during medical research, isolation wastes, and sharps. In making such a determination, the Administrator shall consider—

"(A) whether wastes regulated under the Medical Waste Tracking Act of 1988 are appropriate for continued regulation under this subtitle; and

"(B) the potential health risks associated with the waste, including the ability of a waste to transmit disease or penetrate the skin.

"(2) Guidelines promulgated under subsection (a)(1)(E) of this section for the storage and containment of medical wastes shall require—

"(A) segregation of medical waste from other wastes in leakproof containers labeled with a warning sign, and of sufficient strength to prevent ripping, tearing or bursting under normal conditions. Reusable containers for infectious waste shall be washed and decontaminated each time they are emptied;

"(B) such containers shall be stored no more than ninety days at the producing facility and shall be stored in a manner to deny access by unauthorized persons; or

"(C) trash chutes to transfer medical waste between locations where it is stored are prohibited.

"(3) Guidelines promulgated under a subsection (a)(1)(E) of this section, for the treatment and disposal of medical wastes shall require—

"(A) medical wastes to be handled separately until treatment or disposal is accomplished;

"(B)(i) incineration in a controlled-air, multi-chambered, incinerator which—

"(I) effectively destroys all categories of medical wastes, and effectively kills live and dormant forms of pathogenic organisms;

"(II) minimizes the production and emission of toxic pollutants through the application of best available control technology, and through application, to the extent practicable, of emission standards at least as stringent as those established pursuant to section 129 of the Clean Air Act;

"(III) prevents compaction and rupture of containers during loading operations;

"(IV) disposes of combustion residuals pursuant to subsection (d) of this section; or

"(ii) sterilization or alternate treatment technologies (including disinfection) which—

"(I) demonstrate that all pathogenic organisms are rendered harmless;

"(II) provide for quality assurance programs;

"(III) provide for periodic testing using biological indicators that demonstrate proper sterilization of the waste stream;

"(IV) provide for labeling that clearly distinguishes treated from untreated waste;

"(V) in the case of stream sterilization, provide for loading parameters that ensure consistent and adequate steam and heat penetration to each load;

"(VI) in the case of chemical disinfection, provide for testing which indicates that all pathogens have been rendered harmless prior to transfer or disposal of treated waste; and

"(VII) are otherwise in conformance with any standard, requirement, criteria, or limitation under any Federal or State environmental law or regulation, including, but not limited to, the toxic Substances Control Act, the Safe Drinking Water Act, the Clean Air Act, the Clean Water Act, the Marine Protection, Research, and Sanctuary Act, or the Solid Waste Disposal Act.

"(4) Guidelines promulgated under subsection (a)(1)(C) of this section, for the transportation of medical wastes shall require—

"(A) transportation of infectious waste in a leakproof, fully enclosed container within a vehicle compartment, and segregated from other wastes;

"(B) transportation by a registered hauler of medical waste;

"(C) a manifest for accountability and tracking of medical wastes from their point of generation to point of disposal at a permitted facility; and

"(D) a prohibition on the transportation of medical wastes in a vehicle that will be used to transport food and food products.

"(5) Wastes which are treated in conformance with the guidelines under section (a)(1)(C) of this section shall not be considered medical wastes except that pathological wastes, sharps, and contaminated animal carcasses, must be rendered unrecognizable.

"(6) Guidelines promulgated under subsection (a)(1)(C) of this section for the management of medical waste shall include methods to reduce the value and toxicity of medical waste.

"(7) The Administrator shall establish an Education and outreach program designed to provide information and assistance for households and other non-hospital sources of medical wastes. In establishing such a program the Administrator shall—

"(A) utilize programs for the coordination, collection, and dissemination of information established pursuant to section 8003 of this Act;

"(B) consider information on reducing the volume and toxicity of medical waste;

"(C) Conduct research, and demonstration programs to assess the application of treatment technologies for non-hospital generators, including the application of mobile microwaving units, and small on-site autoclaves.

"(8) The Administrator shall establish a process for approval and certification of treatment technologies capable of rendering medical waste harmless.".

"(f) INDUSTRIAL SURFACE IMPOUNDMENTS.—(1) NEW SURFACE IMPOUNDMENTS.—(A) Except as provided in paragraph (B) and in section 3005(j)(2), (3) or (4), it shall be unlawful to treat, store, or dispose of industrial waste in any new surface impoundment unit at an existing facility, any replacement of an existing surface impoundment unit, or any lateral expansion of an existing surface impoundment unit unless such surface impoundment unit is equipped with—

"(i) two or more liners and a leachate collection system between such liners; and

"(ii) ground water monitoring.

"(B) Paragraph (1)(A)(i) shall not apply if the owner or operator demonstrates to the State, (or the Administrator) and the State (or the Administrator) finds for such surface impoundment, that alternative design and operating practices, together with location and waste characteristics, will prevent the migration of any hazardous constituents, or any constituent that the State (or the Administrator) deems may pose a threat to human health or the environment, into the ground water or surface water at least as effectively as such liners and leachate collection systems.

"(C) For purposes of this subsection, the phrase "any hazardous constituent" as used in subsection 3005(j) shall include the phrase "or any constituent that the State (or the Administrator) deems may pose a threat to human health or the environment,".

"(2) EXISTING SURFACE IMPOUNDMENTS.—The State (or the Administrator) is authorized to prohibit the storage, treatment or disposal of industrial waste in any surface impoundment that is not in compliance with the requirements of paragraph (1)(A) which would apply to such impoundment if it were new.

"(3) The provisions of this subsection shall not apply to industrial wastewater if such wastewater is noncontact, freshwater cooling water used in the industrial process."

"(g) INDUSTRIAL LANDFILLS.—(1) LIQUIDS IN INDUSTRIAL WASTE LANDFILLS.—Effective 24 months after the date of enactment of the Resource Conservation and Recovery Act Amendments of 1991, the placement of bulk liquids and liquids in containers into any landfill containing industrial waste is prohibited.

SEC. 405. REGULATION OF SECONDARY MATERIALS.—(a) Section 3004(a) of the Solid Waste Disposal Act is amended by—

(1) inserting "recycling," before "treatment, storage, or disposal" each time the phrase appears; and

(2) inserting "or hazardous secondary material" after "hazardous waste" each time the phrase appears.

(b) Section 3004 of the Solid Waste Disposal Act is amended by adding the following new subsection:

"(y) RECYCLING STANDARDS.—(1) Not later than 24 months after the enactment of the Resource Conservation and Recovery Act Amendments of 1991, hazardous secondary material shall be deemed hazardous wastes for all purposes of this subtitle unless the Administrator promulgates requirements for the recycling, recovery and reuse of hazardous waste and hazardous secondary material in accordance with subsection (a). Such requirements need to appropriately encourage environmentally sound recycling by addressing the particular needs and unique operations of certain recycling facilities.

Such requirements shall protect human health and the environment to the same degree as the requirements that are applicable to the transfer, storage or disposal of hazardous waste under this subtitle and at a minimum, shall require:

"(A) handling (including transporting or transferring, processing, packaging, containerization, and storing) consistent with the requirements applicable to hazardous waste under section 3002, 3003 and this section;

"(B) corrective action;

"(C) the management of any slag or residue from such recycling in accordance with this subtitle, if such slag or residue exhibits a characteristic pursuant to section 3001 or is derived from a hazardous waste listed under section 3001;

"(D) measures designed to assure financial responsibility; and

"(E) periodic inspections.

"(2) Effective on the date of enactment of the Resource Conservation and Recovery Act Amendments of 1991, and prior to the effective date of the requirements promulgated under paragraph (1), the requirements for recycling materials as set forth at 40 CFR Parts 264, 265, 266 and 268 (July 1, 1990) shall remain applicable to all owners and operators of hazardous waste and hazardous secondary material recycling facilities who were subject to such regulations on such date of enactment.

"(3) The regulations under this section applicable to treatment, storage, and disposal facilities shall apply, in lieu of those applicable to recycling facilities, to any particular facility generating or receiving hazardous secondary material or hazardous waste where—

"(A) such hazardous secondary material or hazardous waste are burned for energy recovery, or where the main purpose of adding such secondary material or hazardous waste is the destruction of the material, including any such case in which supplemental fuel is required for thermal processing;

"(B) such hazardous secondary material or hazardous waste are inherently waste-like;

"(C) the products of such facility receiving hazardous secondary material or hazardous waste will be used in a manner constituting disposal; or

"(D) such hazardous secondary material or hazardous waste is speculatively accumulated.

"(4) Within 6 months from the date of enactment of the Resource Conservation and Recovery Act Amendment of 1991, any owner or operator of a facility recycling, recovering or reusing hazardous material or hazardous secondary material in a closed loop manufacturing process in a manner described at 40 C.F.R. 261.4(a)(8) (July 1, 1990), or any owner or operator of a facility directly reusing hazardous waste or hazardous secondary material in the manner described at 40 C.F.R. 261.2(e) (July 1, 1990), shall certify to the Administrator that the facility meets the requirements of a closed loop system or direct reuse process and is exempt from the requirements of subsection (a). Such certification shall, at a minimum include:

"(i) the name and address of the facility;

"(ii) the name and address of the owner or operator;

"(iii) the amount and type of hazardous waste and hazardous secondary material recycled, recovered or reused at the facility on an annual basis;

"(iv) a brief description of the recycling, recovery or reuse process; and

"(v) such other information as the Administrator deems appropriate in order to verify the contents of the certification.

"(c) Section 3005 is amended by adding the following new subsection:

"(k) PERMIT BY RULE.—(1) Not later than twelve months after the date of enactment of the Resource Conservation and Recovery Act Amendments of 1991, the Administrator shall promulgate requirements under subsection (a) which provide for a permit by rule for facilities which store and recycle hazardous waste or hazardous secondary material.

"(2) Requirements promulgated under this subsection shall require—

"(A) provisions for public notice and comment prior to construction and commencement of operations at such facility;

"(B) a demonstration by the owner or operator that the facility is in compliance with all applicable standards and requirements of law;

"(C) provisions for annual on-site inspections by the permitting authority; and

"(D) such other information as the Administrator deems appropriate to verify compliance with the permit.

"(3) The permitting authority must verify the contents of the permit by rule application within two years of receipt. Upon review of such application, the Administrator may revoke such permit if compliance with all applicable standards cannot be verified.

"(4)(A) This subsection shall not apply to any land disposal unit or any incinerator.

"(B) A class of facilities or recycling units may be eligible for a permit by rule under this subsection only if the Administrator determines that no single facility or recycling unit of such class has the potential for significant damage to human health and the environment and that the class will have minimal cumulative adverse effect on human health and the environment.

"(d) APPLICABILITY OF OTHER SECTIONS.—For purposes of Sections 3006, 3007, 3008, 3009, 3010, 3012, 7002 and 7003—

"(1) the term "hazardous waste" shall be deemed to include the term "hazardous secondary material;" and

"(2) the term "hazardous waste transfer, storage or disposal facility" shall be deemed to include a facility that recycles "hazardous secondary material" or "hazardous waste".

"(e) Subtitle D of the Solid Waste Disposal Act is amended by adding at the end thereof the following new section:

"(d) Subtitle D of the Solid Waste Disposal Act is amended by adding at the end thereof the following new section:

"Sec. 4012. RECYCLING STANDARDS.—

"(a) IN GENERAL.—The Administrator shall promulgate regulations not later than eighteen months after the date of enactment of the Resource Conservation and Recovery Act Amendments of 1991, performance standards, applicable to owners and operators of recycling facilities for solid wastes (other than hazardous wastes) and secondary materials (other than hazardous secondary wastes), as may be necessary to protect human health and the environment. Such regulations shall also establish standards for the reuse or use of products from recycling or resource recovery activities other than as raw materials for manufacturing processes, and for the use and composition of compost made from solid waste. Such standards for reuse or use, and in particular standard for any use involving application or placement on land or otherwise constituting disposal, shall assure protection of human health and the environment and shall primarily take into account the risk to human health or the environment posed by such reused or recycled product as compared to the product or products for which it may be substituted.

"(b) FLEXIBILITY OF STANDARDS.—(1) In establishing separate requirements for the recycling, resource conservation, or resource recovery of any solid waste or secondary materials in accordance with subsection (a), the Administrator is authorized to modify the requirements that would otherwise apply to the management of such secondary materials under this subtitle, to take into account the need to appropriately encourage environmentally sound recycling and the actual potential for such activities to pose risks to human health and the environment, so long as such modified requirements assure protection of human health and the environment at least as safe as if managed as a solid waste.

"(2) At a minimum regulations established pursuant to paragraph (1) shall require—

"(A) compliance with emissions limitations on air pollutant emissions applicable to such facilities under subsection (n) and section 112 of the Clean Air Act.

"(B) the management of any slag or residue from such recycling in accordance with the waste management requirements in Subtitle D of this Act.

"(c) RECYCLING OF LEAD-ACID BATTERIES AND TIRES.—(1) Notwithstanding the requirements promulgated pursuant to section 4012, and section 4010(k) the Administrator shall promulgate regulations for collecting, transporting, recycling and managing lead-acid batteries, and tires not later than eighteen months after the date of enactment of the Resource Conservation and Recovery Act Amendments of 1991 as necessary to protect the public health and the environment from hazards associated with the recycling of lead-acid batteries and tires.

"(2) LEAD-ACID BATTERIES.—In developing management standards for lead-acid batteries such standards shall prohibit the disposal or incineration of lead-acid batteries and shall cover the collection, storage and transfer and recycling and such other matters as the Administrator considers appropriate, including protection against spillage and leakage of acid.

"(3) TIRES.—In developing management standards for tires such standards shall prohibit the disposal of whole tires in land disposal facilities and shall cover the collection, storage, transfer and recycling of tires, and such other matters as the Administrator considers appropriate, including requirements that limit the size of both existing and future scrap tire piles at scrap tire collection and recycling facilities.

SEC. 406. MANAGEMENT STANDARDS FOR USED OIL.—(a) Section 3014 of the Solid Waste Disposal Act is amended to read as follows:

"MANAGEMENT STANDARDS FOR USED OIL.

"(a) IN GENERAL.—(1) Not later than eighteen months after the date of the enactment of the Resource Conservation and Recovery Act Amendments of 1991, the Administrator shall promulgate regulations, in accordance with this section, for persons who collect, store, transport, or recycle used oil. Used oil that is collected, stored, transported and recycled in accordance with such regulations is not a hazardous waste. Used oil that is not managed in accordance with such regulations or is disposed, shall be managed as a hazardous waste and disposed of in facilities with permits issued pursuant to section 3005.

"(2) Such regulations shall include standardized forms developed by the Administrator for the recordkeeping requirements described in subsections (b)(4), (c)(5), and (d)(2) and shall require that such forms be used by such persons for carrying out applicable recordkeeping requirements.

"(3) In developing such regulations, the Administrator shall conduct an analysis of the economic impact of the regulations on the used oil recycling industry. The Administrator shall ensure that such regulations encourage and expand reliance on appropriate methods of recycling used oil, consistent with protection of human health and the environment.

"(b) COLLECTORS.—

"(1) IN GENERAL.—The Administrator shall promulgate regulations establishing requirements for collectors of used oil as necessary to protect human health and the environment. Such regulations shall cover the storage and transfer of used oil, recordkeeping, and such other matters as the Administrator considers appropriate. In promulgating such regulations, the Administrator shall take in account the effect of such regulations on environmentally acceptable types of used oil recycling and the effect of such regulations on collectors which are small businesses (as defined by the Admininstrator). For purposes of this section, the term 'collector' means a commercial entity that collects, stores, accumulates, or otherwise generates used oil. Such term does not include an individual who generates used oil by removing such oil from the engine of a light duty motor vehicle, household appliance, or domestic equipment owned or operated by such individual.

"(2) STORAGE.—The regulations shall require the following with respect to storage of used oil:

"(A) No used oil may be stored in an underground tank unless such tank meets the requirements of section 9003.

"(B) No used oil may be stored for more than twelve months.

"(3) TRANSFER.—The regulations shall require that a collector transfer used oil to one of the following:

"(A) a used oil recycling facility with a permit under section 3005;

"(B) a used oil disposal facility with a permit under section 3005; or

"(C) a used oil transporter with a contract to deliver the used oil to any facility in subparagraph (A) or (B).

"(4) RECORDKEEPING.—The regulations shall require that a collector of used oil shall keep a record, for a period of at least three years, with respect to each transfer of used oil, containing the following:

"(A) the date and amount of used oil transferred;

"(B) the destination of the used oil transferred;

"(C) a certification from either the transporter of the used oil, or from the recycling or disposal facility to which the used oil is being transferred, that such facility has a permit as required under this section or is exempt as provided under this section; and

"(D) a certification by the collector that, to the collector's knowledge, the used oil has not been mixed with any quantity of hazardous waste.

"(c) TRANSPORTERS.—

"(1) IN GENERAL.—The Administrator shall promulgate regulations establishing requirements for transporters of used oil as necessary to protect human health and the environment. Such regulations shall cover recordkeeping and such other matters as the Administrator considers appropriate.

"(2) INTERMEDIATE STORAGE.—The regulations shall prescribe conditions under which intermediate storage of used oil at a used oil transfer station, or at any other intermediate facility or location between a generator and the facilities described in subsection (b)(3), may be allowed, the maximum time allowed for such storage, special recordkeeping requirements necessary to protect human health and the environment with respect to such storage, and safeguards to assure that mixing with other materials does not occur during such storage. Such regulations may include such other requirements as the Administrator considers necessary to protect human health and the environment.

"(3) IDENTIFICATION NUMBER.—The regulations shall require that each transporter acquire an identification number from the Environmental Protection Agency.

"(4) FINANCIAL RESPONSIBILITY.—The regulations shall require that each transporter meet the applicable financial responsibility requirements of the Hazardous Materials Transportation Act (49 U.S.C. App. 1801 et seq.) and regulations under that Act.

"(5) RECORDKEEPING.—The regulations shall require that a transporter of used oil shall keep a record, for a period of not less than three years, with respect to each shipment of used oil, containing the following:

"(A) the date and amount of used oil transported;

"(B) the destination of the used oil transported and the location of any intermediate storage of the used oil;

"(C) a certification from the recycling or disposal facility to which the used oil is being transported that such facility has a permit as required under this section or is exempt as provided under this section;

"(D) a certification by the collector that, to the collector's knowledge, the used oil has not been mixed with any quantity of hazardous waste;

"(E) a certification by the transporter that, to the transporter's knowledge, the

used oil has not been mixed with any quantity of hazardous waste; and

"(F) a certification from the recycling or disposal facility to which the used oil is being transported that the facility actually received the amount of used oil described in subparagraph (A).

"(d) RECYCLERS.—

"(1) IN GENERAL.—The Administrator shall promulgate regulations establishing requirements for recyclers of used oil as necessary to protect human health and the environment. Such regulations shall cover the matters described in this subsection and such other matters as the Administrator determines are necessary and appropriate. For purposes of this section, the term 'recycler', when used with respect to used oil, means a person who processes or re-refines used oil, and the term 'recycling facility' means the facility in which such processing or re-refining takes place.

"(2) MINIMUM REQUIREMENTS.—The regulations shall include requirements respecting the following:

"(A) maintaining records of all used oil which is recycled and the manner in which such oil was recycled. Such records at a minimum shall include, with respect to each shipment of used oil, the date and amount of oil received, the names and addresses of the collector and transporter of such oil, and the certifications described in subparagraphs (C), (D), and (E) of section (c)(5);

"(B) maintaining records of spills, inspections, testing and monitoring as determined by the Administrator to be necessary and appropriate;

"(C) recycling of all used oil received by the recycling facility in accordance with the requirements established by the Administrator;

"(D) the design and construction of the recycling facility to prevent spills and protect human health and the environment;

"(E) contingency plans for effective action to minimize unanticipated damage from any spills;

"(F) the maintenance and operation of such facilities, continuity of operation, training for personnel, closure and post-closure, and financial responsibility as may be necessary. Financial responsibility shall be based on total storage capacity;

"(G) compliance with such requirements for corrective action as may be necessary; and

"(H) prohibition on storage of used oil in pits, ponds, lagoons, uncovered tanks, or surface impoundments.

"(3) TESTING.—The regulations shall require recyclers to test all used oil received by a recycling facility for levels of metals, total halogens, and such other materials as the Administrator considers appropriate, and all fuel produced from the recycling process before departure from the facility. The regulations shall specify the test method and levels for used oil received and the test method and levels for fuel produced. The testing shall determine whether the fuel meets the Environmental Protection Agency specifications established under subsection (h).

"(e) PROHIBITION ON MIXING WITH HAZARDOUS WASTE.—Regulations promulgated under this section shall prohibit, following original use, mixing used oil with any quantity of hazardous waste identified or listed under this subtitle except in any case in which (1) such mixing involves an identified hazardous waste and the resulting mixture does not exhibit a characteristic identified in regulations under section 3001(b); and (2) the used oil mixture is burned to recover useful energy in a type of device determined by the Administrator to be designed and operated at a destruction and removal efficiency sufficient to ensure protection of human health and the environment. Nothing in this subsection shall be construed as affecting or impairing section 3004(q)(2)(B) of this subtitle or section 114(c)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

"(f) PERMITS.—(1)(A) Effective 24 months after the date of enactment of the Resource Conservation and Recovery Act Amendments of 1991, recycling of used oil, except in accordance with a permit issued pursuant to section 3005, is prohibited. The Administrator shall make full use of the authority of section 3005(k).

"(2) During the period beginning on the date of the enactment of the Resource Conservation and Recovery Act Amendments of 1991 and ending 24 months after the date of enactment of this Act, or until such time as the regulations under section 3005(k) are promulgated and the facility is determined to be eligible for such permit under section 3005(k), whichever is sooner, the recycling of used oil, except in accordance with a permit issued pursuant to section 3005(e)(4), is prohibited.

"(g) REGULATORY REQUIREMENTS IF EPA FAILS TO MEET DEADLINE.—If the Administrator fails to promulgate regulations under this section within eighteen months after the date of the Resource Conservation and Recovery Act Amendments of 1991, the following requirements and prohibitions shall become immediately effective:

"(1) The operation of any recycling facility which does not maintain a valid Spill Prevention and Countermeasure Control Plan pursuant to the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) is prohibited.

"(2) The operation of any recycling facility which stores or disposes of used oil in any pit, pond, lagoon, uncovered tank, or other surface impoundment except in accordance with a permit issued pursuant to section 3005 is prohibited.

"(3) The mixture of used oil with any hazardous waste listed or identified under this subtitle, except where such mixture is stored, treated, or disposed of at a facility with a permit under section 3005, is prohibited.

"(4) Owners and operators of recycling facilities shall comply with release reporting and investigation regulations set forth at 40 C.F.R. section 280.50 (July 1, 1990).

"(5) Owners and operators of recycling facilities shall comply with applicable release response and corrective action requirements set forth at section 40 C.F.R. Section 280.60 (July 1, 1990).

"(6) The Administrator shall conduct annual inspections of each recycling facility to determine whether such facilities comply with the requirements set forth at 40 C.F.R. subpart E, part 266 (July 1, 1990) and this section and whether the operation of any such facility presents an imminent and substantial risk to human health or the environment. Upon a determination that a facility presents an imminent and substantial risk to human health and the environment, the Administrator shall take action to abate such risk under section 7003.

"(7) The owner or operator of each recycling facility which produces used oil fuel shall test each shipment of such fuel for lead, arsenic, cadmium, chromium, zinc, polychlorinated biphenyls, total halogens, and flashpoint. Records relating to such testing shall be maintained by the owner or operator of such facility for not less than 3 years and shall be made available to the Administrator for inspection upon request.

"(8) Each shipment of used oil, including used oil collected from persons generating used oil, shall be accompanied by a receipt signed by the transporter which shall contain the following information:

"(A) the quantity and place of origin of used oil being shipped;

"(B) the name and address of the facility to which the used oil is being shipped;

"(C) the name and address of the transporter; and

"(D) the date of shipment.

"(9) Any person who transports used oil shall comply with all applicable requirements, including spill reporting, placarding, and insurance requirements of the Hazardous Materials Transportation Act (41 U.S.C. App. 1801 et seq.).

"(10) For each shipment of used oil, the transporter shall certify that to the best of his knowledge the used oil has not been mixed with any hazardous waste listed or identified under this subtitle.

Such requirements and prohibitions shall remain in effect for purposes of implementing this section until such time as the Administrator promulgates the regulations required under this section.

"(h) USED OIL RECYCLING EDUCATION—(1) The Administrator of the Environmental Protection Agency shall implement education activities and programs to inform the public and small businesses about the environmental and safety hazards associated with improper handling and disposal of used oil, including mixing used oil with hazardous waste, and the benefits derived from legitimate used oil recycling. In carrying out his responsibilities under this subsection, the Administrator shall consult with and assist the heads of Federal departments, agencies and bureaus, appropriate State and local government agencies, educational institutions, trade associations, and other representatives of private sector organizations.

"(2) There is authorized to be appropriated to the Administrator not more than $175,000 for each of the fiscal years 1992 and 1993 to carry out the purposes and requirements of this subsection."

(b) The table of contents for Subtitle C (contained in section 1001) is amended by deleting after "3014" the phrase "Restrictions on recycled oil" and inserting "Management standards of used oil"."

(c) Section 3005(e) of the Solid Waste Disposal Act is amended by adding the following new paragraph:

"(4)(A) In the case of a used oil recycler which is in existence on the date of enactment the facility subject to the requirement to have a permit shall be deemed to have an interim permit if the recycler submits, by the deadline described in paragraph (B), to the Administrator or State with a program authorized under section 3006 a notice that contains the following information:

"(i) The name and address of the applicant and, if different, of the facility to be regulated by the permit.

"(ii) A brief description of the business conducted at the facility;

"(iii) The name, address, and telephone number of a contact person from whom the Environmental Protection Agency can obtain additional information;

"(iv) The date on which operation first began at the facility,

"(v) The amount of used oil and other solid waste or secondary material stored at the facility; and

"(vi) The extent of financial responsibility maintained by the recycler for the operations currently being conducted at the facility.

"(B) A recycler which is operating on the date of the enactment of the Resource Conservation and Recovery Act Amendments of 1991, shall submit the notice described in paragraph (A) not later than 60 days after the date of the enactment of the Act. A recycler which begins operating after such date of enactment shall submit the notice described in paragraph (2) not later than 60 days after the date on which the recycler begins operating.

SEC. 407. INTERSTATE TRANSPORTATION OF SOLID WASTE.—Subtitle D of the Solid Waste Disposal Act is amended by adding at the end thereof the following new section:

SEC. 4013. AUTHORITY TO IMPOSE RESTRICTIONS ON INTERSTATE WASTES.—(a)(1) Effective upon enactment of the Resource Conservation and Recovery Act Amendments of 1991, each State is authorized to prohibit the transportation of municipal solid waste into such State (or into the planning area covered by the plan required pursuant to section 4003) for disposal or incineration of such waste from any State with an intrastate restriction on the movement of municipal solid waste, if the importing State has closed or upgraded all open dumps as provided under sections 1008(a)(3) and 4005.

"(2) AUTHORITY TO IMPOSE FEES ON INTERSTATE WASTES.—Effective upon enactment of the Resource Conservation and Recovery Act Amendments of 1991, each State is authorized to enact and enforce laws to impose and collect fees in connection with the incineration and disposal of municipal solid wastes generated in another State: *Provided*, That—

"(A) such fees are applicable throughout the State and do not discriminate against any particular disposal or incineration site or point of municipal solid waste generation;

"(B) such fees do not apply to any municipal solid waste and any recyclable materials that have been separated from municipal solid waste that is transported to a recycling facility.

"(3) States are authorized to impose and collect fees for out-of-State municipal solid waste on an escalating scale as follows:

"(A) Effective upon enactment importing States may charge up to (i) two times the base State surcharge on municipal solid waste, or $4 per ton, whichever is greater, for out-of-State wastes generated in contiguous States; and (ii) five times the base State surcharge on municipal solid waste, if available, or $20 per ton, whichever is greater for out-of-State wastes generated in non-contiguous States.

"(B) Effective thirty-six months after enactment importing States may charge up to (i) four times the base state surcharge on municipal solid waste, or $10 per ton, whichever is greater, for out-of-State wastes generated in contiguous States; and (ii) ten times the base State surcharge on municipal solid waste, if available, or $50 per ton, whichever is greater for out-of-State wastes generated in noncontiguous States.

"(C) The fee under paragraphs (A) and (B) shall be increased in each year beginning after the year of the enactment of the Resource Conservation and Recovery Act Amendments of 1991 by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year exceeds the Consumer Price Index for the calendar year 1990. For purposes of this paragraph—

"(i) the Consumer Price Index for any calendar year is the average of the Consumer Price Index for all urban consumers published by the Department of Labor, as of the close of the 12-month period ending on August 31 of each calendar year, and

"(ii) the revision of the Consumer Price Index which is most consistent with the Consumer Price Index for calendar year 1990 shall be used.

"(D) For the purpose of this section 'contiguous States' mean States sharing a common land border.

"(E) For the purpose of this section 'base State surcharge' means the total of all fees, taxes, and surcharges imposed by a State government on a per ton basis for municipal solid waste generated and disposed in that State.

"(4) LOSS OF AUTHORITY.—States are authorized to impose fees on municipal solid waste generated in another State pursuant to the fee schedule in paragraph (3)(B) only upon certification pursuant to section 4003 that the importing State is in compliance with an approved plan under section 4003. Failure to demonstrate initial and continued compliance shall result in a loss of the authority provided in this subsection.

"(b) AUTHORITY TO IMPOSE BANS.—In the case of municipal solid waste generated in another State, a State is authorized to restrict or otherwise prohibit the transportation of solid waste generated in another State into such State (or into the planning area covered by an approved plan under section 4003) at any time after the date thirty-six months after enactment of the Waste Reduction, Recycling, and Management Amendments of 1991; *Provided*, That—

"(1) the importing State has an approved solid waste management plan under section 4003;

"(2) the importing State is in compliance with the requirements of section 4003 and is implementing the provisions of its plan;

"(3) the Administrator has not withdrawn plan approval under this section from the importing State; and

"(4) the exporting State is not in compliance with an approved plan under section 4003 or does not have such an approved plan or or after the date specified in section 4003.

"(c) Any person adversely affected by a State law or regulation authorized under this section may petition the Administrator for relief, and the Administrator may suspend the authorization provided under this subsection for a period not to exceed 180 days. Such suspension may only be granted if, after notice to all affected States and opportunity for comment, the Administrator determines that the petitioner has exercised all good faith efforts to find environmentally and economically reasonable alternatives, that such alternatives do not exist, and that a temporary suspension is necessary and appropriate. The Administrator may extend the period of any temporary suspension only upon the written approval of the Governors of the respective States.

"(d) Within six months of enactment of The Waste Reduction, Recycling, and Management Amendments of 1991, the Administrator shall propose, and within twelve months shall promulgate, regulations prescribing the types of practices which shall be considered recycling, and therefore exempt from the authorization provided by this section, taking into account the need to develop an interstate market for recyclable materials as well as the potential for sham recycling operations designed, in whole or in part, to avoid the effect of State laws authorized by this section.

"(e) The disposal of municipal solid waste originating in another State without the prior consent of the Governor of the receiving State, or his designee, where the receiving State is otherwise in compliance with the requirements in section 4003, is prohibited, in accordance with the following schedule—

"(1) For municipal solid waste not identified in the terms and conditions of a private disposal contract in existence five years after the date of enactment of the Resource Conservation and Recovery Act Amendments of 1991, the effective date of the prohibition five years after the date of enactment of the Resource Conservation and Recovery Act Amendments of 1991.

"(2) For all other municipal solid waste, the effective date of the prohibition is eight years after the date of enactment of the Resource Conservation and Recovery Act Amendments of 1991.

"(f) No person may dispose or cause to be disposed in any State any solid waste generated in another State if such disposal constitutes the open dumping of solid waste, as provided under sections 1008(a)(3) and 4005 of this Act, except in the case of any practice or disposal of solid waste under a timetable or schedule for compliance established under section 4005. This subsection shall take effect 90 days after the date of enactment of the Resource Conservation and Recovery Act Amendments of 1991.

"(g) Nothing in this section shall be construed as restricting a State's authority to impose fees or other charges in connection with the incineration and disposal within such State of solid waste generated in another State or otherwise to regulate such incineration or disposition, if such fee, charge or other regulation applies equally to solid wastes generated within the State and solid wastes generated outside the State.

"(h) As used in this section, the term 'intrastate restriction on the movement of municipal solid waste' means a law, regulation, or other measure of a State, local, or regional governmental authority that has the effect of discriminating against the movement of municipal solid waste from one or more areas or jurisdictions to others within the same State on the basis of the area or jurisdiction within such State in which it is generated."

SEC. 408. FEDERAL ENFORCEMENT.—Subtitle D of the Solid Waste Disposal Act is further amended by adding the following new section:

"SEC. 401. (a) COMPLIANCE ORDERS.—(1) Except as provided in paragraph (2) of this subsection, whenever, on the basis of any information, the Administrator determines that any person has violated or is in violation of any requirement of this subtitle, subtitle E, subtitle F or of any permit issued by a State pursuant to authority certified under section 4010(c) of this Act or by the administrator pursuant to section 4010(e) of this Act, the Administrator may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified time period, or both, or the Administrator may commence a civil action in the United States district court in the district in which the violation occurred for appropriate relief, including a temporary or permanent injunction.

"(2) In the case of a violation of any requirement of this subtitle, subtitle E, subtitle F or of any permit, where such viola-

tion occurs in a State that has certified its authority under section 4010(c) of this Act to issue permits, the Administrator shall give notice to the State in which such violation has occurred and to the alleged violator at least sixty days prior to issuing an order or commencing a civil action under this section. The Administrator shall take no further action under this section with respect to the violation if, within sixty days of the Administrator's notice, the State has commenced and is prosecuting, or has prosecuted, an administrative, civil or criminal action before a duly authorized State agency or before a court of the United States or a State to require compliance with such requirement.

"(3) Any order issued pursuant to this subsection may include a suspension or revocation of any permit issued by the Administrator or a State under this subtitle and shall with reasonable specificity the nature of the violation. Any penalty assessed in the order shall not exceed $10,000 per day of noncompliance for each violation of a requirement of this subtitle. In assessing such a penalty, the Administrator shall take into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

"(b) PUBLIC HEARINGS.—Any order issued under this section shall become final unless, no later than thirty days after the order is served, the person or persons named therein require a public hearing. Upon such request the Administrator shall promptly conduct a public hearing. In connection with any proceeding under this section, the Administrator may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books and documents, and may promulgate rules for discovery procedures.

"(c) VIOLATION OF COMPLIANCE ORDERS.—If a violator fails to take corrective action within the time specified in a compliance order, the Administrator may assess a civil penalty of not more than $10,000 for each day of continued noncompliance with the order and the Administrator may suspend or revoke any permit issued to the violator (whether issued by the Administrator or the State).

"(d) CIVIL PENALTY.—Any person who violates any requirement of this subtitle, subtitle E, subtitle F or any permit issued pursuant to section 4010 of this Act shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each such violation. Each day of violation shall, for purposes of this subsection, constitute a separate violation.

"(e) CRIMINAL PENALTY.—Any person who knowingly or willfully violates any requirement of this subtitle, subtitle E, subtitle F or any permit issued pursuant to section 4010 of this Act or any person who misrepresents or falsifies any information required under this subtitle, subtitle E, or any permit issued pursuant to section 4010 of this Act shall, in addition to or in lieu of any civil penalty which may be imposed under subsection (d) of this section for such violation, be subject, upon conviction, to a fine of not more than $10,000 for each day of violation, or to imprisonment for not more than one year, or both.".

SEC. 410. FEDERAL ASSISTANCE.—(a) Section 4008(a)(1) of the Solid Waste Disposal Act is amended by—

(1) striking "and" after "fiscal year 1982"; and

(2) by inserting after "10,000,000 for each of the fiscal years 1985 through 1988" the following: ", and $10,000,000 in funds for each of the fiscal years 1991 through 1995".

(b) Section 4008(a)(2)(A) of the Solid Waste Disposal Act is amended by deleting "and fiscal or economic investigations or studies;" and inserting in lieu thereof "installation of monitoring devices, and fiscal or economic investigations or studies;".

(c) Section 4008(2)(C) of the Solid Waste Disposal Act is amended by deleting "$10,000,000 for fiscal year 1982, and $10,000,000 for each year of the fiscal years 1985 through 1988" and inserting in lieu thereof "$10,000,000 for fiscal years 1982 through 1988 and $10,000,000 in funds, for each of the fiscal years 1991 through 1995".

(d) Section 4008(a)(3)(D) of the Solid Waste Disposal Act is amended by adding "(iii) to be appropriated for each of the fiscal years 1989 through 1993, $25,000,000" and by inserting before the period at the end of the first sentence, "and section 4011".

SEC. 411. RURAL COMMUNITIES ASSISTANCE.—(a) Section 4009(a) of the Solid Waste Disposal Act is amended by inserting after "The Administrator shall make grants to States to provide assistance" the following "including grants for the installation of monitoring devices".

(b) Section 4009(d) of the Solid Waste Disposal Act is amended by deleting "and $15,000,000 for each of the fiscal years 1981 and 1982 to carry out this section." and inserting in lieu thereof the following, ", $15,000,000 for each of the fiscal years 1981 and 1982, and $15,000,000 for each of the fiscal years 1991 through 1995 to carry out this section.".

TITLE V—UNDERGROUND STORAGE TANKS

SEC. 501. DEFINITIONS.—Section 9001 of the Solid Waste Disposal Act is amended by adding at the end thereof—

"(9) The term 'small business' refers to an owner of an underground storage tank who owns a single such tank or who owns not more than twelve such tanks which are located at a single facility, as defined in subparagraph (D) of paragraph (6) of subsection (h) of section 9003 of this subtitle.

"(10) The term 'essential community service' refers to an underground storage tank or several tanks at a facility which is deemed by the agency designated pursuant to subsection (b) of section 9002 of this subtitle to be essential to the continued economic viability of the community or area in which the tank is located. At a minimum, any tank or facility which is currently engaged in the distribution of petroleum to the public and is located more than fifty miles from another underground storage tank currently engaged in the distribution of petroleum to the public may be deemed to be an essential service.

"(11) The term 'threatened release' refers to a circumstance where, in the judgement of the Administrator, the failure to take corrective action will result in the release of petroleum.

SEC. 502. UNDERGROUND STORAGE TANK LOAN GUARANTEE PROGRAM.

Subtitle I of the Solid Waste Disposal Act is amended by adding at the end thereof the following new section:

"UNDERGROUND STORAGE TANK LOAN GUARANTEE PROGRAM

"SEC. 9011(a) ENCOURAGEMENT OF CLOSURE AND REMOVAL.—In order to encourage the closure and replacement of underground storage, the Administrator is authorized to guarantee, and to enter into commitments to guarantee, principal and interest on loans made by lenders to qualified small business concerns, for the purpose of—

"(A) closure of underground storage tanks, consistent with the requirements of section 9003(c)(5) and 9004(a)(5) of this subtitle; and

"(B) replacement of underground storage tanks, consistent with the requirements of section 9003(e).

"(b) AMOUNTS OF LOAN GUARANTEE.—(1) Any guarantee under this section shall apply only to so much of the principal amount of the loan involved as does not exceed 90 per centum of the aggregate cost of the activity with respect to which the loan is made.

"(2) The amount of the guarantee of any loan shall not exceed $200,000.

"(3) The aggregate amount of guarantees outstanding under this section at any one time shall not exceed $100,000,000.

"(c) TERMS AND CONDITIONS.—Loan guarantees under this section shall be on such terms and conditions as the Administrator determines, except that a guarantee shall be made under this section only if—

"(1) the loan bears interest at a rate not to exceed such annual percent on the principal obligation outstanding as the Administrator determines to be reasonable, taking into account the range of interest rates prevailing in the private sector for similar loans and risks by the United States;

"(2) the terms of such loan require full repayment over a period not to exceed twenty years;

"(3) in the judgment of the Administrator, the amount of the loan (when combined with amounts available to the qualified borrower from other sources) will be sufficient to carry out the activity with respect to which the loan is made;

"(4) in the judgment of the Administrator, there is reasonable assurance of repayment of the loan by the qualified borrower; and

"(5) the Administrator finds that no other reasonable means of financing or refinancing is reasonably available to the applicant.

"(d) PAYMENT OF PRINCIPAL AND INTEREST.—(1) With respect to any loan guaranteed pursuant to this section, the Administrator is authorized to enter into a contract to pay, and to pay, the lender for and on behalf of the borrower the principal and interest charges which become due and payable on the unpaid balance of such loan if the Administrator finds that—

"(A) the borrower is unable to meet principal and interest charges, that it is in the public interest to permit the borrower to continue to pursue the purposes of the project, and that the probable net cost to the Federal Government in paying such principal will be less than that which would result in the event of a default; and

"(B) the amount of such principal and interest charges which the Administrator is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement.

"(2) In the event of any default by a qualified borrower on a guaranteed loan, the Administrator is authorized to make payment in accordance with the guarantee, and the Attorney General shall take such action as may be appropriate to recover the amounts of such payments, including any payment of principal and interest under paragraph (1) from such assets of the defaulting borrower as are associated with the activity with respect to which the loan was made or from any other surety included in the terms of the guarantee.

"(3) Such amounts as may be returned to the United States pursuant to this subsection shall be paid to the Leaking Underground Storage Tank Trust Fund established

pursuant to section 9508 of chapter 98 of subchapter (A) of the Internal Revenue Code of 1986, as amended.

"(e) SEVEN YEAR LIMIT.—No loan guarantee shall be made, or contracts entered pursuant to this section, after the expiration of the seven year period following the date of enactment of this section.

"(f) REPORTS.—The Administrator shall submit to the Congress annually upon the completion of the appropriate accounting period a report describing the financed operations of the program authorized by this section and making such recommendations for the improved management of the program as he determines to be appropriate.

"(g) PLEDGE OF FULL FAITH AND CREDIT OF UNITED STATES.—The full faith and credit of the United States is pledged to the payment of all obligations incurred under this section.".

SEC. 503. POLLUTION PREVENTION PROJECTS.—(a) Section 9003(h)(2) of the Solid Waste Disposal Act is amended by inserting in the second sentence after the term "release" the phrase "or threatened release".

(b) Section 9003(h)(6)(A) of the Solid Waste Disposal Act is amended by inserting after the term "release" the phrase "or threatened release."

SECTION-BY-SECTION SUMMARY OF THE RESOURCE CONSERVATION AND RECOVERY ACT AMENDMENTS OF 1991

TITLE I. GENERAL AMENDMENTS

Section 101. Congressional Findings.—Congress finds that as a nation we continue to generate substantial and increasing volumes of hazardous and solid wastes that present health and environmental problems when improperly managed. Congress also finds that many communities are managing their municipal waste in poorly designed facilities or are engaged in long distance transportation of wastes to other communities and States.

Section 102. Objectives and National Policy.—Establishes a toxics use and source reduction and waste management policy that gives priority in the following order: (1) toxics use and source reduction, (2) recycling, (3) waste treatment, and (4) contained disposal and incineration. A national goal calls for the recycling of waste to the maximum extent consistent with market demand for recycled materials, and for the creation and strengthening of markets for recycled materials.

Section 103. General Authorization.—Provides an authorization of $140,000,000 for each of the fiscal years 1992 through 1996 for purposes of carrying out this Act.

Section 104. Definitions.—Provides new definitions for the purpose of this Act for: solid waste incineration unit, hazardous substance, release, toxics use and source reduction, recycling, secondary materials, hazardous secondary materials, reclaim, municipal waste, industrial waste, and toxic chemical.

Section 105. Administrative Review of Regulations.—Establishes new procedures governing the review of RCRA rules and regulations by the Office of Management and Budget (OMB). OMB must establish a public docket containing information on meetings and communications concerning RCRA rules and regulations.

TITLE II. TOXICS USE AND SOURCE REDUCTION

Section 201. Toxics Use and Source Reduction Data Collection and Technical Assistance.—Incorporates the substantive portions of the Pollution Prevention Act of 1990 (sections 6604–6610 of P.L. 101–508) into RCRA. EPA and the states are required to make toxics use and waste reduction an integral part of any rulemaking or guidance affecting state solid waste management planning. EPA must create an advisory panel of technical experts to provide guidance on technology transfer and data collection, and to assist in the development of national toxics use and source reduction goals. EPA must also mount toxics use and source reduction education and outreach programs.

Section 202. Toxics and Source Reduction Plans.—Requires EPA, in consultation to the advisory panel established pursuant to section 201, to survey a sample of facilities pursuant to the Emergency Planning and Community Right-to-Know Act to determine the nature and extent of toxics use and source reduction practices employed by these industries. Using the data gathered through this survey, EPA must establish accounting procedures and toxics use and source reduction goals for each of the industrial categories and subcategories who are required to file reports pursuant to the Emergency Planning and Community Right-to-Know Act.

Facilities required to file reports pursuant to section 313 of the Emergency Planning and Community Right to Know Act must prepare and upon request submit a toxics use and source reduction plan to EPA (or an authorized state). These plans must be prepared by facilities within each industrial category or subcategory according to a schedule established by EPA, in consultation with the advisory panel, covering a 5 year period beginning within 2 years of enactment.

These same facilities must also prepare and upon request by the EPA (or an authorized state) submit toxics use and source reduction performance reports 5 years after enactment and every 2 years thereafter. Such performance reports must delineate progress toward meeting the facility's toxics use and source reduction plan.

Within 60 days of the request of any person who can make a showing that a facility is not making a good faith effort to comply with its toxics use and source reduction plan EPA (or an authorized state) may certify that if the facility required to file a toxics use and source reduction plan is in compliance with the requirements of this section. If the Administrator or authorized state determines that a facility is not in compliance the EPA or State shall, within 10 days, forward a copy of the plan, protecting confidential business information. EPA or authorized States may require a facility audit for facilities failing to achieve the objectives of their plan. These facilities may be required to implement any toxics use and source reduction practices recommended by this audit.

The EPA (or authorized state) must protect trade secrets in toxics use and source reduction reports and performance reports subject to section 322 of the Superfund Amendments and Reauthorization Act (SARA) in the same manner as data collected under section 313 of SARA.

Section 203. Products and Packaging Advisory Board.—Establishes a Product and Packaging Review Board, composed of experts from industry, consumer groups, environmental organizations, and state and local governments. The Board must report to EPA within 18 months after enactment with recommendations for: (1) a voluntary program to minimize packaging and to encourage the reuse and recycling of packaging materials, (2) a labeling system to identify plastic resins used in products, and (3) standards for the design, volume, composition, reuse and disposal of product packages and packaging materials. EPA may, through guidance, adopt any of the Board's recommendations.

Section 204. Hazardous Constituents in Products.—Requires the EPA to prepare a list of products with hazardous constituents that pose risks to health and the environment, for submission to Congress within 1 year after enactment. EPA is given authority to regulate the disposal or incineration of these products as may be necessary to protect human health or the environment. In cases where such regulations are inadequate to protect health and the environment, the agency must conduct a review within 2 years pursuant to section 6 of the Toxic Substances Control Act for the purpose of regulating the products in question.

Section 205. Research.—Requires EPA to: (1) conduct basic research on strategies and technologies to overcome the technical barriers to toxics use and source reduction, (2) identify strategies to confront the social, economic and institutional reliance on hazardous substances, (3) develop, evaluate and demonstrate toxics use and source reduction methods, and (4) develop pilot projects to demonstrate innovative technologies for toxics use and source reduction.

Section 214. Regulatory Incentives.—Requires EPA to report to Congress within 1 year after enactment on the criteria that would be used in establishing a legislative or administrative program of regulatory incentives to generators to promote toxics use and source reduction. EPA must examine the use of permit modifications, and evaluate the benefits to human health and the environment that could be achieved from such a program.

TITLE III. RECYCLING

Section 301. National Recycling Goals.—Establishes the following goals: (1) a 10% reduction in the size of the municipal solid waste stream by the year 2000, (2) 25% recycling of the municipal solid waste stream by 1995, and (3) 50% recycling of the municipal solid waste stream by the year 2000. The EPA must establish, in consultation with the Commerce Department, commodity-specific minimum recovery and utilization rates for recyclable materials in products that can be recycled, and minimum content standards as necessary to meet these goals.

Section 302. Commodity Specific Recycling Standards.—Requires EPA to establish minimum recovery and utilization standards for commodities including paper, glass, metals and plastics within 2 years after enactment. These standards must reflect maximum feasible recovery or utilization rates, using the best available technology and practices, taking the size of the affected facilities and costs of production into account. The standards must be reviewed every 5 years, and revised as necessary.

The EPA must prepare a report for Congress within 1 year after enactment on mechanisms for implementing and enforcing commodity-specific recycling standards. The report must evaluate, at a minimum, industry-specific recycling plans and a tradable credit system for the producers of recycled products.

EPA standards must require annual average minimum recovery and utilization rates by December 31, 1995 to be annually not less than: (1) 52% for newsprint, (2) 66% for corrugated products, (3) 20% for mixed paper grades, (4) 50% for high grade de-inking paper, and (5) 100% for pulp substitutes, or 40% for all grades of paper products. If the 40% rate is not achieved, annual average minimum content standards must be established for each paper grade failing to meet its requirement. Standards for newsprint, if needed, must apply to newspapers using

more than 2,000 tons of paper annually and require annual average minimum recycled content of 20% by January 1, 1997, 30% by January 1, 1999, and 40% by January 1, 2001.

Plastic bottles and containers must meet a minimum recovery and utilization rate of 25% by 1995. If that rate is not achieved, an annual average minimum content standard of 40% must be established by December 31, 2000.

Glass bottles and containers must contain an annual average percentage of cullet of not less than 65% by 2005.

Beginning no later than March 31, 1992, manufacturers of paper, glass, metal and plastic bottles and containers must report data to EPA as required by the agency. Paper manufacturers must provide annual data on the amount of each grade produced and the amount of recycled fiber used.

EPA must release data on the amount of recycled material used and the average recycled content of products produced by each manufacturer of paper, metal containers, and glass and plastic bottles and containers. This data must be published by April 31, 1992 and annually thereafter.

Newspapers with circulation above 25,000 must publish, as part of their circulation statement, the average recycled content used in production of the newspaper during the previous calendar year.

Section 303. Rural Recycling Demonstration Programs and Collection of Secondary Materials.—Establishes model urban and rural model recycling collection programs. These programs must identify collection methods, recycling techniques and technologies, markets for recycled materials, methods for stimulating such markets, methods for financing necessary investments, and opportunities for education and training.

States are required to adopt the model or establish their own programs. State programs must, at a minimum, provide curbside collection and materials recovery facilities, or other methods for separating, collecting and processing materials for recycling. These programs must collect waste paper, plastic containers, cans, glass, yard waste and household hazardous wastes in all urban areas, and state programs must require the removal of batteries, tires, used oil and yard waste from the waste stream, and arrange for their collection, processing and recycling.

EPA must identify realistic recycling goals for rural areas, based upon the results of the model programs. EPA must consider the provision of special containers for separation of recyclables to households in rural areas. The agency must also consider cooperative projects for the collection of recyclables at high-traffic volume facilities, including fast food restaurants, grocery markets and service stations.

Section 304. Federal Procurement of Recycled Materials.—Requires federal agencies to give preference in purchasing to items possessing the greatest practicable amount of recycled content, whether or not applicable procurement guidelines for such products exist. Beginning on the date of enactment, each agency must purchase items with procurement guidelines in amounts which constitute at least 20% of its total annual procurement (in dollars) from items spent by that agency on procurement. This requirement increases by 2% of total procurement every 2 years over a 10 year period.

Final guidelines for federal agency procurement of glass, ferrous and non-ferrous metals and lead acid batteries must be issued within 1 year after enactment; for compost material, recycled plastic products and used tire fragments, within 2 years after enactment; and for recycled rubber products within 3 years after enactment.

The Agriculture Department must ensure that fertilizer purchased with funds administered by the Department includes fertilizer made with composted solid waste.

The Defense Department must review military specifications related to materials and equipment purchases in order to identify and remove impediments to the purchase of products with recycled content. This review must be completed within 5 years, with the first 40% completed within 2 years.

Federal agencies must submit annual reports to EPA on their progress in the implementation of this section.

Section 305. Market Development.—Requires the Commerce Department, in cooperation with EPA, to assist in the development of new markets for recyclable materials and recycled materials or products. In cooperation with the U.S. Trade Representative, the Commerce Department must identify foreign markets for recyclable materials and recycled products, and assist exporters in making sales to these markets.

Section 306. Federal Contracts.—Requires anyone awarded a federal contract exceeding $1,000,000 to use at least 50% recycled materials in the performance of that contract, if such materials are available. The contract must include specifications for those aspects that can be fulfilled with recycled materials.

Section 307. Federal Agency Actions.—Authorizes any person to petition a federal agency to undertake any waste reduction activity that would: (1) increase the use of a recycled item by 5%, (2) reduce the volume of toxic constituents in a waste product by 5%, or (3) result in a net savings in true cost to the federal government or be neutral in its effect. The agency must signal its intention to review or deny the petition within 90 days.

Each federal agency must designate a waste reduction officer to prepare and implement waste reduction plans for the agency.

TITLE IV. WASTE AND SECONDARY MATERIALS MANAGEMENT

Section 401. Objectives of Subtitle.—Establishes that the objectives of subtitle D are to encourage: (1) environmentally sound solid waste management methods, (2) resource conservation, (3) permitted solid waste management capacity, (4) use of a hierarchical approach to solid waste, (5) development of markets for recycled materials, and (6) protection of human health and the environment.

Section 402. State and Regional Planning.—Requires EPA to establish minimum criteria for use in the evaluation of solid waste plans submitted by the states. States must submit plans reflecting those minimum criteria within 30 months after enactment and every 5 years thereafter. State plans become effective if EPA fails to take action within 6 months after the submission.

State plans must include: (1) waste generation and management capacity projections for each solid waste stream generated by the state during the planning period, (2) an inventory of waste management and recycling facilities, along with their capacities and remaining useful lives, (3) a process for collecting and developing markets for recyclables, (4) a process for siting the waste management facilities needed to meet capacity requirements, and (5) an assurance that the state will manage an equitable portion of its own waste.

States must also submit annual reports to EPA describing their progress toward implementing the plan elements, including a certification that the state has issued the facility permits needed to meet capacity requirements for the next 8 years. State plans must be updated every 8 years.

Those states for which net exports of municipal waste for incineration or disposal, as a percentage of all municipal waste shipped across state lines for these purposes, exceed that state's percentage of all municipal waste incinerated or disposed nationwide, shall be subject to additional planning requirements. EPA must identify these states within 15 months, responding to preliminary reports submitted by the states within 1 year after enactment. States must include milestones in their plans requiring any excesses to be reduced by half within 3 years, and eliminated entirely within 5 years after enactment.

EPA must approve any plan that meets its minimum criteria. Plans that do not meet these criteria may be disapproved in whole or in part. The plan may be conditionally approved if the state agrees to meet the criteria within a specified time.

Section 403. Permits for Disposal for Solid Waste.—Prohibits transportation of any solid waste to treatment, storage, incineration or disposal facilities which have not notified the state of their operations. Facilities in states with permit systems can meet notification requirements by obtaining a permit one year after enactment. Facilities in states without approved permit programs must provide notification and exposure assessments to the state, following procedures established by EPA within 90 days after enactment.

Within four years after enactment all solid waste management and recycling facilities must obtain a permit. States may exempt recycling facilities from permit requirements if health and the environment are protected.

States must certify with EPA that they have a permit program with sufficient regulatory authority and personnel to implement the requirements in the Act. EPA must issue permits in any state which fail to meet these criteria. Permits must be issued according to the conditions specified in this Act, for a period not to exceed 5 years. Facilities subject to permit requirements (except for recycling facilities) must pay an annual fee to cover EPA's permit program, monitoring and enforcement costs.

Permits may be issued by rule, according to EPA specifications, to any class of facilities in which no single facility is likely to cause significant damage to health or the environment.

Section 404. Criteria for Solid Waste Management.—Requires EPA to promulgate criteria for facilities that manage (1) municipal solid waste, (2) municipal waste combustion residues, (3) infectious wastes, and (4) industrial wastes.

The management criteria for municipal solid waste landfills must require: (1) controls to prevent disposal of hazardous waste or bulk liquids, (2) daily covering, (3) landfill gas monitoring and controls, (4) controls against illegal access and dumping, (5) run-on and run-off controls, (6) closure and postclosure plans, (7) ground water monitoring, (8) corrective action for releases to air, water and land, (9) a liner and leachate collection and removal system, and (10) location criteria to prevent new landfills in flood plains, wetlands and seismic zones.

EPA criteria for municipal waste combustion ash landfills must require the installa-

tion of two or more liners, leachate collection and ground water monitoring systems, or an equally protective alternative design approved by the state. Ash must be treated to ensure chemical stability prior to being placed in a landfill. Closure and postclosure plans, and corrective action are required. These requirements may be waived for 30 months by EPA or the state if landfills in compliance are not available, and for an additional 48 months if good faith efforts were made to satisfy the requirements.

Medical wastes must be stored and transported in labeled, leakproof containers. Medical waste incinerators must kill all pathogens in the waste and minimize emissions of toxic pollutants. Industrial nonhazardous waste landfills must have two or more liners and a leachate collection system.

Section 405. Regulation of Secondary Materials.—Requires EPA to promulgate standards for recycling of hazardous wastes or hazardous secondary materials. Such regulations shall protect human health and the environment to the same degree as requirements applicable to the transfer, storage and disposal of hazardous waste, and shall require (1) handling requirements (including transporting or transferring, processing, packaging, containerization, and storing) consistent with the hazardous waste transportation and storage requirements, (2) corrective action, (3) the management of any slag or residue from such recycling in as hazardous wastes if such slags or residues exhibit a hazardous characteristic or are derived from a listed hazardous waste, (4) measures to ensure financial responsibility, and a permit by rule for facilities that store and recycle hazardous waste or hazardous secondary substances provided such facilities meet certain conditions. If EPA has not issued recycling, recovery and residue standards within 2 years after enactment hazardous secondary materials shall be deemed hazardous waste and subject to hazardous waste requirements.

EPA is also directed to promulgate regulations for recycling of solid waste and secondary materials other than hazardous secondary materials taking into account the need to encourage environmentally sound recycling and the actual potential for such activities to pose risks to human health and the environment. EPA is also directed to promulgate standards for recycling lead-acid batteries and tires which shall prohibit the disposal or incineration of lead-acid batteries and the disposal of whole tires in landfills.

Section 406. Management Standards for Used Oil.—Requires EPA to establish recycling standards for used oil within 18 months after enactment, and provides that used oil managed in accordance with such regulations is not a hazardous waste: (1) collection and transfer records must be maintained for at least 3 years, (2) storage is limited to facilities permitted under RCRA section 3005 and underground tanks in compliance with RCRA section 9003, (3) transfer stations must meet intermediate storage requirements, (4) transporters must obtain the financial guarantees required by the Hazardous Materials Transportation Act, (5) used oil must not be mixed with hazardous waste, and (6) recyclers must comply with spill prevention and mitigation, employee training, closure and postclosure, financial and corrective action requirements. Certain requirements are specified in the event that EPA fails to establish used oil recycling standards within 18 months after enactment.

Section 407. Interstate Waste Transportation.—States are given authority to impose restrictions on municipal solid wastes imported from other states. As of the date of enactment, states may impose a fee of twice the base state surcharge (the total of all fees, taxes, and surcharges imposed by the state on municipal solid waste generated and disposed in that state) or $4 per ton on wastes imported from a contiguous state, and 5 times the state base surcharge or $20 per ton on wastes imported from a noncontiguous state. States that have closed their open dumps are also allowed to impose bans on the importation of waste from any other state which has enacted any restrictions on the intrastate movement of solid waste.

Beginning 3 years after enactment, states in compliance with RCRA section 4003 (state planning requirements) may impose fees of 4 times the base state surcharge or $10 per ton for wastes imported from a contiguous state, and 10 times the state base surcharge or $50 per ton for wastes imported from a noncontiguous state. States in compliance with RCRA section 4003 may also ban the importation of waste from any state that is not in compliance with RCRA section 4003.

Section 408. Federal Enforcement.—Provides federal authority to issue compliance orders for violations of any requirements in Subtitles D (solid waste) E, (toxics use and source reduction) or F (recycling) where states have failed to take such action. Authority is also provided for civil penalties in cases where compliance orders are violated, and for criminal penalties as appropriate.

Section 409. Federal Assistance.—Provides grants to states for waste reduction and recycling, and for developing and implementing state plans.

Section 410. Rural Communities Assistance.—Provides grants to rural communities for waste reduction and recycling, and for developing and implementing state plans.

TITLE V. UNDERGROUND STORAGE TANKS

Section 501. Definitions.—Provides new definitions for the purposes of this Act for: small business, essential community service, and threatened release.

Section 502. Underground Storage Tank Loan Guarantee Program.—Authorizes the EPA to guarantee the principal and interest on loans made to qualified small businesses for the closure or replacement of underground storage tanks.

Section 503. Pollution Prevention Projects.—Inserts the term "or threatened release" after the term "release" in 2 subsections of RCRA section 9003.●

● Mr. CHAFEE. Mr. President, today we are taking an important first step toward reauthorization of the Resource Conservation and Recovery Act, our primary statute for the protection of our land and groundwater resources. I am pleased to sponsor, along with Senators BAUCUS and BURDICK, the Resource Conservation and Recovery Act Amendments of 1991. With the introduction of this bill today, we are setting in motion a process which will enable us to further address the environmental problems associated with improper management and disposal of waste.

The last significant revision to the Resource Conservation and Recovery Act was in 1984, with passage of the hazardous and solid waste amendments. The 1984 amendments were designed to ensure that hazardous wastes are managed in an environmentally sound manner, and to prevent the indiscriminate dumping of wastes and the creation of more superfund sites. By and large, the 1984 rewrite of RCRA has been successful in creating a cradle-to-grave management system for hazardous waste.

This time the primary focus of our reauthorization efforts will be on solid waste, the nonhazardous materials thrown away by households and merchants and Government institutions. The last time we reauthorized RCRA, the theme was safe disposal of hazardous waste. The theme of this reauthorization is waste reduction and recycling of disposal household items.

SOURCE REDUCTION AND RECYCLING

A major part of the solution to the waste crisis lies in reducing to the maximum extent the amount of garbage we produce in the first place and utilizing the garbage that remains as a resource. By establishing a strict hierarchy of management options, we can extract all of the value from garbage before it goes to the landfill. Not only will this significantly decrease the amount of trash entering landfills, extending the landfill's life, but it will also greatly decrease detrimental effects to the environment.

A recent report by the Office of Technology Assessment notes that "the Resource Conservation and Recovery Act does not contain a statement of national policy for municipal solid waste. Indeed, the lack of a clear statement of national goals for municipal solid waste possibly has contributed to the general lack of Federal leadership in this area."

The bill we are introducing today remedies this problem. It clearly establishes a national policy for dealing with municipal solid waste, and establishes a goal of a 10-percent reduction in the size of the municipal solid waste stream by the year 2000, 25 percent recycling of municipal solid waste by 1995, and 50 percent by the year 2000. To accomplish these goals the bill requires EPA to establish recycling rates for such commodities as paper, glass, metals, and plastics.

The Federal Government has an important role to play in reaching these goals. This legislation creates markets for products made from recycled materials by insisting that government agencies, in their procurement practices, establish a preference for products that use recyclables as a feedstock.

INTERSTATE TRANSPORTATION OF MUNICIPAL WASTE

There is a capacity crisis facing some communities. Where can we put the garbage? The tipping fee, the fee charged at the gate of a landfill to dispose of garbage has risen from $10 a ton a few years ago to more than $100 per ton in many States today. Garbage disposal is now more expensive than po-

lice and fire protection for many towns.

A measure of the crisis is the distance between the garbage can and the garbage dump these days. Garbage is now hauled long distances to find a landfill with a low tipping fee. Some of the garbage generated in New York and New Jersey is now transported to the Midwest, to Ohio and Indiana where tipping fees are still quite low.

Naturally, some people in Indiana and Ohio object strenuously to this influx of garbage. It involves considerable truck traffic. It consumes their garbage disposal capacity. Importing States will need new landfills of their own at an earlier date. There is also the threat of huge cleanup costs in the future, if problems should develop at the existing landfills.

There is a growing effort by some States to close their borders to imported trash. It's not just municipal garbage that is of concern. Many States are trying to build economic and legal barriers to the interstate transport of hazardous materials, as well. This interstate war over waste will continue to be a topic of hot debate in the Senate. Last year, Senator COATS of Indiana offered an amendment to authorize States to regulate the movement of garbage across State lines. Wisely, his bill was limited to municipal trash and did not authorize on the movement of hazardous waste. His measure was approved by the Senate by a large margin, 67 to 33. Senator COATS introduced identical legislation earlier this year.

This interstate conflict is a symptom of the larger solid waste problem, the capacity problem. The solution must be multifaceted. States need to take responsibility for their own municipal waste and assure that it is disposed of safely. Public confidence in waste disposal technology needs to be restored. New disposal facilities which are protective of the environment need to be built.

Toward this end, the legislation gives States the authority to impose restrictions on municipal wastes imported from other States. States importing wastes will be authorized to impose a per-ton fee on municipal waste generated in another State. The purpose of this provision is to provide a strong incentive for States to manage municipal waste within their own borders. After 3 years States with approved solid waste management plans will be allowed to ban out-of-State wastes from States which have failed to comply with a plan. By providing States with an incentive to produce and implement meaningful solid waste management plans, which address source reduction, and recycling as well as waste capacity, we are beginning to address the cause, and not just the symptom, of the interstate waste transport problem.

It is worth noting that while our legislation authorizes restrictions on the interstate transport of municipal solid waste, it specifically and intentionally does not authorize restrictions on the interstate transport of hazardous waste, superfund waste, and nonhazardous industrial waste. Such restrictions, in my view, are simply bad environmental policy. There are numerous reasons: First, no State can manage all its hazardous wastes with one technology treating the universe of hazardous wastes generated in this country to comply with the RCRA land disposal restrictions program requires access to numerous different technologies. All States, to a greater or lesser degree, rely on exporting hazardous wastes.

Second, duplicating each necessary technology within each State is economically impractical. A well-designed and operated hazardous waste management facility requires an enormous capital investment. Few, if any, individual States produce sufficient amounts of any particular type of hazardous waste to support commercially feasible operation of the facilities required to treat and dispose of these wastes.

Third, duplicating each necessary technology within each State is environmentally ill-advised. The extraordinary range of geologic and climatic conditions within this country offers the promise that environmentally appropriate sites may exist for each necessary hazardous waste technology. The converse is true also, however. There are locations where a particular technology will produce unacceptable risks.

Fourth, the demand for hazardous and industrial waste management technologies is geographically unstable, varying with the initiation of new Superfund remedial actions, the opening of new industrial facilities, and the development of new production technologies.

In short, unilateral State action cannot solve the problem of hazardous waste disposal. While some States have perhaps borne more than their fair share of this particular burden in the past, no State can go it alone. The solution to the problem of hazardous waste management is multifaceted; no State can alone embrace each of the many types of technologies necessary to manage its hazardous waste. Unilateral State action also threatens to leave some generators with no place to send their waste, a situation that only encourages environmentally unsound disposal practices. For these reasons, the interstate provisions we are introducing today focus exclusively on the interstate transport of municipal waste.

TOXICS USE AND SOURCE REDUCTION

Our laws and regulations to date have focused on waste treatment and waste cleanup. Judging by the substantial improvements to our environment over the last two decades, these approaches have been successful, but they can achieve only a limited amount of environmental protection. Some of the most substantial gains have been when industry has phased out or found substitutes for the use of toxic chemicals.

This practice of pollution prevention, or toxics use and source reduction, as it is sometimes called, must be ingrained into our thinking, and change the way we approach environmental problems. It not only can save companies substantial sums of money, but it also can significantly reduce stresses on our environment.

In Rhode Island we have embarked on an innovative approach to hazardous waste reduction. Our Department of Environmental Management works with selected industries to identify and develop techniques to reduce the use of toxics in industrial processes.

This bill seeks to make toxics use and source reduction considerations an integral part of the decisionmaking process, by requiring plans and performance reports detailing a facilities progress toward meeting toxics use and source reduction goals.

INDUSTRIAL WASTE

Another area of concern is the regulation of the so-called nonhazardous industrial wastes. The bill we are introducing today requires EPA to, within 24 months from the date of enactment, issue guidelines for all industrial wastes except industrial wastes produced by the oil and gas exploration and development and the mining industries.

More industrial waste is produced each year than all of the municipal and hazardous wastes combined. Compounding this problem is the enormous diversity of this waste group. Industrial wastes include wastes from the pulp and paper, primary steel and iron, electric power generation, and inorganic chemical industries, to name just a few. Much of the waste is high volume, nonhazardous material such as construction and demolition rubble. EPA estimates, however, that many other industries produce wastes that may present a relatively high risk of harm due to the presence of hazardous metal and organic constituents.

Providing EPA with 24 months to produce guidelines for all of these wastes will undoubtedly not provide them with enough time to complete their task. An alternative approach could be structured to put EPA on a schedule to issue guidelines for those industries that produce wastes with the greatest potential to harm either human health or the environment.

In 1988, EPA issued a report to Congress on solid waste disposal in the United States. This report identified the wastes from 22 industries according to relative risks. I believe this report offers a good starting point from which

to structure a phasein schedule for regulations and I look forward to hearing testimony on this approach in the future.

I am also concerned about some of the minimum design provisions for surface impoundments and land disposal units.

Currently, the bill does not require owners or operators of surface impoundments to retrofit existing units to comply with the minimum design requirements for new units. This provision was made discretionary because of the apparent lack of information currently available on these wastes and the need to retrofit surface impoundments.

We still have many things to learn about the nature of industrial wastes and their potential threat to human health and the environment. Nevertheless, based on preliminary information, it is my sense that we will ultimately need to include a retrofit requirement for at least certain surface impoundments. Our experience with hazardous waste surface impoundments has taught us that retrofit requirements are reasonable and that they work.

In a 1990 report, the General Accounting Office [GAO] found that the vast majority of industrial waste is currently handled in surface impoundments. Unfortunately, the GAO also found that few surface impoundments had even minimum design features to protect against or detect releases of waste into the environment and that of the units that were monitoring for releases, several indicated the presence of unauthorized releases.

I am also concerned about the lack of minimum liner requirements for at least certain industrial land disposal units. While some industrial land disposal units may contain innocuous rubble and dirt, other units contain wastes with significant potential to cause harm to either human health or the environment. Again, I will be looking forward to hearing comments on the adequacy of this section during our hearings.

SECONDARY MATERIAL

We have spent and will continue to spend a fair amount of time on the regulation of hazardous waste recycling. For nearly a decade, EPA and the regulated community have been struggling with the question of whether or not EPA has the statutory authority to regulate recycling activities. We need to be absolutely clear that the Agency has the authority to regulate these activities. Unfortunately, I am not sure whether this bill accomplishes our goal.

Because of my concern, I am introducing a separate piece of legislation on this issue today and look forward to hearing comments on both approaches during our hearings.

USED OIL

The dispute about whether to manage used oil as a hazardous or nonhazardous waste has gone on too long. For every year that this debate continues, the equivalent of 35 *Exxon Valdez* oilspills is disposed of improperly.

The lack of a coherent management scheme for this material not only threatens our environment, but it makes no economic sense. At a time when we are dangerously reliant upon foreign oil, we need to conserve and recycle our resources. Dumping used oil down the sewer or into a municipal landfill is, in addition to being dangerous, simply wasteful.

This bill provides for the management of used oil as a nonhazardous waste provided the oil is recycled and managed in accordance with the requirements of this bill. Within 18 months from the date of enactment, the bill requires the establishment of a comprehensive management scheme for the collection, storage, transport, and recycling of used oil. If the used oil is mismanaged, it shall be treated as a hazardous waste.

Once in place, this scheme will go far to assure that used oil is handled in a manner which is sound from both an environmental and an economic perspective.

INTERNATIONAL WASTE EXPORT

Those who review this legislation will note that it does not address the important question of how we deal with the international export of waste. As those who are concerned about this issue are aware, in March 1989, the United States signed the Basel Convention on the control of transboundary movements of hazardous wastes. The Basel Convention generally restricts the import and export of hazardous and other wastes, unless a bilateral agreement exists between the importing and exporting countries. The Senate has not yet received the convention for ratification, nor has the Congress received any legislation that might be required to implement that legislation.

I had hoped that we would be able to include in the bill we introduce today the administration's proposed legislation, or some modified version of it, so that the specific provisions of the Basel Convention would be addressed. However, since we have not yet received that proposal, we have chosen to defer consideration of the waste export issue until a later time.

The legislation also amends the Solid Waste Disposal Act to require States to submit detailed plans outlining how States will accomplish the national recycling goals. States will have to take a hard look at all the options for managing waste over a 10-year timeframe, including the thorny issue of where to site landfills, incinerators, and recycling facilities. In applying the hierarchy of waste management options, States will have to consider seriously source reduction and recycling as a means of solving the solid waste problems in their States.

The bill will also establish a product and packaging advisory board, composed of industry and citizen group representatives. This board will recommend to the Administrator broad standard for packaging which will address the design, volume, reuse, recyclability, degradability, toxicity, and disposability of packaging.

I am confident that in the weeks and months ahead we will be able to forge intelligent, forward-looking legislation which will address the entire range of solid waste management problems confronting us.●

● Mr. BURDICK. Mr. President, I rise today as chairman of the Committee on Environment and Public Works to join Senator BAUCUS, the chairman of the Subcommittee on Environmental Protection, and the ranking member of the committee, Senator CHAFEE, in introducing the Resource Conservation and Recovery Act Amendments of 1991. I commend the senior Senator from Montana for his strong commitment to protecting our environment and addressing our Nation's waste problems.

The bill which we are introducing today is a strong, fair, yet possibly controversial attempt to address the Nation's solid waste problems. It encourages Americans to protect our environment and its natural resources by recycling what we might otherwise throw away. I have worked with Senator BAUCUS on various aspects of this bill, but I am very proud of the provisions that address rural recycling. Many claim that rural recycling is difficult because of the costs of transportation from rural areas to recycling markets. Unless rural Americans are a part of a recycling ethic, we will have created a fad, not an ethic.

I am also pleased with the interstate transportation provision in this bill. A controversy has raged in my State over a proposed ash landfill near Sawyer, ND. The interstate transportation provision will provide State officials another tool to address municipal waste and ash transportation issues.

I have been particularly interested in waste reduction. I believe that the Senator from Montana has suggested a dynamic program for reducing or eliminating the generation of waste in the manufacturing process without governmental interference. This moves away from the command and control approach to the treatment of waste streams without a strict regulatory regime.

Many States and communities across the Nation are facing serious solid waste problems. Recent bills just in my State's legislature dealt with regional landfills, hazardous waste disposal, and many other waste issues. The public is concerned about solid waste, and this

issue will only go away when the public believes that we have solved it. This bill begins to resolve solid waste matters with some finality.

Solid waste issues are a fast moving target. Industries that see the handwriting on the wall are trying to increase their recycling efforts. They would argue that legislation is not necessary or that, perhaps, this legislation is too prescriptive.

Our friends in the environmental community may be disappointed that we haven't gone far enough. But, based on what is known today, I think this bill goes as far as we can. Since the targets are moving, however, I will approach this legislative process with an open mind about what the bill now contains, and about those matters yet to be placed on the table.

The municipal incinerator ash provisions of the bill are identical to incinerator ash provisions contained in the Senate-passed version of the last year's Clean Air Act amendments. For the past 4 years, I have worked with the distinguished senior Senator from Minnesota [Mr. DURENBERGER] to adopt comprehensive Federal standards for air emissions from municipal incinerators and for ash disposal. Our incinerator air emission standards were adopted in the Clean Air Act of 1990, but our colleagues in the House were reluctant to include the ash disposal provisions in the Clean Air Act and, consequently, they were dropped in conference.

I hope Congress will adopt these aggressive ash disposal provisions as part of the Resource Conservation and Recovery Act Amendments of 1991. Incineration should be more stringently controlled to be an acceptable waste disposal option.

As the debate begins, I would pose some questions that I would hope will be raised with regard to the Resource Conservation and Recovery Act Amendments of 1991. Should consumers be provided with economic incentives to carefully choose what they purchase in light of the cost of disposal? Should communities be given market information, or signals, on which to base choices on handling materials in a reliable, environmentally safe, and economically efficient manner over the long term? Should manufacturers be given an incentive to carefully choose basic materials without mandating what those materials would be? I hope that attempts to answer these questions can shed light on solutions not yet realized.

I thank Senators BAUCUS AND CHAFEE for their open-mindedness as we seek to resolve the solid waste problems of this country. I trust that this debate on RCRA reauthorization will result in carefully crafted resolution of these problems, and I commit myself to working with all Members throughout this process.●

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. 977. A bill to require the Secretary of Housing and Urban Development to promulgate regulations requiring smoke detection devices in residential dwelling units financed or assisted by any Department of Housing and Urban Development program; to the Committee on Banking, Housing, and Urban Affairs.

FIRE SAFETY ENHANCEMENT ACT

● Mr. D'AMATO. Mr. President, today I introduce, for myself and my colleague from New York, legislation to rectify a serious problem that has come to my attention because of a recent tragedy that occurred in my State. Companion legislation is being introduced in the House by Representative GILMAN. Mr. President, I request unanimous consent that the text of this bill be printed immediately following my remarks.

On March 29, 1991, a fire killed three young children and their grandfather when it burned their home in Port Jervis, NY. This family was receiving Federal rental assistance under HUD's voucher program.

HUD's current regulations do not require the existence of working smoke detectors in housing occupied by voucher-holders or in other HUD-assisted housing. The bill that I am introducing today, which is called the Fire Safety Enhancement Act of 1991, would direct the Secretary of HUD to modify HUD's current housing quality standards and minimum property standards to require the installation of working smoke detectors in HUD-assisted housing.

According to statistics provided by the National Fire Protection Association, the existence of smoke detectors in housing covered by this legislation will save 131 lives that might perish without smoke detectors. This housing includes 4.5 million units of existing HUD-assisted housing. In New York specifically, there are 113,985 units of section 8 housing that would be required to comply with this new standard. HUD can enforce new standards through its regular annual inspection process and when currently assisted housing is rehabilitated or applies for other forms of additional housing assistance.

There are also 100,000 units of new HUD-subsidized housing assisted each year, and 800,000 units that receive mortgage insurance each year. Although we cannot determine how many of these units already have smoke detectors, we can make sure that all of them will.

The National Fire Protection Association estimates that installing smoke detectors in homes reduces by one-half the residents' risk of dying in a fire. According to these statistics, this bill will cut the risk of deaths by fire in half for 312,500 new units in 1992. Smoke detectors cost between $10 and $30—which is a pretty small price for a fixture that has proven that it can save lives.

In addition, a Federal standard will provide a strong incentive for all private owners to follow suit and build according to the Federal standards.

Before I close, Mr. President, there are some unsung heroes in the effort to call the deficiencies of current Federal fire safety guidelines to the attention of the public. I refer to a home State newspaper in Port Jervis, the Tri-State Gazette, its local reporter, Thomas Leek, and its Washington correspondent, Judy Mathewson. These hard-working reporters represent the American tradition of journalism as a public service and are to be commended.

I am convinced that a law like this can save lives and help to avoid another senseless tragedy like the deaths that occurred as a result of the Port Jervis fire. As a grandfather, I felt a special pain when I heard of these sad deaths. This is a tragedy which need not be repeated.●

By Mr. SYMMS (for himself, Mr. CRAIG, Mr. MACK, and Mr. HELMS):

S. 978. A bill to amend the Internal Revenue Code of 1986 to deposit all highway-related taxes in the Highway Trust Fund; to the Committee on Finance.

DEPOSITS IN THE HIGHWAY TRUST FUND

● Mr. SYMMS. Mr. President, I am today introducing a bill along with my colleagues Senators CRAIG, HELMS, and MACK to reverse a wrong done to the American people included in last year's budget. Last year, the U.S. Congress and the President together went back on a deal many years ago when they raised the excise on gasoline, diesel, and related fuels and used half of that amount for deficit reduction.

These excise taxes were sold to the American people on the basis that the revenues would be transferred to the highway trust fund and would then be available to be spent on highways and bridges and mass transit. When we raised the gas tax last year by 5 cents, but only put 2½ cents of that amount into the highway trust fund, the other 2½ cents going to deficit reduction, we broke faith with the taxpayers.

My bill does one thing. It puts the gas tax currently used for deficit reduction back into the highway trust fund where it belongs.

My colleagues should be aware that this bill does not violate any budget points of order that I am aware of because the highway trust fund is on budget.

My bill doesn't reduce revenues. All it does is transfer credit for funds received from one account—general revenues—where it doesn't belong, to another account, the highway trust fund, where it does belong.

Let me point out that I didn't refer to the transfer of funds from one account to another, only to the transfer of credit for funds received. I don't want to help perpetuate the myth around here that either the highway trust fund or the Social Security trust fund actually contains any asset in any economic sense, since the only thing in a Federal trust fund is T-bonds, which are future promises to tax, nothing more.

But our infrastructure is in tremendous need of repair, as I said before. And the only way we're going to have the money to build and mend our highways and bridges is if the highway trust fund is credited for the full amount of the gas tax collected.

I was strongly opposed to the budget deal that passed into law last year, as some of my colleagues might remember. I opposed the massive tax increases that, in my opinion, were foolhardy and completely unwarranted, and I particularly opposed the raising of the gas tax for deficit reduction.

I offered an amendment at the time to have all the gas tax revenues credited to the highway trust fund. While my amendment failed to win a majority, I believe many of my colleagues felt compelled to vote against my amendment because they felt they owed allegiance to the budget deal. I am hopeful that, this being a new year and a new Congress, perhaps we will be more successful.

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. 978

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

SECTION 1. ALL HIGHWAY-RELATED TAXES DEPOSITED IN HIGHWAY TRUST FUND.

(a) GASOLINE.—

(1) IN GENERAL.—Paragraph (2) of section 4081(a) of the Internal Revenue Code of 1986 (relating to rates of tax) is amended—

(A) by adding "and" at the end of subparagraph (A)(i),

(B) by striking ", and" at the end of subparagraph (A)(ii) and inserting a period,

(C) by striking subparagraph (A)(iii),

(D) by striking "11.5 cents a gallon," in subparagraph (B)(i) and inserting "14 cents a gallon, and",

(E) by striking ", and" in subparagraph (B)(ii) and inserting a period, and

(F) by striking subparagraph (B)(iii).

(2) CONFORMING AMENDMENTS.—

(A) Section 4081(d) of the Internal Revenue Code of 1986 is amended by striking paragraph (3).

(B) Paragraph (3) of section 4041(c) of such Code is amended by striking "the sum of the Highway Trust Fund financing rate plus the deficit reduction rate" and inserting "the Highway Trust Fund financing rate".

(C) Subsection (b) of section 9503 of such Code is amended by striking paragraph (5).

(D) Subsection (j) of section 11211 of the Omnibus Budget Reconciliation Act of 1990 is amended by striking paragraph (9).

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by this subsection shall take effect as if included in the amendments made by section 11211(a) of the Omnibus Budget Reconciliation Act of 1990.

(B) TRANSFER FROM GENERAL REVENUES.—The Secretary of the Treasury shall transfer from general revenues to the Highway Trust Fund such additional sums as would have been transferred to such Fund if the amendments made by this subsection had been included in the amendments made by section 11211(a) of the Omnibus Budget Reconciliation Act of 1990.

(b) DIESEL AND SPECIAL MOTOR FUELS.—

(1) IN GENERAL.—Subsection (b) of section 4091 of the Internal Revenue Code of 1986 (relating to rate of tax) is amended—

(A) by striking "and the diesel fuel deficit reduction rate" in paragraph (1)(A)(i),

(B) by striking "17.5 cents" in paragarph (2) and inserting "20 cents",

(C) by striking paragraph (4),

(D) by striking paragraph (6)(D), and

(E) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 4091(c) of the Internal Revenue Code of 1986 is amended by striking "and the diesel fuel deficit reduction rate".

(B) Paragraphs (1) and (2) of section 4041(a) of such Code are each amended by striking "the sum of the Highway Trust Fund financing rate and the deficit reduction rate" each place it appears and inserting "the Highway Trust Fund financing rate".

(C) Subparagraph (A) of section 4041(m) of such Code is amended to read as follows:

"(A) under subsection (a)(2), the Highway Trust Fund financing rate shall be 7 cents per gallon, and".

(D) Subparagraph (B) of section 4093(c)(2) of such Code is amended to read as follows:

"(B) PORTION OF TAX ON FUEL USED IN TRAINS.—In the case of fuel sold for use in a diesel-powered train, paragraph (1) also shall not apply to so much of the tax imposed by section 4091 as is attributable to ⅛ of the Highway Trust Fund financing rate imposed by such section."

(E) Paragraph (4) of section 6427(l) of such Code is amended to read as follows:

"(4) NO REFUND OF TAX ON FUEL USED IN TRAINS.—In the case of fuel used in a diesel-powered train, paragraph (1) also shall not apply to so much of the tax imposed by section 4091 as is attributable to ⅛ of the Highway Trust Fund financing rate imposed by such section."

(F) Paragraph (4) of section 9503(b) of such Code is amended to read as follows:

"(4) CERTAIN ADDITIONAL TAXES NOT TRANSFERRED TO HIGHWAY TRUST FUND.—For purposes of paragraphs (1) and (2)—

"(A) there shall not be taken into account the taxes imposed by section 4041(d),

"(B) there shall be taken into account the taxes imposed by sections 4041 and 4081 only to the extent attributable to the Highway Trust Fund financing rates under sections, and

"(C) there shall be taken into account the taxes imposed by section 4091 only to the extent attributable to the Highway Trust Fund financing rate under such section not imposed on diesel-powered trains."

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by this subsection shall take effect as if included in the amendments made by section 11211(b) of the Omnibus Budget Reconciliation Act of 1990.

(B) TRANSFER FROM GENERAL REVENUES.—The Secretary of the Treasury shall transfer from general revenues to the Highway Trust Fund such additional sums as would have been transferred to such Fund if the amendments made by this subsection had been included in the amendments made by section 11211(b) of the Omnibus Budget Reconciliation Act of 1990.●

By Mr. BINGAMAN (for himself, Mr. JOHNSTON, and Mr. DOMENICI):

S. 979. A bill to provide for strong Department of Energy support of research and development of technologies identified in the most recent National Critical Technologies Report as critical to U.S. economic prosperity and national security, and for other purposes; to the Committee on Energy and Natural Resources.

DEPARTMENT OF ENERGY CRITICAL TECHNOLOGIES

Mr. BINGAMAN. Mr. President, earlier today, during a hearing I chaired in the Armed Services Subcommittee on Defense Industry and Technology, the first National Critical Technologies Report was released. This was a significant event because it represented the very first time the U.S. Government had identified key technologies which are critical both to our national security and economic competitiveness.

Before today, we had successfully mandated the Department of Defense to develop and publish its own Department of Defense critical technologies plan, which identified technologies critical to our defense needs. And the Department of Commerce had issued its first Emerging Technologies Report, which identified technologies which are critical to future economic growth. But today, a National Critical Technologies Panel, composed of representatives from the 6 largest research and development agencies in government and 6 representatives from industry and academia agreed on a list of 22 technologies which are critical to both national security and economic competitiveness.

This report can end up as just another list on the shelf—or it can offer us an opportunity to rationalize Federal Government investment in research and development. We could begin, from this day forward, to focus our research and development resources on those technologies which we in fact have identified as critical. From this day forward, we could coordinate the efforts of a variety of departments of Government who have significant research and development budgets in an effort to yield the most productive value for research dollars by focusing on these identified critical technologies. From this day forward, we could require that each department focus its own research and development programs to yield progress in these critical technologies.

You can guess that I am not one who wants this report to become yet another list on the shelf. To that end, today I am introducing two new bills.

The first bill, about which I will have a separate statement, is the Advanced Materials Synthesis, Processing and Commercialization Act of 1991. That bill represents an example, a blueprint for a Governmentwide, multiagency effort, to coordinate resources in order to achieve progress in a particular technology. As Dr. William Phillips, the Associate Director for Industrial Technologies in the Office of Science and Technology Policy, testified today, it is no accident that advanced materials synthesis and processing technologies were listed first in the National Critical Technologies Report. Progress in advanced materials technologies is a crucial, enabling factor affecting virtually all of the other critical technologies identified in that report.

I rise now to introduce on behalf of myself, Senator JOHNSTON, and Senator DOMENICI, a second bill—the Department of Energy Critical Technologies Act of 1991. Whereas the advanced materials bill attempts to coordinate a Governmentwide, multiagency effort in a single critical technology, this bill mandates that within a single Department, the Department of Energy, the Secretary develop a plan to rationalize departmentwide efforts to achieve progress across those technologies crucial to their mission and identified as critical in the National Critical Technologies Report.

The bill creates an intradepartmental council within the Department to develop a Department of Energy critical technologies plan. The plan should identify ongoing programs in DOE critical technologies; it should recommend a process by which laboratories, industry, and academic institutions determine their respective roles with respect to DOE critical technologies; and it should describe a procedure for coordinating critical technologies activities within the Department's laboratories. Basically, it requires the Department to identify those technologies identified on the National Critical Technologies Report which are critical to its own mission, and then to rationalize the process by which it makes investments in, and manages, research and development programs in those technologies.

Because the national laboratories play such a central role in the Department's research and development programs, the bill also focuses on harnessing their expertise for this effort. It requires each laboratory to identify its own core competencies relevant to the Department's critical technologies. And then it gives them the flexibility to make investments in maintaining their cutting-edge expertise in those core competencies, which will be the foundation of the critical technologies efforts of the Department.

The third major step the bill takes is to mandate the establishment of industry-driven partnerships among Department of Energy laboratories, industry, academic institutions, and other Government agency laboratories, to research and develop identified critical technologies. The bill explains the criteria by which these proposals for partnerships are to be solicited and selected and then authorizes funding for these partnerships, over and above the amounts already authorized for existing Department of Energy technology programs.

The Department of Energy's Critical Technologies Act of 1991, is the first of several bills that I hope to introduce which mandate that each Federal agency with a significant R&D budget rationalize its own research and development efforts along similar lines. Each such bill will demand first that the agency think and manage strategically with respect to its R&D programs, and second that its significant efforts in critical technologies R&D be informed, validated, and supported by industry—the front-line competitors in the commercial marketplace.

I selected the Department of Energy Critical Technologies Act as the first such bill for several reasons. There is wide recognition that the Department of Energy has unique and extraordinary capability in its national laboratories. As Secretary Watkins has said so often, they are in fact the treasures—the jewels in the crown—of the Department. They have successfully demonstrated that when tasked with clarity and urgency—as they were in the nuclear weapons and nuclear energy areas—they can be world-class producers. I see no reason why those same laboratories cannot now be similarly charged in a broader range of technologies—those which for the first time, the U.S. Government has identified as critical both to the national security and to economic competitiveness. We need only to unambiguously set their sights on these new technology objectives, and give them the flexibility to do the job.

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. 979

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 referred to as the "Department of Energy Critical Technologies of 1991".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) It is essential that the United States maintain a world leadership position in the development and application of technologies that are critical to national security and economic prosperity.

(2) The Department of Energy laboratories have wide-ranging and unique capabilities in those technologies.

(3) It is in the national interest that those capabilities continue to be fully utilized to enhance United States national security interests and economic competitiveness.

(4) Increased interaction between Department of Energy laboratories and United States firms concerning research and development in critical technologies is necessary because of the increasing concurrency between commercial requirements in critical technologies and military requirements in critical technologies that is reflected in the most recent National Critical Technologies Report, the most recent Defense Critical Technologies Plan, and the most recent Emerging Technologies Report.

SEC. 3. PURPOSES.

The purposes of this Act are as follows:

(1) To provide for the coordination of the research and development activities of Department of Energy laboratories in support of critical national security objectives (including energy security objectives) and economic competitiveness.

(2) To require the Secretary of Energy to develop a Department of Energy critical technologies plan that is supportive of research and development in critical technologies listed in the National Critical Technologies Report and to coordinate the implementation of such plan.

(3) To encourage and enhance the commercialization of the results of Department of Energy research and development in critical technologies.

SEC. 4. DEFINITIONS.

In this Act:

(1) The term "Department of Energy laboratory" means a single-purpose national laboratory of the Department of Energy and a multi-purpose national laboratory of the Department of Energy.

(2) The term "Department of Energy critical technology" means a critical technology, identified in the most recent National Critical Technologies Report, with respect to which a Department of Energy laboratory has demonstrated a broad technological competence, as determined by the Secretary of Energy.

(3) The term "National Critical Technologies Report" means the biennial report on national critical technologies submitted to Congress by the President pursuant to section 603(d) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683(d)).

(4) The term "Defense Critical Technologies Plan" means the annual defense critical technologies plan submitted to Congress by the Secretary of Defense pursuant to section 2508 of title 10, United States Code.

(5) The term "Emerging Technologies Report" means the Emerging Technologies Report published by the Department of Commerce.

(6) The terms "Critical Technologies Planning Council" and "Council" each mean the Critical Technologies Planning Council established pursuant to section 101(a).

(7) The terms "Critical Technologies Advisory Board" and "Advisory Board" each mean the Critical Technologies Advisory Board established pursuant to section 102.

(8) The terms "Department of Energy Critical Technologies Plan" and "Plan" each mean the Department of Energy Critical

Technologies Plan referred to in section 103(a).

(9) The terms "Department of Energy Critical Technology Partnership" and "Partnership" each mean a Department of Energy Critical Technology Partnership established pursuant to title II of this Act, or any similar partnership established by the Secretary of Energy to enhance the development and utilization of Department of Energy critical technologies.

(10) The term "United States firm" means a company or other business entity that—

(A) conducts, in the United States, significant research, development, engineering, and manufacturing activities relating to Department of Energy critical technologies;

(B) makes significant contributions to employment in the United States; and

(C) is a company or other business entity the majority ownership or control of which is in United States citizens or is a company or other business entity that is owned by a parent company that is incorporated in a country the government of which—

(i) encourages the participation of United States owned firms in research and development consortia to which the government of that country provides funding directly or indirectly through international organizations; and

(ii) affords adequate and effective protection for the intellectual property rights of companies incorporated in the United States.

(11) The term "core competency", with respect to a Department of Energy laboratory, means a research and development capability relevant to Department of Energy critical technologies which the laboratory regards as central to the ability of the laboratory to carry out its missions and for which the laboratory has developed extensive and unique capabilities.

TITLE I—DEPARTMENT OF ENERGY CRITICAL TECHNOLOGIES PROGRAM

SEC. 101. DEPARTMENT OF ENERGY CRITICAL TECHNOLOGIES COUNCIL.

(a) ESTABLISHMENT.—The Secretary of Energy shall establish within the Department of Energy a council to be known as the "Critical Technologies Planning Council".

(b) COMPOSITION.—The Council shall be composed of the following officers and employees of the Department of Energy:

(1) The Under Secretary of Energy.

(2) The Director of the Office of Waste Management and Environmental Restoration.

(3) The Director of the Office of Energy Research.

(4) The Assistant Secretary of Energy for Defense Programs.

(5) At least one representative from each of the Department of Energy laboratories.

(6) Any additional officers and employees of the Department of Energy that the Secretary of Energy designates as a member of the Council.

(c) CHAIRMAN.—The Under Secretary of Energy shall be the Chairman of the Council.

(d) DUTIES.—The Council shall—

(1) serve as the lead organization within the Department of Energy responsible for the development of the Department of Energy Critical Technologies Plan;

(2) coordinate the activities of the Department of Energy laboratories carried out under the program provided for in the Plan;

(3) consult with the Critical Technologies Advisory Board and coordinate with other appropriate departments and agencies of the Federal Government, State entities, United States firms, academic groups, and other appropriate groups regarding the implementation of the Plan to the extent the Council considers appropriate;

(4) serve as a point of contact within the Department of Energy for the encouragement of international cooperative scientific and technological activities of government scientists, scientists in United States firms, and university scientists in matters relevant to research and development in Department of Energy critical technologies; and

(5) each year, before the submission of the budget to Congress pursuant to section 1105 of title 31, United States Code, review the budget for consistency with the Plan and transmit the results of that review to the Secretary of Energy.

SEC. 102. DEPARTMENT OF ENERGY CRITICAL TECHNOLOGIES ADVISORY BOARD.

(a) ESTABLISHMENT.—The Secretary of Energy shall establish within the Department of Energy a Board to be known as the "Critical Technologies Advisory Board".

(b) COMPOSITION.—The Advisory Board shall be composed of persons selected for the Advisory Board from among the members of the Secretary of Energy Advisory Board (SEAB).

(c) DUTIES.—The Advisory Board shall provide the Secretary of Energy and the Council with advice and information on Department of Energy critical technologies, including a periodic assessment of—

(1) the Department of Energy Critical Technologies Plan;

(2) the progress made in implementing the Plan;

(3) any need to revise the Plan;

(4) the balance between the components of the Plan; and

(5) other issues related to the Plan as identified by the Secretary.

SEC. 103. DEPARTMENT OF ENERGY CRITICAL TECHNOLOGIES PLAN.

(a) REQUIREMENT FOR PLAN.—The Secretary of Energy shall develop, once every two years, and implement a five-year Department of Energy Critical Technologies Plan that—

(1) coordinates the individual and interactive research and development activities of the Department of Energy laboratories in support of research and development in Department of Energy critical technologies; and

(2) provides for the coordination of the Department of Energy Critical Technologies Partnerships.

(b) SUBMISSION OF PLAN TO CONGRESS.—The Secretary shall submit each Plan to Congress.

(c) CONTENT OF PLAN.—The Plan shall include the following:

(1) Goals and priorities, established in close consultation between the Council and United States firms, for a Department of Energy critical technologies program to be conducted for the five fiscal years following the fiscal year in which the Plan is submitted to Congress.

(2) A specific identification of the programs and activities of the Department of Energy laboratories that are relevant to research and development in Department of Energy critical technologies, the specific goals and objectives of such programs and activities, and a summary of the recommended budget for such programs and activities at each laboratory for the five fiscal years covered by the Plan.

(3) Procedures for coordinating the Department of Energy critical technologies activities of the Department of Energy laboratories.

(4) Procedures for facilitating collaboration between the Department of Energy laboratories and other departments and agencies of the Federal Government on common interests and expertise associated with Department of Energy critical technologies.

(5) Procedures for facilitating international cooperative activities of government, United States firms, and university scientists relating to Department of Energy critical technologies.

(6) A discussion of the research and development activities conducted by Department of Energy laboratories in Department of Energy critical technologies during the two fiscal years preceding the fiscal year in which the Plan is submitted to Congress, including an analysis of the progress made toward achieving the goals and objectives of the Plan (as in effect during such fiscal years) and a summary of Department of Energy budgets for research and development in Department of Energy critical technologies for such fiscal years.

(d) DEPARTMENT OF ENERGY LABORATORY CORE COMPETENCIES REPORTS.—(1) Once every two years the head of each Department of Energy laboratory shall submit to the Critical Technologies Planning Council and the Critical Technologies Advisory Board a report on the core competencies of such laboratory. The report shall identify the national critical technologies listed in the most recent National Critical Technologies Report published before the date of such report for which such laboratory has developed core competencies.

(2) The report of a Department of Energy laboratory shall contain, at a minimum, the following:

(A) A description of each laboratory program of research and development in the critical technologies identified in the report, including—

(i) the scope and nature of the program;

(ii) the amount expended by the laboratory on each such program for each of the three full fiscal years preceding the date of the report; and

(iii) the number of persons engaged in activities under such program at the laboratory as of the date of the report; and

(B) a discussion of the relevance of the critical technologies identified in the report to the laboratory's strategic mission objectives.

(3) The Secretary shall ensure that core competencies reports submitted pursuant to this section are disseminated broadly to the private sector.

(e) IMPLEMENTATION.—The Secretary shall carry out his responsibilities under this section through the Critical Technologies Planning Council. In carrying out such responsibilities, the Council shall consult with the Critical Technologies Advisory Board and take into consideration the reports prepared pursuant to subsection (d).

(f) FIRST SUBMISSIONS.—(1) The Secretary shall submit the first Department of Energy Critical Technologies Plan to Congress within one year after the date of enactment of this Act. That Plan need not include the matters described in subsection (c)(6).

(2) The first report required by subsection (d) shall be submitted by each Department of Energy laboratory not later than 180 days after the date of the enactment of this Act.

SEC. 104. RELATIONSHIP OF CORE COMPETENCIES TO LABORATORY RESEARCH AND DEVELOPMENT.

(a) ENCOURAGEMENT OF CORE COMPETENCIES.—The Secretary of Energy shall ensure that the laboratory-directed research

and development activities of each Department of Energy laboratory include research and development that extends and maintains the vitality of such laboratory's core competencies.

(b) REGULATIONS.—Within 180 days after the date of the enactment of this Act the Secretary shall prescribe regulations to carry out subsection (a). The regulations shall include authority for the director of each Department of Energy laboratory to use funds available for laboratory-directed research and development to support—

(1) research and development in any critical technology within a core competency of such laboratory that is conducted with a view to the commercialization of such technology (regardless of the nature of the commercial application of such technology) under a cooperative research and development agreement entered into in connection with one or more Partnerships established pursuant to title II or as part of any other technology transfer activity permitted under any law applicable to the activities of such laboratory; and

(2) other research or development of a creative or innovative nature which is selected by the director of such laboratory for the purpose of maintaining the vitality of that laboratory in scientific disciplines related to the laboratory's core competencies or to Department of Energy critical technologies.

TITLE II—DEPARTMENT OF ENERGY CRITICAL TECHNOLOGIES PARTNERSHIPS

SEC. 201. DEPARTMENT OF ENERGY CRITICAL TECHNOLOGY PARTNERSHIPS.

(a) ESTABLISHMENT OF PARTNERSHIPS.—Within 18 months after the date of the enactment of this Act, the Secretary of Energy shall establish, in consultation with the Critical Technologies Planning Council and on the basis of proposals solicited during such 18-month period, as many Department of Energy Critical Technology Partnerships as the Secretary determines are necessary to carry out the purpose specified in section 3(3).

(b) PARTNERSHIP PARTICIPANTS.—Each Partnership shall be comprised of one or more Department of Energy laboratories and participants from United States firms and institutions of higher education in the United States, and may include other departments and agencies of the Federal Government, State entities, and any other participants that the Secretary considers appropriate.

(c) LEAD INSTITUTION.—The participants in each Partnership shall designate a lead institution for the Partnership. The lead institution shall direct the activities of the Partnership.

SEC. 202. PARTNERSHIP PROPOSALS.

(a) SUBMISSION OF PARTNERSHIP PROPOSALS.—Each proposal for the establishment of a Partnership by the Secretary shall be submitted to the Secretary by the lead institution acting on behalf of all of the proposed participants in the Partnership.

(b) CONTENT OF PROPOSALS.—Each proposal for the establishment of a Department of Energy Critical Technologies Partnership pursuant to this title shall include the following:

(1) Goals and objectives of the Partnership that are consistent with the purposes of this Act.

(2) A research and development plan to achieve such goals and objectives.

(3) Evidence of expertise of the Partnership participants in developing and utilizing Department of Energy critical technologies.

(4) Provisions for transfer of Department of Energy critical technology through exchange of personnel among the participants in the Partnership and by other means.

(5) Evidence of the commitment of United States firms to participate in the Partnership, including a description of how personnel, equipment, facilities, and expertise of such firms will be used in the planning, conducting, and monitoring of the technology transfer activities of the Partnership and other Partnership activities.

(6) The demonstration of financial commitment required by subsection (c).

(c) COST SHARING REQUIREMENTS.—Each Partnership proposal shall demonstrate a financial commitment of the non-Federal Government participants to contribute at least 50 percent of the total cost of the Partnership activities. Within the total contribution to be made pursuant to such commitment the non-Federal Government participants may contribute a lesser percentage of the cost incurred during a particular period of Partnership activity or a lesser percentage of the cost of a particular Partnership activity. In the determination of the contribution made by a non-Federal Government participant, there shall be included the fair market value of the participant's contributions of equipment, services, materials, technology transfer activities, and other assets directly related to the costs associated with the goals and objectives of the Partnership, as determined by the Secretary of Energy.

(d) OTHER ASSISTANCE.—The Secretary of Energy shall provide to each Partnership technical assistance and other assistance considered by the Secretary as necessary and appropriate to facilitate the achievement of the goals and objectives of the Partnership.

SEC. 203. SELECTION OF PARTNERSHIPS.

(a) COMPETITIVE SELECTION.—Department of Energy Critical Technologies Partnerships shall be selected through a competitive process prescribed by the Secretary of Energy in consultation with the Critical Technologies Planning Council.

(b) SELECTION CRITERIA.—In establishing a Partnership, the Secretary shall select from among the Partnership proposals that—

(1) demonstrate the most promise of achieving the purpose provided in section 3(3);

(2) propose Partnership activities that have the most significant relevance to Department of Energy missions and to the missions of the other Federal Government participants (if any) in the proposed Partnerships;

(3) demonstrate the strongest level of participation and commitment of United States firms;

(4) offer the greatest potential technical and commercial benefits from the results of research and development in Department of Energy critical technologies; and

(5) establish the most effective programs for the transfer of technology through exchanges of personnel among Partnership participants and through other means.

SEC. 204. PROTECTION OF INFORMATION.

(a) AUTHORITY TO DISCLOSE INFORMATION.—Subject to subsection (b), Department of Energy laboratories and any other departments and agencies of the Federal Government participating in a Partnership may exercise the same authority with respect to research and development under the Partnership as may be exercised by a Federal laboratory pursuant to section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) and all other applicable provisions of law.

(b) LIMITATION ON DISCLOSURE.—No officer or employee of the Federal Government may disclose any trade secret or commercial or financial information that is privileged or confidential within the meaning of section 552(b)(4) of title 5, United States Code, and is obtained from a non-Federal Government participant in a Partnership as a result of the conduct of research or other activities of the Partnership. The prohibition in the preceding sentence does not apply to a disclosure made with the consent of such participant.

TITLE III—AUTHORIZATION OF APPROPRIATIONS AND OTHER PROVISIONS

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for the Department of Energy to carry out the responsibilities of the Secretary of Energy under this Act as follows:

(1) For fiscal year 1993, $50,000,000 for atomic energy defense activities, and $50,000,000 for energy research activities.

(2) For each of fiscal years 1994, 1995, 1996, and 1997, $100,000,000 for atomic energy defense activities, and $100,000,000 for energy research activities.

(b) RELATIONSHIP TO OTHER AUTHORIZATIONS AND APPROPRIATIONS.—The funds authorized to be appropriated under subsection (a) are in addition to—

(1) funds authorized to be appropriated for technology transfer in connection with atomic energy defense activities or energy research activities under any Act enacted before the date of the enactment of this Act; and

(2) funds appropriated for such purposes by any Act enacted before the date of the enactment of this Act.

SEC. 302. AUTHORITY TO WAIVE APPLICABILITY TO CLASSIFIED PROGRAMS.

The Secretary of Energy may waive the applicability of the provisions of this Act to any program or activity of the Department of Energy that is classified in the interest of the national security or foreign policy of the United States.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 980. A bill to provide for a coordinated Federal research and development program to ensure continued U.S. technological leadership in the development and utilization of advanced materials, and for other purposes; to the Committee on Commerce, Science, and Transportation.

ADVANCED MATERIALS SYNTHESIS, PROCESSING, AND COMMERCIALIZATION ACT

• Mr. BINGAMAN. Mr. President, today, along with my senior colleague for New Mexico, Senator DOMENICI, I am introducing the Advanced Materials Synthesis, Processing, and Commercialization Act of 1991. This bill represents a logical next step in a process which I have been trying to foster to developing a coherent technology policy for this Nation. It focuses on advanced materials synthesis and processing—the first, and arguably the most pervasive, of the 22 technologies identified in the report released earlier today by the National Critical Technologies Panel.

The legislation represents an effort to coordinate advanced materials syn-

thesis and processing activities across the Federal agencies and with the private sector. This legislation uses the process undertaken in the area of high performance computing as a template for the process to be used in coordinating Federal agency activities in this critical technology as well. It also proposes that, for reasons to be discussed in a few moments, we immediately initiate industry-driven partnerships between the Federal laboratories, industry, and academia to address national shortfalls in materials synthesis and processing that have been identified in numerous reports.

In this bill I have outlined what I believe needs to be done in one of the most important of the 22 technologies identified in today's National Critical Technologies Report. In a separate bill, the DOE Critical Technologies Act of 1991, I am outlining what I believe needs to be done within one of the key Federal technology agencies with respect to defining its role in a national effort to maintain leadership in these critical technologies. When we return from recess I intend to build on these 2 pieces of legislation and introduce a comprehensive approach to meeting our Nation's technological needs covering all 22 technologies and all of the Federal technology agencies.

Mr. President, why do I start with advanced materials? It is worth noting at the outset that materials have advances in being used to mark epochs of human activity. History records the stone age, the bronze age and the iron age as momentous developments in which the development and utilization of new materials distinguished one society from others on the basis of cultural, economic, and military considerations.

We are at the threshold of another epoch in which the development and utilization of extraordinary new materials will be a significant factor in determining the defensive posture, the stature and the standard of living of nations in the global order. We must take steps now to ensure that the United States remains at the forefront.

Mr. President, you and many of my colleagues are now familiar with the National Critical Technologies Report just released by the White House Office of Science and Technology Policy, as well as similar reports issued by Federal agencies such as the Department of Defense, the Department of Commerce, our own industrial organizations and associations such as the Aerospace Industries Association and the Council on Competitiveness, and foreign counterparts such as the European Community and the Japanese Ministry of International Trade and Industry. A glimpse at these reports reveals a significant degree of commonality among the technologies identified as critical. One cannot help but notice that advanced materials is prominent and prevalent in all of them. You might also notice from these assessments that we are at a crossroads, one at which our technological leadership in advanced materials is being challenged as never before.

Many of my colleagues may have seen a wonderful program, entitled, "Materials by Design," broadcast recently by public television. This documentary clearly showed that advanced materials technology permeates every aspect of out lives, from hip transplants to landing gear for carrier aircraft.

The essence of a strong economy is tied to our ability to manufacture; at the heart of a sound manufacturing capability is materials technology. No longer are we restricted to nature to provide us with a choice of materials to use. We have opened the envelope to virtually unlimited choices with respect to creating materials, atom by atom, with special properties. But cost is the dominant factor—the cost of synthesizing, the cost of processing, and the cost of characterizing these materials for engineering and manufacturing purposes.

The key distinction between advanced materials and conventional materials is related to the high degree of processing involved in transforming the constituents of the components that make up these materials into a form that is usable for manufacturing products. The processing and manufacturing methods and procedures associated with advanced materials are as significant as the materials themselves. Successful processing and manufacturing methods and procedures are the result of numerous, costly, and time-consuming trial-and-error procedures that are zealously guarded within the framework of proprietary information.

In the past we have invested our precious research and development resources at creating or inventing new advanced materials, largely in response to satisfying high-performance requirements dictated by defense needs.

Despite this investment, the commercialization of advanced materials in the United States has been inhibited by a number of factors. Significant among these factors is an underinvestment in the development of cost-effective processing and manufacturing techniques that would dramatically reduce the cost of using these materials. Cost reductions are vital to making these materials competitive in commercial markets, and are necessary to open new market opportunities and ensure U.S. economic competitiveness. The link between processing technologies and economic competitiveness is clearly presented in the National Research Council's 1990 Report on "Materials Science and Engineering for the 1990's—Maintaining Competitiveness in the Age of Materials" which states—

> The compelling theme of national economic competitiveness leads directly to a strong focus on materials processing. Processing and fabrication of materials * * * is an essential activity throughout U.S. technology. This is true for industrial sectors as diverse in nature and size as construction, computers, steelmaking, aerospace, electronics, and transportation.

There is another problem that remains an obstacle to the commercialization of our advanced materials technologies. In the United States it typically takes a 15- to 20-year period from the discovery of a new material for structural applications before it is accepted and used in the marketplace.

This situation results from the underinvestment in processing technologies, and from a lack of standards used to establish procedures for the synthesis, processing, and manufacture of advanced materials, and from the lack of access by Federal laboratories, industrial firms, and educational institutions to an accurate, well-documented database that characterizes the properties of these materials. The National Research Council Report states—

> These new materials are often slowly introduced into applications due to the need for engineering design data that have been evaluated for accuracy and are available in convenient computer format. The need for such materials property data for design is universally recognized but is rarely given adequate attention. Collaboration among universities, government laboratories, and most importantly industries (in which most of the data are first generated) is critical to the development of such evaluated data bases.

The proceedings of a Department of the Interior Bureau of Mines 1989 conference on, "Advanced Materials: Outlook and Information Requirements," also found this to be a key problem. They state—

> The lack of accurate and updated information available to materials and processing firms within the United States is highlighted by inconsistent and incomplete data collection, storage, and access. More importantly, this manifests itself as inefficiencies at the corporate, industry and national levels. . . . The goal of comprehensive information handling is increased national competitiveness. Given access to the most recently updated and accurate data on materials and processes, U.S. corporations and industries will be able to raise their collective performance. From a national—and especially a Government—perspective, increased performance must be the goal and driving force behind a closed look at the data collection needs of the materials and processing industries.

The legislation I am introducing today provides a comprehensive approach to enhance our research and development efforts to facilitate and encourage the commercialization of advanced materials processing technology.

The bill provides for the coordination of advanced materials processing re-

search and development activities of Federal agencies involved in advanced materials processing.

It requires the President, acting through the Federal Coordinating Committee on Science, Engineering, and Technology [FCCSET] to:

Develop a 5-year national advanced materials processing plan to establish goals and priorities for advanced materials processing activities of the Federal Government;

Define Federal agency roles to provide for the coordination and collaboration among such agencies regarding advanced materials activities;

Provide for the coordination of, and collaboration among partnerships composed of Federal laboratories, industry, and educational institutions dedicated to developing cost-effective processing methods and procedures for advanced materials; and

Provide for the coordination of the collection of information and quantitative data from Federal laboratories, industry, and academia to a national data base for advanced materials.

In addition, the bill provides that partnerships be established among Federal laboratories of the Departments of Defense, Energy, Commerce, the National Aeronautics and Space Administration, other Federal and State Government entities, U.S. firms, and educational institutions to carry out research and development activities to significantly reduce the costs associated with using advanced materials in civilian and military products.

The legislation proposes to develop a national advanced materials property data base by directing the Department of Commerce, through the National Institute of Standards and Technology, to establish standards and guidelines for a national data base for advanced materials, and to select from among available data collection and network systems one that best meets such standards and guidelines to serve as a nucleus for a comprehensive national data base for advanced materials.

Recognizing the need to bolster our infrastructure for advanced materials synthesis and processing by continuing to invest in our academic institutions, the bill supports the National Science Foundation's Investigator Awards Program to establish competitive grants to individuals or groups engaged in advanced materials processing activities. It also supports an Advanced Materials Synthesis and Processing Fellows Program to support graduate and postgraduate studies and research in advanced materials synthesis and processing.

The bill authorizes for appropriations $139 million in fiscal year 1992, $195 million in fiscal year 1993, $205 million in each of fiscal years 1994 to 1996, for a total of $949 million over the 5 fiscal years. These funds are to be distributed between the Departments of Energy, Defense, Commerce, NASA, and NSF.

The legislation I am introducing today will go a long way to ensure that the United States continues to maintain a leadership position in a new era of advanced technologies.

I respectfully 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. 980

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 referred to as the "Advanced Materials Synthesis, Processing, and Commercialization Act of 1991".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) It is vital for the national security and economic competitiveness of the United States to accelerate the development of critical technologies and the commercial applications for such technologies in the United States.

(2) Progress in the development of more cost-effective methods and procedures for advanced materials synthesis and processing is a crucial enabling factor for developing and applying virtually all critical technologies identified in the Report of the National Critical Technologies Panel.

(3) The development and use of advanced materials and of advanced materials synthesis and processing technologies is necessary to enhance the United States competitiveness in the development and commercial application of critical technologies.

(4) As a result of the inadequate level of past efforts in materials synthesis and processing in the United States, a serious weakness exists in the commercialization of advanced materials in the United States.

(5) Commercialization of advanced materials would be promoted by standardizing materials characterization techniques, by improving synthesis and processing operations, by standardizing specifications describing materials composition and performance characteristics for use in procurements, and by making available an accurate, reliable, and well-documented data base detailing pertinent advanced materials properties.

SEC. 3. PURPOSES.

The purposes of this Act are as follows:

(1) To facilitate the development and commercialization of advanced materials, advanced materials processing, and advanced materials technology in the United States.

(2) To enhance coordination of the research and development activities of the departments and agencies of the Federal Government regarding advanced materials processing.

(3) To require the President to develop a National Advanced Materials Processing Plan and to coordinate the implementation of such Plan by the departments and agencies of the Federal Government.

(4) To require the establishment of Advanced Materials Synthesis, Processing, and Commercialization Partnerships in order to encourage and enhance the development and demonstration of synthesis, processing, and manufacturing methods and procedures and to expedite the commercialization of advanced materials.

(5) To ensure that the results of the activities of such Partnerships are appropriately disseminated to United States firms.

(6) To encourage collaboration between Federal Government laboratories, United States industry, institutions of higher education in the United States, and State entities on identifying and mitigating environmental hazards associated with the synthesis, processing, and manufacture of advanced materials, on promoting healthful and safe advanced materials worksites for workers, and on minimizing the generation of waste in materials processing and manufacturing.

(7) To provide for the establishment of standardized methods and procedures for characterizing the properties of advanced materials and to provide for the establishment, whenever possible, of standardized procedures for synthesizing, processing, and manufacturing advanced materials components.

(8) To establish a national data base on the properties of advanced materials that are significant for engineering design, application, processing, disposal, and recycling purposes.

(9) To provide for the education and training of personnel engaged in research and development related to advanced materials processing.

SEC. 4. DEFINITIONS.

In this Act:

(1) The term "advanced materials" means materials that are synthesized and processed to develop high-performance properties that exceed the corresponding properties of conventional materials for structural, electronic, magnetic, photonic, and biomedical purposes, and for joining, welding, bonding, and packaging components into complex assemblies. Such term includes the following:

(A) Advanced monolithic materials such as metals, ceramics, and polymers.

(B) Advanced composite (heterogeneous) materials such as metal matrix (including intermetallics), polymer matrix, ceramic matrix, and carbon matrix composites.

(C) Advanced electronic, magnetic, and photonic materials, including semiconductor, electrooptic, magnetooptic, thin-film, and special-purpose coating materials.

(2) The terms "Advanced Materials Processing, Synthesis, and Commercialization Partnership" and "Partnership" each mean an Advanced Materials Processing, Synthesis, and Commercialization Partnership established pursuant to the provisions of title II of this Act or any similar partnership established by an official of the Federal Government pursuant to any other provision of law.

(3) Except where the context indicates otherwise, the term "Director" means the Director of the Office of Science and Technology Policy, in the Director's capacity as Chairman of the Federal Coordinating Council for Science, Engineering and Technology.

(4) The terms "Federal laboratory" and "laboratory" each have the meaning given the term "laboratory" in section 12(d)(2) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(2)).

(5) The term "processing", with respect to advanced materials, means transforming molecular aggregates of natural and synthetic matter into useful materials, components, devices, structures, and systems.

(6) The term "United States firm" means a company or other business entity that—

(A) conducts, in the United States, significant research, development, engineering, and

manufacturing activities relating to advanced materials;

(B) makes significant contributions to employment in the United States; and

(C) is a company or other business entity the majority ownership or control of which is in United States citizens or is a company or other business entity that is owned by a parent company incorporated in a country the government of which—

(i) encourages the participation of United States owned firms in research and development consortia to which the government of that country provides funding directly or indirectly through international organizations; and

(ii) affords adequate and effective protection for the intellectual property rights of companies incorporated in the United States.

TITLE I—NATIONAL ADVANCED MATERIALS PROCESSING PLAN AND PROGRAM

SEC. 101. REQUIREMENT FOR BIENNIAL 5-YEAR PLAN AND PROGRAM.

(a) IN GENERAL.—The National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 et seq.) is amended by adding at the end the following new title:

"TITLE VII—NATIONAL ADVANCED MATERIALS PROCESSING PLAN AND PROGRAM

"REQUIREMENT FOR PLAN AND PROGRAM

"SEC. 701. (a) The President, acting through the Federal Coordinating Council for Science, Engineering, and Technology (hereafter in this title referred to as the 'Council'), shall, in accordance with the provisions of this title—

"(1) develop and issue, at least once every two years, a five-year National Advanced Materials Processing Plan (hereafter in this title referred to as the 'Plan');

"(2) implement the Plan; and

"(3) facilitate interagency coordination of the implementation of the Plan.

"(b) The President shall submit a copy of each Plan to Congress.

"SEC. 702. (a) The Plan shall—

"(1) provide for the conduct of a Federal advanced materials processing program for the five fiscal years covered by the Plan and specify the goals and priorities for such program, as prescribed by the Council after consultation with appropriate representatives of United States firms interested in advanced materials processing;

"(2) contain the Council's recommendations for the appropriate roles of each department and agency of the Federal Government and of United States firms in implementing the Plan; and

"(3) contain procedures recommended by the Council for coordinating the advanced materials processing activities of the Federal Government and for facilitating joint action by departments and agencies of the Federal Government regarding the advanced materials processing activities of such departments and agencies.

"(b) The Plan shall specifically address, where appropriate, the programs and activities related to advanced materials processing that are conducted by the following departments and agencies of the Federal Government:

"(1) The Department of Energy, particularly the multiprogram laboratories of the Department.

"(2) The Department of Defense.

"(3) The National Aeronautics and Space Administration.

"(4) The Department of Commerce, particularly the National Institute of Standards and Technology.

"(5) The National Science Foundation.

"(6) The Department of Health and Human Services, particularly the National Institutes of Health.

"(7) The Department of the Interior, particularly the Bureau of Mines.

"(8) The Department of Transportation.

"(9) Such other agencies and departments as the President or the Chairman of the Council considers appropriate.

"RESPONSIBILITIES OF THE COUNCIL

"SEC. 703. The Council shall—

"(1) serve as the lead entity of the Federal Government responsible for the development of the Plan and for facilitating the interagency coordination of the Federal advanced materials processing program established pursuant to the Plan;

"(2) coordinate the advanced materials processing research and development activities of departments and agencies of the Federal Government and report on a biennial basis to the President, through the Chairman of the Council, on any recommended changes in departmental or agency responsibilities that are necessary for better implementation of the Plan; and

"(3) each year before the submission of the budget to Congress pursuant to section 1105 of title 31, United States Code, review the budget concerning the consistency of the budget with the Plan and make the results of that review available to the President.

"(4) consult and coordinate with the heads of departments and agencies of the Federal Government, representatives of United States firms, representatives of institutions of higher education in the United States, appropriate officials of State governments, and representatives of other appropriate entities conducting research on advanced materials processing.

"ADVANCED MATERIALS PROCESSING ADVISORY PANEL

"SEC. 704. (a) The President, acting through the Council, shall establish an Advanced Materials Processing Advisory Panel.

"(b) The members of the Panel shall be appointed by the President. The Panel shall consist of not more than 20 prominent representatives from industry, institutions of higher education, Federal laboratories, and professional and technical societies in the United States that are qualified to provide the Council with advice and information on advanced materials processing.

"(c) At intervals determined by the Council, but in any case prior to the submission of the first Plan, and at at least once every two years thereafter, the Panel shall provide the Council with an independent assessment of—

"(1) the progress made in implementing the Plan;

"(2) any need to revise the Plan;

"(3) the balance between the components of the Plan; and

"(4) other advanced materials processing issues identified by the Director of the Office of Science and Technology Policy.

"BIENNIAL REPORT OF THE COUNCIL

"SEC. 705. (a) The Chairman of the Council shall prepare and submit to the President and the Congress, not later than March 1 of each odd-numbered year, a biennial report on the advanced materials processing activities conducted pursuant to the Plan during the two fiscal years preceding the fiscal year in which the report is submitted.

"(b) The biennial report shall include the following:

"(1) A summary of the achievements of advanced materials processing research and development activities.

"(2) An analysis of the progress made toward achieving the goals and objectives of the Plan.

"(3) A summary of the funds appropriated to the departments and agencies of the Federal Government for advanced materials processing activities.

"(4) Any recommendations for additional action or legislation necessary to carry out the provisions of this title and the provisions of the Plan.

"DEFINITIONS

"SEC. 706. In this title:

"(1) The term 'advanced materials' means materials that are synthesized and processed to develop high-performance properties that exceed the corresponding properties of conventional materials for structural, electronic, magnetic, photonic, and biomedical purposes, and for joining, welding, bonding, and packaging components into complex assemblies. Such term includes the following:

"(A) Advanced monolithic materials such as metals, ceramics, and polymers.

"(B) Advanced composite (heterogeneous) materials such as metal matrix (including intermetallics). polymer matrix, ceramic matrix, and carbon matrix composites.

"(C) Advanced electronic, magnetic, and photonic materials, including semiconductor, electrooptic, magnetooptic, thin-film, and special-purpose coating materials.

"(2) The term 'processing', with respect to advanced materials, means transforming atomic and molecular aggregates of natural and synthetic matter into useful materials, components, devices, structures, and systems.".

(b) FIRST BIENNIAL PLAN.—The first National Advanced Materials Processing Plan shall be submitted to Congress under section 701 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (as added by subsection (a)) not later than one year after the date of the enactment of this Act and shall apply to fiscal years 1993 through 1997.

TITLE II—ADVANCED MATERIALS PROCESSING, SYNTHESIS, AND COMMERCIALIZATION PARTNERSHIPS

SEC. 201. DEPARTMENT OF ENERGY PARTNERSHIPS.

(a) REQUIREMENTS TO ESTABLISH PARTNERSHIPS.—Not later than one year after the date of the enactment of this Act, the Secretary of Energy, in consultation with the Director, shall establish four or more Advanced Materials Processing, Synthesis, and Commercialization Partnerships to carry out the purposes of this Act.

(b) PARTNERSHIP PARTICIPANTS.—Each Partnership shall be comprised of one or more Department of Energy laboratories and participants from among United States firms and institutions of higher education in the United States, and may include other Federal laboratories, State entities, and other appropriate organizations in the United States.

(c) LEAD INSTITUTION.—The participants in each Partnership shall designate a lead institution for the Partnership. The lead institution may be a Department of Energy laboratory or an industrial organization or collection of industrial organizations having expertise in research and development in the area of advanced materials processing. The lead institution shall direct the activities of the Partnership.

SEC. 202. DEPARTMENT OF DEFENSE PARTNERSHIPS.

(a) REQUIREMENT TO ESTABLISH PARTNERSHIPS.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Director, shall establish three or more Advanced Materials Processing, Synthesis, and Commercialization Partnerships to carry out the purposes of this Act.

(b) PARTNERSHIP PARTICIPANTS.—Each Partnership shall be comprised of one or more Department of Defense laboratories and participants from among United States firms and institutions of higher education in the United States, and may include other Federal laboratories, State entities, and other appropriate organizations in the United States.

(c) LEAD INSTITUTION.—The participants in each Partnership shall designate a lead institution for the Partnership. A lead institution may be a Department of Defense laboratory or an industrial organization or collection of industrial organizations having expertise in research and development in the area of advanced materials processing. The lead institution shall direct the activities of the Partnership.

SEC. 203. NASA PARTNERSHIPS.

(a) ESTABLISHMENT OF NASA PARTNERSHIPS.—Not later than one year after the date of the enactment of this Act, the Administrator of the National Aeronautics and Space Administration, in consultation with the Director, shall establish two or more Advanced Materials Processing, Synthesis, and Commercialization Partnerships to carry out the purposes of this Act.

(b) PARTNERSHIP PARTICIPANTS.—Each Partnership shall be comprised of one or more National Aeronautics and Space Administration laboratories and participants from among United States firms and institutions of higher education in the United States, and may include other Federal laboratories, State entities, and other appropriate organizations in the United States.

(c) LEAD INSTITUTION.—The participants in each Partnership shall designate a lead institution for the Partnership. The lead institution may be a National Aeronautics and Space Administration laboratory or an industrial organization or collection of industrial organizations having experience in research and development in the area of advanced materials processing. The lead institution shall direct the activities of the Partnership.

SEC. 204. DEPARTMENT OF COMMERCE PARTNERSHIPS.

(a) REQUIREMENT TO ESTABLISH PARTNERSHIPS.—Not later than one year after the date of the enactment of this Act, the Secretary of Commerce, acting through the Director of the National Institute of Standards and Technology, and in consultation with the Director of the Office of Science and Technology Policy, shall establish one or more Advanced Materials Processing, Synthesis, and Commercialization Partnerships to carry out the purposes of the Act.

(b) PARTNERSHIP PARTICIPANTS.—Each Partnership shall be comprised of participants from the National Institute of Standards and Technology and participants from among United States firms and institutions of higher education in the United States, and may include other Federal laboratories, State entities, and other appropriate organizations in the United States.

(c) LEAD INSTITUTION.—The participants in each Partnership shall designate a lead institution for the Partnership. The lead institution may be a National Institute of Standards and Technology laboratory or an industrial organization or collection of industrial organizations having expertise in research and development in the area of advanced materials processing. The lead institution shall direct the activities of the Partnership.

SEC. 205. PARTNERSHIP PROPOSALS.

(a) SUBMISSION OF PROPOSALS.—Each proposal for the establishment of a Partnership by the Secretary of Energy, the Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, or the Secretary of Commerce, as the case may be, shall be submitted to such official by the lead institution acting on behalf of the proposed participants in the Partnership.

(b) CONTENT OF PROPOSALS.—Each proposal for the establishment of an Advanced Materials Processing, Synthesis, and Commercialization Partnership pursuant to this title shall include the following:

(1) Goals and objectives of the proposed Partnership that are consistent with the purposes of this Act.

(2) A research and development plan that satisfies the requirements of subsection (e).

(3) Evidence of the expertise of the Partnership participants in (A) developing and utilizing technologies associated with the use of advanced materials for design, processing, and manufacture of components, and (B) developing and utilizing such technologies in a manner that ensures healthful and safe worksites for advanced materials workers and minimizes the potential environmental hazards associated with advanced materials processing procedures.

(4) Provisions for transfer of technology (related to advanced materials and advanced materials processing) that is developed by the Partnership.

(5) Provisions for training advanced materials processing, fabrication, and manufacturing personnel in advanced materials processing, fabrication, and manufacturing methods and procedures that are consistent with applicable health, safety, and environmental requirements.

(6) Evidence of industry commitment to participate in the Partnership, including a description of how industrial personnel, equipment, facilities, and expertise will be used in the planning, conducting, and monitoring of technology transfer activities of the Partnership and other Partnership activities.

(7) The demonstration of financial commitment required by subsection (c).

(c) COST-SHARING REQUIREMENTS.—Each Partnership proposal shall demonstrate a commitment of the non-Federal Government participants in the Partnership to defray not less than 25 percent of the total cost of the Partnership activities incurred in each year and at least 50 percent of the total cost of the activities conducted by the Partnership. In the determination of the contribution made by a non-Federal Government participant, there shall be included the fair market value of the participant's contributions of equipment, services, materials, technology transfer activities, and other assets (including existing proprietary materials, property, and processing data to be contributed to the national data base established pursuant to section 302) directly related to the costs associated with the objectives of the Partnership, as determined by the official that established by Partnership.

(d) OTHER ASSISTANCE.—The Secretary of Energy (in the case of Partnerships established by such Secretary), the Secretary of Defense (in the case of Partnerships established by such Secretary), the Administrator of the National Aeronautics and Space Administration (in the case of Partnerships established by the Administrator), and the Secretary of Commerce (in the case of Partnerships established by such Secretary) shall provide each Partnership with technical and other assistance that the Secretary or Administrator (as the case may be) considers necessary and appropriate consistent with the purposes of this Act.

(e) RESEARCH AND DEVELOPMENT PLAN.—The research and development plan required of a Partnership by subsection (b)(2), shall include the following:

(1) A description of the proposed approach to achieve the goals and objectives of the Partnership.

(2) A detailed description of the proposed research and development activities.

(3) A detailed description of the qualifications of the personnel who will conduct such research and development activities.

(4) How the research and development activities will be coordinated among the Partnership participants.

(5) The period during which the research and development activities will be conducted, including significant milestones within that period.

(6) A description of how the proposed research and development activities are intended to improve the reliability and affordability associated with processing advanced materials and to reduce the cost and the time required for the evaluation and utilization of advanced materials in manufacturing.

SEC. 206. SELECTION OF PARTNERSHIPS.

(a) COMPETITIVE SELECTION.—Advanced Materials Processing, and Commercialization Partnerships shall be selected through a competitive process prescribed by the Secretary of Energy (for Partnerships established by such Secretary), the Secretary of Defense (for Partnerships established by such Secretary), the Administrator of the National Aeronautics and Space Administration (for Partnerships established by the Administrator), and by the Secretary of Commerce (for Partnerships established by such Secretary), in consultation with the Director.

(b) REQUIRED CRITERIA.—Each Secretary and the Administrator, respectively, may select for the establishment of a Partnership any Partnership proposal or proposals that provide for—

(1) carrying out advanced materials processing activities consistent with the purposes of this Act;

(2) developing or applying technology, and establishing standardized criteria, to accurately and efficiently inspect, analyze, evaluate, and test the quality and integrity of advanced materials and the components manufactured from such materials;

(3) conducting the Partnership activities in a manner that ensures healthful and safe worksites for advanced materials workers and minimizes the potential environmental hazards associated with advanced materials processing procedures;

(4) developing analytical and design capabilities, or improving existing analytical and design capabilities, to create models (on the basis of computational modeling techniques or otherwise, as appropriate) for predicting and monitoring advanced materials responses to processing and manufacturing methods and for predicting the reliability of components made of such materials during in-service usage;

(5) contributing to the national data base established pursuant to section 302 information on the characteristics of the properties of advanced materials with respect to the processing, engineering design, manufacturing, disposal, and recycling potential of such materials;

(6) an effective program for the transfer of technology to United States firms; and

(7) an effective program for educating and training personnel engaged in the processing, fabrication, and manufacturing of advanced materials and components made of advanced materials.

SEC. 207. PROTECTION OF INFORMATION.

(a) AUTHORITY TO DISCLOSE INFORMATION.—Subject to subsection (b), a participant in an Advanced Materials Processing, Synthesis, and Commercialization Partnership may disclose information on the research and development activities of the Partnership to the same extent that a Federal laboratory may disclose information under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) and all other applicable provisions of law.

(b) LIMITATION ON DISCLOSURE.—No officer or employee of the Federal Government may disclose any trade secret or commercial or financial information that is privileged or confidential within the meaning of section 552(b)(4) of title 5, United States Code, and is obtained from a non-Federal Government participant in a Partnership as a result of the activities of the Partnership, regardless of whether such activities are subject to the Stevenson-Wydler Technology Innovation Act of 1980. The prohibition in the preceding sentence does not apply to a disclosure made with the consent of such participant.

SEC. 208. COORDINATION OF PARTNERSHIP ACTIVITIES.

The Director shall coordinate the research and development activities of the Advanced Materials Synthesis, Processing, Synthesis, and Commercialization Partnerships.

TITLE III—OTHER ADVANCED MATERIALS PROGRAMS

SEC. 301. INFRASTRUCTURE FOR ADVANCED MATERIALS SYNTHESIS AND PROCESSING SCIENCE AND ENGINEERING.

(a) INVESTIGATOR AWARDS PROGRAMS.—(1) The Director of the National Science Foundation shall establish a competitive grants program to be known as the "Advanced Materials Synthesis and Processing Principal Investigator Awards Program".

(2) Under the program the Director of the National Science Foundation shall award grants to individuals or groups on a competitive basis.

(3) The proceeds of grants awarded under such program may be used to defray the cost of research and development on specific topics pertinent to advanced materials processing sciences that is conducted by the grant recipients within colleges, universities, and research institutions in the United States.

(4) The goals of the program shall, to the maximum extent feasible, be consistent with the advanced materials synthesis and processing goals of Federal laboratories and other departments and agencies of the Federal Government.

(5)(A) The recipients of grants under the program shall use, to the maximum extent feasible, existing capital equipment, instrumentation, and facilities of United States firms and Federal laboratories to conduct research and development activities funded in whole or in part with grants made under the program.

(B) The program shall provide for the utilization of agreements authorized by section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) and other available mechanisms to ensure that grant recipients meet the requirement in subparagraph (A).

(6) Recipients of grants under the program shall contribute to the national data base established pursuant to section 302 the data that results from research and development activities funded in whole or in part with funds granted under such program.

(b) ADVANCED MATERIALS SYNTHESIS AND PROCESSING FELLOWS PROGRAM.—The National Science Board of the National Science Foundation shall establish a fellowship program to support graduate and post-doctorate studies and research in advanced materials synthesis and processing. Under the fellowship program, the Director of the National Science Foundation shall award grants for the support of such studies and research. Grants shall be awarded on the basis of academic merit in accordance with guidelines and criteria established by the National Science Board.

SEC. 302. NATIONAL ADVANCED MATERIALS DATA BASE.

(a) ESTABLISHMENT OF DATA BASE.—The Secretary of Commerce, acting through the Director of the National Institute of Standards and Technology, shall establish and administer a comprehensive national data base for advanced materials. The national data base shall be the central repository in the Federal Government for information on advanced materials. The Director of the National Institute of Standards and Technology may select for inclusion in the national data base advanced materials information available in data collection and network systems that meet the standards and guidelines established pursuant to subsection (b).

(b) DATA BASE STANDARDS AND GUIDELINES.—The Secretary of Commerce shall establish standards and guidelines for—

(1) the reliability, accuracy, quality, and documentation of the advanced materials data to be contained within the national data base;

(2) a computerized interactive network to search and retrieve data relating to advanced materials;

(3) appropriate formats in which to present diverse data relating to advanced materials;

(4) the maintenance of software and hardware required for the data base; and

(5) appropriate security for the protection of information in the data base, including the denial of access to unauthorized users.

SEC. 303. STANDARD REFERENCE DATA.

(a) IN GENERAL.—The Secretary of Commerce, acting through the Director of the National Institute of Standards and Technology, shall provide for the collection, compilation, critical evaluation, publication, and dissemination of standard reference data for advanced materials.

(b) DEFINITION.—In this section, the term "standard reference data" means quantitative information related to a measurable physical, chemical, mechanical, electrical, or optical property of a substance or system of substances of known composition and structure which is critically evaluated as to its reliability.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS AND OTHER PROVISIONS

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

(a) DEPARTMENT OF ENERGY.—Funds are hereby authorized to be appropriated for the Department of Energy to carry out the responsibilities of the Secretary of Energy under this Act as follows:

(1) For fiscal year 1992, $10,000,000 for atomic energy defense activities, and $10,000,000 for energy research activities.

(2) For each of fiscal years 1993, 1994, 1995, and 1996, $20,000,000 for atomic energy defense activities, and $20,000,000 for energy research activities.

(b) DEPARTMENT OF DEFENSE.—Funds are hereby authorized to be appropriated for the Department of Defense to carry out the responsibilities of the Secretary of Defense under this Act as follows:

(1) For fiscal year 1992, $15,000,000.

(2) For each of fiscal years 1993, 1994, 1995, and 1996, $30,000,000.

(c) NASA.—Funds are hereby authorized to be appropriated to the National Aeronautics and Space Administration to carry out the responsibilities of the Administrator of the National Aeronautics and Space Administration under this Act as follows:

(1) For fiscal year 1992, $10,000,000.

(2) For each of fiscal years 1993, 1994, 1995, and 1996, $20,000,000.

(d) DEPARTMENT OF COMMERCE.—Funds are hereby authorized to be appropriated for the Department of Commerce to carry out the responsibilities of the Secretary of Commerce under this Act as follows:

(1) For fiscal year 1992—

(A) $5,000,000 for the establishment of Advanced Materials Processing, Synthesis, and Commercialization Partnerships; and

(B) $5,000,000 for carrying out section 302.

(2) For each of fiscal years 1993, 1994, 1995, and 1996—

(A) $10,000,000 for the establishment of Advanced Materials Processing, Synthesis, and Commercialization Partnerships; and

(B) $5,000,000 for carrying out section 302.

(e) NATIONAL SCIENCE FOUNDATION.—Funds are hereby authorized to be appropriated for the National Science Foundation to carry out the responsibilities of the National Science Foundation under this Act as follows:

(1) For fiscal year 1992, $84,000,000.

(2) For fiscal year 1993, $90,000,000.

(3) For each of fiscal years 1994, 1995, and 1996, $100,000,000.

(f) FEDERAL COORDINATING COUNCIL FOR SCIENCE, ENGINEERING, AND TECHNOLOGY.—There is hereby authorized to be appropriated for the Federal Coordinating Council for Science, Engineering, and Technology such sums as may be necessary for the Council to carry out its responsibilities under title VII of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (as added by section 101).

SEC. 402. AUTHORITY TO WAIVE APPLICABILITY TO CLASSIFIED PROGRAMS.

The head of a department or agency of the Federal Government may waive the application of the provisions of this Act to any program or activity of such department or agency that is classified in the interest of the national security or foreign policy of the United States.●

By Mr. PELL:

S. 981. A bill to amend the Internal Revenue Code of 1986 with respect to the public financing of Presidential election campaigns; to the Committee on Finance.

PRESIDENTIAL ELECTION CAMPAIGN FUND

● Mr. PELL. Mr. President, I am introducing today legislation to assure the solvency of the Presidential election campaign fund and to provide certain restrictions on expenditures for media

advertising that qualifies for payment from the fund.

The public funding of our Presidential elections is one of the great unsung triumps of political reform in this century. Established in 1974 in the wake of the Watergate scandal, the new system combined limits on campaign spending with public funding from the $1 checkoff on personal income tax returns. It has been administered with remarkable success by the Federal Election Commission, and since its inception 49 of the 50 major party candidates who have run for the Presidency in that period—Republicans and Democrats alike—have chosen to participate in the program.

The $490 million that has been disbursed from the Presidential election campaign fund to date represents the collective voluntary commitment of many taxpayers to the principle that the Presidential election process ought to be freed of the taint of special interest financing. It is generally agreed, I believe, that the public funding program has had an elevating effect on the process, freeing campaigns from preoccupation with fundraising to concentrate on substantive matters.

But the program, for all its success, may not continue as originally conceived unless Congress provides remedial legislation to correct a basic statutory flaw which is certain to cause the fund to run dry. The problem is that the original legislation authorizing the $1 checkoff made no provision for periodic adjustments in the amount of the checkoff to allow for inflation. At the same time, however, on the other side of the ledger, campaign spending limits were indexed for inflation and have been rising steadily, as have payouts from the fund to eligible candidates and parties. Such a structural imbalance has all the makings of a fiscal train wreck, and it is remarkable that it hasn't already occurred.

I must note for the record at this point that I am opposed to the concept of indexing and have frequently opposed it over the years because I believe it is an automatic mechanism for escalating public costs, frequently to levels above what circumstances justify. But in this case, I am persuaded that the indexing of the $1 checkoff is the only way to correct the basic structural flaw in the original legislation.

The fact is that the $1 authorized for checkoff in the early 1970's is worth only 36 cents today, while the indexed ceiling on expenditures has risen more than 250 percent. The FEC projects a shortfall of approximately $3 million by the end of 1992, which may be made up administratively by applying receipts in early 1993 to cover final costs of the 1992 election cycle. But for 1996, the Presidential election campaign fund faces a projected deficit of over $144 million, and no amount of administrative juggling can prevent a de facto suspension of the primary matching program and a reduction in grants to the party nominees in the general election by more than $50 million. As Chairman John McGarry of the FEC stated before the Committee on Rules and Administration, "The issue is not if the fund will run out of money, but, when."

In addition to the indexing problem, there is, to be sure, another factor which exacerbates the imbalance, namely the relatively low rate of participation by taxpayers in the checkoff program. The percentage of tax returns checked off has declined from a high of 28.7 percent in 1980 to 19.9 percent in 1989. But I would note that even in 1989, the contributions to the fund amounted to more than $32 million. And I particularly note Chairman McGarry's testimony that even if participation returned to its highest level, the structural imbalance resulting from the indexing differential is so fundamental that the fund would still run short in 1996.

As disappointing as the low rate of participation is, it should not be allowed to cloud the merits of this worthy program. The FEC, to its credit, has undertaken a systematic effort to identify the reasons for the low rate of participation and has found that there is widespread lack of understanding of the checkoff program on the part of taxpayers as well as professional tax preparers. Acting on this finding, the Commission this year launched a modest public education program through radio and TV announcements, as well as Commission publications, to explain how the checkoff program works. I applaud these efforts, urge their continuance and hope they bear fruit.

But the underlying structural problem of indexing remains to be addressed, and the legislation which I introduce today incorporates recommendations of the FEC to solve the problem.

First, the bill would increase the amount of the checkoff from $1 to $2.50 for individuals and from $2 to $5 for jount returns, reflecting an adjustment for inflation of at least 250 percent, as recommended by the FEC.

Second, the bill would provide a mechanism for adjusting the amount of the checkoff in future years to changes in the Consumer Price Index, rounded to the nearest dollar, as recommended by the FEC.

Third, the bill would authorize, in the event of shortfalls in the fund, repayable advances to the fund from the Treasury, to be repaid with interest out of subsequent receipts from the checkoff. This provision was not requested by the FEC, but I am proposing it in anticipation of the possibility that congressional action may not be concluded in time to avert a serious shortfall that could cause confusion in the 1996 election cycle.

Fourth, the bill includes a simple requirement that media advertising would be considered a qualified campaign expense only to the extent to which the eligible candidate presents his or her own program, opinions, or qualifications. This is a reprise of a bill I introduced in the 101st Congress, S. 340, the intention of which was simply to assure that public funds would be used for publicly acceptable media purchases, as opposed to scurrilous or deceptive media advertisements. The intention remains the same and it seems to me a reasonable limitation on the use of public funds.

Finally, Mr. President, I would simply note that this bill would assure the solvency of the Presidential election campaign fund without comprimising the basic principle of personal choice underlying the checkoff program. Every dollar that goes into the fund represents a personal affirmation of a taxpayer who supports the program, and conversely every nonparticipant can be assured that his taxes are not being used to fund a program he does not support. This is as it should be, given the political sensitivity of the program. But 17 years of experience has proven, I believe, that the purposes of the program can be achieved in a voluntary context; only a reasonable correction of structural imbalance is needed to assure its continuance.

I ask unanimous consent that two charts showing the status of the Presidential election campaign fund, projected first on the basis of the present $1 checkoff, and second on the basis of the checkoff adjusted for inflation be printed in the RECORD.

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

FUND ACTIVITY—ACTUAL AND ESTIMATES 1973–97 USING $1 CHECK-OFF AS IT NOW EXISTS; UNADJUSTED FOR INFLATION

[Using inflation of 5.0 percent 91–97; Revised Feb. 19, 1991 RH/JCO]

Fiscal year	Actual receipts	COLA	Disbursements	Repayments	Balance 12/31/YY
Derived 1973	$2,427,000	1.0000	0	0	$2,427,000
Derived 1974	28,058,222	1.0000	0	0	30,485,222
1975	31,656,525	1.0910	$2,590,502	0	59,551,245
R derived 1976	33,721,935	1.1540	69,467,521	0	23,805,659
1977	36,606,008	1.2290	521,124	$1,037,029	60,927,572
1978	39,246,689	1.3230	6,000	163,725	100,331,986

FUND ACTIVITY—ACTUAL AND ESTIMATES 1973–97 USING $1 CHECK-OFF AS IT NOW EXISTS; UNADJUSTED FOR INFLATION—Continued

[Using inflation of 5.0 percent 91–97; Revised Feb. 19, 1991 RH/JCO]

Fiscal year	Actual receipts	COLA	Disbursements	Repayments	Balance 12/31/YY
1979	35,941,347	1.4720	1,050,000	23,474	135,246,807
1980	38,838,417	1.6710	101,427,116	1,094,098	73,752,206
1981	41,049,052	1.8440	630,256	202,288	114,373,290
1982	39,023,882	1.9570	1,070	58,400	153,454,502
1983	35,631,068	2.0200	11,786,486	21,899	177,320,983
1984	35,036,761	2.1060	120,149,768	505,807	92,713,783
1985	34,712,761	2.1810	1,617,842	61,840	125,870,542
1986	35,753,837	2.2230	5,596	61,641	161,680,424
1987	33,651,947	2.3050	17,784,000	357,307	177,905,678
1988	33,013,987	2.3990	158,560,805	103,500	52,462,360
1989	32,285,646	2.5138	1,843,017	22,024	82,927,014
Preliminary 1990	32,462,979	2.6500	0	39,148	115,429,141
Estimate for 1991	30,463,000	2.7800	21,200,000	2,000,000	126,692,141
Estimate for 1992	30,163,000	2.9200	160,265,143	0	(3,410,002)
Estimate for 1993	29,863,000	3.0700	2,316,811	2,103,807	26,239,994
Estimate for 1994	29,563,000	3.2200	0	0	55,802,994
Estimate for 1995	29,263,000	3.3800	25,760,000	0	59,305,994
Estimate for 1996	28,963,000	3.5500	232,828,043	0	(144,559,049)
Estimate for 1997	28,663,000	3.7300	2,702,558	0	(118,598,607)
Total	806,059,063		932,513,658	7,855,987	(118,598,607)

Note:—Actual Receipts: Totals per calendar year as reported by Treasury unless otherwise noted, excludes repayments. Disbursements: Gross payouts per Treasury reports or estimates. Repayments: Repayments received per Treasury reports or estimates.

FUND ACTIVITY—ACTUAL AND ESTIMATES 1973–97; $1 CHECK-OFF ADJUSTED FOR INFLATION; ROUNDED DOWN TO NEAREST DOLLAR

[Using inflation of 5.0 percent 91–97 revised Feb. 19, 1991 RH/JCO]

Fiscal year	Actual receipts	COLA	Disbursements	Repayments	Balance 12/31/YY
Derived 1973	$2,427,000	1.0000	0	0	$2,427,000
Derived 1974	28,058,222	1.0000	0	0	30,485,222
1975	31,656,525	1.0910	2,590,502	0	59,551,245
R derived 1976	33,721,935	1.1540	69,467,521	0	23,805,659
1977	36,606,008	1.2290	521,124	1,037,029	60,927,572
1978	39,246,689	1.3230	6,000	163,725	100,331,986
1979	35,941,347	1.4720	1,050,000	23,474	135,246,807
1980	38,838,417	1.6710	101,427,116	1,094,098	73,752,206
1981	41,049,052	1.8440	630,256	202,288	114,373,290
1982	39,023,882	1.9570	1,070	58,400	153,454,502
1983	35,631,068	2.0200	11,786,486	21,899	177,320,983
1984	35,036,761	2.1060	120,149,768	505,807	92,713,783
1985	34,712,761	2.1810	1,617,842	61,840	125,870,542
1986	35,753,837	2.2230	5,596	61,641	161,680,424
1987	33,651,947	2.3050	17,784,000	357,307	177,905,678
1988	33,013,987	2.3990	158,560,805	103,500	52,462,360
1989	32,285,646	2.5138	1,843,017	22,024	82,927,014
Preliminary 1990	32,462,979	2.6500	0	39,148	115,429,141
Estimate for 1991	60,926,000	2.7800	21,200,000	2,000,000	157,155,141
Estimate for 1992	60,326,000	2.9200	160,265,143	0	57,215,998
Estimate for 1993	89,589,000	3.0700	2,316,811	2,103,807	146,591,994
Estimate for 1994	88,689,000	3.2200	0	0	235,280,994
Estimate for 1995	87,789,000	3.3800	25,760,000	0	297,309,994
Estimate for 1996	86,889,000	3.5500	232,828,043	0	151,370,951
Estimate for 1997	85,989,000	3.7300	2,702,558	0	234,657,393
Total	1,159,315,063		932,513,658	7,855,987	234,657,393

Note.—Actual Receipts: Totals per calendar year as reported by Treasury unless otherwise noted, excludes payments. Disbursements: Gross payouts per Treasury reports or estimates. Repayments: Repayments received per Treasury reports or estimates.•

By Mr. CHAFEE:

S. 982. A bill to amend the Solid Waste Disposal Act to clarify the Environmental Protection Agency's authority to regulate hazardous waste recycling, and for other purposes; to the Committee on Environment and Public Works.

HAZARDOUS WASTE RECYCLING ACT

• Mr. CHAFEE. Mr. President, today I am introducing the Hazardous Waste Recycling Act of 1991. This bill amends the Solid Waste Disposal Act to make clear, the Environmental Protection Agency's [EPA's] authority to regulate hazardous waste recycling activities.

EPA has had the authority to regulate the treatment, storage and disposal of hazardous waste since the adoption of the Resource Conservation and Recovery Act [RCRA], the 1976 amendments to the Solid Waste Disposal Act. For almost as long, however, the Agency and the regulated community have been struggling with the question of whether or not EPA has the statutory authority to regulate recycling activities.

The uncertainty surrounding the Agency's jurisdiction with respect to recycling activities has had adverse consequences for the regulated community, the taxpayers and the environment. While industry and taxpayers pay the legal fees to sort this question out, the environment is being harmed because hazardous waste that could be recycled is instead incinerated or landfilled or, even worse, is recycled without adequate controls.

RCRA's goal is the proper management of waste to assure the protection of our health and the environment. To achieve this goal, RCRA sets forth a management hierarchy for all wastes which sets as its priorities, the reduction, recycling, and last, the treatment and disposal of waste. Once a hazardous waste is generated, we should wherever possible, encourage recycling rather than treatment or disposal.

Unfortunately, hazardous waste recycling that is done poorly, can be worse than no recycling at all. Currently, of the Agency's 1,189 Superfund sites, 112 had recycling activities on site. Clearly, unregulated recycling of hazardous waste can lead to serious adverse environmental and health effects. Equally alarming is the fact that it also threatens to stigmatize, and therefore discourage, an activity that everyone would agree is, when done properly, preferable to treatment or disposal.

The bill I am introducing today gives EPA clear statutory authority to regulate recycling activities by amending the definition of the term "solid waste" to include materials that are recycled. While I am aware that some of the hazardous material sent to recycling facilities could be called hazardous secondary materials, byproducts or some other name beside a solid waste, the structure and long regulatory and statutory history of RCRA dictates that these materials, although not technically discarded in all cases, be managed as if they are wastes.

In another bill that I am cosponsoring today with Senator BAUCUS to reauthorize RCRA through 1996, we have

attempted to clarify this same jurisdictional question without calling hazardous material that is recycled a waste. Instead, the bill defines a hazardous waste that is recycled as a hazardous secondary material. Unfortunately, according to the current law and the resulting regulations and subsequent court cases interpreting those regulations, EPA does not have jurisdiction over materials unless they are first discarded or the activity in question is akin to discarding. It is not clear to me whether the approach taken in the reauthorizing legislation adequately solves the problem. We need to be absolutely clear that the agency has the authority to regulate recycling activities even where a person recycling such material chooses to call the material a product or raw material as opposed to a waste.

While I have serious concerns about the effectiveness of the approach taken in the reauthorizing legislation, it should be made clear that both Senator BAUCUS and I, and surely every person engaged in the legitimate recycling of hazardous waste, will agree that without proper controls over this activity, recycling will continue to totter on the brink of getting a bad name and our health and the environment stand to suffer. In order to gain control over this activity, we must clarify EPA's proper and legitimate authority to regulate hazardous waste recycling activities.

I believe that the Hazardous Waste Recycling Act of 1991, achieves this goal in a clear, concise and technically correct fashion and I look forward to hearing testimony on both approaches during our upcoming reauthorization hearings.

Mr. President, I ask unanimous consent that the text of the Hazardous Waste Recycling Act of 1991 be printed in the RECORD following this statement.

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

S. 982

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 "Hazardous Waste Recycling Act of 1991."

SEC. 2. CONGRESSIONAL FINDINGS, OBJECTIVES AND NATIONAL POLICY.

(a) Section 1002(b) of the Solid Waste Disposal Act is amended—

(1) in paragraph (5) by inserting "or hazardous waste recycling" after "hazardous waste management"; and

(2) in paragraph (6) by inserting "or hazardous waste recycling" after "hazardous waste management".

(b) Section 1003 of the Solid Waste Disposal Act is amended—

(1) in subsection (a)(4) by inserting "and hazardous waste recycling activities" after "management practices";

(2) in subsection (a)(5) by inserting "or recycled" after "managed"; and

(3) in subsection (b) by inserting "recycled," after "should be".

SEC. 3. DEFINITIONS.

(a) Section 1004(27) of the Solid Waste Disposal Act is amended to read as follows:

"(27) The term 'solid waste' means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other material when discarded or recycled, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, agriculture operations, and community activities, and other material unless the material is recycled as part of a closed-loop manufacturing process or a direct reuse manufacturing process. The term does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).".

(b) Section 1004 of the Solid Waste Disposal Act is further amended by adding at the end thereof the following new paragraphs:

"(41) The term 'recycling' or 'recycle' means any use, reuse, or reclamation of solid waste or other material for any purpose but does not include:

"(A) placement of hazardous waste on the land;

"(B) incineration of solid waste for energy recovery;

"(C) speculative accumulation of hazardous waste;

"(D) the treatment of hazardous waste prior to use, reuse or reclamation; or

"(E) the use, reuse or reclamation of inherently waste-like materials.

"(42) The term 'use' or 'reuse' means a procedure whereby a material is—

"(A) employed as an ingredient in an industrial process to make a product; or

"(B) employed in a particular function or application as an effective substitute for a commercial product.

"(43) The term 'reclaim' or 'reclamation' means a procedure whereby a material is processed to recover a useable product, or where a material is regenerated.

"(44) The term 'closed-loop manufacturing process' means a process whereby materials are:

"(A) returned to the original process or processes in which they were generated; and

"(B) reused in the production process in the following manner—

"(i) the process, through completion of reclamation, is enclosed by being entirely connected with pipes or other comparable enclosed means of conveyance; and

"(ii) the materials are stored in tanks or containers and are used or reused within twelve months.

"In no event may reuse or reclamation involve controlled flame combustion nor may the products produced from the materials be used in a manner constituting disposal.

"(45) The term 'direct reuse manufacturing process' means a process whereby materials are—

"(A) used or reused as ingredients in an industrial process to make a product, provided reclamation does not precede such use or reuse; or

"(B) used or reused as effective substitutes for commercial products, provided reclamation does not precede such use or reuse; or

"(C) returned, as a substitute for raw material feedstock, in the original process from which they are generated, provided reclamation does not precede such return.".

SEC. 4. HAZARDOUS WASTE RECYCLING.

(a) Section 3004 of the Solid Waste Disposal Act is amended by adding at the end thereof the following new subsection:

"(y) RECYCLING STANDARDS.—(1) Not later than twelve months after the date of enactment of the Resource Conservation and Recovery Act Amendments of 1991, the Administrator shall promulgate requirements for hazardous waste recycling facilities in accordance with subsection (a). Such requirements should address the particular needs and unique operations of certain recycling facilities.

"(2) The requirements for recyclable materials as set forth at 40 C.F.R. Parts 264, 265, 266, and 288 (July 1, 1990) shall be deemed applicable to all owners and operators of hazardous waste recycling facilities. Any owner or operator of a hazardous waste recycling facility who was not subject to such regulations on the date of enactment of the Resource Conservation and Recovery Act Amendments of 1991 shall, within twelve months after such date of enactment, comply with all such regulations. The requirements of this paragraph shall apply until such time as the Administrator issues requirements under paragraph (1).

"(3)(A) Within 6 months after the date of enactment of the Resource Conservation and Recovery Act Amendments of 1991, any owner or operator of a facility using a closed-loop manufacturing process or any owner or operator of a facility using a direct reuse manufacturing process, shall certify to the Administrator that the facility meets the requirements of a closed-loop manufacturing process or a direct reuse manufacturing process, as the case may be, and is exempt from the requirements of subsection (a). Any owner or operator of a new facility that meets the requirements of a closed-loop manufacturing process or a direct reuse manufacturing process shall, prior to commencing operations, certify to the Administrator that the facility meets the requirements of a closed-loop manufacturing process or a direct reuse manufacturing process, as the case may be, and is exempt from the requirements of subsection (a).

"(B) The certification required in paragraph (3)(A) shall include:

"(i) the name and address of the facility;

"(ii) the name and address of the owner or operator;

"(iii) the amount and type of material handled by closed-loop or direct reuse process, as the case may be, by the facility on an annual basis;

"(iv) a brief description of the closed-loop or direct reuse manufacturing process; and

"(v) such other information as the Administrator deems appropriate to verify the certification.

"(C) If, at any time the Administrator determines that the certification submitted does not indicate satisfaction of the requirements for a closed-loop or direct reuse manufacturing process, as the case may be, the Administrator shall so notify the applicant. Within 60 days from the receipt of such notice, the applicant may submit to the Administrator any additional information as the applicant deems appropriate to clarify the statements made in the applicant's certification. Within 60 days from receipt of such additional information, the Administrator shall make a final determination as to the adequacy of the applicants certification.

Upon failure to meet the requirements of a close-loop or direct reuse manufacturing process, the applicant shall comply with all requirements of this subsection.".

(b) Section 3005 of the Solid Waste Disposal Act is amended by adding the following new subsection;

"(k) PERMIT BY RULE.—(1) Not later than twelve months after the date of enactment of the Resource Conservation and Recovery Act Amendment of 1991, the Administrator shall promulgate requirements under subsection (a) which provide for a permit by rule for facilities which store and recycle hazardous waste in fully enclosed tanks or containers.

"(2) Requirements promulgated under this subsection shall require—

"(A) for public notice and comment prior to construction and commencement of operations at such facility;

"(B) a demonstration by the owner or operator that the facility is in compliance with all applicable standards and requirements of law;

"(C) annual on-site inspections by the permitting authority; and

"(D) the submission of such information as the Administrator deems appropriate to verify compliance with the permit.

"(3) The permitting authority must verify the contents of the permit by rule application within two years of receipt. Upon review of such application, the Administrator may revoke such permit if compliance with all applicable standards cannot be verified.".●

By Mr. MCCONNELL (for himself, Mr. THURMOND, Mr. GRASSLEY, Mr. SPECTER, Mr. GORTON, Mr. PACKWOOD, Mr. MCCAIN, and Mr. COATS):

S. 983. A bill to provide a cause of action for victims of sexual abuse, rape, and murder, against producers and distributors of pornographic material; to the Committee on the Judiciary.

PORNOGRAPHY VICTIMS' COMPENSATION ACT

● Mr. MCCONNELL. Mr. President, 2 years ago, I stood before the Senate to decry the epidemic of violence against women and children, the pornography industry which promotes their victimization, and to introduce the Pornography Victims' Compensation Act. Today, I am reintroducing that bill to provide victims of sex crimes, whose offenders were incited or influenced by pornography, a civil cause of action against its producers and purveyors.

The Pornography Victims' Compensation Act is supported by an extraordinary array of organizations including the Family Research Council, Feminists Fighting Pornography, the American Family Association, victims rights groups, and dozens of National Organizations for Women chapters nationwide.

These diverse groups coalesced around the Pornography Victims' Compensation Act because they shared a goal—to hold pornographers liable for the harm they cause. They also share a belief—that crime is fostered by a culture in which the sexual degradation, abuse, and murder of women and children is a form of entertainment.

That belief is shared by most Americans. Last week, the National Victim Center released a study that found 93 percent of Americans believe violence in the media impacts violence in society.

The pornographic media is increasingly violent, and dangerous. A 1988 study by the FBI found that 81 percent of violent sexual offenders regularly used violent pornography. A study by the Michigan State Police found that of 48,000 sexual crimes committed over a 20-year period, pornography was used just prior to or during 41 percent of them.

A columnist wrote in U.S. News & World Report a few months ago:

> The connection between the amount of violent entertainment and the amount of real-life violence is no longer seriously doubted among social scientists.

Nor should it be doubted by U.S. Senators.

Women in this country are scared, and with good reason. The Judiciary Committee reported on May 21, "American women are in greater peril now from attack than they have ever been in the history of our Nation."

The United States rape rate—4 times that in Germany, 8 times France's, 15 times England's, and 20 times Japan's—is on the rise. In 1990, reported rapes in this country exceeded 100,000 for the first time. Experts in the field believe that number vastly understates the true magnitude of the problem as thousands of rapes go unreported out of fear of reprisal, and stigmatization.

Last year's rate of increase was three times that of the year before. While we won the war against Iraq in 40 days, American women are losing their war against violent crime.

Some telling statistics: The rape rate is increasing four times as fast as the overall crime rate; 1 in 5 adult women has been raped, 1 in 6 by someone she knows; 36 percent of rapes occur at the victim's home; a woman is raped every 6 minutes; 3 to 4 million women are beaten each year, 1 million so severely they seek medical help; more than half of all homeless women are fleeing domestic violence; and the leading cause of death on the job for women is homicide, for men it is accidents.

Another horrifying fact—only 29 percent of rapists are sentenced to a year or more behind bars.

Mr. President, all women are victims in this culture of sexual violence. Millions of American women are afraid to walk from their offices to their cars. They are afraid to go outside at night. They are afraid within their own homes.

The National Victims Center reported last week that:

> The fear of crime restricts the freedom of Americans to go where they want, when they want. Because of the threat of crime, the lifestyles of many Americans are restricted. The freedom of women is particularly restricted by this threat.

The center's survey found that 73 percent of American women limit the places they will go by themselves.

Mr. President, there is another dimension to pornography and crime—the extent to which they affect children. Each year, 1 million children from 6 months to 16 years old are sexually molested and then filmed or photographed. There is a large audience for this filth, many of whom are themselves child molesters.

Children are particularly vulnerable in this culture of sexual violence. And their predators are prolific. The typical child molester abuses 380 children.

The pornography industry trades in the abuse, exploitation, and degradation of women and children. Pornography is not an expression of speech, it is a business. Mr. President, this bill hits pornographers where it hurts them most: their wallets.

Victims of sexual crimes in our Nation currently have no legal recourse other than a justice system which frequently lets offenders go free. The Pornography Victims Compensation Act provides victims of sex crimes a civil cause of action against pornographers if the victim can prove a link between the crime and specific sexually explicit material. The bill does not dictate what pornographers may produce, it simply holds them liable for it.

Pornography is fueling violence in this country, and it is time pornographers were held accountable for the harm they cause. If we are to protect women and children from sexual predators, we must recognize that sex crimes do not occur in a cultural vacuum. It is time to hold accountable those who are getting rich off of producing veritable how-to manuals and films for rapists and child abusers.●

By Mr. BOREN:

S. 984. A bill entitled the "International Pollution Deterrence Act of 1991"; to the Committee on Finance.

INTERNATIONAL POLLUTION DETERRENCE ACT

● Mr. BOREN. Mr. President, protection, preservation, and enhancement of the environment is a major U.S. national priority. Congress has actively fostered this goal through landmark legislation, most recently, the Clean Air Act Amendments of 1990. A crucial question we have not adequately addressed however is how our Nation's environmental policy is interrelated to other important policy questions, such as competitiveness and trade policy. As the recent discussions on the extension of fast-track for a free-trade agreement with Mexico have proven, policy questions cannot be made in a vacuum without regard for the many areas which they will impact.

Manufacturers in the United States have recognized and supported the need for environmental legislation, but they have also faced the harsh reality that such legislation can be costly and may

place an American company at an extreme disadvantage in the world marketplace. With the bill that I am introducing today, I am calling on Congress to recognize the unfair economic advantage many foreign manufacturers now enjoy as a result of their failure to enact and enforce adequate environmental and public health standards.

The apparent lack of meaningful pollution restraints outside our borders cannot be ignored by the United States, especially as we examine the possible consequences of new trading partnerships with less environmentally safe countries. If we fail or refuse to consider the environmental consequences of our trade policy, we can inadvertently create incentives to pollute which harms citizens of other countries and ultimately, ourselves. The International Pollution Deterrence Act of 1991 is designed to address this omission.

The International Pollution Deterrence Act makes a country's failure to impose and enforce meaningful pollution controls on its industries a countervailable domestic subsidy under U.S. law. It establishes an export fund to assist exports of U.S. pollution control equipment. The act also requires the Administrator of the Environmental Protection Agency to compile and update, on a yearly basis, the level of pollution control in the areas of air, water, hazardous wastes, and solid wastes attained by our major trading partners.

A number of significant factors have created the need for this legislation. We have become painfully aware of the transborder nature of pollution. It not only affects the citizens of other countries who are being asked, in many instances, to sacrifice their health and that of their children to a one dimensional pursuit of economic growth—we have only to look as far as Eastern Europe to see the destructive consequences of such policies—but it also has a far more global impact.

Failure to enact adequate safeguards in one nation affects all nations. As we have become painfully aware, pollution problems such as acid rain and the potential problems of global warming know no national boundaries. The United States has acted and is continuing to act in a meaningful way to uphold our responsibilities to the world's environment and to international public health concerns. But our Nation's businesses should not be outdone by foreign manufacturers as a result of American companies' efforts to act in an environmentally responsible way.

The increasing globalization of the world economy has meant that strictly regulating pollution within our borders, while maintaining the largest and most open market in the world, can impair our competitiveness and provide unfair advantages to foreign competitors subject to less stringent or effective pollution control. Cheaper foreign goods carry a hidden price tag if they are produced free of meaningful environmental regulation. If we promote public health hazards in other countries by short-sighted policies, we benefit no one in the long run. We cannot afford to conduct our trade policy in an environmental vacuum.

It is unwise economic policy and unfair public policy for the United States to say to American companies that we need stronger environmental laws in the United States so now we are going to make you pay more in your costs of production to meet these standards but we, as consumers, will turn elsewhere to purchase manufactured goods at the cheapest price even if that means turning our backs on our American companies and turning our backs on our environmental and public health standards.

The Environmental Protection Agency recently completed a study which indicates that U.S. expenditures on environmental protection have increased to approximately $100 billion per year, representing 1.5 to 1.7 percent of the U.S. gross national product and will rise to about 3 percent of GNP within 10 years. And what Congress must recognize when we consider how our economic and trade policy should include consideration of environmental policy is that the environmental costs resulting from such legislation as the Clean Air Act are not paid for, by and large, by the Government. According to the EPA report, in 1987 private businesses paid 63 percent of the pollution control bill, while the Federal Government was only responsible for 11 percent of the total costs. Local governments are paying almost 23 percent of these costs and State governments are paying 3.5 percent.

Through GATT and other trade partnerships, the United States has worked diligently to uphold and enforce fair trading practices. Within the rules established by GATT and within the rules of international courts, there is a clear recognition of the legal ramifications when a government allows its industry to avoid the paying of the costs of production, including the environmental and public health costs associated with the costs of production.

A recent article in the spring 1988 Houston Journal of International Law substantiates:

> In order for the failure of a government to act to constitute a countervailable subsidy, there must first be an affirmative duty placed upon the government which it is failing to assume. In the case of industrial environmental controls, this duty has been affirmatively established in international law by agreements resulting from international conventions, by customary/normative principles, and by moral and social obligations. Violations of this minimum international environmental standard have occurred. As a result, industries in these countries have benefited at the expense of those industries in countries which have employed controls meeting the minimum standard. U.S. plaintiffs can demonstrate that, indeed, a "specific industry" has been benefited through a comparison of that industry" has been benefited through a comparison of that industry with others, and benefited by showing that the industry, if it met minimum international environmental standards, would be required to expend substantial resources to comply. Thus, potential U.S. plaintiffs in affected industries are entitled to have a duty assessed against the offending industries equal to the competitive advantage obtained by failure to employ adequate environmental controls, not just the amount of expense foreborne by regulatory avoidance.

This bill recognizes that a country's failure to require and enforce meaningful pollution controls constitutes a subsidy no different, but more dangerous, than practices such as cash grants to money losing State enterprises, which have long been actionable under U.S. law. By making such absence countervailable, we allow U.S. companies to level the playing field by removing the cost advantage derived from freedom to pollute. By using the proceeds from such cases to finance pollution control equipment from the United States to our poorer trading partners, we provide the poorer nations with major assistance in attaining meaningful pollution control while stimulating the U.S. export of pollution control equipment. Not only will we be addressing unfair trading practices, but we will also be taking the even more positive step of helping our trading partners establish adequate public health standards while simultaneously invigorating trade markets for environmental goods.

We can no longer stand idly by while some U.S. manufacturers, such as the U.S. carbon and steel alloy industry, spends as much as 250 percent more on environmental controls as a percentage of gross domestic product than do other countries. The steel industry has made a commitment to meeting new standards in controlling toxic air pollutants, among others, but these new standards are adding $15 per ton to the cost of steel. When you consider that price in the context of competitive pricing in the world steel market, you understand the clear disadvantage American steel companies face when other nations avoid protecting public health. Anyone who has ever visited the steel plants in Taiwan, as just one example, is struck by the blackness of the air their workers breathe every day. Since these workers actually live at the steel plant in Taiwan, they are breathing this dangerous air 24 hours a day for 365 days out of the year.

I see the unfair advantage enjoyed by nations exploiting the environment and public health for economic gain when I look at many industries important to my own State of Oklahoma, such as the costs paid disproportionately by U.S. steel companies, the oil and gas industry, auto part manufacturers, and the chemical manufactur-

ers, including pesticide and petrochemical companies. Chemical companies such as duPont/Conoco are spending as much as $2 billion a year to meet environmental regulations and these percentages are growing. A recent report on the costs of environmental action in the United States by the Center for Strategic and International Study concludes that these costs to the United States include adverse economic consequences with respect to industrial production, economic growth, and investment, interest rates, international competitiveness, the U.S. balance of trade, and the Federal deficit.

Unfortunately, as the costs of new pollution control regulations mount, the ability for American companies to devote capital to research and development of new pollution control technology declines. In 1988, for example, while real spending for regulation and monitoring for pollution abatement control increased by 8.4 percent, and overall costs for pollution control averaged a 3 percent increase, real spending for research and development increased 0.4 percent. If we in Congress are going to continue to look for ways to improve international environmental standards, we must also look for ways to help American companies finance the research and development of the technology that will enable us to reach those goals. In return, we will be working to place the United States in the forefront of this important and growing field.

In addition to money for research and development, revenues from this countervailing duty will go towards helping developing nations by equipping them with American pollution control equipment. We will help poorer nations which depend on manufacturing for economic advancement, such as Mexico, establish and enforce public health standards by helping them get the equipment they will need to raise their standards.

We cannot and should not enter into negotiations with Mexico on a free-trade agreement until we have established a way to ensure that the people of Mexico will not be endangered by further environmental exploitation. The only way to ensure this is to send a clear signal to companies around the world that avoidance of public health responsibilities will not lead to economic gain and that American companies will not be penalized because they are meeting their environmental obligations.

As Chairman BENTSEN recently noted at a Finance Committee hearing on the Mexico free-trade agreement, living in Mexico City and breathing that air is the health equivalent of smoking 2½ packs of cigarettes a day. The most alarming statistic I have seen yet was in an article last week in a Mexican newspaper which reported that in 1989 alone over 95,000 children under the age of 5 died in Mexico City as a result of respiratory illnesses associated with the high level of pollution.

Not only does the United States have a responsibility in the free-trade agreement to protect Mexican workers from exploitation, but we also have a responsibility to the health of our own citizens. As I have said before, pollution does not stop at an imaginary border line. Articles in the Wall Street Journal, the Journal of Commerce, the New York Times, and in newspapers around the country have all documented, the United States is suffering as a direct consequence of companies which have located on the Mexican border to enjoy lower labor costs and lower environmental costs without paying tariffs into the United States. The maquiladora factories, according to the New York Times, have led to such public health emergencies in the United States as the Nogales Wash coming into Arizona from Mexico, which is bringing toxic industrial pollutants and untreated sewage into the Arizona water stream. A public health emergency has been in force on the Arizona side for 6 months because the incidence of hepatitis has climbed to 20 times the national average as a result of the Mexican pollution crisis.

Experience has shown that economic incentives are the best means of convincing our trading partners that we will not ignore dangerous and inadequately regulated manufacturing policy in other parts of the world. This bill will strengthen efforts underway now in the United Nations and GATT to achieve consensus on worldwide pollution controls. This bill will help to allay fears of the possible environmental consequences of a Mexico free-trade agreement. Most importantly, it takes steps to protect our citizens and industries and the health of citizens from our major trading partner nations now, before more damage is done at an increasing cost to the United States.

Mr. President, I ask unanimous consent that my bill and the summary be printed in the RECORD following my statement.

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

S. 984

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

SECTION 1. SHORT TITLE.

This act may be cited as the "International Pollution Deterrence Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that—

(1) global environmental pollution problems pose an increasing threat to the health and well-being of citizens of every country in the world;

(2) the United States has made protection and restoration of the environment a priority, and U.S. industry, municipalities, and states have all expended significant amounts of capital complying with existing pollution control laws and regulations and will be required to commit further significant amounts of capital to comply with the provisions of the Clean Air Act and future environmental legislation;

(3) the Environmental Protection Agency recently completed a study which indicates that U.S. expenditures on environmental protection have increased to approximately $100 billion per year, representing 1.5–1.7 percent of the U.S. gross national product and will rise to about 3 percent of GNP within ten years;

(4) solely by its own efforts, however, the United States cannot halt the continuing and, in many cases, irreversible damage to the world's ecosystems caused by other countries' failure to shoulder their part of the burden of protecting the global environment;

(5) moreover, U.S. industry cannot reasonably be expected to incur increasing capital costs of compliance with environmental controls while its foreign competitors enjoy a substantial and widening competitive advantage as a result of remaining unfettered by pollution control obligations;

(6) the significant and serious competitive advantage enjoyed by our foreign competitors from cost savings derived from the absence of effective pollution controls results in cheaper foreign imports which capture U.S. market share and injure U.S. industries;

(7) the failure of a government to impose effective environmental controls on production and manufacturing facilities within its borders should be recognized for what it is—a significant and unfair subsidy which must be addressed now in order to halt irreversible damage to the world environment and provide real economic incentives to effective pollution control abroad.

SEC. 3. COUNTERVAILING DUTIES.

(a) 19 U.S.C. 1303(a) is amended by inserting the following new sentences at the end of paragraph (1):

"The failure to impose and enforce effective pollution controls and environmental safeguards shall constitute the bestowal of a bounty or grant within the meaning of this section. The amount of the bounty or grant derived from the absence of effective pollution controls and environmental safeguards shall consist of the cost which would have to be incurred by the manufacturer or producer of the foreign articles or merchandise to comply with environmental standards imposed on U.S. producers of the same class or kind of merchandise."

(b) 19 U.S.C. 1677(5) is amended by inserting the following new subsection (C) immediately after subsection (B):

"(C) The failure to impose and enforce effective pollution controls and environmental safeguards on the production or manufacture of any class or kind of merchandise. The amount of the subsidy derived from the absence of effective pollution controls and environmental safeguards shall consist of the cost which would have to be incurred by the manufacturer or producer of the foreign articles of merchandise to comply with environmental standards imposed on U.S. producers of the same class or kind of merchandise."

SEC. 4. POLLUTION FUNDS.

19 U.S.C. 1671e is amended by adding the following new paragraph (c) immediately following subsection (b):

"(c) COUNTERVAILING DUTIES ATTRIBUTABLE TO LACK OF EFFECTIVE POLLUTION CONTROLS.—Fifty percent of the revenue attributable to any countervailing duties assessed pursuant to this section on foreign merchandise as a result of lack of effective pollution

controls and environmental safeguards shall be appropriated to a "Pollution Control Export Fund" established by subsection (d) and administered by the Agency for International Development." Fifty percent of such revenue shall be appropriated to the "Pollution Control Research & Development Fund" established by subsection (e) and administered by the Environmental Protection Agency."

22 U.S.C. 2151p is amended by adding the following new subsection (d) immediately after subsection (c):

"(d) ASSISTANCE TO DEVELOPING COUNTRIES.—The Administrator of the Agency for International Development shall establish a "Pollution Control Equipment Fund" to be administered under this section using revenues derived from countervailing duties attributable to lack of effective pollution controls imposed on imported goods as provided in 19 U.S.C. 1671e(c) and any funds appropriated from time to time by Congress. The Fund shall be used to assist purchases of U.S. pollution control equipment by developing countries."

Section 814 of the Clean Air Act Amendments of 1990 is amended by adding the following at the end thereof:

"The Administrator of the Environmental Protection Agency shall establish a "Pollution Control Research & Development Fund" using revenues derived from countervailing duties attributable to lack of effective pollution controls as provided in 19 U.S.C. 1671e(c) and any funds appropriated from time to time by Congress. The Fund shall be available to the Administrator, as he shall by regulation prescribe, to provide assistance for U.S. companies in the research and development of pollution control technology and equipment."

SEC. 5. INTERNATIONAL POLLUTION CONTROL INDEX.

Section 8002 of the Solid Waste Disposal Act (42 U.S.C. 6982) is amended by adding the following new subsections at the end thereof:

"(t) The Administrator shall prepare, within 120 days of the enactment of this section and yearly thereafter, a pollution control index for each of the top fifty countries identified by the Office of Trade and Investment of the Department of Commerce based on the value of exports to the U.S. from that country's attainment of pollution control standards in the areas of air, water, hazardous waste and solid waste as compared to the United States. The purpose of this index is to measure the level of compliance within each country with standards comparable to or greater than those in the United States. The Administrator shall analyze, in particular, the level of technology employed and actual costs incurred for pollution control in the major export sectors of each country in formulating the index."

SUMMARY OF INTERNATIONAL POLLUTION DETERRENCE ACT OF 1991

COUNTERVAILING DUTIES

Amends countervailing duty provisions of United States trade law to establish that the failure to impose and enforce effective pollution controls and environmental safeguards constitutes the bestowal of a subsidy and is subject to countervailing duty law.

The countervailing duty (CVD) laws are designed to offset any unfair competitive advantage foreign producers may derive from subsidies bestowed upon them by a foreign government.

The amount of the subsidy derived from the absence of effective pollution controls and environmental safeguards shall consist of the cost which would have to be incurred by the manufacturer or producer of the foreign articles of merchandise to comply with environmental standards imposed on U.S. producers of the same class or kind of merchandise.

POLLUTION CONTROL EQUIPMENT EXPORT FUND

Fifty percent of revenue gained through countervailing duties assessed as a result of the Pollution Deterrence Act will be appropriated for the establishment of a "Pollution Control Equipment Export Fund." Monies from the fund will be distributed by the Agency for International Development (AID) to assist purchases of U.S. pollution control equipment by developing countries.

POLLUTION CONTROL RESEARCH & DEVELOPMENT FUND

The other fifty percent of revenue gained through countervailing duties assessed as a result of the Act will be appropriated for the establishment of a "Pollution Control Research & Development Fund." Monies from the fund will be distributed by the Environmental Protection Agency (EPA) to provide assistance for U.S. companies in the research and development of pollution control technology and equipment.

INTERNATIONAL POLLUTION CONTROL INDEX

Requires EPA to prepare, within 120 days of enactment of the bill and yearly thereafter, a pollution control index for each of the fifty top U.S. trading partners, based on yearly exports to the United States. The index will measure each country's attainment of pollution control standards in the areas of air, water, hazardous waste and solid waste in comparison to U.S. standards in those same areas.•

By Mr. LUGAR:

S.J. Res. 131. Joint resolution designating October 1991 as "National Down Syndrome Awareness Week"; to the Committee on the Judiciary.

NATIONAL DOWN SYNDROME AWARENESS WEEK

• Mr. LUGAR. Mr. President, for the past 8 years, I have supported efforts to designate October as "National Down Syndrome Month." This designation is extremely important to public awareness about Down syndrome, and I rise today to, again, introduce a joint resolution designating October 1991 as "National Down Syndrome Month."

Most people have heard of Down syndrome, but few realize that it occurs once in every 1,000 births. With Down syndrome, an extra chromosome No. 21 appears within the individual's genetic material, affecting physical and mental development.

Today we know that through programs which emphasize the involvement of teachers, doctors, parents, and support groups many of the disorders associated with this genetic defect have the potential of being corrected. More importantly, these programs educate the public to the truth regarding children with Down syndrome enabling them to become productive citizens who are fully integrated into the community.

In addition, corporate leaders and the media are working to educate the general public regarding many of the myths associated with this genetic disorder—breaking down existing barriers along the way.

I urge my colleagues to join me in cosponsoring this important resolution. I ask unanimous consent that the resolution be printed in the RECORD.

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

S.J. RES. 131

Whereas a more enlightened attitude has emerged during the past 15 years in the care and training developmentally disabled;

Whereas one disability which has undergone considerable reevaluation is Down syndrome;

Whereas approximately 4,000 babies are born with Down syndrome annually in the United States;

Whereas, until recently, Down syndrome was stigmatized as a mentally and physically retarding condition that required institutionalization and restricted its victims to lives of passivity;

Whereas remaining ignorance, prejudices, myths, and stereotypes regarding Down syndrome can be overcome only through increased awareness and education;

Whereas, through the efforts of concerned physicians, teachers, and parent groups, such as the National Down Syndrome Congress and the National Down Syndrome Society, programs are being put into place to educate the parents of babies with Down syndrome, to develop special education classes for individuals with Down syndrome within mainstreamed school programs, to provide vocational training for individuals with Down syndrome in preparation for entering the workforce, and to prepare young adults with Down syndrome for independent living in the community;

Whereas the television medium has greatly augmented such efforts by casting actors with Down syndrome and offering programming that demonstrates to hundreds of thousands of viewers in a positive and educational manner the everyday, personal, and family effects of living with Down syndrome;

Whereas the cost of programs designed to help individuals with Down syndrome enter their rightful place in society as productive citizens is a small fraction of the cost of institutionalization;

Whereas advancements in genetic research are also offering a brighter outlook for individuals born with Down syndrome; and

Whereas the many children with Down syndrome who attend regular schools, play on Little League teams, and enjoy basketball and golf demonstrate daily success that people with Down syndrome are able to achieve: 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 Down Syndrome Awareness Month". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.•

By Mr. LAUTENBERG (for himself, Mr. WARNER, Mr. BIDEN, Mr. BRADLEY, Mr. BROWN, Mr. BUMPERS, Mr. BURDICK, Mr. BURNS, Mr. CHAFEE, Mr. COCHRAN, Mr. CONRAD, Mr. CRAIG, Mr. CRANSTON, Mr. D'AMATO, Mr. DASCHLE, Mr. DECONCINI, Mr. DODD, Mr. DOLE, Mr.

DURENBERGER, Mr. EXON, Mr. FOWLER, Mr. GLENN, Mr. GORE, Mr. GORTON, Mr. GRAHAM, Mr. HATCH, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KASTEN, Mr. KENNEDY, Mr. KERRY, Mr. LEVIN, Mr. LIEBERMAN, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. PACKWOOD, Mr. PELL, Mr. PRESSLER, Mr. REID, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANFORD, Mr. SARBANES, Mr. SASSER, Mr. SEYMOUR, Mr. SHELBY, Mr. SPECTER, and Mr. THURMOND):

S.J. Res. 132. Joint resolution to designate the week of October 13, 1991, through October 19, 1991, as "National Radon Action Week"; to the Committee on the Judiciary.

NATIONAL RADON ACTION WEEK

Mr. LAUTENBERG. Mr. President, today, Senator WARNER, together with 50 other Senators, join me in introducing a Senate joint resolution which would designate the week of October 13, 1991 as "National Radon Action Week."

Radon exposure poses a serious health risk to the people of our Nation. The EPA estimates that the number of deaths per year due to radon exposure is approximately 20,000. Fortunately, elevated radon levels can be reduced successfully at relatively low cost.

Testing in homes and schools and educating people about the risks associated with radon exposure are the first steps we can take to protect ourselves and our children from the harmful effects of radon. Our resolution calls for the establishment of a National Radon Action Week to encourage these activities.

Last year, the Congress approved Senate Joint Resolution 317 to establish National Radon Action Week in 1990. The resolution, which was signed by President Bush, resulted in a wide range of activities sponsored by EPA and other organizations to encourage radon testing and remediation. These included a weekly reader supplement to over 3 million students, the distribution of an American Medical Association radon brochure to 400,000 physicians, public service announcements, and stories in the media about radon.

This resolution has been endorsed by a broad range of groups and associations including: The American Lung Association, the American Cancer Society, the American Academy of Pediatrics, the National Congress of Parent Teachers Associations, the National Education Association, the Consumer Federation of America, and the State and Territorial Air Pollution Control Administrators.

I encourage my colleagues to cosponsor this resolution and I ask unanimous consent that a copy of the resolution appear in the CONGRESSIONAL RECORD.

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

S.J. RES. 132

Whereas exposure to radon poses a serious threat to the health of the people of this Nation;

Whereas the Environmental Protection Agency estimates that lung cancer attributable to radon exposure causes approximately 20,000 deaths a year in the United States;

Whereas the United States has set a long-term national goal of making the air inside buildings as free of radon as the ambient air;

Whereas excessively high levels of radon in homes and schools can be reduced successfully and economically with appropriate treatment;

Whereas only about 2 percent of the homes in this Nation have been tested for radon levels;

Whereas the people of this Nation should be educated about the dangers of exposure to radon; and

Whereas people should be encouraged to conduct tests for radon in their homes and schools and to make the repairs required to reduce excessive radon levels; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 13, 1991, through October 19, 1991, is designated as "National Radon Action Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

By Mr. HOLLINGS (for himself, Mr. KENNEDY, Mr. DODD, Mr. ADAMS, Mr. SHELBY, Mr. GLENN, Mr. JEFFORDS, Mr. PRYOR, Mr. SEYMOUR, Mr. BREAUX, Mr. PELL, and Mr. GORE):

S.J. Res. 133. Joint resolution in recognition of the 20th anniversary of the National Cancer Act of 1971 and the over 7 million survivors of cancer alive today because of cancer research; to the Committee on Labor and Human Resources.

20TH ANNIVERSARY OF THE NATIONAL CANCER ACT OF 1971

Mr. HOLLINGS. Mr. President, one of the proudest and noblest accomplishments of Congress during the 25 years I have served here was passage of the National Cancer Act in 1971. It is estimated that, as a direct result of that legislation and research funded by it, approximately 7 million Americans have survived bouts with cancer who otherwise would have died. To salute this magnificent humanitarian achievement, I rise to offer a resolution recognizing the National Cancer Act's 20th anniversary. Also joining me today, as original cosponsors, are Senators KENNEDY, DODD, ADAMS, SHELBY, GLENN, JEFFORDS, PRYOR, SEYMOUR, BREAUX, and PELL.

Mr. President, there just aren't enough Nobel prizes to reward all of the great discoveries and innovations of modern medicine. Thanks in very large measure to the National Cancer Act of 1971, oncology has been in the vanguard of that progress.

Consider perhaps the cruelest of cancers: childhood leukemia. Ten years ago, leukemia was a death sentence for children; 95 percent of children with leukemia died. Today, over 90 percent of children with leukemia survive. That is an exceptional achievement.

Nonetheless, the bad news is that children still die of cancer. The bad news is that one-third of Americans will contract some form of cancer during their lifetime. Ten percent of Americans will die from cancer—10 percent of us here today.

The good news, though, is this: There is no such thing as an incurable disease, there are only diseases for which mankind has not yet found a cure.

As recently as the 1950's, the overall 5-year survival rate for cancer patients was only 25 percent. The current 5-year survival rate is 52 percent.

When you look at the sharply improved survival rates for Hodgkin's disease, lung cancer, breast cancer, these are "miracle cures" in the best sense of the term.

At the same time, let us remember that these victories didn't just happen. They happened because Government had the vision to sponsor the lion's share of this life-saving research. They happened because of brilliant and dedicated medical researchers. The impressive panoply of federally funded medical research at the National Institutes of Health and at our great research institutions—this truly is government at its best. It is government with the gumption and vision to invest: To invest in people's health, to invest in scientific research and development, to invest in a more competitive and competent America.

I regret that, in recent years, we have sacrificed this idea of purposeful, activist government advancing the national interest. Instead, a malignancy has appeared, spreading the poison that government is not the solution, government is the problem. This malignancy has taken root in the popular consciousness, and it threatens our greatness as a nation.

To take just one case in point, consider the National Institutes of Health. Ten years ago, NIH was the premier biomedical research institute in the world. It was the jewel in the crown of health. The Nation's top medical talent competed for appointments to NIH research teams.

Today, by contrast, NIH is plagued by an exodus of researchers. The stipend for a post-doctoral fellow at NIH—a scientist with a doctorate or M.D.—is $17,000. Only 20 percent of NIH-approved research grants are funded, as compared to 50 percent a decade ago. Of 58 NIH-funded National Cancer Centers, 10 lost their Federal funding

in 1990. All this despite the fact that we know full well that every dollar invested in medical research can save up to $13 in lost wages, health care costs, and productivity.

Last year, all but one of the nine winners of the Nobel science prizes were American-born and the product of American universities. The telling point, unfortunately, is that the awards were for work done in the 1960's and 1970's. Given the funding crisis at NIH and elsewhere, few experts believe that today's research will fare nearly as well.

Let me read you a quote from Harvard biologist Walter Gilbert, a 1980 Nobel laureate:

> The strength of American science has been due to an enlightened government policy. * * * That compact has now been destroyed. We no longer have a government that believes it has a responsibility to create new knowledge for the benefit of society.

America, it is time to wake up. We must realize that, within the last several years, we have moved from the cold war to the trade war, from a struggle for military security to a struggle for economic security. We must bear in mind that excellence in biomedical research is not just saving lives, it is one of the critical building blocks of American competitiveness and American economic leadership. We're talking about biotechnology products, pharmaceuticals, medical instruments, and equipment. The United States used to be far-and-away the world leader in exporting these products. But within the last 5 years, we have lost that medical leadership to West Germany, Japan, and even France.

Prior to 1980, the United States introduced 24 percent of all new biotechnology products; Japan introduced only 10 percent. Today Japan exports nearly 40 percent of all new biotechnology, and the United States share has plummeted to a mere 10 percent. We need to get this country moving again across the whole spectrum of economic activity: biomedical, heavy industry, semiconductors, consumer electronics, textiles, you name it.

Mr. President, I was touched by a visit to my Washington office earlier this year by a group of 30 or so teenagers, all of them cancer patients from South Carolina. Many had lost their hair in treatment. Several were severely fatigued and could not move from their wheelchairs. All of them just radiated courage and a hunger for life.

That experience brought home to me the human factor—the profound, life-or-death impact on ordinary people of our policy choices in Washington.

Those children must not be denied. A humane, advanced society cannot say no to such a fundamental, crying need.

Medical researchers have a great saying: You can prevent disease wholesale, but you can cure it only retail. And let's not overlook the obvious: in the years ahead, the life the National Cancer Act saves may be your own, or my own. We each have an ongoing stake in this superb legislation.

Mr. President, in supporting this resolution today, we also rededicate ourselves and this Government to the fight against cancer. This fight summons America's spirit, its brainpower, its compassion, its generosity. It is a worthy fight. It is a fight that, together, we can win.

Mr. KENNEDY. Mr. President, I am pleased to join in support of the resolution to commemorate the 20th anniversary of the National Cancer Act and to recognize the millions of Americans who have been aided by the National Cancer Program in their individual battles with this disease.

Just this morning, the Committee on Labor and Human Resources heard testimony from some of those who have survived battles with cancer. They included the distinguished former Speaker of the House of Representatives, the Honorable Tip O'Neill, Jr., from Massachusetts, who testified before a Senate committee for the first time in order to share his experience with the Congress and the American people and to urge us to do more to tackle this dread disease.

Cancer treatments and cancer cures developed as a result of the National Cancer Act have prolonged and saved lives and given us a generation of childhood cancer survivors. Today, cure rates for those under the age of 20 are 66 percent; they are 75 percent for those under 10. Little did I imagine 20 years ago that my efforts in the Senate would come to bear directly on my own family, providing a cure for my son, Teddy.

The legislation, signed into law in 1971, and the amendments that followed, have led to an unprecedented explosion in the understanding of biology at the cellular level, including crucial information about the prevention of cancer and extraordinary improvements in care and treatment. The expansion of basic research supported by the National Cancer Institute has shed light on cellular processes that were hardly envisioned when we introduced the National Cancer Act two decades ago.

By the time the deadly AIDS epidemic appeared on the scene, researchers were already armed with knowledge and tools that contributed to the rapid identification of the virus and the development of important diagnostic tests and useful therapies. Today, an entire biotechnology industry stands as a proud achievement of 20 years of research conducted as a result of the act.

Before the National Cancer Act, there were no community clinical cancer programs, no national cancer information services for physicians and patients, and no community prevention and control programs. There were much smaller clinical trials, and fewer cancer researchers. Access to specialized care was limited. Only a few comprehensive cancer centers existed.

Clinical research and epidemiology supported by the National Cancer Institute have broadened our understanding of the causes of cancer and given us vital means to prevent it. The knowledge that a third of all cancers are caused by tobacco use has clear implications for public policy and individual behavior. More than a quarter of adults use tobacco products, and most started when they were children. Many people are alive and well today because they benefited from this new information and stopped smoking.

Yet, too many Americans still do not benefit from the knowledge and resources that have become available in the past 20 years. Recent studies show that the socioeconomically disadvantaged in this country are at higher risk of death from many cancers than the general population. We need a much greater national effort to eliminate that shameful correlation and bring the benefits of the war on cancer to all Americans.

The vision that inspired the National Cancer Act continues to inspire us today. But we will not realize its potential for the future unless we continue to support it.

By the end of the first decade after the act was passed by Congress, the annual budget of the National Cancer Institute had increased from under $200 million to $1 billion, or 30 percent of the budget of the entire NIH. In the second and latest decade, however, the budget for cancer research has declined in real dollars. Although the budget of NIH has risen 27 percent, the budget of the National Cancer Institute has declined by 6 percent. The decline is even steeper, if the AIDS research funds of the Cancer Institute are not counted.

For the coming year, the administration proposes a budget for the National Cancer Institute that falls some $800 million short of the Institute's bypass budget. This enormous disparity between bypass and proposed budgets has arisen gradually over the last few years and is due in part to the failure of the Cancer Institute's budget to keep up with the rest of the NIH budget or even with inflation. The $800 million figure is an indicator of the accumulated failure to take advantage of many exciting research, treatment, and prevention and control opportunities that have developed in the recent past.

When the National Cancer Act was passed in 1971 cancer was the disease that Americans most feared. Despite the major advances that have been made as well as new health issues, cancer is still the number one fear today.

The war on cancer is far from won. This is no time to lose our momentum or call a retreat but rather to renew our commitment to waging a war we are determined to win.

By Mr. BENTSEN:

S.J. Res. 134. Joint resolution designating May 22, 1991, as "National Desert Storm Reservists Day"; to the committee on the Judiciary.

NATIONAL DESERT STORM RESERVISTS DAY

• Mr. BENTSEN. Mr. President, today I introduce legislation to commemorate the role of our Reserves and National guard in Operation Desert Shield and Desert Storm, and to designate Wednesday, May 22, 1991, as "National Desert Storm Reservists Day." In addition to local ceremonies, I believe we should honor members of our Reserve component forces and their families by setting aside a special day of recognition. Their sacrifices were our country's gain.

The tradition of the citizen soldier has served America well from the days of the minutemen who fought at Lexington and Concord right down to the reservists and guardsmen who recently served in the Middle East. Never has this tradition of selfless citizenship been better demonstrated than during Operations Desert Shield and Desert Storm.

Our military victory in the Persian Gulf was decisive, largely as a result of our professionally trained Armed Forces. Roughly half a million military personnel were sent to the Middle East to halt and ultimately to reverse Saddam Hussein's aggression. More than 100,000 of those sent were members of the Ready Reserves ordered to active duty to help carry out U.S. objectives in the region. Unlike those already on active duty, these men and women had to leave their homes, their jobs, and their families to answer the Nation's call.

Not in the Kuwait theater of operations, but instead serving in vital support roles elsewhere were 117,000 reservists and guardsmen. In all, 223,000 Ready Reserve forces were summoned for the war. Both directly and indirectly, they were essential to the allied victory. Their work included supply distribution, intelligence missions, aerial refueling, and combat operations, among numerous other jobs.

Mr. President, it has been two decades since the United States has had a major callup of its Reserve component forces. Yet performance reports indicate that they were up to the test, and even exceeded our expectations of them. This joint resolution honoring their efforts and designating May 22 as "National Desert Storm Reservists Day" is a way to say "thank you." I believe it is important that we set aside a special time to commemorate the role of the Reserves and National Guard in Operations Desert Storm and Desert Shield.•

By Mr. RIEGLE (for himself and Mr. SMITH):

S.J. Res. 136. A joint resolution to authorize the display of the POW-MIA flag on flagstaffs at the national cemeteries of the United States, and for other purposes; to the Committee on Veterans Affairs.

POW-MIA FLAG RESOLUTION

• Mr. RIEGLE. Mr. President, I rise to introduce legislation, along with the Senator from New Hampshire [Mr. SMITH], which would authorize Directors of Department of Veterans Affairs national cemeteries to fly the POW-MIA flag on a daily basis. It is my honor to offer this resolution as it affords well-deserved recognition to the thousands of American service personnel who remain missing and unaccounted for.

United States military forces departed Vietnam more than 15 years ago, but still, the uncertain fate of more than 2,000 Americans missing in the wake of that conflict endures. In addition, the physical remains of tens of thousands of troops who served in World War I, World War II, and the Korean war still have not been recovered. And, as of today, there are still two individuals missing in action following Operation Desert Storm. Until every American missing as a result of the Vietnam war and other conflicts is accounted for, America must remain dedicated to keeping the POW-MIA issue in the forefront of our national agenda.

Currently, the VA allows flying of the POW-MIA flag only on certain national holidays, such as Memorial Day, Veterans' Day, and National POW-MIA Recognition Day. This policy, however, fails to recognize that the POW-MIA question is a year-round concern for the Nation. Moreover, it falls short of the sympathy and respect America should afford to the families of missing Americans who must deal with their heartache and loss each day. For this reason, the legislation I introduce today authorizing the flying of the POW-MIA flag on a daily basis serves as a pledge of the high national priority this country assigns to obtaining a full accounting of missing American service personnel.

Last year, Congress passed legislation (Public Law 101-355) which granted official Federal Government recognition to the National League of Families POW-MIA flag. That law designated the POW-MIA flag "as the symbol of our Nation's concern and commitment to resolving as fully as possible the fates of Americans still prisoner, missing and unaccounted-for in Southeast Asia * * *." The resolution I offer today authorizes directors of the more than 100 cemeteries in the National Cemetery System to fly the POW-MIA flag specifically recognized under this law.

Furthermore, the legislation urges that the cemetery director consult with community leaders to devise an appropriate method of flying the flag in the individual community. Although discretion for flying the flag at each cemetery would be taken out of the hands of the VA and given to each cemetery director, in practice the decision to honor POW-MIA's would rest with the community.

Because I have not included an appropriation of funds for the purchase of POW-MIA flags in this resolution, it is my intention to spur community involvement by encouraging that a flag be donated to cemeteries choosing to fly one. As an example of how this process may work, $500 has already been donated for the purchase of a flagpole and a POW-MIA flag for display at the Fort Custer National Cemetery in Augusta, MI.

Finally, I believe strongly that by flying the POW-MIA flag at America's national cemeteries, America would be taking an important step in honoring missing Americans. While some progress has been made to speed the search for those whose fate is yet unknown, we must remain dedicated to identifying and returning all possible POW-MIA's and devoted to recalling their profound contribution to the freedom we enjoy in our democratic society. By introducing this legislation, I hope to express my commitment to achieving a full accounting of those still listed as missing in action and to offer our Nation this fitting tribute to these esteemed and courageous Americans.

Mr. President, I ask unanimous consent that the full text of Senate Joint Resolution 136 be printed in the RECORD immediately following my remarks.

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

S.J. RES. 136

Whereas tens of thousands of members of the Armed Forces of the United States who served in foreign wars were captured by enemy forces or were officially considered missing in action;

Whereas the fate of many such members is still unknown;

Whereas many American prisoners of war were severely mistreated by their enemy captors in violation of international law;

Whereas many American prisoners of war suffered permanent disabilities or died as a result of such mistreatment;

Whereas the relatives of American military personnel interned as prisoners of war or listed as missing in action have experienced profound sorrow and anguish as a result of lack of information about the fate of such personnel;

Whereas the physical remains of tens of thousands of members of the Armed Forces of the United States who served in World War I, World War II, and the Korean War have still not been recovered;

Whereas more than 2,000 members of the Armed Forces of the United States who served in Southeast Asia during the Vietnam conflict remain missing in action and unaccounted for as a result of that service;

Whereas information available to the Government of the United States precludes ruling out the possibility that United States military personnel are still held in captivity in Southeast Asia, and many people share that view;

Whereas during the Persian Gulf conflict a number of male and female members of the Armed Forces of the United States serving in the Persian Gulf were listed as missing in action or prisoner of war;

Whereas Iraq captured, allegedly mistreated, several members of the Armed Forces of the United States serving in the Persian Gulf in connection with the Persian Gulf conflict;

Whereas such mistreatment is a violation of international law;

Whereas the people and Government of the United States must remain committed to a full accounting of American military personnel whose fate remains unknown; and

Whereas, in Public Law 101-355, the Federal Government recognized officially and designated the National League of Families POW/MIA flag as the symbol of the Nation's concern and commitment to resolving as fully as possible the fates of Americans still prisoner of war, missing in action, or unaccounted for in Southeast Asia: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. AUTHORIZATION TO FLY POW/MIA FLAG.

The director of each national cemetery is authorized to display a POW/MIA flag on a flagstaff at that cemetery. In determining whether to display a POW/MIA flag at the cemetery, the director is authorized and urged to consult with appropriate representatives of local civic and veterans' organizations having an interest in the activities of the cemetery.

SEC. 2. PROHIBITION ON OBLIGATION OF APPROPRIATED FUNDS FOR PURCHASE OF FLAG.

No officer or other employee of the Federal Government may obligate appropriated funds for the purpose of purchasing a POW/MIA flag for display at a national cemetery.

SEC. 3. DEFINITIONS.

In this Act:

(1) The term "national cemetery" means any cemetery in the National Cemetery System referred to in section 1000 of title 38, United States Code.

(2) The term "POW/MIA flag" means the flag designated as the National League of Families POW/MIA flag pursuant to section 2 of the Joint Resolution designating September 21, 1990, as "National POW/MIA Recognition Day", and recognizing the National League of Families POW/MIA flag (Public Law 101-355; 104 Stat. 416).

(3) The term "flagstaff" means any flagstaff at a national cemetery, including the main flagstaff of the cemetery.●

ADDITIONAL COSPONSORS

S. 15

At the request of Mr. BIDEN, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 15, a bill to combat violence and crimes against women on the streets and in homes.

S. 24

At the request of Mr. MOYNIHAN, the names of the Senator from Washington [Mr. ADAMS] and the Senator from Indiana [Mr. COATS] were added as cosponsors 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. 152

At the request of Mr. COATS, the names of the Senator from New Hampshire [Mr. SMITH], the Senator from Idaho [Mr. CRAIG], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Wisconsin [Mr. KASTEN] were added as cosponsors of S. 152, a bill to amend the Internal Revenue Code of 1986 to increase the personal exemption to $4,000.

S. 190

At the request of Mr. GRAHAM, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 190, a bill to amend 3104 of title 38, United States Code, to permit veterans who have a service-connected disability and who are retired members of the Armed Forces to receive compensation, without reduction, concurrently with retired pay reduced on the basis of the degree of the disability rating of such veteran.

S. 240

At the request of Mrs. KASSEBAUM, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 240, a bill to amend the Federal Aviation Act of 1958 relating to bankruptcy transportation plans.

S. 400

At the request of Mr. SYMMS, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 400, a bill to set aside tax revenues collected on recreational fuels not used on highways for the purposes of improving and maintaining recreational trails.

S. 455

At the request of Mr. MITCHELL, the names of the Senator from Connecticut [Mr. LIEBERMAN] and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 455, a bill to authorize a national program to reduce the threat to human health posed by exposure to contaminants in the air indoors.

S. 471

At the request of Mr. MCCAIN, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 471, a bill to protect consumers by regulating certain providers of 900 telephone services.

S. 474

At the request of Mr. DECONCINI, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of S. 474, a bill to prohibit sports gambling under State law.

S. 499

At the request of Mr. LUGAR, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of S. 499, a bill to amend the National School Lunch Act to remove the requirement that schools participating in the school lunch program offer students specific types of fluid milk, and for other purposes.

S. 544

At the request of Mr. HEFLIN, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 544, a bill to amend the Food, Agriculture, Conservation and Trade Act of 1990 to provide protection to animal research facilities from illegal acts, and for other purposes.

S. 601

At the request of Mr. ADAMS, the names of the Senator from North Dakota [Mr. BURDICK], and the Senator from South Dakota [Mr. DASCHLE] were added as cosponsors of S. 601, a bill to withhold United States military assistance for El Salvador, subject to certain conditions.

S. 602

At the request of Mr. SASSER, the names of the Senator from Washington [Mr. ADAMS], and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of S. 602, a bill to improve the food stamp and nutrition programs, and for other purposes.

S. 640

At the request of Mr. KASTEN, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 640, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

S. 659

At the request of Mr. GRAHAM, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 659, a bill to suspend temporarily certain bars to the furnishing of veterans benefits to certain former spouses of veterans and to suspend temporarily a bar to the recognition of certain married children of veterans for veterans benefits purposes.

S. 684

At the request of Mr. FOWLER, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 684, a bill to amend the National Historic Preservation Act and the National Historic Preservation Act Amendments of 1980 to strengthen the preservation of our historic heritage and resources, and for other purposes.

S. 712

At the request of Mr. SYMMS, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 712, a bill to amend section 411F(2) of the Higher Education Act of 1965 to exclude as an asset the net value of the family's principal

place of residence and a family farm on which the family resides.

S. 720

At the request of Mr. KENNEDY, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 720, a bill to provide financial assistance to eligible local educational agencies to improve urban education, and for other purposes.

S. 768

At the request of Mr. ROCKEFELLER, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 768, a bill to amend the Motor Vehicle Information and Cost Savings Act to provide for the establishment of a national electric vehicle program for the United States, and for other purposes.

S. 781

At the request of Mr. SARBANES, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 781, a bill to authorize the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia.

S. 809

At the request of Mr. MCCAIN, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of S. 809, a bill to require a 60-vote supermajority in the Senate to pass any bill increasing taxes.

S. 845

At the request of Mr. LAUTENBERG, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 845, a bill to direct the Secretary of State to seek an agreement from the Arab countries to end certain passport and visa policies and for other purposes.

S. 879

At the request of Mr. DASCHLE, the names of the Senator from Arkansas [Mr. BUMPERS] and the Senator from Kentucky [Mr. FORD] were added as cosponsors of S. 879, a bill to amend the Internal Revenue Code of 1986 to clarify the treatment of certain amounts received by a cooperative telephone company indirectly from its members.

S. 884

At the request of Mr. PACKWOOD, the names of the Senator from Alaska [Mr. STEVENS] and the Senator from Washington [Mr. GORTON] were added as cosponsors of S. 884, a bill to require the President to impose economic sanctions against countries that fail to eliminate large-scale driftnet fishing.

S. 890

At the request of Mr. KENNEDY, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 890, a bill to reauthorize the Star Schools Program Assistance Act, and for other purposes.

S. 918

At the request of Mr. PACKWOOD, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 918, a bill to amend the Internal Revenue Code of 1986 to exempt small manufacturers, producers, and importers from the firearms excise tax.

SENATE JOINT RESOLUTION 12

At the request of Mr. DECONCINI, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of Senate Joint Resolution 12, a joint resolution proposing a constitutional amendment to limit Congressional terms.

SENATE JOINT RESOLUTION 21

At the request of Mr. SASSER, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of Senate Joint Resolution 21, a joint resolution expressing the sense of the Congress that the Department of Commerce should utilize the statistical correction methodology to achieve a fair and accurate 1990 Census.

SENATE JOINT RESOLUTION 36

At the request of Mr. PRESSLER, the names of the Senator from Tennessee [Mr. SASSER], the Senator from Illinois [Mr. SIMON], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 36, a joint resolution to designate the months of November 1991, and November 1992, as "National Alzheimer's Disease Month."

SENATE JOINT RESOLUTION 49

At the request of Mr. SARBANES, the names of the Senator from Ohio [Mr. GLENN], the Senator from North Carolina [Mr. SANFORD], and the Senator from Utah [Mr. HATCH] were added as cosponsors of Senate Joint Resolution 49, a joint resolution to designate 1991 as the "Year of Public Health" and to recognize the 75th Anniversary of the founding of the Johns Hopkins School of Public Health.

SENATE JOINT RESOLUTION 57

At the request of Mr. THURMOND, the names of the Senator from New Jersey [Mr. BRADLEY] and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of Senate Joint Resolution 57, a joint resolution to designate the month of May, 1991, as "National Foster Care Month."

SENATE JOINT RESOLUTION 96

At the request of Mr. RIEGLE, the names of the Senator from Alabama [Mr. SHELBY] and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of Senate Joint Resolution 96, a joint resolution to designate November 19, 1991, as "National Philanthropy Day."

SENATE JOINT RESOLUTION 107

At the request of Mr. MOYNIHAN, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of Senate Joint Resolution 107, a joint resolution to designate October 15, 1991, as "National Law Enforcement Memorial Dedication Day."

SENATE JOINT RESOLUTION 115

At the request of Mr. MOYNIHAN, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of Senate Joint Resolution 115, a joint resolution to designate the week of June 10, 1991, through June 16, 1991, as "Pediatric AIDS Awareness Week."

SENATE JOINT RESOLUTION 121

At the request of Mr. DECONCINI, the names of the Senator from Colorado [Mr. WIRTH] and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of Senate Joint Resolution 121, a joint resolution designating September 12, 1991, as "National D.A.R.E. Day."

SENATE JOINT RESOLUTION 130

At the request of Mr. LAUTENBERG, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of Senate Joint Resolution 130, a joint resolution to designate the second week in June as "National Scleroderma Awareness Week."

SENATE CONCURRENT RESOLUTION 27

At the request of Mr. LAUTENBERG, the names of the Senator from Texas [Mr. GRAMM], the Senator from Michigan [Mr. RIEGLE], and the Senator from Tennessee [Mr. GORE] were added as cosponsors of Senate Concurrent Resolution 27, a concurrent resolution urging the Arab League to terminate its boycott against Israel, and for other purposes.

SENATE RESOLUTION 103

At the request of Mr. DIXON, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from Missouri [Mr. BOND], the Senator from Kentucky [Mr. FORD], and the Senator from Tennessee [Mr. GORE] were added as cosponsors of Senate Resolution 103, a resolution relating to the contributions to Operation Desert Storm made by the defense-related industries of the United States.

SENATE CONCURRENT RESOLUTION 32—GRANTING AN APPROPRIATIONS LINE ITEM VETO AND A QUESTION HOUR FOR EXECUTIVE OFFICIALS

Mr. DIXON submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 32

Resolved by the Senate (the House of Representatives concurring),

SECTION. 1. APPROPRIATIONS ITEM PRESIDENTIAL REVIEW PROCESS.

(a) SUBMISSION TO THE PRESIDENT.—Each conference committee between the Senate and the House of Representatives to which an appropriations bill for fiscal year 1993, 1994, or 1995 is referred (referred to as the "conference committee") shall, at the time the conference report is otherwise ready for the signature of the conferees, transmit a draft of such report to the President, and wait 10 days before signing the report.

(b) PRESIDENTIAL REVIEW.—The President shall have a period of 10 days from the date

of receipt of a draft conference report pursuant to subsection (a) to review the report and transmit to the conference committee a special message specifying—

(1) any change in the amount of individual items of appropriation contained in the draft conference report that the President submits for consideration pursuant to subsection (c); and

(2) that the President agrees to sign the appropriations bill when it is officially submitted to the President if—

(A) Congress votes on each of the individual items described in paragraph (1); and

(B) the bill is identical to the bill submitted to the President pursuant to subsection (a) except that the bill shall contain any individual item of appropriation that the President proposes changing pursuant to this subsection and that the Congress fails to disapprove under subsection (c).

(c) AMENDMENTS IN DISAGREEMENT.—

(1) IN GENERAL.—If the President submits a special message under subsection (b), the conference committee shall amend its conference report to include as separate amendments in disagreement each change in an individual item of appropriation that the President proposes in the special message.

(2) FINAL CONFERENCE REPORT.—The House and the Senate shall vote to approve or disapprove each individual item of appropriations changed by the President and submitted as an amendment in disagreement in the conference report. Any amendment that both the Senate and House of Representatives do not approve shall not be included in the final conference report submitted to the President. Any amendment that the Senate or the House approve, or both the Senate and the House approve, shall be included in the final conference report submitted to the President. After the Senate and the House of Representatives vote on each amendment in disagreement, the conference committee shall be reconvened and instructed by the House of Representatives and the Senate to include each individual item of appropriations changed by the President and approved by the Senate or the House of Representatives, or both the Senate and the House of Representatives, in a revised conference report.

(d) SUBMISSION OF FINAL BILL TO PRESIDENT.—The House of Representatives and the Senate shall adopt and submit to the President for approval an appropriations bill identical to the draft submitted to the President pursuant to subsection (a), except the appropriations bill shall include any individual items of appropriation that are changed pursuant to the procedures of subsection (c).

SEC. 2. QUESTION HOUR.

(a) IN THE SENATE.—The Standing Rules of the Senate are amended by adding at the end thereof the following new rule:

"RULE XLIII

"QUESTION HOUR

"1. The Senate shall convene as a Committee of the Whole for a question hour period devoted to questioning the President and a designated cabinet officer on alternate Mondays when the Senate is in session. The Senate question hour period shall be scheduled to occur on Mondays when the House of Representatives is not conducting a question hour. The President pro tempore (or designee) shall serve as the Chairman of the Committee of the Whole to control time allocations and to recognize Senators, the President, and cabinet members for the purpose of speaking.

"2. The question period shall be two hours in length. One hour shall be available for questions to the President and the other hour shall be available for questions to a Cabinet member. The general topic or topics to be covered by oral questions shall be submitted by the Majority Leader, after consultation with the Minority Leader, at least 48 hours in advance of the question hour.

"3. Twenty minutes of the President's question hour shall be allocated to the Senators representing the President's political party, and 40 minutes to Senators representing the other political party. Time for answers to questions shall come out of the time of the party asking the questions.

"4. Cabinet members shall participate in the question hour in a rotation determined by the President. Only one cabinet member shall be questioned orally in any one question hour. If the Majority Leader, after consultation with the Minority Leader, provides notification to the President at least 48 hours in advance of a question hour that the Senate requests a cabinet officer appear at the question hour other than the cabinet officer scheduled by rotation, the cabinet officer designated by the Senate shall appear. The week after a cabinet officer appears out of order the regular rotation order shall be resumed. The hour devoted to questioning a cabinet member shall be divided in the same manner as the time for questioning the President.

"5. Questions for the question hour may also be written and relate to any subject. Written questions shall be submitted to the President or any cabinet officer at least two weeks in advance of the question hour. Answers to written questions shall be in writing and shall be submitted to the Senate before the question hour. The written questions and answers shall appear in the Congressional Record with the oral proceedings of the Committee of the Whole.".

(b) IN THE HOUSE OF REPRESENTATIVES.—The Rules of the House of Representatives are amended by adding at the end thereof the following new rule:

"RULE LI

"QUESTION HOUR

"1. The House of Representatives shall convene as a Committee of the Whole for a question hour period devoted to questioning the President and a designated cabinet officer on alternate Mondays when the House of Representatives is in session. The House of Representatives question hour period shall be scheduled to occur on Mondays. when the Senate is not conducting a question hour. The Speaker of the House (or designee) shall serve as the Chairman of the Committee of the Whole to control time allocations and to recognize Members, the President, and cabinet members for the purpose of speaking.

"2. The question period shall be two hours in length. One hour shall be available for questions to the President and the other hour shall be available for questions to a Cabinet member. The general topic or topics to be covered by oral questions shall be submitted by the Majority Leader, after consultation with the Minority Leader, at least 48 hours in advance of the question hour.

"3. Twenty minutes of the President's hour shall be allocated to the Senators representing the President's political party, and 40 minutes to Senators representing the other political party. Time for answers to questions shall come out of the time of the party asking the questions.

"4. Cabinet members shall participate in the question hour in a rotation determined by the President. Only one cabinet member shall be questioned orally in any one question hour. If the Majority Leader, after consultation with the Minority Leader, provides notification to the President at least 48 hours in advance of a question hour that the House of Representatives requests a cabinet officer appear at the question hour other than the cabinet officer scheduled by rotation, the cabinet officer designated by the House of Representatives shall appear. The week after a cabinet officer appears out of order the regular rotation order shall be resumed. The hour devoted to questioning a cabinet member shall be divided in the same manner as the time for questioning the President.

"5. Questions for the question hour may also be written and relate to any subject. Written questions shall be submitted to the President or a cabinet officer at least two weeks in advance of the question hour. Answers to written questions shall be in writing and shall be submitted to the House of Representatives before the question hour. The written questions and answers shall appear in the Congressional Record with the oral proceedings of the Committee of the Whole.".

SEC. 3. QUESTION HOUR CONDITION TO EXERCISE OF ITEM VETO AUTHORITY.

The President may review appropriations bills under the procedure provided by section 1 of this resolution only if the President is participating in the question hours of the Senate and the House of Representatives established by section 2 of this resolution.

SEC. 4. SUNSET DATE.

This Act and the amendments made by this Act shall be repealed effective upon the adjournment of the 103rd Congress, sine die.

Mr. DIXON. Mr. President, the fiscal 1992 Federal budget process is now well underway. The standard speeches about fiscal responsibility and the need to reduce our huge budget deficits are being made again, and once again, a budget that appears to cut the deficit will be enacted.

If that sounds familiar, it should. That has been the way budgets have been handled ever since I came to the Senate in 1981. The only real difference has been that some years there is a budget summit that certifies that painful progress is being made.

Unfortunately for both the President and the Congress, however, the American public has long since discovered that this budget process is an emperor without any clothes at all. It hasn't produced lower deficits—in fact, deficits are now higher than ever—and it's not even good theater. Instead, all the last 10 years have accomplished is to create ever greater public cynicism regarding Government and its ability to solve problems.

Our budget process is clearly more bankrupt than the Federal Treasury, and the public's understandable reaction to it tears at the heart of our system of Government. To help repair the mess that has been created, we need a presidential item and reduction veto and a British-style question hour.

The item veto will provide greatly needed fiscal discipline to a system biased in favor of ever-increasing spending and deficits. The question hour will make sure that the President and the Congress are more accountable for the

budget decisions that Congress and the President jointly make. Both changes will benefit the long-suffering taxpayer and voter.

The item veto, of course, has a long history. Governors of 43 of our 50 States already have item veto authority. The fact that so many States put it into their constitutions is a clear demonstration that States are convinced that this spending control tool is needed and that it works.

In spite of its wide acceptance at the State level, however, the item veto has still not been made part of the U.S. Constitution. Every President since Franklin D. Roosevelt has asked for the item veto, but many Members of Congress are concerned that it would tilt the balance of powers away from the Congress and toward the President. Since the generally accepted way of proposing constitutional amendments requires action by two-thirds majorities of both the Senate and the House of Representatives, the result is that the item veto has never been submitted to the States for ratification.

Fortunately, there is a way to provide a test of the item veto that does not require enacting a constitutional amendment, or even a statute. I am introducing a concurrent resolution, a form of legislation that does not require the President's signature to take effect, that sets out the mechanism for such a test.

Basically, the proposal modifies the Senate and House rules dealing with consideration of spending bills to create a system that effectively duplicates the constitutional amendment item veto procedure. The proposal, in effect, sets out a kind of political contract between the President and the Congress.

The Congress, on its side of the contract, would agree through its rules to vote on individual items in appropriations bills that the President by letter states his objection to, and to delete or reduce any items that did not command majority support in both bodies. The President, for his part, would agree to sign into law those appropriations bills that were handled under this procedure. The President would not have to use the item veto authority. If he did, however, he would be agreeing not to veto the entire bill, thus ensuring that the President does not get what no Governor gets—two bites at the veto apple.

Because the rules changes sunset after 3 years, and because they can be modified by a simple majority in either the House or the Senate without any involvement of the President, it cannot be argued that the proposal transfers legislative power to the President or that it upsets the balance of powers between the legislative and executive branches of Government.

Providing further balance of powers insurance is the fact that the proposal permits overrides of item or reduction vetoes by majority vote. This concept is based on Illinois experience in this area. In Illinois, reductions of individual items are subject to override by majority vote, rather than by the super-majority vote required to override the veto of an entire bill.

A 1988 Government Accountants Journal study concluded that "States with the (item reduction and line item veto, such as Illinois) have the lowest expenditures as a percentage of per capita income." So why not try it here, Mr. President?

Complementing the item veto is the proposal's creation of a British-style question hour. The proposal requires the President and his Cabinet to appear periodically before the House and Senate to respond to questions from Members of the Senate and the House of Representatives, and links the item veto authority to the question periods.

The United States, of course, is not a parliamentary democracy, and we should not give up the separation of powers that has served us so well for the past 200 years. However, ours is also a system of checks and balances, and a question hour can make as much sense for us as it does for the British. For example, under our Constitution, the President is already part of the legislative process. He can veto bills, subject to override by a two-thirds vote of the Congress. He can call the Congress into session. He is required to report to Congress on the State of the Union and to recommend legislation for the consideration of the legislative branch.

It is interesting to note that George Washington, when he became President, thought he should go to the capitol frequently to communicate with Congress. Unfortunately for our history and the traditions that helped shape the Presidency, Washington did not enjoy his first experience and so he decided never to repeat it. It was his decision, and not the Constitution itself, that created the tradition against having President's answer questions before Congress.

Both a question hour and the item veto provide real public benefits. Both will make our system of government work better and both will help ensure that it addresses problems that need to be addressed. Under my approach, a test of both concepts can begin without jeopardizing the constitutional balance of powers between the branches. It is time to start that test. Now!

I ask unanimous consent that a summary of the concurrent resolution, and a copy of the study form the winter 1987–88 Government Accountant's Journal, be included at this point in the RECORD.

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

SUMMARY OF THE LINE ITEM VETO AND BRITISH STYLE QUESTION HOUR PERIOD CONCURRENT RESOLUTION PROPOSAL, APRIL 23, 1991

LINE ITEM VETO

Summary: The concurrent resolution modifies the conference committee procedure for a period of 3 fiscal years (1993, 1994, 1995), in order to provide the president with, in effect, a line-item and reduction veto.

Prior to signature by the conferees, of a draft conference report on an appropriation bill, a draft of the bill would be sent to the President for review. The President would have 10 days from date of receipt of the draft report to reduce or eliminate any individual appropriation contained in the bill if he so chooses.

Should the President take no action, he reserves the right to veto the whole bill. Should he choose to reduce or eliminate any line item in the bill, he pledges not to veto the whole bill, and pledges to sign the bill after the Congress has acted on the individual items recommended by the President for reduction or elimination, and if no other changes are made to the bill.

Under this scenario, the President would not get two bites of the same apple.

Should he choose to reduce or eliminate individual line items, those items would be reported back to the conferees in a special message from the President, as individual amendments in disagreement. Such amendments must be voted upon by both Houses prior to the issuance of the final conference report. A majority vote on the amendments reported in disagreement would prevail.

If both Houses do not agree to the President's recommended spending level (contained in the amendment reported in disagreement), the amendment fails, and the original amount contained in the draft conference report stands. If one or both Houses approve the President's recommended spending level, that spending level prevails.

Example 1

Original request contained in draft conference report—$4 million.

Pres. reduction reported as amendment in disagreement—$2 million.

House approves President's request—Yes.

Senate approves President's request—Yes.

Final amount in Conference Report—$2 million.

Example 2

Original request contained in draft conference report—$4 million.

Pres. reduction reported as amendment in disagreement—$2 million.

House approves President's request—No.

Senate approves President's request—No.

Final amount in Conference Report—$4 million.

Example 3

Original request contained in draft conference report—$4 million.

Pres. reduction reported as amendment in disagreement—$2 million.

House approves President's request—Yes/No.

Senate approves President's request—No/Yes.

Final amount in Conference report—$2 million.

Amendments reported in disagreement are not subject to further amendment.

QUESTION HOUR PERIOD

Summary: The Standing Rules of the Senate are amended to provide an opportunity for the President and members of the executive branch to come before the House and

Senate on alternate Mondays when each is in session.

Question periods would last for 2 hours. One hour of time would be allotted for questions by members to the President, 1 hour to the accompanying Cabinet member. Twenty minutes of member question time would be allotted to the members of the President's party, 40 minutes for the members of the opposition.

FIGURE 1.—TIME BREAKDOWN OF QUESTION HOUR

[In minutes]

President's time		Cabinet member's time	
President's party	Opposition party	President's party	Opposition party
20	40	20	40

Cabinet members would be rotated on a basis determined by the President. Only one Cabinet member would be questioned in a question hour. A Cabinet member can be called out of order of rotation only if the majority and minority leader provide notification to the President 48 hours in advance of the question hour.

Written questions can be submitted to the President or any Cabinet officer no less than 2 weeks in advance of the question hour.

Answers to written questions, as well as the whole oral proceedings of the Committee of the Whole, would be reprinted in the Congressional Record.

Finally, the line-item veto authority provided in section 1 of the concurrent resolution is tied to Presidential compliance with the provisions of the question hour. The President would not get one without the other.

From the Government Accounts Journal

THE LINE ITEM VETO: HOW WELL DOES IT WORK?

(By Ray L. Brown)

President Reagan continues to claim that the line item veto would reduce Federal spending.[1] In his 1984 State of the Union message he said, "I found this 'line item veto' was a powerful tool against wasteful or extravagant spending. It works in 43 States—let's put it to work in Washington, D.C. for all the people."[2]

President Reagan's claim that the line item veto works in 43 States has not been proven or disproven.

There is considerable political and theoretical support for and against having a line item veto at the Federal level. The arguments on both sides of this issue were assembled and discussed in a Library of Congress report.[3] This report listed six arguments for and seven against the line item veto. The arguments presented in favor were:

1. It would reduce extravagance in public expenditure.
2. It would discourage "pork barrel" appropriations.
3. It would curb logrolling.
4. It would restore to the President his veto power.
5. It would expedite the completion of the legislative program.
6. The item veto has worked successfully in the States.

In summary, arguments 2 and 3 relate to number 1, and 4 and 5 relate to Presidential-Congressional relations.

The seven arguments presented against the line item veto were:

1. It would lessen the responsibility of Congress.
2. It would increase the influence of the Executive, whose powers have already been much expanded.
3. It would destroy the system of checks and balances established by the Constitution.
4. It would violate the principles of separation of powers embodied in the Constitution.
5. It would defeat the legislative intent of Congress.
6. The amendment is entirely unnecessary.
7. It would be an uncertain grant of power.

In summary, these seven arguments against have to do with Presidential-congressional relations or legal considerations.

The President seems to be using the first and sixth arguments for the line item veto that were presented in the Library of Congress report as the basis for his claims [supra] that the line item veto is a "powerful tool against . . . extravagant spending" and "It works in 43 states. . . ."

The line item veto has been used at the State level of government for more than 100 years. However, there are no reports that are useful in determining whether the line item veto has been useful in actually reducing spending in all the States that have authorized its use. In fact, the only information on a nationwide basis seems to be a survey in which one legislative budget officer in each State was asked his/her "perceptions of how the item veto is actually used in State budgeting." The sample size and source of information cannot be considered scientific or impartial.

This article reports on a nationwide study on spending by State governments: those with and those without line item veto authority; and, it covers the years 1942 through 1985. The purpose of the study was to determine, if possible, whether the line item veto reduces wasteful and extravagant spending, and whether it works in the states as claimed by President Reagan.

WHAT IS THE LINE ITEM VETO?

The American Political Dictionary describes the (line) item veto [1982, p. 210]:

"The power exercised by the governor in all but a few states to veto sections or items of an appropriation bill while signing the remainder of the bill into law. Governors in several states can reduce appropriation items, and in a few states may veto sections of nonfinancial bills. The legislature may override the vetoed items. The President does not exercise the item veto power."

In governmental organizations without the line item veto, chief executive officers are required to veto an entire appropriation bill if they want to delete any portion of it, no matter how small or insignificant. When vetoed, none of a bill can go into effect unless the legislative body either votes to override the veto or removes the objectional part(s) before returning it to the chief executive.

BRIEF HISTORY OF THE LINE ITEM VETO

The first State to authorize a veto of any type was Massachusetts (1780). Currently, the only State not having any type of veto authority is North Carolina. The first line item veto authority was given to the President of the Confederate States of America (1861). Georgia (1865) and Texas (1866) were the first two States in the Union to authorize its use. Every State admitted to the Union since the Civil war, except Nevada, has authorized the line item veto.

Currently, there are four major categories of veto authority in the United States:

1. No veto authority: North Carolina
2. Regular veto authority: Indiana, Maine, Nevada, New Hampshire, Rhode Island, Vermont
3. Line item veto authority: the remaining 43 States
4. Special line item veto authority—in addition to line item veto authority, the governors of 10 States are also allowed to reduce the dollar amount of an appropriation: Alaska, California, Illinois, Massachusetts, Missouri, New Jersey, North Dakota, Pennsylvania, Tennessee, West Virginia

RESEARCH METHODOLOGY

It is easier to find data on expenditures than it is to determine which, if any, of the expenditures are "wasteful or extravagant": the types of expenditures President Reagan said could be eliminated with the line item veto (*supra*, p. 1). Current political science, budgeting, and accounting texts do not define the terms "wasteful" or "extravagant." Webster's Dictionary [1969] defines extravagance: "2. a spending of more than is reasonable or necessary; excessive expenditure; wastefulness." This definition was not very helpful.

A major justification for the line item veto is its use to "curtail riders" to appropriation bills (supra, p. 2). These riders are considered to be one cause of wasteful spending by the U.S. Congress. However, the American Political Dictionary points out "What may be considered a rider by one legislator may be regarded by another as . . . important and germane. . . ." Because of the difficulty side of a particular spending issue, a different approach to defining the expenditures affected by line item vetoes seemed necessary.

Since the basic issue is expenditures—whether or not they could be classified as wasteful or extravagant—it seemed appropriate to analyze expenditures per se. President Grant once stated that the line item veto "would protect the public against the many abuses and waste of public moneys. . . ." and "The very least that could be said is that the change would not increase the expenditures of the government, and in all probability would diminish it."[6] Whatever the reason the 43 States originally had for giving their governors line item veto authority, the belief that this authority will reduce expenditures, still exists.[7]

The exercise of the line item veto at the State level of government does not prove that wasteful or extravagant expenditures have been reduced. It only indicates that expenditures have been reduced from the amount appropriated by a legislature.

To determine whether the line item veto works by reducing expenditures, as claimed by its proponents, the expenditures of those States with the line item veto could be compared with the expenditures in those States without it. The hypothesis is that the States with the line item veto would have lower expenditures. However, to determine whether the line item veto was used to eliminate wasteful and extravagant expenditures would require an analysis of each line item vetoed to include whether the veto was overriden, the ultimate impact on expenditures, etc.

Expenditure data for the 50 States are published periodically by the U.S. Bureau of the Census.[8] In order to determine whether the results obtained from the expenditure data for the latest time period (1985) were representative, data were collected and analyzed for all years for which comparable data were available. In this case, comparable data were available from 1942 to 1985.

Expenditure data collected are titled "General Expenditures." General expenditures are defined by the Census as "All state expenditures other than the specifically enumerated kinds of expenditure classified as Liquor Stores Expenditure, Insurance Trust

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Footnotes at end of article.

Expenditure, and Utility Expenditure." This expenditure classification was used because it is representative for all the States. It also provided for the greatest number of years of comparable data.

Expenditures had to be analyzed on a basis so that those in one State could be compared to those in the others. Expenditures in 1985 ranged from $23.6 billion in California to $777 million in South Dakota. Comparisons based on the differences in total expenditures did not seem fruitful since several factors could affect them, e.g., differences in population and in per capita income.

An analysis of expenditures on a per capita basis was made. What was found was that per capita expenditures were closely associated with per capita income in that the States with the lowest per capita income tended to have the lowest per capita expenditures. Statistical tests confirmed this finding. This finding raised the question whether State-by-State per capita spending differences might be more of a function of per capita income available to a legislature than spending preferences among the States. In 1985, per capita income varied from a high of $17,487 in Alaska to a low of $8,777 in Mississippi. The average was $12,789.

Due to the differences in per capita income, it would seem that each dollar spent by the State of Alaska would have less of a personal financial impact on its citizens in terms of current or future taxes than would an equal expenditure by the State of Mississippi. Therefore, expenditures were analyzed as a percentage of per capita income—see Exhibit 1. This approach was used because it best portrays the burden of expenditure on each dollar of income earned by the citizens of the several States.

FINDINGS

Exhibit 1 lists the States in the order of low to high expenditures as a percentage of per capita income. It also shows the line item veto status of each State, using the following categories: no line item veto; the 33 States that do not have the special line item veto authority; and the ten States with the special authority. The average expenditure in 1985 was 7.43%. The average for the States with the line item veto was 7.42%, and the average for the States without it was 7.62%.

EXHIBIT 1—EXPENDITURES AS A PERCENT OF PER CAPITA STATE INCOME—1985

State and ranking	Percentage expenditure	Line item veto status		
		None	Regular	Special
1 Florida	5.0		X	
2 Texas	5.7		X	
3 Colorado	6.1		X	
4 Missouri	6.1			X
5 California	6.4			X
6 New Jersey	6.4			X
7 Kansas	6.4		X	
8 Indiana	6.4	X		
9 New Hampshire	6.6	X		
10 Illinois	6.6			X
11 Nevada	6.7	X		
12 Ohio	6.7		X	
13 Virginia	6.8		X	
14 Arizona	6.8		X	
15 Pennsylvania	6.9			X
16 Georgia	7.2		X	
17 North Carolina	7.2	X		
18 Connecticut	7.3		X	
19 Maryland	7.4		X	
20 Nebraska	7.6		X	
21 Tennessee	7.6			X
22 New York	7.9		X	
23 Oklahoma	7.9		X	
24 Iowa	8.0		X	
25 Wisconsin	8.2		X	
26 Arkansas	8.2		X	
27 Minnesota	8.3		X	
28 Massachusetts	8.4			X
29 Michigan	8.4		X	
30 Idaho	8.6		X	
31 Washington	8.9		X	

EXHIBIT 1—EXPENDITURES AS A PERCENT OF PER CAPITA STATE INCOME—1985—Continued

State and ranking	Percentage expenditure	Line item veto status		
		None	Regular	Special
32 Mississippi	9.0		X	
33 South Carolina	9.1		X	
34 Oregon	9.3		X	
35 Kentucky	9.6		X	
36 South Dakota	9.9		X	
37 Alabama	10.2		X	
38 Louisiana	10.3		X	
39 West Virginia	10.4			X
40 Maine	10.6	X		
41 Utah	11.4		X	
42 Montana	11.6		X	
43 Rhode Island	12.1	X		
44 Delaware	12.1		X	
45 New Mexico	12.1		X	
46 North Dakota	12.3			X
47 Wyoming	13.0		X	
48 Vermont	14.0	X		
49 Hawaii	15.2		X	
50 Alaska	34.7			X

The average expenditures as a percentage of per capita income for those States with the line item veto were compared with the average for those States without, and the results are shown on Exhibit 2 for all ten time periods for which data were collected. Expenditures in the States with the line item veto are lower or, in one case, equal to those in the States without it. This finding supports the hypothesis that expenditures should be lower in States with the line item veto. In turn, this finding seems to support President Reagan's claims that "the line item veto was a powerful tool against wasteful or extravagant spending" and that "it works in 43 States."

[Exhibits 2 and 3 not reproducible for the Record.]

A second line of analysis was suggested by the two different types of line item veto, i.e., States with the "regular" line item veto authority and States with the "regular" line item veto authority plus the additional authority to reduce the dollar amount of an appropriation rather than line it out completely. Governors in 33 States with the regular line item veto authority can only accept or reject an item in an appropriation bill. They do not have the special authority of the ten governors who can also adopt the middle ground of accepting an item but at a reduced dollar amount.

The expenditure data for all the States with the line item veto were divided into these two categories. Expenditures in the States with the special line item veto authority were lower. In 1985, they were 7.3% lower.

Due to the seeming efficiency of the special line item veto over the regular line item veto, the expenditure history of the States with the special authority was also compared to the experience of the States with no line item veto authority.

The exact percentages are as follows:

LINE ITEM VETO STATES

	1942	1945	1950	1955	1960	1965	1970	1975	1980	1985
Special	5.06	3.58	5.50	6.07	3.84	4.48	6.01	6.53	6.28	7.06
Regular	5.19	4.15	6.09	6.99	4.85	5.12	6.27	7.07	6.90	7.62
None	5.31	4.86	6.19	6.98	5.61	5.30	6.36	6.87	7.09	7.62

The above summary shows that those States with the special line item veto authority have the lowest expenditures as a percentage of per capita income. Also, the States with the regular line item veto authority generally have the second lowest expenditures; the exceptions are 1955 and 1975.

CONCLUSION

President Reagan's statement that the line item veto was a powerful tool against wasteful or extravagant spending could not be addressed directly. It was addressed indirectly by comparing State government expenditures by the States with and without the line item veto for ten time periods from 1942 through 1985. In effect, this test also determined whether or not the line item veto does in fact "work" (President Reagan's second claim) in the context that it reduces expenditures. Expenditures were measured as a percentage of per capita income. The study found that expenditures were lower in the States with the line item veto. This finding seems to support President Reagan's claim about the usefulness of the line item veto.

Further analysis showed that expenditures were lower in those States with the special line item veto as compared with States with only the "regular" line item veto or no line item veto authority. This would suggest that the special line item veto authority is the most efficient veto authority for reducing expenditures.

President Reagan used the special line item veto during the eight years he was Governor of California. He may have also had this experience in mind when he said that the line item veto was a powerful tool against wasteful or extravagant spending, and that it works in the States. Or, he may have been using the Library of Congress report as his source of information since the words he is using seem to come from that report. In either case, he was correct insofar as state-level governmental expenditures are concerned: The line item veto is associated with lower expenditures.

REFERENCES

[1] "Radio Address of the President to the Nation," Office of the Press Secretary Release, August 22, 1987.

[2] *The New York Times* (January 26, 1984), p. B8.

[3] U.S. Congress, House, Committee of the Judiciary, *Item Veto*, 85th Congress, 1st Session, May 27, 1957, pp. 63–77 ("Observations on the Line Item Veto" by Vernon L. Wilkinson). Hereafter referred to as "Hearings."

[4] *Hearings*, p. 66.

[5] *American Political Dictionary* (6th Ed) (Holt, Reinhardt and Winston, 1982) p. 187.

[6] *Hearings*, p. 66.

[7] Dixon, A., U.S. Senator, "Legislative Initiatives Toward Improving the Business of Government" (Association of Government Accountants, June 21, 1983), and Kennedy, T., U.S. Senator, *The Washington Post*, July 24, 1985, p. A4.

[8] U.S. Bureau of the Census sources included "Compendium of State Government Finances" for 1950, 1955 & 1960; "Governmental Finances in the U.S." for 1942, 1960, 1964–65, 1969–70, 1974–75, 1979–80, & 1984–85; and others.

SENATE CONCURRENT RESOLUTION 33—RELATIVE TO TRAVEL TO AND WITHIN THE UNITED STATES

Mr. BURNS submitted the following concurrent resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. CON. RES. 33

Whereas travel and tourism constituted in 1989 the second largest industry in the United States, employing nearly 6,000,000 Americans, and generating more than $350,000,000,000 in sales of goods and services, and more than $40,000,000,000 in annual tax revenues;

Whereas travel and tourism is one of the three largest industries in 37 states;

Whereas travel and tourism industry suffered a decline during the Persian Gulf war;

Whereas an unprecedented national campaign of travel industry leaders under the

leadership of the GO*USA Travel Coalition and many public officials have joined forces to embark on a national effort to encourage business and leisure travel to restore the travel industry's vitality;

Whereas Americans enjoy the freedom of unrestricted travel; and

Whereas the United States welcomes foreign visitors and appreciate the different cultures, values, and concerns of all the world's citizens: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Senate that—

(1) employers resume normal business travel that was suspended during the recent Persian Gulf war; and

(2) travel and tourism-related businesses and public agencies in the United States intensify efforts to inform Americans and foreign visitors that travel both to and within the United States is convenient and economical.

• Mr. BURNS. Mr. President, I would like to introduce a resolution to support the GO*USA coalition recently organized by the private sector to give the depressed tourism industry a jumpstart. Over 50 private corporations related to the tourism industry pooled over $6 million to promote the return to travel message to commercial business, Government agencies, and private individuals.

They have demonstrated a bootstrap, all-American spirit to the rest of the country. Not unlike our heroic troops who fought for this great country in the gulf, these people pulled together a diverse, competitive industry for the good of all; and I might add, without the aid of the Government.

This industry is the world's largest and yet countries around the world, including our own, perceive tourism as ranking much lower in terms of contribution to the world's economies than it really is.

In fact, the creation of the World Tourism and Travel Council was created because of just such a perception. World tourism leaders were suspicious that this image prevailed. They set out to see what actually existed worldwide.

In fact, they found that in not only the United States, but many other leading countries, key policymakers and opinion leaders believed that tourism was not really an important contributor to the world and national economies, consequently not receiving appropriate public policy treatment.

To our benefit, the WTTC has found that tourism and travel is justified as the world industry leader by some of the following factors:

Travel generates over $2.5 trillion in gross output per year, or 5.5 percent of the world GNP.

Employs more than 112 million people worldwide, or 1 in 15 people.

Travel invests more than $350 billion a year in new facilities and capital equipment, or 7.3 percent of worldwide capital investment.

Contributes $300 billion in direct, indirect, and personal income taxes each year or 6 percent of total payments.

It is the fastest growing industry today.

This data was compiled from economic receipts from the transportation, accommodation, catering, recreation-cultural, and travel services activities.

The reason I sight this information is to preface the importance of this business. It is no wonder we in Congress, as well as our friends from the private sector, are here today to send a loud message to the business and pleasure-traveling public that we can, should, and need to return to travel as usual.

Today, my congressional colleagues and I are joining our friends in the private sector in the formation of a leadership circle. It is up to each and every one of us to work toward rebuilding the confidence of the American and international public to travel as usual.

Today, I will be introducing a Senate resolution that mirrors the House resolution introduced recently that calls for the following:

First, calls on employers to resume normal business travel that was suspended during the recent Persian Gulf war; and

Second, travel- and tourism-related businesses and public agencies in the United States intensify efforts to inform Americans and foreign visitors that travel both to and within the United States is convenient and economical.

We are asking Senators, Congressmen, Governors, mayors, business leaders, and opinion leaders to join this leadership circle for the purpose of putting this industry back on the road, in the air, and on our seas.

I look forward to working with each and every one of them. We see a lot of support already and I look for more to come in the near future.•

SENATE RESOLUTION 115—REGARDING THE EMERGENCY HUMANITARIAN AND POLITICAL SITUATION IN SOMALIA

Mrs. KASSEBAUM (for herself and Mr. SIMON) submitted the following resolution; which was referred to the Committee on Foreign Relations.

S. RES. 115

Whereas the civil war in Somalia has devastated the nation, and the lack of food, water and other humanitarian assistance threatens the lives of thousands of Somalis in the coming months;

Whereas the conflict in Somalia, even since the fall of President Siad Barre in January 1991, continues unabated;

Whereas the emergency humanitarian crisis is a direct result of the continuing civil conflict;

Whereas the response of the international community to pleas for humanitarian relief and assistance has been inadequate;

Whereas the United Nations, in particular, has not been active in promoting and mobilizing relief efforts;

Whereas the continuing conflict in Somalia inhibits relief efforts in Somalia: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) all parties in the Somalia conflict should put humanitarian needs above military goals and declare an immediate ceasefire to allow the delivery of relief and to serve as the basis of a lasting settlement;

(2) the President of the United States should lead worldwide humanitarian efforts in Somalia to relieve the suffering;

(3) the President should assist the efforts of private voluntary organizations, including the International Committee of the Red Cross and Doctors Without Borders, in their humanitarian efforts in Somalia;

(4) the United Nations should make the humanitarian crisis in Somalia an item of high priority, working to coordinate and accelerate relief efforts;

(5) neighboring states should actively support and facilitate relief efforts through and from their territory: Be it further

Resolved, That—

(6) the President should actively explore possible U.S. initiatives to reconcile the conflicting factions and should encourage and support efforts by outside mediators;

(7) the Secretary-General of the United Nations and the President of the Organization of African Unity should work to resolve the conflict.

Mrs. KASSEBAUM. Mr. President, I rise today to introduce, along with Senator SIMON, a resolution expressing concern about the emergency humanitarian and political crisis in Somalia.

The civil war in Somalia has devastated that nation—thousands killed in the fighting, hundreds of thousands displaced from their homes. Severe shortages of food, water, and other basic necessities threaten the lives of millions of Somalis. As a journalist who recently visited Mogadishu commented, "A human disaster is in the making."

Politically, Somalia has degenerated into a chaotic mosaic of competing ethnic factions. The fall of Siad Barre in January of this year created a power vacuum which no single group can fill. The Somali National Movement dominates the north. The United Somali Congress, which controls Mogadishu, has attempted to set up an interim government—which no other group recognizes. A number of clans, led by the Somali Patriotic Movement and including Barre's old troops, are battling in the south.

President Barre's oppressive policies—favoring his own Marehen clan at the expense of all others—has created an environment where clan is pitted against clan, resulting in open warfare between ethnic groups. Automatic weapons are more common than meals, exacerbating and intensifying these clan-based rivalries.

The ethnic base of power for each of the competing factions raises the real possibility that Somalia may split into two or more separate states. This development would bode ill for all of Africa, where many ethnic groups claim

national boundaries within and between the modern African borders.

In the face of this tragic humanitarian and political situation, the rest of the world has virtually ignored Somalia, forgotten in the whirl of international events from Moscow to the Persian Gulf. After decades of pumping military aid and weapons into Somalia, the policy has become one of hands off, and "We don't want to take this one on."

Shaping U.S. policy in this situation is an extraordinary challenge. Like the Liberian situation, there are no easy anwers. The unstable security situation makes relief efforts extremely difficult. The proliferation of competing factions makes negotiation nearly impossible. Despite these obstacles, two things are clear:

First, that the United States has a moral humanitarian obligation to lead worldwide relief efforts in Somalia, and

Second, that an active United States role strongly supporting—and possibly leading—efforts to reconcile the conflicting factions would improve the prospects for peace and stability in Somalia.

On the humanitarian side, because of security concerns, only the International Red Cross, Save the Children UK, and Medicines Sans Frontieres have returned to Somalia following their evacuation in January. The United States should fully support and encourage these efforts.

Once the situation improves, Washington should lead full-fledged relief activities for Somalia—catalyzing action, not merely reacting to requests from voluntary organizations.

The United Nations should be encouraged to be engaged, promoting and coordinating relief efforts in Somalia.

Neighboring states, particularly Kenya, should facilitate relief action from and through their borders.

Until a cease-fire is declared and maintained, humanitarian assistance will be difficult to deliver, and the suffering in Somalia will continue. Until a lasting settlement between the competing factions is reached, rehabilitation and reconstruction will be impossible.

To promote these goals—an immediate cease-fire and negotiations leading to a long-term peace accord—the administration should fully explore possible U.S. initiatives to reconcile the conflicting factions. This could mean:

Increasing active support for the joint Egyptian-Italian negotiation effort;

Encouraging the United Nations to examine a greater reconciliation role;

Urging the Organization of African Unity to work to resolve the conflict; and

Leading a U.S.-engineered mediation effort.

The longer the conflict in Somalia lingers on, the greater the damage to United States interests. In West Africa, the recent incursion by Charles Taylor into Sierra Leone illustrates the negative consequences of not working harder to end the Liberian conflict. In the same way, the Somalia civil war could very well spill over into the neighboring states, including Djibouti, an important United States ally.

Mr. President, in this year of the tragic refugee problems in the Middle East and the devastating famines in much of the rest of Africa, world humanitarian resources and world compassion have been stretched to the limit. Unless we are inundated with images of starving children on our television screens, we forget the tragic suffering which continues in much of the world.

Somalia has been forgotten.

SENATE RESOLUTION 116—RELATING TO THE SUPPORT OF TAIWAN'S MEMBERSHIP IN THE GENERAL AGREEMENT ON TARIFFS AND TRADE

Mr. ROTH (for himself, Mr. DASCHLE, Mr. PACKWOOD, Mr. MCCAIN, Mr. SYMMS, Mr. MURKOWSKI, Mr. BOREN, Mr. MOYNIHAN, Mr. DANFORTH, Mr. GRAHAM, Mr. GORTON, Mr. HEFLIN, Mr. DOLE, Mr. COHEN, Mr. DODD, Mr. RUDMAN, Mr. SANFORD, Mr. JOHNSTON, Mr. ROCKEFELLER, Mr. WALLOP, Mr. GORE, Mr. INOUYE, Mr. LIEBERMAN, Mr. COCHRAN, Mr. GRASSLEY, Mr. SIMON, Mr. LUGAR, Mr. COATS, Mr. HELMS, Mr. DIXON, Mr. MACK, and Mr. DURENBERGER) submitted the following resolution; which was referred to the Committee on Finance.

S. RES. 116

Whereas on January 1, 1990, the Government of Taiwan formally requested the Secretariat of the General Agreement on Tariffs and Trade (GATT) to initiate the procedure necessary for its accession to the GATT;

Whereas the Government of Taiwan has applied for membership in the GATT as a separate customs territory under GATT Article XXXIII under the name "The Customs Territory of Taiwan, Penghu, Kinmen and Matsu", to ensure that its application includes only those areas where the Government of Taiwan currently possesses full autonomy in the conduct of its external commercial relations;

Whereas Taiwan is a significant participant in the global economy, being the thirteenth largest trading entity and maintaining the second largest foreign exchange reserves in the world, and is one of the last major market-based economies that is noticeably absent from the GATT;

Whereas the United States and Taiwan maintain an important bilateral trading relationship, with Taiwan being the sixth largest trading partner of the United States and the United States being the second largest exporter to Taiwan;

Whereas Taiwan has made substantial progress in its economic development, and has taken steps to open up its economy, including lowering its average tariff rates, reducing its barriers to foreign investment, and increasing its protection of intellectual property rights;

Whereas the United States supports additional action by Taiwan to provide full open market access to United States goods and services and to ensure that United States intellectual property rights are fully enforced, and Taiwan's continued progress in these and other areas is mutually beneficial to the United States and Taiwan;

Whereas the GATT is the premier multilateral body for regulating trade worldwide, and the United States and 100 other contracting parties of the GATT are in the final stages of the Uruguay Round of multilateral trade negotiations, which is the most ambitious effort ever undertaken by the GATT to expand, strengthen, and revitalize multilateral trade rules and principles;

Whereas the successful conclusion of the Uruguay Round will establish multilateral and enforceable disciplines in key areas affecting bilateral trade between the United States and Taiwan, including the areas of services, intellectual property rights, and agriculture;

Whereas Taiwan currently adheres to the guiding principles of the GATT on a de facto basis, is expressly committed to assuming greater international economic responsibility by its willingness to accede to the GATT as a developed economy, and has indicated its desire to join formally with other GATT contracting parties implementing the final results of the Uruguay Round; and

Whereas Taiwan's membership in the GATT will foster the further liberalization of Taiwan's economy along GATT lines, will serve as an exemplary model for other developing countries, will allow key United States-Taiwan trade issues to be addressed in the multilateral context, and will contribute to the overall strengthening of GATT rules of trade and of the GATT as an institution: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the accession of Taiwan to the GATT is in the best economic interest of the United States and of the world trading system as a whole and should be achieved in an expeditious manner; and

(2) the Government of the United States should fully support Taiwan's accession to the GATT by requesting that the GATT Secretariat place Taiwan's accession request on the agenda of the next GATT Council meeting, by seeking the formation of a GATT Working Party, and by taking any additional steps deemed necessary to assure Taiwan's prompt membership in the GATT.

• Mr. ROTH. Mr. President, last year I introduced a resolution calling for the United States to actively support Taiwan's formal request to join the General Agreement on Tariffs and Trade [GATT]. In light of the little or no action that has been taken on Taiwan's accession request since it was first made on January 1, 1990, I rise today, with Senator DASCHLE and 30 other of my colleagues, to reintroduce the resolution.

The same compelling case exists in support of Taiwan's GATT membership. Taiwan is not only the 13th largest trading entity worldwide, it is also the largest market-based economy that remains outside of the GATT's ambit. From the perspective of the United States, Taiwan is one of our most im-

portant trading partners, ranking as our sixth largest. Clearly, such a key U.S. trading partner and major participant in the world economy should be part of our multilateral system of trade rules and principles.

Taiwan has moved in the direction of opening its economy to the forces of worldwide competition, but many more steps need to be taken. While bilateral trade negotiations will continue to play an important role in eliminating specific trade barriers to United States exports to Taiwan, accession to the GATT provides the greatest opportunity for across-the-board market opening measures in Taiwan. For example, a successful conclusion to the Uruguay Round will create strong new multilateral rules and market openings in services, intellectual property rights and agriculture—three areas where Taiwan's economy still remains relatively closed. Failure to accord Taiwan GATT membership means that there would be no guarantee that Taiwan would adopt these and other ambitious trade-liberalizing measures agreed to in the Uruguay Round.

One of the most noteworthy aspects of Taiwan's request to join the GATT is that it is expressly willing to do so as a developed economy. This goes to the heart of what is popularly referred to as the "free rider" problem—the serious imbalance in GATT obligations between developing and developed countries. An important cause of this imbalance is the fact that developing countries are provided sweeping exemptions from GATT rules and principles, such as those allowed under article XVIII for balance-of-payments reasons. By joining as a developed economic entity, Taiwan would not only become a full and responsible participant in the GATT, it would also be the first newly industrialized country to formally adopt developed economic status. In so doing, Taiwan would serve as a positive and constructive role model for other developing countries.

Since the submission of Taiwan's GATT application, four countries, Tunisia, Bolivia, Costa Rica and Venezuela, have become full contracting parties to the GATT. At least four additional countries are actively in the process of joining. Unfortunately, the same cannot be said for Taiwan, the 13th largest economy in the world. In fact, the GATT Council has taken no action on Taiwan's accession request since it was first made in January 1990, despite the overwhelming merits of Taiwan's application and the Council's standard practice of promptly placing accession requests on its agenda.

While I fully understand the political sensitivities involved in bringing Taiwan under the GATT umbrella, economic and commercial interests should be the driving force in this debate. National sovereignty is not, and should not be, a requirement or condition for joining the GATT. In fact, under article XXXIII, accession to the GATT can be premised on a government having a "separate customs territory possessing full autonomy in the conduct of its external commercial relations * * *." Taiwan has closely followed the terms of this article by applying to the GATT as "The Customs Territory of Taiwan, Penghu, Kinmen and Matsu." Allowing a non-GATT member, namely the People's Republic of China, to dictate the terms of, or exercise veto power over, another territory's entry into the GATT, for purely political reasons, is unacceptable.

The resolution that Senator DASCHLE and I, along with 30 other of my colleagues, are introducing today recognizes that Taiwan's accession to the GATT is in our national economic interest and in the best interest of the world trading system. It calls on our Government to fully and actively support Taiwan's GATT membership by taking appropriate and necessary steps. These steps would include ensuring that a working party is established to begin the process required for Taiwan's future accession.

GATT action on Taiwan's accession request is long overdue. Key to such action is U.S. leadership and support. The resolution being introduced today is designed to help move us in that direction.●

● Mr. SIMON. Mr. President, I am pleased to join my colleague from Delaware, Senator ROTH, in introducing this resolution on Taiwan's entry to GATT. It is a subject important to the further development of the global economy.

This resolution recognizes the reality that over the past 25 years, Taiwan has become a major force in the world economy. Its GNP has grown from just $217 per capita in 1965 to $7,518 per capita in 1989 and is expected to expand to about $20,000 by the year 2000. Taiwan is also the 13th largest trading nation and holds the second largest foreign exchange reserves in the world. In its trade with the United States, Taiwan is the fifth largest trading partner and the seventh largest market for United States agricultural exports.

Along with economic strength, Taiwan has shown an enthusiastic willingness to comply with GATT guidelines. Its economic philosophy and market economy is consistent with GATT principles. Taiwan has recently implemented a restructuring of its economy, which includes trade reform. Its Overseas Economic Development and Cooperation Fund has supplied over $1.2 billion to developing countries. Taiwan plans to join GATT as a developing country and continue economic reform.

To avoid any international political overtones, Taiwan has applied to GATT under the name "Customs Territory of Taiwan, Penghu, Kinmen, and Matsu." This limits the areas of autonomy in its conduct of foreign trade. As GATT is an economic body, it should include all major trading nations, of which Taiwan is one. GATT membership does not imply political recognition of Taiwan; therefore, membership should not raise any foreign policy questions.

Overall, I believe that Taiwan's membership in GATT would be good not only for Taiwan, in terms of continuing the process of political and economic liberalization, but also would be beneficial to all other GATT members. It would strengthen world trade relations as a whole and assure the stability of future trade and further political democratization in Taiwan. I urge all my Senate colleagues to support this resolution, which will assist Taiwan in its quest for GATT membership.●

SENATE RESOLUTION 117—RELATIVE TO SOVIET AGRICULTURAL EXPORT CREDIT GUARANTEES

Mr. DOLE (for himself, Mr. BOREN, Mr. CONRAD, Mr. GRASSLEY, and Mr. HARKIN) submitted the following resolution; which was ordered to be held at the desk.

S. RES. 117

Whereas the Soviet Union is in dire need of United States agricultural credits to meet its immediate food and feed needs;

Whereas prior to the extension of further credits, the United States should receive firm assurances from the Soviet Government that credits will be repaid and will be used to meet the food needs of the Soviet population, and will not be used to support institutions such as the military and the party apparatus; and that our credits not be used to coerce the movements for greater sovereignty and democracy in the Baltics and the constituent republics of the Soviet Union;

Whereas the United States should also be assured that the Soviets will meet their obligations under the United States-Soviet Long Term Agreement;

Whereas senior representatives of both the Soviet Government and the Government of the Russian Republic have expressed support for the request and that the Soviet Government may be willing to provide such assurances as the Senate finds necessary;

Whereas the sale of United States agricultural commodities and the resulting increase in farm income contributes positively to the United States' balance of trade deficit and affects the livelihood of farmers, rural businesses, and agricultural input industries; Now therefore, be it

Resolved, That it is the sense of the Senate the administration should act as expeditiously and prudently as possible to extend agricultural export credit guarantees to the Soviet Union, under the assurance that the Soviet Union shall provide for the equitable and humanitarian distribution of such credits to the peoples of the Soviet Republics.

SEC. 2. The administration should provide for the extension of equivalent credit tranches which may be extended contingent upon the acceptable distribution and/or repayment of previous credits.

SEC. 3. The administration should use the export credit guarantee program and all other agricultural export assistance pro-

grams to the maximum extent possible consistent with the real needs of the recipient, to aid the export of agricultural commodities experiencing serious price depression, such as wheat, corn, soybeans and dairy products.

Mr. DOLE. Mr. President, I send a resolution to the desk for myself, the Senator from Oklahoma [Mr. BOREN]; the Senator from North Dakota [Mr. CONRAD]; the two Senators from Iowa [Mr. GRASSLEY and Mr. HARKIN], and ask that it be held at the desk.

I ask unanimous consent that a letter I have written to the President of the United States which refers to the same matter be printed in the RECORD following the printing of the resolution.

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

U.S. SENATE,
OFFICE OF THE REPUBLICAN LEADER,
Washington, DC, April 24, 1991.

The PRESIDENT,
The White House,
Washington.

DEAR MR. PRESIDENT: As we have previously discussed and you are keenly aware, the Soviet Union is in dire need of United States agricultural credits to meet its immediate food and feed needs. The Soviet Government in fact has formally requested $1.5 billion in additional credits. With certain conditions, I support the extension of such credits to the Soviets.

Obviously, in deciding whether to offer such credits, we must seriously consider a number of key factors, including our bilateral relations with the Soviet Union, economic considerations, and our own domestic priorities—including the very important priority of expanding our overseas markets for agricultural products.

Recent backsliding in Moscow on the issues of the Baltics and the movement for greater sovereignty in the constituent republics of the Soviet Union—and some reports that the Soviets have used past United States credits to pressure both the Baltic and some republican governments—are matters of great concern to me and to many others who otherwise would be inclined to support the use of our credit programs to encourage agricultural exports to the Soviet Union. I myself have met with leaders of a number of the constituent republics of the Soviet Union over the past few months, and I have heard accounts of Soviets threats to withhold access to grain credits if the republic in question refused to support President Gorbachev's proposed "Union Treaty."

To balance our desire to stimulate exports with those concerns, I believe that, prior to the extension of further credits, we should receive firm assurances from the Soviet Government on two points: (1) that credits be used to meet the food needs of the Soviet population, and will not just be used to support institutions such as the military and the party apparatus; and (2) that our credits not be used to coerce the movements for greater sovereignty and democracy in the Baltics and the constituent republics of the Soviet Union. We should also be assured that the Soviets will meet their obligations under the U.S.-Soviet Long Term Agreement (LTA). In addition, of course, as with all credit arrangements, we must be certain of the credit-worthiness of the Soviet Government.

Despite the obvious differences that the Government of the Russian Republic has with the Soviet Government on many issues, senior representatives of the Russian Government with whom I recently met expressed their support for the Soviet credit request. Moreover, both they and Soviet Government representatives have indicated to me that the Soviet Government would likely be willing to provide the kind of assurances I believe we need. However, to further assure that the extension of credits would serve our overall national interest, I would suggest that we split the $1.5 billion credit package into three $500 million tranches—the first to be released immediately, and the other two as we receive reports on the use and efficacy of the original tranches. In addition, we could require the at least partial repayment of earlier extended credits prior to the release of the second or third tranche of the new package. Alternatively, the program could be structured as a revolving credit account.

If these arrangements can be accomplished—and I am convinced they can—a $1.5 billion package for the Soviets would have a positive domestic impact, according to a preliminary analysis provided by the Department of Agriculture. Assuming a full extension of the entire package, slightly over $1 billion would be used for two commodities (wheat and corn), at levels which meet the Soviet commitment under the LTA. Given that, USDA estimates deficiency payment savings of $800 million. In other words, the market impact of the credit package would substantially offset any residual risk that the Soviets would not be able to make full repayment.

Mr. President, if we move prudently, the Soviets' urgent need for agricultural credits gives us an opportunity to further our foreign policy interests while simultaneously helping the American farmer. I hope we will move quickly to take advantage of this important opportunity.

Sincerely yours,

BOB DOLE,
U.S. Senate.

SENATE RESOLUTION 118—RELATIVE TO THE AGREEMENT FOR THE ESTABLISHMENT OF AN AMERICAN POW/MIA OFFICE IN HANOI

Mr. MCCAIN (for himself, Mr. DOLE, Mr. GRAMM, Mr. LUGAR, Mr. COHEN, Mrs. KASSEBAUM, Mr. MURKOWSKI, Mr. BROWN, Mr. ROBB, Mr. GORE, Mr. CRANSTON, Mr. PELL, Mr. DODD, Mr. KERRY, Mr. KERREY, and Mr. BIDEN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 118

Whereas 18 years have passed since the United States withdrew its armed forces from Vietnam, and 16 years have passed since the conclusion of the Vietnam conflict;

Whereas 2,276 Americans are listed as missing and unaccounted for as a result of the Vietnam conflict;

Whereas many families of Americans missing-in-action believe their relatives are alive and held against their will in Vietnam;

Whereas senior Vietnamese officials have assured members of Congress that the Government of Vietnam will allow the families of Americans missing-in-action in Vietnam to investigate, in Vietnam, reports of sightings of live Americans;

Whereas on April 20, 1991, Vietnamese Foreign Minister Nguyen Co Thach and the President's Special Emissary for POW/MIA affairs, General John Vessey agreed, on behalf of their governments, to establish a POW/MIA office in Hanoi to be operated by United States Government officials;

Whereas the establishment of the POW/MIA office is intended to facilitate greater cooperation between the governments of the United States and Vietnam on POW/MIA matters, including joint field investigations and information research in Vietnam; and

Whereas many families of Americans missing-in-action desire the opportunity to participate in determining the fates of their relatives: Now, therefore, be it

Resolved, That the Senate commends General Vessey and Foreign Minister Thach, and the governments of the United States and Vietnam for agreeing to establish an American POW/MIA office in Hanoi, Vietnam, and calls for the immediate establishment of the office.

SEC. 2. It is the sense of the Senate that, in addition to its functions described in a joint statement by General Vessey and Foreign Minister Thach released on April 20, 1991, the POW/MIA office should be authorized to serve as a liaison between the families of Americans missing-in-action and the Government of Vietnam through which the families can make arrangements with the Government of Vietnam to investigate the fates of their relatives.

SEC. 3. For purposes of this resolution—

(1) the term "POW" means prisoner of war in Southeast Asia; and

(2) the term "MIA" means members of the United States Armed Forces and United States civilians missing-in-action in Southeast Asia.

SEC. 4. The Secretary of the Senate shall transmit a copy of this resolution to the President and the Secretary of State.

Mr. MCCAIN. Mr. President, I would also like to submit at this time a Senate resolution on behalf of myself, Senators DOLE, GRAMM, LUGAR, COHEN, KASSEBAUM, MIKULSKI, PELL, DODD, KERRY, KERREY, and BIDEN.

I had hoped that this resolution would be cleared by unanimous consent but apparently at least one Senator, and perhaps only one, has some concerns about it. I regret that because I think it is very appropriate that the U.S. Senate recognize the efforts of General Vessey, the President's emissary to Vietnam, and that of Vietnamese Foreign Minister, Mr. Nguyen Co Thach to set up an office in Hanoi staffed by Americans in order that we might solve and resolve the terrible frustrating issue of the Americans missing in action, which has plagued this Nation now for nearly 20 years.

Mr. President, on April 20, Vietnamese Foreign Minister Nguyen Co Thach and the President's Speical Emissary to Vietnam for POW/MIA affairs, Gen. John Vessey, agreed, on behalf of their governments, to establish a United States POW/MIA office in Hanoi.

I have long thought that such an office would substantially accelerate progress toward the fullest possible accounting of Americans still listed as

missing in action in Vietnam. In numerous discussions with Foreign Minister Thach, General Vessey and State Department officials, I have advocated the establishment of this office, and I am very pleased that the United States and Vietnam have taken this important step forward on the single most important question involved in our relations.

I commend General Vessey and Foreign Minister Thach, and the Governments of the United States and Vietnam, for agreeing to establish this office. As we all know, General Vessey has devoted his whole life to the service of his country. Now, on behalf of his country, he is engaged in a difficult undertaking. He is trying to help a great many American families determine the fates of their fathers, husbands, sons, and brothers. He is a noble man, engaged in noble work, and I salute him.

Foreign Minister Thach, long identified as Vietnam's foremost advocate of improved relations with the United States, has devoted considerable effort to the establishment of this office. In discussions I recently had with him, he assured me that he would do all he could to see that U.S. conditions for the establishment of the office were met. I believe he has kept his word, and he has earned our recognition of his efforts.

The establishment of a U.S. POW/MIA office in Hanoi by no means represents the last stage in the long task of accounting for American POW/MIA's. There remain 2,276 Americans listed as missing in action in Southeast Asia. I accept that some of those missing may never be accounted for, like those men who were lost over water. However, much remains to be done. Many more Americans can and must be accounted for.

There is considerable speculation throughout this country that Vietnam has warehoused the remains of many American servicemen. We expect more cooperation from Vietnam, and I hope this new office will facilitate that cooperation.

There are also a great many POW/MIA families who believe that their loved ones are alive and held against their will in Southeast Asia. I hope the establishment of this office will help them to determine the fates of their relatives.

In meetings that I recently held with Foreign Minister Thach, we discussed at length how this office could best accomplish this objective. I suggested, and he agreed, that in addition to facilitating field investigations and information research, the POW/MIA office should serve as a liaison between the families of Americans missing in action through which the families can make arrangements with the Government of Vietnam to investigate the fates of their loved ones. Many families desire to participate in the resolution of their relatives' cases, and they deserve to be assisted in that endeavor. So, let us put Vietnam to the test and see whether they are, indeed, prepared to allow Americans to search the country for their missing loved ones.

The resolution I have introduced recommends that the POW/MIA office function in this capacity. I believe that this will offer the best opportunity to resolve the lingering questions about whether Americans are still held captive in Vietnam. Additionally, this resolution commends General Vessey and Foreign Minister Thach for concluding this agreement. I believe the Senate should be on record supporting their contribution to the resolution of this issue.

There are several other issues involved in our relationship with Vietnam. But none is as important to Americans as the POW/MIA issue. The closer we are to resolving this issue, the closer we are to closing the last chapter of the Vietnam war, and the closer we are to enjoying normal relations with Vietnam. I look forward to that day, and I am gratified that, with the establishment of the POW/MIA office, we have taken an important step toward its realization.

I urge my colleagues to support this resolution, and join me in recognizing the significance of this moment.

AMENDMENTS SUBMITTED

CONCURRENT RESOLUTION ON THE BUDGET

BRADLEY AMENDMENT NO. 81

Mr. BRADLEY proposed an amendment to the concurrent resolution (S. Con. Res. 29) setting forth the congressional budget for the U.S. Government for fiscal years 1992, 1993, 1994, 1995, and 1996, as follows:

On page 4, line 7, decrease the figure by $1,400,000,000.

On page 4, line 8, decrease the figure by $2,200,000,000.

On page 4, line 9, decrease the figure by $2,600,000,000.

On page 4, line 10, decrease the figure by $2,800,000,000.

On page 4, line 11, decrease the figure by $2,900,000,000.

On page 7, line 13, decrease the figure by $5,900,000,000.

On page 7, line 14, decrease the figure by $2,700,000,000.

On page 7, line 22, decrease the figure by $6,000,000,000.

On page 7, line 23, decrease the figure by $4,400,000,000.

On page 8, line 7, decrease the figure by $5,900,000,000.

On page 8, line 8, decrease the figure by $5,200,000,000.

On page 8, line 16, decrease the figure by $6,000,000,000.

On page 8, line 17, decrease the figure by $5,500,000,000.

On page 8, line 25, decrease the figure by $6,100,000,000.

On page 9, line 1, decrease the figure by $5,800,000,000.

On page 42, line 23, increase the figure by $2,900,000,000.

On page 42, line 24, increase the figure by $1,300,000,000.

On page 43, line 6, increase the figure by $3,000,000,000.

On page 43, line 7, increase the figure by $2,200,000,000.

On page 43, line 14, increase the figure by $2,900,000,000.

On page 43, line 15, increase the figure by $2,600,000,000.

On page 43, line 22, increase the figure by $3,000,000,000.

On page 43, line 23, increase the figure by $2,700,000,000.

On page 44, line 6, increase the figure by $3,100,000,000.

On page 44, line 7, increase the figure by $2,900,000,000.

SIMON (AND BRADLEY) AMENDMENT NO. 82

Mr. SIMON (for himself and Mr. BRADLEY) proposed an amendment to the resolution (S. Con. Res. 29), supra, as follows:

DEFICITS

On page 4, line 7, decrease the figure by $2,700,000,000.

On page 4, line 8, decrease the figure by $4,400,000,000.

On page 4, line 9, decrease the figure by $5,200,000,000.

On page 4, line 10, decrease the figure by $5,500,000,000.

On page 4, line 11, decrease the figure by $13,900,000,000.

NATIONAL DEFENSE

On page 7, line 13, decrease the figure by $5,900,000,000.

On page 7, line 15, decrease the figure by $2,700,000,000.

On page 7, line 21, decrease the figure by $6,000,000,000.

On page 7, line 23, decrease the figure by $4,400,000,000.

On page 8, line 6, decrease the figure by $5,900,000,000.

On page 8, line 8, decrease the figure by $5,200,000,000.

On page 8, line 15, decrease the figure by $6,000,000,000.

On page 8, line 17, decrease the figure by $5,500,000,000.

On page 8, line 25, decrease the figure by $8,900,000,000.

On page 9, line 1, decrease the figure by $13,900,000,000.

KERRY AMENDMENT NO. 83

Mr. KERRY proposed an amendment, which was subsequently modified, to amendment No. 80 proposed by Mr. MCCONNELL to the concurrent resolution (S. Con. Res. 29), supra, as follows:

On page 31, line 2, increase the amount by $50,000,000.

On page 31, line 3, increase the amount by $55,000,000.

On page 31, line 12, increase the amount by $50,000,000.

On page 31, line 22, increase the amount by $50,000,000.

On page 32, line 7, increase the amount by $50,000,000.

On page 32, line 8, increase the amount by $50,000,000.

On page 32, line 17, increase the amount by $50,000,000.

On page 32, line 18, increase the amount by $250,000,000.

On page 38, line 24, reduce the amount by $50,000,000.

On page 38, line 25, reduce the amount by $55,000,000.

On page 39, line 8, reduce the amount by $50,000,000.

On page 39, line 17, reduce the amount by $50,000,000.

On page 40, line 2, reduce the amount by $50,000,000.

On page 40, line 3, reduce the amount by $50,000,000.

On page 40, line 11, reduce the amount by $50,000,000.

SIMON AMENDMENT NO. 84

Mr. SIMON proposed an amendment to the concurrent resolution (S. Con. Res. 29), supra, as follows:

On page 4, line 7, decrease the figure by $1,300,000,000.

On page 4, line 8, decrease the figure by $2,200,000,000.

On page 4, line 9, decrease the figure by $2,600,000,000.

On page 4, line 10, decrease the figure by $2,700,000,000.

On page 4, line 11, decrease the figure by $11,000,000,000.

NATIONAL DEFENSE

On page 7, line 13, decrease the figure by $2,900,000,000.

On page 7, line 14, decrease the figure by $1,300,000,000.

On page 7, line 21, decrease the figure by $3,000,000,000.

On page 7, line 23, decrease the figure by $2,200,000,000.

On page 8, line 6, decrease the figure by $2,900,000,000.

On page 8, line 8, decrease the figure by $2,600,000,000.

On page 8, line 15, decrease the figure by $3,000,000,000.

On page 8, line 17, decrease the figure by $2,700,000,000.

On page 8, line 25, decrease the figure by $5,900,000,000.

On page 9, line 1, decrease the figure by $11,000,000,000.

REID (AND OTHERS) AMENDMENT NO. 85

Mr. REID (for himself, Mr. BRYAN, Mr. SANFORD, Mr. PRESSLER, Mr. KASTEN, Mr. HARKIN, and Mr. HATFIELD) proposed an amendment to the concurrent resolution (S. Con. Res. 29), supra, as follows:

On page 6, line 5, decrease the figure by $3.5 billion.

On page 6, line 6, decrease the figure by $4.7 billion.

On page 6, line 7, decrease the figure by $4.6 billion.

On page 6, line 8, decrease the figure by $4.6 billion.

On page 6, line 9, decrease the figure by $4.6 billion.

On page 6, line 24, increase the figure by $3.5 billion.

On page 6, line 25, increase the figure by $4.7 billion.

On page 6, line 26, increase the figure by $4.6 billion.

On page 7, line 1, increase the figure by $4.6 billion.

On page 7, line 2, increase the figure by $4.6 billion.

CONRAD AMENDMENT NO. 86

Mr. CONRAD proposed an amendment to the concurrent resolution (S. Con. Res. 29), supra, as follows:

SEC. .

Since the deficit has grown from $73 billion to $318 billion and the national debt has grown from $908 billion to $3.6 trillion between 1980 and 1991;

Since last year's budget summit agreement was intended to save $40 billion in fiscal year 1991 and nearly $500 billion over five years;

Since the national economy's growth rate in real terms declined by 1.6 percent in the fourth quarter of 1990 and the unemployment rate has increased 1.2 percent since last August;

Since CBO estimates that the changes in the economy and increased cost of the savings and loan bailout will enlarge the deficit by an additional $540 billion over the life of the budget agreement;

Since interest rates in Germany and Japan are holding steady or increasing, making it more difficult for the United States to lower its interest rates;

Since further reductions in the deficit should be combined with policies to lower interest rates in order to foster stable and long-term growth in the economy.

Declared it is the sense of the Congress that the Budget Committees in conjunction with the administration and the bipartisan leadership should explore and develop a comprehensive, multiyear plan for further reductions in the deficit that would be considered by Congress next year.

SPECTER AMENDMENT NO. 87

Mr. SPECTER (for himself and Mr. LAUTENBERG) proposed an amendment to the concurrent resolution (S. Con. Res. 29), supra, as follows:

On page 21, increase the amount on line 10 by $1,609,000,000.

On page 21, increase the amount on line 19 by $1,390,000,000.

On page 22, increase the amount on line 3 by $1,426,000,000.

On page 22, increase the amount on line 12 by $2,342,000,000.

On page 22, increase the amount on line 22 by $3,786,000,000.

On page 3, increase the amount on line 18 by $1,609,000,000.

On page 3, increase the amount on line 19 by $1,390,000,000.

On page 3, increase the amount on line 20 by $1,426,000,000.

On page 3, increase the amount on line 21 by $2,342,000,000.

On page 3, increase the amount on line 22 by $3,786,000,000.

SPECTER AMENDMENT NO. 88

Mr. SPECTER proposed an amendment to the concurrent resolution (S. Con. Res. 29), supra, as follows:

SEC. .

(a) Findings.—The Congress finds that—

(1) under current law, surpluses in the transportation trust fund, both the highway account and transit account, are included in calculations of the deficit;

(2) the inclusion of the transporation trust fund in the calculation of the deficit creates the illusion that the deficit is being brought into balance through the inclusion of the funds;

(3) the accumulation of the uncommitted balance in these accounts is intended to be used for construction and maintenance of our Nation's infrastructure;

(4) the use of the transportation trust fund for its intended purpose would bolster the economic capacity of the United States; and

(5) the intended purpose of the transportation trust fund could best be protected by excluding it from the calculation of the deficit.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that Congress should enact legislation to exclude the funds within the transportation trust fund from the definition of the deficit.

USE OF LAND IN MERCED COUNTY, CA

BUMPERS AMENDMENT NO. 89

Mr. BUMPERS proposed an amendment to the bill (S. 545) to authorize the additional use of land in Merced County, CA, to technically correct an error in the land description, as follows:

On page 3, line 6, strike "northeast", and insert in lieu thereof "northwest".

NOTICES OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee will hold a full committee hearing on microloan programs for new and growing small businesses. The hearing will be held on Monday, May 6, 1991, at 10 a.m. in room 428A of the Russell Senate Office Building. For further information, please call Patricia Forbes, counsel for the Small Business Committee at 224-5175.

Mr. President, I would like to announce that the Small Business Committee will hold a full committee oversight hearing on small business procurement in the dredging industry. The hearing will be held on Wednesday, May 8, 1991, at 2 p.m. in room 428A of the Russell Senate Office Building. For further information, please call John Ball, staff director of the Small Business Committee at 224-5175.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. FORD. 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, April 25, 1991, at 2:15 p.m. to conduct a hearing on financial modernization.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. FORD. 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, April 25, 1991, at 10 a.m. to conduct a hearing on legislative proposals to reform the deposit insurance system and the commercial banking system.

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

SUBCOMMITTEE ON DEFENSE INDUSTRY AND TECHNOLOGY

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Defense Industry and Technology of the Committee on Armed Services be authorized to meet in open session on Thursday, April 25, 1991, at 9 p.m. to receive testimony on the National Critical Technologies Report in review of the fiscal years 1992–93 national defense authorization request.

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

GOVERNMENTAL AFFAIRS COMMITTEE

Mr. FORD. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Thursday, April 25, at 9:30 a.m., for a hearing on the subject: the effectiveness of the management of asset-forfeiture programs at the Justice and Treasury Departments.

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

COMMITTEE ON FOREIGN AFFAIRS

Mr. FORD, Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, April 25, at 4:30 p.m. to hold a nomination hearing.

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

SUBCOMMITTEE ON WESTERN HEMISPHERE AND PEACE CORPS AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Western Hemisphere and Peace Corps Affairs of the Foreign Relations Committee be authorized to meet during the session of the Senate on Thursday, April 25, at 2 p.m. to hold a hearing on the enterprise for the Americas initiative.

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

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on East Asian and Pacific Affairs of the Foreign Relations Committee be authorized to meet during the session of the Senate on Thursday, April 25, at 10 a.m. to hold a hearing on the prospects for normalization of relations with Vietnam.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on April 25, 1991, at 12:30 p.m. on policy implications of greenhouse warming.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. FORD. 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, April 25, 1991, at 9:30 a.m., for a hearing on the 20th anniversary of the National Cancer Act.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. FORD. 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, April 25, 1991, at 2 p.m., for a hearing on oversight of the Office for Civil Rights, Department of Education.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, April 25, 1991, after a vote on the floor—around 5 p.m.—to vote on pending nominations.

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

COMMITTEE ON ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet in open session on Thursday, April 25, 1991, at 3 p.m. to receive testimony on the fiscal years 1992 and 1993 Defense budget and the future years Defense program in review of the fiscal years 1992–93 national defense authorization request.

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

ADDITIONAL STATEMENTS

A COMMITMENT TO EXCELLENCE

• Mr. SHELBY. Mr. President, I rise today to pay tribute to one of the finest groups of student-athletes in America. The women's gymnastics team from the University of Alabama recently won the 1991 national championship. I am proud to say this is the second championship in the last 4 years for this group competing for my alma mater.

The accomplishments of this amazing team go beyond their impressive athletic achievements. These young women are truly student-athletes. Their team grade point average of 3.2 is a testament to their hard work and the leadership of their coach, Sarah Patterson. Couple this team's distinction in the classroom with their perfect 16–0 team record, and you have a group of student-athletes that is a model for Alabama and all of America.

Mr. President, it is an honor to share some of the immense accomplishments of Coach Patterson and the women's gymnastics team from the University of Alabama with my colleagues in the U.S. Senate.•

A GROUND WATER POLICY FOR RCRA

• Mr. DURENBERGER. Mr. President, I am joining with Senator CHAFEE today to introduce a bill that would amend the Solid Waste Disposal Act to establish a ground water policy for the Nation. This bill doesn't impose any specific requirements on any class of solid waste disposal facilities. It simply articulates a policy.

The bill is prompted by a dispute between the Environmental Protection Agency and the Office of Management and Budget. The 1984 Hazardous and Solid Waste Amendments required EPA to promulgate new criteria for solid waste landfills. EPA has proposed a landfill rule which it sent to OMB. The rule reportedly requires liners to protect ground water at new landfills.

I say reportedly, because the landfill criteria rule has not been made public yet. It has been languishing at OMB for weeks reportedly—and again I point out that we are relying on press accounts here—because OMB objects to the liner requirement. OMB does not see any need to protect ground water from contamination unless that ground water is currently being used as a drinking water source. That is a description of the dispute. Nobody from OMB has stepped forward to correct the record, if it is faulty in any way.

If that is the policy that OMB is espousing, it is completely wrong-headed. Ground water is essentially a nonrenewable resource. Once contaminated, it is extraordinarily expensive to clean up, if cleanup can be achieved at all. It is a precious resource. It is freshwater. It supplies 50 percent of our drinking water. It feeds 30 percent of our rivers and lakes. It makes the deserts bloom and produce food and fiber in major agricultural regions of our Nation.

This bill is intended to state a ground water protection policy for RCRA. To quote the active part, "The Congress hereby declares it to be the national policy of the United States that the quality and quantity of the ground water resources of the Nation are to be protected for the widest range of uses both for this generation and for posterity."

If this policy were already a part of the Resource Conservation and Recovery Act it would be impossible for OMB to maintain that only ground water now used for drinking water should be protected. This bill does not say that liners are required at municipal landfills, but that would certainly be one of the implications, if it were enacted.

The bill also includes several findings that describe the value of the ground water resource.

Most of the ground water we use is near the surface—within one-half mile. The vast majority of communities in the Nation have usable water supplies near the surface. The total volume of America's ground water is 50 times greater than all of the water that flows in our rivers and streams each year. In fact, 30 percent of the water flowing in the rivers and streams is generated by ground water discharged from aquifers, rather than rain water directly.

And it is old. Scotch whiskey is old when it is 12. The rain that produced a typical glass of water drawn from a ground water well today would have fallen to Earth 200 years ago as our Founding Fathers were debating the Bill of Rights to add to the new Constitution. It spent the last 200 years moving from the surface where it fell to the well from which it is drawn.

So ground water is a vast and complex resource that we depend upon. For 117 million Americans—one-half of us—it is the source of our drinking water. In rural areas 95 percent of all households depend on ground water supplies. Fourteen million American homes still have private wells.

As a drinking water resource, there are some characteristics of ground water which set it apart from surface water supplies. First, it is not tested or treated before we drink it.

Major urban areas which use surface water for their drinking water thoroughly treat the water before it reaches the consumer. The water is disinfected with chlorine to kill the biological contaminants and filtered to take out the solids and other pollutants.

Ground water on the other hand—and especially for small communities and those relying on private wells—often goes right to the tap without any treatment. We drink it as we find it.

Second, pollutants in ground water may be much more concentrated than in surface waters. Waters in rivers and lakes move rapidly and pollutants introduced at one point are quickly diluted by mixing with large volumes of water.

But ground water moves very slowly and there is little mixing. A spill of liquid chemicals on the surface or a leak from a landfill or underground tank will create a plume of contaminants which will stay concentrated as it moves through the aquifer.

Where a serious incident of surface water pollution might produce contaminants in the range of 10 or 100 parts per million, the same contaminated may be found in ground water at several thousand parts per million. If you are drinking ground water untreated and you are pumping it from one of those contaminated plumes, the threat to your health may be very high.

Third, it is practically impossible to clean up an underground aquifer once it is contaminated. In fact, despite Superfund and all of the other cleanup programs, no one has ever restored a contaminated aquifer to its original condition.

We have made great strides as a nation in restoring surface water quality over the past two decades. It has cost billions of dollars in Federal appropriations and industry expenditures. But measurable progress has been made. We dare not think, however, that we could do the same for ground water, if it should become widely contaminated by intention or neglect.

So, ground water is often delivered untreated to the consumer. When polluted, the level of contamination may be very high. Once polluted, it is practically impossible to clean up. And it appears that the incidents of contamination are increasing.

Almost all of the discussion of ground water is a public health discussion. It is not surprising that public health is of concern, since half of all Americans take their drinking water from the ground. But 30 percent of all the surface water flow each year also comes from ground water. In the dry periods of the year, some streams and sloughs are fed entirely—100 percent—by ground water. If that supply becomes polluted or is lost through over pumping or because the recharge area was paved over—those springs and potholes fed by ground water will be lost as productive wildlife and natural resources.

Because the public health interest is so strong, the ground water debate has become distorted. There is one faction—a strong faction—which says we should take a "point of use" approach to ground water protection. Just protect those areas that are used for drinking water supplies, these folks say. Those folks apparently include the policymakers at OMB. Let the rest of the ground water be degraded as necessary or by chance so that we might maximize other values like agricultural production or low cost waste disposal for industry. Why protect something we do not use, they ask.

Well, "point of use" does not recognize the current value of ground water to our wildlife and other natural resources. It does not recognize that ground water discharge is the source of so much of our surface water environment. "Point of use" is a strategy to protect the users, not the resource.

And just the current users. "Point of use" does not recognize the value of ground water to the generations who will follow us. May we, without thought for the options available to our children, turn the aquifers of our Nation into underground pools of weed killer, landfill leachate, and industrial run-off?

Because of its nature ground water is not self-cleansing. The contaminants we put down there today will surely be down there for years to come. There are places in Europe where the landfills of the Roman Empire continue to this day to contaminate drinking water wells. When they talk point of use in the ground water debate, very few are thinking about points of time long in the future.

So, we need to counteract that kind of "point of use" thinking, Mr. President. This bill states a simple and clear ground water protection policy for the Solid Water Disposal Act. It says that we will protect the ground water resources. If we live up to this policy, we will surely have the thanks of future Americans for they will enjoy the same pristine and valuable freshwater resource which is our inheritance.●

THE GRASSLEY FREEZE AMENDMENT TO THE FISCAL YEAR 1992 BUDGET RESOLUTION

● Mr. KOHL. Mr. President, I voted not to table Senator GRASSLEY'S amendment freezing spending in discretionary spending programs at fiscal year 1991 levels. I think it is as important to lay out the reasons I did not vote with Senator GRASSLEY as it is to lay out the reasons I did.

I did not vote with Senator GRASSLEY because I believe his approach is a solution to our serious budget crisis. Mr. GRASSLEY'S freeze amendment leaves over half of the Federal Government's spending untouched and unaddressed: entitlement and mandatory spending. We have to attack all parts of the deficit equation at once—discretionary spending, entitlement spending, and revenues—if we are to bring the deficit down. It is no mistake that the biggest deficit reduction agreement ever passed by Congress, last year's reconciliation bill, cut discretionary spending, cut entitlements, and raised revenues. Anyone who looks at the Federal budget numbers knows, that is the only way we are going to achieve any measure of fiscal responsibility.

I did not vote with Senator GRASSLEY because I believe that across the board cuts in discretionary spending are good public policy. In fact, I believe just the opposite. There are certainly Federal programs that can be cut, slimmed down, or even totally eliminated. However, there are also Federal spending programs that must be maintained or

even increased. I supported Senator WIRTH'S "homefront initiative"—an initiative to increase funding in education and health programs. I believe that these programs—these investments in our Nation's youth—have got to be supported even at the cost of eliminating other Federal programs. I support full funding of this Nation's infrastructure needs; I support Federal funds targeted toward the struggling farmers of this country; I support using Federal resources to protect our environment. I believe strongly that these pressing needs must be funded first by eliminating or streamlining other inefficient Federal programs.

The reason I voted with Senator GRASSLEY is that I believe his amendment represents exactly what the American people want from this body. They want us to behave toward our budget as they have to behave toward their personal finances. They want us to look at our growing deficits, our staggering debt, and to say: We are going to have to make do with less money. We are going to have to find ways to do things we want to do—to fund the programs we want to fund—and bring down the deficit at the same time. The American people know, if we have enough political courage, we can do more with less. The Grassley amendment was an honest attempt to force us to do just that. And for that reason, I supported it.•

CHAIRMANSHIP OF JOINT COMMITTEE ON PRINTING PASSED FROM SENATE TO HOUSE

• Mr. FORD. Mr. President, today the chairmanship of the Joint Committee on Printing has, in accordance with the rules, passed from the Senate to the House. I want to wish my successor, CHARLES ROSE of North Carolina, all the best. I want to thank my colleagues, Senators DECONCINI, GORE, STEVENS, and HATFIELD and in the House, Representatives ANNUNZIO, GAYDOS, BATES, GINGRICH, and particularly my ranking minority member, Mr. ROBERTS, for their cooperation and support in reinvigorating this old but worthwhile committee.

Mr. President, in the past 2 years we introduced a program to purchase and use recycled printing and writing papers. This is now a Governmentwide standard. Every agency in Government can now use recycled paper for its correspondence, its booklets, and pamphlets. I am told that in no other commodity covered by the Resource Conservation and Recovery Act will you find so much progress in bringing about government compliance than in the purchase of recycled writing and printing papers. And we have been able to do it at costs lower than the Government had been paying for paper.

Mr. President, oversight is a main function of the Joint Committee on Printing. In the past 2 years I directed the General Accounting Office to carry out its statutory obligation that had lapsed for a number of years and audit the books at the Government Printing Office. GAO also did a comprehensive review of GPO's managerial system and found it weak. Waste of paper and manhours and idle time of equipment were underscored.

The committee held its first series of hearings—one in July and one last January—the first such hearings in recent memory.

With the assistance of the Treasury Department, unreconciled accounts at GPO were identified and with the good offices of the inspectors general of NASA, the Army, HUD, GSA and the Air Force, acting on complaints from the JCP staff, highly inefficient printing practices and techniques were uncovered and are now being corrected.

Several months ago we brought the Public Printer before the committee. With the help of the Secretary of the Senate and the Clerk of the House we reestablished the needs of Congress for accurate and prompt delivery of congressional products, particularly bills and the CONGRESSIONAL RECORD. The Public Printer pledged to resolve internal problems in order to get the job done.

Mr. President, the Government spends on average $3 billion a year on printing. In the past 2 years, the Joint Committee has cut printing costs and equipment requests by just under half a billion dollars. The committee staff has been rigorous in holding the line on printing-related equipment and when asked by agencies for permission to use expensive printing techniques and high cost papers—I have said no. When that was not understood, I have made the words plainer and stronger.

Moves to have the taxpayers pick up the tab for individual business cards for the bureaucracy have been squelched—a minor cost per individual but multiplied by the numbers of men and women in government, the dollar amounts would be astronomical.

The committee's own publications have been used to set examples. Printing costs for the Congressional Directory which is required by law, have been cut in half. But our publications are not suffering from cost reductions. One book I am particularly proud of and joined Representative FRANK ANNUNZIO in sponsoring—the book, "Our Flag," has been awarded a first prize by the National Association of Government Communicators.

In summary, Mr. President, I feel some progress has been made by the Joint Committee in the past 2 years in focusing on the Government's printing problems but much more work lies ahead. This is an important transition period in government communications—a real challenge for all of us including our new chairman and those of us serving on the Joint Committee on Printing.•

COMMENDING DR. STEPHEN L. HENRY, UNIVERSITY OF LOUISVILLE

• Mr. MCCONNELL. Mr. President, the welfare of our troops who participated in Operation Desert Storm is of paramount importance to our country. Today, I would like to share with my colleagues the contributions Dr. Stephen L. Henry and his fellow researchers at the University of Louisville have made to their well being.

Over the past 8 months, local newspapers repeatedly detailed Dr. Henry's tireless efforts to seek ways to assist our soldiers, especially those who faced the horror of combat. From the research of antibiotic beads to the donation of $2 million worth of Hoffman's External Fixateurs, it is clear the welfare of our troops is a top priority to Dr. Henry and his colleagues.

Perhaps the most touching article I read was of Dr. Henry's rehabilitation work with Sgt. Hilbert Potter, a soldier who lost his leg to friendly fire on February 25. I think all who read the article share Dr. Henry's optimism and Sergeant Potter's determination. Both are brave Americans deserving of our highest thanks and praise.

Mr. President, I ask that two articles from the Courier Journal be inserted in the RECORD at this point.

The articles follow:

[From the Courier-Journal, Mar. 27, 1991]

"FRIENDLY FIRE" COST HIM HIS LEG, BUT SERGEANT PUT HIS ANGER ASIDE

(By Lawrence Muhammad)

"Friendly fire."

Like "collateral damage" and "killing zone," it's part of the military venacular brought home by the Persian Gulf war.

But Hilbert Potter, a U.S. Army sergeant, knows exactly what it means.

Potter's right leg had to be amputated after he was wounded Feb. 25 by machine-gun fire from a tank in his own regiment.

"I was angry at the whole situation," said Potter, 30, who is in the physical therapy ward of the Veterans Affairs Medical Center in Louisville. "But after I got in the hospital, I thought about it and decided I couldn't blame anybody. Accidents happen."

Potter, who is from Easton, Md., and who joined the Army in 1984, had been based at Fort Knox before the war.

Once in battle, the six-man squad of combat support engineers that Potter commanded wound up guarding Iraqi prisoners for the 2nd Armored Calvary Regiment instead of performing its assigned duty of searching out booby traps and mines.

As the battle raged in the distance on Feb. 25, Potter said, "you could see big balls of fire exploding across the desert when a tank got hit, then 50 or 60 Iraqi soldiers pop up and come running toward us."

Attacked by Iraqis while guarding about 70 prisoners that night, he and the squad drove their personnel carrier farther behind allied lines but into a mortar round that turned the driver's side into a ball of fire, killing the driver.

Potter said he and the five remaining soldiers poured out of the flaming vehicle, with rounds flying overhead in all directions.

Bellies in the sand, Potter said he and the squad lay praying for 20 minutes in the darkness that they wouldn't get hit or crushed.

"Then here comes this American tank," he said. "It was so close I could see it even in the dark, clear as day. The wheels were squeaking and the ground was shaking so I just hoped it wouldn't run over us."

Surprisingly, the tank halted, then trained its machine guns on the squad and fired.

"Two of my soldiers stood up and yelled out, 'Don't shoot! We're Americans!'" Potter said. "I could hear the rounds go right through them. My other guys were hollering, 'I'm shot! I'm hit.'"

After about a minute, the tank pulled away, leaving two men lying dead. Two others were wounded in the ankle and leg; Potter was hit in the buttocks, shoulder and right leg.

Potter said he used his rifle sling as a tourniquet, but he knew then he would lose his leg. "I tried to move the toes in my right foot and couldn't."

Potter and the survivors slept in trenches; medics rescued them the next morning.

But the same advances in technology that destroyed Potter's leg will help give him a reasonably reliable facsimile, said Stephen Henry, his doctor. "Technology in artificial limbs is very comparable to what they're doing with weaponry in the military." Henry said. "It's very sophisticated. Walking, jogging, even playing tennis and other contact sports are certainly not out of the question for him."

Meanwhile, Potter who plans to make a new home in Louisville with his wife, Joy, is awaiting the decision of the Army medical board on whether he can continue in his chosen career.

If he is discharged, he says he will work and study to get his degree in engineering.

But "I'd prefer to stay in the military," he said.

[From the Courier-Journal, Jan. 10, 1991]

U OF L RESEARCHER'S WORK MAY HELP INJURED SOLDIERS

(By Gideon Gil)

If war breaks out in the Persian Gulf, experimental drug-filled beads developed by University of Louisville researchers may be used to reduce infections and the need to amputate the limbs of U.S. troops with serious bone fractures.

Strings of the pea-sized beads, made by mixing powdered antibiotics with bone cement, are packed around a broken bone to deliver infection-fighting drugs directly and fill up "dead space" in which bacteria can flourish, said Dr. Stephen L. Henry, an instructor of orthopedic surgery at U of L who has worked on the beads for seven years.

Henry said experience with the beads in hundreds of patients with severe fractures comparable to war wounds—where skin, muscle and blood vessels are destroyed—has shown that the infection rate has been cut in half compared to patients given antibiotics injected intravenously.

The Navy became interested in the beads in the past year and a half and awarded a $905,959 three-year contract to a Louisville company in September to test them on patients, find a manufacturer and win approval for widespread use of the beads from the U.S. Food and Drug Administration, Henry said.

As the prospect of war has become more real, Henry said, the Navy has pushed the U of L team and Kentucky Medical Research and Development Inc., the local company coordinating the project, to speed up their work. And the Navy has promised to seek expedited FDA review of the beads.

Henry said the beads could be used to treat wounded soldiers transported to the Louisville Veterans Administration Medical Center, one of 22 in the country that have been selected to receive Operation Desert Shield casualties.

That treatment could begin as soon as a month from now, after tests of the beads' safety are conducted in 50 patients. Those tests, in which the beads will be inserted into the wounds of civilians with broken bones, are to start within a week, he said.

Desert Shield casualties would arrive at the Louisville VA hospital within four days of being injured, hospital spokeswoman Pam Ilnick said.

Desert Shield victims would be treated as part of the second phase of testing, during which 100 patients will be treated with the beads and 100 with current anti-infection treatment using intravenous antibiotics.

Henry said a Navy official this week also raised the possibility that the antibiotic beads could come under a waiver that the FDA granted the Defense Department last month to use experimental drugs to treat troops in the battlefield without obtaining the soldiers' consent.

Henry said the beads are easy to manufacture—a pharmacy can make them using commonly available antibiotics and bone cement—but because they are not yet being mass-produced, the beads could not be used immediately on a large scale.

"But once they (the Navy) decide they're going to do something, they've got the manpower to produce it" in a matter of months, he said.

Infections affect 20 percent to 25 percent of patients with severe bone fractures of the type received in battle, and as a result, 10 to 15 percent of patients with severe fractures of the tibia—the shin bone—eventually lose the limb, Henry said.

Henry, who works with Dr. David Seligson at U of L, said treatment with intravenous antibiotics sometimes fails because damaged blood vessels prevent adequate amounts of the drug from reaching the wound. In addition, the blood carries antibiotics to the kidneys and ears, where they can cause damage.

With the beads, however, the levels of antibiotics in the wound are 20 to 40 times the levels achieved with intravenous therapy, Henry said, and because the drug is not in the bloodstream, little reaches the kidneys and ears.

Henry said that the beads have been used in more than 2,500 patients in the past seven years and that none experienced bad reactions. He noted that he treated seven victims of the 1989 Standard Gravure shootings in Louisville with beads, and not one suffered a bone infection.

Henry said the beads could prove invaluable at a battlefield hospital, because when packed into a wound that is temporarily wrapped with an adhesive plastic the beads can help prevent infection for three days to a week—enough time for injured troops to be transported to hospitals for surgery.•

THE MOYNIHAN AMENDMENT TO THE FISCAL YEAR 1992 BUDGET RESOLUTION

• Mr. KOHL. Mr. President, I want to commend my colleague, the Senator from New York, for forcing the Senate to look at a terrible injustice: the overwhelming burden of payroll taxes on lower and middle-income working people.

The Senator from New York is absolutely correct when he says these working men and women deserve a tax break. Between 1977 and 1988, the income of the average family actually decreased by over $1,000. The income of a family in the top 10 percent of income earners, on the other hand, went up almost $17,000, and the income of a family among the richest 1 percent in this Nation went up, on average, over $134,000. The tax cut decade of the 1980's provided a windfall to the rich financed with tax dollars from the middle class.

Payroll taxes lay at the heart of this injustice. Most middle-income taxpayers owe payroll taxes on 100 percent of their income; most wealthy taxpayers owe payroll taxes on less than 25 percent of their income.

Cutting payroll taxes would set right two powerful wrongs. It would give working people a deserved and needed tax break. And, it would make more fair our increasingly unfair Tax Code.

However, I cannot support a payroll tax cut that is funded by bankrupting the Social Security system—and that is what the Moynihan amendment proposes. Currently, the Social Security system has enough in reserve to pay only about 10 months of benefits—that is, a reserve equal to 81 percent of annual expenditure. In the judgment of almost all economist and experts—most notably, Robert Ball, the Commissioner of Social Security between 1962 to 1973—the current level of reserves is not sufficient to guarantee the solvency of the Social Security program. Experts believe that a reserve of around 18 months—or at least 125 percent—is necessary to ensure that the Social Security fund can meet its obligation to retirees.

It is important to remember that, at the beginning of the 1970's, the Social Security system had a reserve balance of more than 100 percent. Yet, if Congress had not acted to shore up the fund in 1977, the economic fluctuations of that decade would have bankrupted Social Security. I do not think anyone in the Senate, or anyone in this Nation, wants to relieve the panic of 1983 when the Social Security system was so close to broke that there was uncertainty as to whether the Government was going to be able to send out its checks.

The argument has been made that, since the Social Security reserve is held in Treasury bonds—really IOU's from the Federal Government—it is worthless. It is simply masking the Federal deficit. These points are important and need to be clarified.

First, it is true that dishonest bookkeeping had, until this year, allowed us to use the surplus to hide the size of

our deficit. But last year I, along with the leadership of this body and many of my colleagues from both sides of the aisle, introduced legislation to take Social Security off-budget—to keep it from hiding our fiscal irresponsibility. That legislation passed. Social Security is off-budget.

Second, it is not true, as some argue, that the Social Security system will be equally safe whether we hold the Social Security reserve in Treasury bonds or give it back to payroll taxpayers. At present, if the Social Security Administration needs more money than anticipated to meet its obligations, it cashes in some of the reserve Treasury bonds. That is an easy financial transaction that takes no special action by Congress, the President, or any other political organization. However, if we give this reserve away as Mr. MOYNIHAN suggests, and it turns out the Social Security Administration needs that to pay benefits, the administration must go to Congress and ask for a tax increase. That is not an easy transaction. And it is not certain Congress would act—and act on time.

Mr. President, working people need a tax break. Working people deserve a tax break. Working people are not treated fairly under this Nation's tax system, and that is a disgrace. But working people do not need a tax break that is funded by threatening their own retirement.

I challenge the Congress and the President to find a way to give working people their due. But I urge my colleagues not to do so by robbing these same people of their retirement security. Middle-income families paid for the enrichment of the rich during the 1980's. We cannot also ask them to pay for the payroll tax cut that is supposed to even the score.●

COMMEMORATING THE FIFTH ANNIVERSARY OF THE ACCIDENT AT CHERNOBYL

● Mr BRADLEY. Mr. President, April 26, 1991 marks the fifth anniversary of the accident at Chernobyl in Ukraine. I rise today to speak about the suffering the accident caused and the deceptive response of the Soviet Government and to highlight the efforts of a few groups and individuals to ease the suffering and change the system that caused it.

The accident created not only great immediate suffering in the Ukraine, but will have tragic effects for many years and generations. Soviet authorities have said 31 people died as a direct result of Chernobyl, the actual number is estimated to be close to 500. Worse, more than 4 million people continue to live in the dangerously contaminated Chernobyl region, and continue to be exposed to an unsafe level of caesium-17. More than 2,000 square kilometers of Belorussia, 640 square kilometers in Ukraine, and 310 square kilometers in Russia have been identified as contaminated by more than 40 curies per square kilometer, many more thousands of square kilometers are unacceptably tainted. The tragic result is alarmingly high rates of cancer, leukemia, diminished immunity, and genetic effects.

The Soviet Government has been inexcusably remiss in fulfilling its responsibilities to the affected people and the world. Most residents of Ukraine, Belorussia, and the affected portion of the Russian Republic did not know about the continuing danger until March 20, 1989, when the information was published in a Soviet newspaper.

While the Soviet Government has not responded to the needs the victims, individuals and private American voluntary organizations have reached out to help. One of these groups is the Children of Chernobyl Relief Fund, which is based in New Jersey. Their tireless efforts have eased the suffering of the most innocent victims of Chernobyl. CCRF has brought Ukrainian children to summer camps in the United States, arranged for medical care in the United States, and, most recently, arranged for the transport of $3.5 million worth of donated medical supplies and equipment, including an ultrasound machine, a pediatric intensive care unit and a blood cell analyzer to hospitals in the Ukraine.

Another group, Americans for Human Rights in Ukraine has not only provided assistance but fought for political change in the region. Based in Newark, NJ, AHRU was founded in 1980 to defend human rights in the Ukraine. Since the accident, they have worked closely with Zeleny Svit, a Ukrainian ecological group, to get the truth about Chernobyl out of the Soviet Government and into the American one.

These groups represent the best of American values and response to crisis; they are compassionate, they identify real needs and find solutions, they establish relations with democratic political units and their actions foster civil society where it has long been repressed.

Mr. President, the last 5 years have been ones of great change in the Soviet Union, and ones of great suffering in the regions affected by Chernobyl. As we remember the suffering and commemorate the victims, we should also remember the groups and individuals in the United States, Ukraine, Belorussia, and Russia that have helped the victims and are trying to change the system that caused the accident.●

CHERNOBYL CONTINUES TO WORSEN

● Mr. DIXON. Mr. President, I rise before you today to call attention to perhaps the greatest environmental disaster facing the world today. It was 5 years ago this week that a nuclear reactor at the Chernobyl powerplant in the Soviet Ukraine went out of control, causing its uranium core to melt down. The entire world continues to be affected by its radioactive fallout, especially the Ukraine and neighboring Bielarus. The Soviet Government has repeatedly lied and covered up about the disaster and the cleanup, and it now admits that not nearly enough was done.

The facts are well known. Nearly 5 million people live in areas of the Soviet Union where the food, land, and water are contaminated. Much of the land in these areas is considered the world's most fertile.

Eighty percent of the children in these regions suffer serious health problems. Thousands of people have died, and many more will die from diseases related to nuclear fallout. Nearly 200,000 people have been evacuated, and another 200,000 are still awaiting relocation. Tens of thousands of people are severely ill, and strange human, plant, and animal mutations continue to occur.

Despite glasnost, the Soviets have yet to fully disclose, especially to their own people, the extent of human and environmental damage from this catastrophe.

The Soviet Government hastily encased the remains of the nuclear power station in a giant sarcophagus of concrete and steel. Now, however, this coffin is crumbling under its own weight. Most importantly, huge cracks have developed, emitting radiation 375 times higher than before the accident. And amazingly, other reactors at Chernobyl, as outdated and unsafe as they are, continue to operate. The Soviet scientists are unsure how to dispose of the 135 tons of nuclear fuel that will remain dangerous for centuries.

Mr. President, the Soviet Government needs to do much more. The millions of victims of Chernobyl need immediate special attention. Earlier this year, the Ukrainian Supreme Soviet Ecology Committee approved legislation designed to overcome the effects of the nuclear accident. The Ukrainian Parliament has stated that if the Soviet Government does not finance the aid package for medical help resettlement assistance, and compensation for material damage, then Ukraine reserves the right to subtract the necessary funds from its contribution to the all-Union budget.

I am pleased to say Western organizations, such as the Children of Chernobyl Relief Fund, Project Hope, with the help of the U.S. Government, Greenpeace, and others, have taken the lead in relief efforts. The World Health Organization endorses an international plan to aid victims of Chernobyl by setting up a center for radiation-induced health problems near Moscow. How-

ever, the Soviet Government can, and must, do much more.

I would hope that the Soviet Government would take notice of the efficacy of these plans by appropriating the necessary funds to make the cleanup of Chernobyl and its fallout a priority. It is not hyperbole to suggest that the future of millions of people worldwide depends on it.•

THE PLIGHT OF THE KURDS

• Mr. LIEBERMAN. Mr. President, the news of Iraq's Kurdish population continues to be grim. It is being reported that 500 Kurdish refugees are dying each day along the Iraq-Turkey border.

Such horror is a searing reminder of the brutality of Saddam Hussein, the evil force behind this disaster of Biblical proportions.

As grave as the situation is for the 850,000 Kurds near the Turkish border, the life and death struggle may be worse for the 1.5 million Kurds near Iran. We do not know how many Kurds die along that border each day. We can only imagine that the tragedy must be great.

And the future of Shiite refugees in southern Iraq, protected up until now by United States forces, is in some doubt, as reports surface about Iraqi secret police amassing lists to hand over to Saddam's military forces. Will they, too, die, as the American military shield is withdrawn?

It is likely many refugees now dead would be alive today had the international community, including the United States, acted more quickly in response to their plight, if we had stopped the horrific slaughter of innocent life in the aftermath of the gulf war through a series of air strikes against helicopter gunships and tank columns, for example. The act, while not necessarily tipping the strategic balance of power in favor of dissident forces in Iraq, would have saved many civilian lives, and might have prevented the wholesale, panic-driven flight of Kurds to the Turkish and Iranian borders.

But we cannot remake the past, no matter how recent it is. We can only deal with present reality. The President has begun to act on behalf of the Kurdish refugees, and that is a positive sign. We are establishing camps where their immediate needs can be met. More and more food and other supplies are being airlifted in. The death rate should continue to fall.

But there is more to do. We must continue to explore ways to help those Kurds situated near the Iranian border. The administration is pursuing discussions with Iran, through Swiss intermediaries, about how we can help. Those discussions should be speeded up, so that we can lead an international effort to supply the desperate Kurds, despite our longstanding problems with the Iranian regime. The scope of this disaster is so great that it overwhelms the politics of international relations. We do not abandon our legitimate concerns about Iran's Government by acting to help feed, clothe, shelter, and heal hundreds of thousands of Kurds displaced by the tyranny of Saddam Hussein. Perhaps cooperation in this humanitarian effort can even help close the gap between Washington and Tehran, and help us solve the hostage crisis in Lebanon. Nonetheless, we have a moral responsibility to do more to help the Kurds, and that responsibility should drive our policy in the days and weeks ahead.

We must also plan for the security of the Kurds over the long term. We cannot simply set up tent cities, move the Kurds in, and then leave without in some way safeguarding their lives against a renewed murderous rampage by Iraqi forces. Already there are scenes of so-called Iraqi police hovering nearby the new camps. What will they do if and when we leave? Will a U.N. peacekeeping force be sufficient protection against the might of Saddam's military? The international community, led by the United States, must outline our policy regarding the protection of the Kurds from renewed attacks by Saddam more clearly. The President has acted properly by ordering armed Iraqi forces from the neighborhood of our safe haven, but we need to ensure they will not easily return once we are gone.

We must also recognize that safe havens—even if we make them truly safe—are but temporary solutions. The Kurds deserve safe passage home, where they have beds, clothes, food, work. It should be our goal to help them go home in peace.

I suspect that will not be possible until Saddam Hussein and the Baathist regime are out of power. There is no room for cosmetic or symbolic changes. American policy must be clearly enunciated: President Bush must say loudly and unmistakably that we want Saddam and all his men gone from power in Iraq.

To this end, we should change our overly timid policy toward the Iraqi political exile community. In the past, out of fear of offending Saddam, we avoided contacts with these exiled leaders. It was only this month that the State Department met with them to discuss political issues, as opposed to strictly humanitarian concerns. Such contacts should continue and be broadened. We must encourage the creation of the next generation of Iraqi leadership—leaders who will seek to establish democracy, a free market economy, and respect for human rights within Iraq. We can also back up our support for Iraqi rebels with actual commitments of arms and funding. We gave them so much verbal support in months following Saddam's invasion of Kuwait that they rose up against Saddam, only to find the depth of our support skin deep. If we truly want Saddam's regime overthrown, we must do more than say so; we must take all reasonable actions necessary to bring it about. To do so is not only in America's interest: it is in the interest of the community of nations, and the people of Iraq itself. The news that Saddam has reached an accord with some Kurdish leaders is being welcomed in some quarters. But I remain deeply suspicious of Saddam's intentions, as I am sure many Kurds do, too. I simply do not trust him. We cannot rely on his word as we formulate and apply America's foreign policy regarding Iraq.

Regarding contacts with members of the Iraqi regime, we must make clear that we will have no normalized discussions with them. As long as we continue to control Iraq's airspace, we can continue to tell Iraqi officials what they can and cannot do with their oil and their military. That is a policy of common sense when one accepts that Iraq's rulers are terrorists, not legitimate officials. Truthfully, many of them belong in the dock of international war crime trials, and we should keep that uppermost in mind every time we must have contact with them.

Our embargo of Iraqi exports and imports must continue as long as Saddam's regime. The sanctions were not a weapon strong enough to force Saddam out of Kuwait, but their continued application can serve as a signal to Iraq that we will not tolerate Saddam's rule. The more we make life easier for Saddam, the stronger he will become. There is a news report that Saddam would like the prohibition on oil exports lifted in time for his 54th birthday. That is one birthday present I don't believe we should be giving Saddam Hussein. I urge the President to use America's veto power to stop any attempt to let Saddam get his birthday wish.

Beyond the use of sanctions as a weapon against Saddam, we must retain our air supremacy and use it to coerce proper Iraqi military behavior toward civilians under their control. As we leave southern Iraq, we must be prepared to respond quickly to any reports of atrocities committed in our absence. If we leave northern Iraq, the threat of air strikes against any armored movements against civilians must remain. An umbrella of American air power must exist over Iraq as protection against the slaughter of innocent lives. It is not an easy task; it comes with some risk. But it is an obligation we must undertake if we are to remain true to the principles which moved us to take arms against Saddam's forces in Kuwait.

Humanitarian aid for Kurdish and Shiite refugees. Military protection of their lives against Iraqi army aggres-

sion. Continued control of Iraqi airspace. Continued prohibition against Iraqi imports and exports, with minor exceptions to provide essentials for the health of Iraqi citizens. More diplomatic, economic, and military support for Iraqi rebels. And an unwavering commitment to the removal of Saddam Hussein and his henchmen, and to their trial for war crimes.

That is the stay-tough policy America needs. That is the policy I urge the administration to adopt, in the national interest. For our national interest extends beyond the narrow calculus of material gain and political or military advantage. It extends to the restoration of international morality, to the destruction of evil forces that threaten the stability of a civilized world. The total destruction of Saddam's regime in Iraq is the one truly humanitarian act that Americans, Iraqis, and people of conscience throughout the world, want to see accomplished.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 for Darwin Cusack, a member of the staff of Senator SMITH, to participate in a program in Taiwan, sponsored by the Tamkang University, from April 29 to May 5, 1991.

The committee has determined that participation by Mr. Cusack in the program in Taiwan, at the expense of the Tamkang University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Therese Delgadillo, a member of the staff of Senator SEYMOUR, to participate in a program in Taiwan, sponsored by the Tamkang University, from April 29 to May 5, 1991.

The committee has determined that participation by Ms. Delgadillo in the program in Taiwan, at the expense of the Tamkang University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Christopher Frenz, a member of the staff of Senator SARBANES, to participate in a program in Germany, sponsored by the Hanns Seidel Foundation, from May 11 to May 18, 1991.

The committee has determined that participation by Mr. Frenz in the program in Germany, at the expense of the Hanns Seidel Foundation, is in the interest of the Senate and the United States.●

AFFECTING CHANGE IN THE SOVIET UNION

● Mr. LIEBERMAN. Mr. President, the Soviet Union is moving from crisis to chaos to collapse. Rumblings of coups, secessionist riots, and imperial crackdowns are reported almost daily in the press. Soviet leadership is ephemeral, moving left, right, then teetering at the center.

But amidst this turmoil, this collapse, there are signs of hope. Democrats are finding their voice. The successor generation to the present Soviet leadership is not talking about whether a market economy is the way of the future but how it can be implemented. The role of the West in aiding the Soviet people toward the promised land of capitalism and democracy is unclear. What makes it so is both the present economic and political confusion within the Soviet Union and the absolute necessity that the Soviets make the decision to leave communism on the ash heap of history on their own.

Yet, the West cannot afford to sit idly by and allow this window of opportunity for change in the Soviet Union to close on Soviet democrats and capitalists. To turn an essay by Lenin on its head, "Shto Delat?" or "What Is To Be Done?" to aid the Soviet people.

There are no definite answers to this conundrum. Aiding the Soviets could serve only to prolong the agony of the Soviet people by propping up the current regime. On the other hand, aid or the promise of aid conditioned on the Soviet leaders making certain, dramatic and permanent changes regarding the economy, the political system, and the undeniable rights of the republics.

And while I say that there are no answers to the difficult question of what we in the West can do about the Soviet Union, I believe that we must at least consider various alternatives. Dr. John Hardt, the Associate Director of the Congressional Research Service, and one of the Nation's leading experts on the Soviet Union, particularly the Soviet economy, recently delivered testimony before the House Appropriations Subcommittee on Foreign Operations, chaired by Representative DAVE OBEY, outlining options that the West might pursue in trying to affect change in the Soviet Union.

While some may differ with Dr. Hardt as to whether his suggestions are the most appropriate, there can be no denying that his analysis deserves our careful consideration and attention.

I am submitting John's fine testimony for the RECORD so that my colleagues will have an opportunity to study it. I, therefore, ask that a copy of Dr. Hardt's testimony be printed in the RECORD.

The testimony follows:

TESTIMONY FOR HOUSE APPROPRIATIONS SUBCOMMITTEE ON FOREIGN OPERATIONS; EXPORT FINANCING AND RELATED PROGRAMS, APRIL 23, 1991

(By John P. Hardt, Associate Director and Senior Specialist in Soviet Economics)

SUMMARY

Fundamental economic and political reform and continuation of "new thinking" in foreign policy appear to be the preconditions for substantive assistance from the international agencies and governments of the West to the Soviet Union. These in turn are essential for creating an environment conducive to substantial direct investment and technology transfer from private Western enterprises. Investment and joint ventures with Soviet oil and gas enterprises are especially relevant to a critical turnaround in Soviet performance and profitable investments for Western enterprises. Effective Western assistance could provide the impetus, resources and discipline necessary for coping with the economic crisis in the Soviet economy.

Moreover, positive economic performance could revive the process of perestroika, and lend some measure of legitimacy to the leadership engaged in fundamental reform. While no easy or painless solutions are available for a transition from a command economy to a pluralistic market system, if comprehensive and simultaneous actions in a number of areas necessary for fundamental reform are undertaken there is credible potential for improvement in performance. An early commitment to threshold changes in such a comprehensive economic reform program is critical.

Several recent studies of the Soviet economy indicate a consensus on the preconditions or threshold changes that might provide the conditional basis for substantive Western support.[1] If the level and structure of support that would be forthcoming were made more explicit by the Western institutions, the incentive to adopt fundamental reform and extend new thinking in foreign policy might be greatly enhanced. The conditionality of such assistance, and greater certainty of its availability, might provide the basis of trust and confidence which is currently absent in those who must consent to the rigors of change. Moreover, this reform environment might well encourage significant foreign investment. In this process a unique opportunity and obligation may fall to the United States.

I. WESTERN AID AND PRECONDITIONS

In the summer and fall of 1990 major Western and Soviet studies were undertaken to meet the urgent needs of assessing and making prescriptions on the failing Soviet econ-

[1]The Economy of the USSR, a study undertaken to respond to a request by the Houston Summit, *Summary* and *Recommendations: A Study of the Soviet Economy*, Volumes 1, 2, 3, prepared by the International Monetary Fund, World Bank, OECD, EBRD, December, 1990 and February 1991; European Economy, Stabilization, Liberalization and Devolution, Assessment of the Economic Situation and Reform Process in the Soviet Union, European Community, December 1990.

omy. The assessments and prescriptions were generally consistent. Each identified deepening crises in the monetary system, productivity, a need for the availability of goods and services, the quality of life, foreign economic relations, trust and confidence in the government external assistance.[2] While there was general agreement that significant or fundamental reform was necessary and would be a precondition of substantial assistance, the Soviet regime under President Gorbachev retreated to a policy of ineffective economic measures to address the urgent problems and returned to reliance on the old institutions of power including the command economy bureaucracy, and the Party nomenlatura. These measures have proven to be counterproductive once again, and illustrated anew that half measures, in a "socialist market", would not only be inadequate but have adverse effects on performance. As critical economic indicators are turning down, such as the value of the ruble, industrial output, measures of the quality of life, and foreign commerce, a regime-threatening environment due to poor economic performance becomes increasingly evident. As the social contract of public consensus on economic policy and federative relations is likewise approaching regime-threatening levels, fueled by a lack of trust, rising ethnicity and hostility to central leadership, the traditional options of "muddling through" or return to dictatorship seems to have been exhausted and discredited.

One expression, in general terms, of the situation which must exist to unleash more Western support was contained in the testimony of Robert B. Zoellick, counselor to the Secretary of State, before the Senate Foreign Relations Committee.

"We should try to persuade Soviet leaders that a reliance on the methods of the old power system will create unintended consequences that move them away from the very objectives they seek. Both efficient market economics and stable democratic politics depend on public confidence that government and the public will operate according to a set of generally understood rules. Arbitrary assertions of government power threaten such a rule-based system. It is in our interest to urge all parties in the Soviet Union to create and abide by such rules. Their own processes, operating within those rules, will have to establish the legitimacy of relations between the Center and the republics, and between governments and the people." (underline added)[3]

It has been argued, in effect, that the requirements of fundamental reform necessary to elicit Western assistance are those same requirements necessary to sustain the process of perestroika and the leadership supporting that process.[4] The concept of perestroika not only addresses the need for fundamental economic reform, but political pluralism and the rule of law at home and "new thinking" abroad. The political aspects of perestroika would rule out the use of force and coercion, such as what occurred in the Baltic states, and encourage continuation of new foreign policy initiatives toward arms agreements (CFE and START) and resolution of outstanding regional issues such as the Northern Territories, (Kurile Islands) north of Japan, and pursuit of a new order in the Middle East.

II. THRESHOLD CONDITIONS IN FUNDAMENTAL REFORM

There is a broadening consensus in the West and among fundamental reformers in the Soviet Union that while the program of transition to the market should be comprehensive and simultaneous, some more dynamic initial steps should be made in the first stage. By meeting these threshold conditions, the process would have a better chance of success with less pain and the process would be made relatively irreversible. Let us summarize some major aspects of a comprehensive and simultaneous program with indications of some thresholds:

Monetary Stabilization: The currency should be internally convertible and anchored to some convertible currency to establish the basis of eventual full convertibility. Some initial allowance for profit repatriation may also be necessary to attract foreign investment. Price liberalization should be initiated as part of a stabilization program; wage controls may also be required.

Privatization: Prior to dispersal of assets (enterprises, land, dwellings), an intermediate step of destatization is necessary to shift ownership from the state, party command economy bureaucracy to a holding facility such as joint stock companies; subsidies would end and with corporatization enterprises would no longer be bailed out by adoption of a "hard budget consraint," and unproductive or clearly noncompetitive capacity would need to be dispensed with through restructuring. Initiation of a contract system and foreign investment law could provide a basis of legal security. Social values might be addressed by environmental health or infrastructure programs. This initial stage would clear the way for more efficient, expeditious, and equitable dispersal of assets that might take decades to fully implement.

Social Pacts: Economic programs must be made with some degree of consensus between the central government and the populace in order to make judgments on difficult tradeoffs more sustainable and to allocate economic powers from the center to the republics and localities. The parliamentary or other elective body responsibility is critical in establishing a social pact or consensus on difficult choices affecting income, employment, price stability and other conflicting policy objectives.

A common market for economic relations with a substantial degree of political independence, possibly including secession, would seem to be the most viable federative pact. This adjustment of the centrifugal political and centripetal economic forces, would seem to be desirable within a model such as the Common Market post 1992 approach. This model is generally in line with the Shatalin program, the draft Union-Republic Treaty, and views of many outside experts. The center would have authority in monetary, budgetary, commercial, and resource control consonant with an integrated common market, but would share with Republics most other powers. The center might focus on early and more detailed agreement with the "core" republics (RSFSR, Ukraine, Belorussia and Kazakhstan), with looser arrangements with the periphery. This need for a "common market" approach is well stated in the Yale report:

"The Soviet Union now has a large market with a common currency and almost 300 million people in its boundaries. Thus it already has the unified market that has been so successful in America and has taken Western Europe decades to achieve. The forces of separatism, now so pervasive, threaten to destroy it. Trade barriers would be particularly costly for the Soviet Union because its plants and facilities have been built on the basis of geographic specialization and exchange across the unified market. All of the republics have a large fraction of their economic activity dedicated to interrepublic trade."[5]

Viable Market Institutions. An independent central bank and the beginnings of a commercial banking system are necessary for implementing an effective stabilization program, exercising monetary discipline, fostering development of a capital market and mechanisms for establishing a real interest rate by market forces. Privatization and the means for establishing social pacts likewise require new market oriented institutions responsive to the elected political institutions.

A transitional privatization unit that could assure that the processes of destatization, corporation and technical restructuring might be effectively followed by an equitable and efficient dispersal of assets would be important. The privatization agency would need to rigorously adhere to professional standards while being responsive to the political process. It should be noted in defense of the German Treuhandanstalt and privatization agencies in central European countries, that no historical experience offers a sufficiently relevant model and many of the decisions in the longer process of privatization must perforce be "Solomon like".

Accurate information needs to be collected by a professional economic statistical unit generating sufficient, reliable information for informed economic policy judgments in a developing market environment.

III. ROLES OF WESTERN ASSISTANCE

The Bretton Woods institutions (IMF, World Bank) and other market oriented international agencies (OECD, EBRD) have the dual roles of supporting the transition, including a comprehensive and simultaneous Soviet reform program with emphasis on the initial threshold requirements, and making the assistance conditional on compliance with those specific performance criteria. Holding to objective principles professionally agreed to and mandated by organizational charters, should be coupled with the democratic political processes. There needs to be a consensus, or a pact, not only among the Soviet leadership, their populace and republics, but between the Soviet government and the Western assistance agencies coupled with surveillance and conditionality.

Particular attention to the criteria for monetary stabilization would fall to the IMF, while restructing for privatization may be an emphasis of a World Bank program. Western parliaments may assist in developing mechanisms for establishing a social pact with popular and republican support. Early and priority emphasis on the monetary institutions may be facilitated by some form of "special associate status" for relations with the IMF and World Bank. The collection of accurate information to monitor the economy could build on the cooperative relationship established for the studies by

[2] John P. Hardt, Western Aid Report on the Soviet Economy, CRS Report 91-16, RCO.

[3] Robert Zoellick's testimony to the Senate Foreign Relations Committee, Feb. 28, 1991, p. 17. [N.B. Barber Conable, President of the World Bank, at news conference in Copenhagen on March 28, 1991 said, "We are expecting and would welcome an application from the Soviet Union." (Reuters, March 29, 1991)]

[4] John P. Hardt and Sheila Heslin, Commentary by Oleg Bogomolov, Perestroika: A Sustainable Proces for Change, Group of Thirty, November 1990.

[5] The Soviet Economic Crisis: Steps to Avert Collapse, memorandum of an international study group chaired by Professor M.J. Peck of Yale, November 1990. 18 p.

the IMF, World Bank, OECD, EBRD, and EC mentioned earlier. A Moscow workshop on these studies could fruitfully proceed a special, initial relationship. The process underway in Hungary in the conduct of the OECD country study is an ideal mechanism for force feeding the development of a reliable statistical system.

Establishing new institutions and reliable information for transition to the market is not a technical issue alone. Nothing short of a dialective process in economic system development is involved. One may generalize that the old control system must be fundamentally replaced (the euthanasia of the old bureaucracy and the nomenklatura class). The problem in institutional transition is that a new bureaucracy is not yet available. External assistance is needed to set up the principles and operating procedures for market oriented institutions. The cadres may be drawn from the old bureaucracy, retrained, and reeducated in a new institutional framework. The surveillance and conditionality of the international agencies may constantly reinforce these new operating criteria. Experience in Central Europe is encouraging in many cases on the ability of former party members and staff of the old bureaucracy to make the transition. Indeed, most of the key personnel in the more advanced transitions in Poland, Hungary and the Czech and Slovak Federal Republic were in the cadres of the old regime.

Beyond technical and direct resource assistance is the implied obligation to improve the externel economic conditions to emulate the favorable environment created by the Marshall Plan where debt management, market access, reduced export conrols, and effective regional developments are necessary. Active and early involvement in the GATT process would be useful.

V. CRITICAL NEED FOR AN EXTERNAL INVOLVEMENT PERESTROIKA

The comprehensive and simultaneous programs required for economic success, may neither be developed nor supported by conflicting domestic interests and the populace as a whole. Credibility and trust do not currently flow from any internal Soviet sources especially the central leadership. Only outside institutions with proven, successful track records and resources appear economically credible. Necessary technology, investment and management may be developed in part from internal resources, with fundamental reform. But in critical cases such as the energy and food chains the difference in degree and quality of a restructuring with, and without, Western investment appears to make external involvement the crucial margin.

More generally the presence of the IMF, World Bank, OECD, EBRD, EC and Western governments in the Soviet Union could provide an umbrella of economic, commercial and legal security necessary to create an environment to successfully attract private investment from abroad. Especially important are the long term prospects that may be influenced by a serious commitment to fundamental reform and its support by international agencies. In short a troika of fundamental domestic reform with continued new thinking in foreign policy, Western commitment to effective support of this fundamental reform, and the Western private investors who may see a profit in a society committed to a transition to political pluralism and a market economy may need to reinforce each other.

Never in the Russian or Soviet history of Westernization has the political need for external involvement, a *deus ex machina* been more crucial. Never have the requirements for transition from autocracy to pluralism and from a command, centralized economy to a market economy been more clearly established. With the regime-threatening crises deepening this may be the critical window of opportunity. Legitimacy of leadership and support for an essential restructuring of society—a perestroika—has never been more necessary. A turnaround to successful indicators appears tied to effective external involvement through conditionality, discipline and resource impacts. The only choices for Soviet leadership may be disintegration or commitment to a democratic market oriented perestroika. Can Western aid and investment actually serve as a *deus ex machina*? Only if the Soviets radically change their economic and political system.●

ANNIVERSARY OF THE MASSACRE OF THE ARMENIANS IN THE OTTOMAN EMPIRE

● Mr. DIXON. Mr. President, for thousands of Armenian-Americans, today is a solemn day of remembrance for their relatives who died as part of a deliberate massacre against Armenians in the Ottoman Empire back in 1915. It is important that we do not forget the significance of this day in the hearts of many Armenian-Americans. Their memories are painful, their suffering great. What happened to their grandparents and great-grandparents is indisputable. They were the victims of forced relocation and slaughter because of their ethnicity.

The United States has always stood against such violence and brutality. We, as a beacon of freedom for the rest of the world, have had a special responsibility to remind ourselves, our children, and the world, of such atrocities, in the hope that they never happen again. The massacre of Armenians must never be forgotten.

I stand today with my Armenian-American friends on this day in remembrance of the suffering and tragedy that has befallen their families, friends, and relatives. We must never forget how cruel mankind can be, but for our part we must work with great determination to prevent such atrocities from happening in the future.●

PROCLAIMING VIETNAM VETERANS REMEMBRANCE DAY IN NEW JERSEY

● Mr. LAUTENBERG. Mr. President, I rise today to commemorate and pay honor to America's Vietnam veterans.

On May 7, 1973, the Vietnam war officially drew to a close. The United States lost over 50,000 lives to that war. In my State of New Jersey, some 300,000 residents served in the military during that period and over 1,500 New Jerseyans died as a result of hostile action or are listed as missing in action or prisoners of war.

In the 1960's America sent its finest to fight for democracy and justice in a foreign land. They fought valiantly in unfamiliar places such as Hanoi, Pleiku, Ia Drang, Phan Thiet, the Mekong Delta, and Khe Shan. Sadly, when they returned home, this country never gave its Vietnam veterans the heroes welcome they deserved. They fought an unpopular war. A war where military leadership was compromised by political indecision and strategic confusion.

The Vietnam veterans never received the respect and gratitude they deserved. They came home to ridicule and hostility; to an America turning its back on those who answered their Nation's call. I have heard Vietnam veterans from New Jersey say, "Never again will one generation of veterans be forgotten by another." This is one of the reasons I believe the heroes and heroines of the Persian Gulf war are receiving the support they are. It is what all Americans deserve when they return home from serving their country.

Today, our Vietnam veterans are leaders and role models—in the corporate world, in their communities, in municipal and State governments, and in Congress. Many others, however, still suffer the after effects of the war. Their lives are plagued by posttraumatic stress disorder and by health problems caused by exposure to agent orange. For these veterans we must do what is right—we must continue to ensure they get the care they deserve. These brave soldiers stood tall when America needed them, now it is the Nation's turn to stand by its Vietnam veterans when they need us.

I join today with the Governor of New Jersey in honoring and paying tribute to veterans of the Vietnam war by proclaiming May 7 a permanent "Vietnam Veterans Remembrance Day" in the State of New Jersey. It is a long overdue expression of pride, support, and thanks to our Vietnam veterans for the sacrifices they and their families have made for America.●

ONE TO ONE MENTORING DAY

● Mr. ROCKEFELLER. Mr. President, today, April 26, 1991, marks the first national One To One Mentoring Day as part of a national effort to encourage community service.

The purpose of this event is to recognize the value of mentors to our society—and to encourage further mentoring programs. Mentors are caring, nurturing adults who take an active role in a young person's life. Mentors help steer young people in the right direction. They provide support and encouragement to keep children and teens away from trouble. A mentor can help keep a young person on a track that will lead to educational success.

One To One is a new partnership of private and voluntary sectors formed in 1989, to promote mentoring programs throughout our country. This

exceptional organization is seeking to build on existing mentoring programs and to blend mentoring with entrepreneurship. The group is committed to promoting mentoring projects and has been creative in developing different programs that respond to special needs.

This day honoring mentoring, and the work of One To One, is part of a 12-day celebration of community service sponsored by the Points of Light Foundation. Promoting service, especially mentoring programs, is a valuable initiative to help children and to strengthen community involvement.

I am proud to focus attention on mentoring programs and want to urge my colleagues to support these programs in their own States.

In West Virginia, there are many extraordinary mentoring programs. I would like to share with my colleagues the details of a few exceptional programs to highlight the tremendous community service involved in mentoring initiatives.

The Children's Home Society of West Virginia developed a mentor program that links volunteers with neglected and abused children. Volunteers receive special training from child protection workers so they are prepared to provide the special support these children desperately need, and to work with the families as well. This program is operating in 9 counties in my State, with 167 mentors.

Another model program is sponsored by West Virginia Wesleyan College. The school links college students with local school children and adults who are trying to improve their literacy skills. At Marshall University, African-American freshman students are paired with upperclass students who can provide support and guidance throughout their freshmen year.

The point of all of these programs is that mentoring and making it, go hand in hand. For at-risk youth in particular, the difference between success and being left behind is often determined by the presence or absence of a mentor.

On One To One Mentoring Day, it is important that we pay tribute to mentors across the country. For giving of their time, energy, and commitment, mentors deserve our thanks and encouragement.•

PROPOSED CLEAN AIR PERMIT RULES

• Mr. CHAFEE. Mr. President, yesterday the Environmental Protection Agency released its proposed regulations to implement the operating permit title of the Clean Air Act. It is an extensive rulemaking on a subject which interests many Senators.

My colleagues will recall the intense debate we had on the permit title just a year ago. The Senate voted three times on amendments to the permit title and in each case the margin of victory was just one vote.

Operating permits will be a very important part of the new Clean Air Act. They will benefit both the public and the regulated industries. For the first time there will be one document—the operating permit—listing each of the requirements that apply to a facility. The permit will provide some certainty to the facility operator. It will also afford the public a better opportunity to check on compliance with the law.

Because these new permit requirements are so important, a great deal of attention has been focused on EPA as it has been writing the draft rules. The Congress gave the Agency a very tough deadline on this one. Rules must be final by November, just a year after the new law was signed by the President. To its credit, EPA is on track to meet the deadline despite the controversy these rules have generated.

The operating permit title of the clean air legislation was originally proposed by President Bush. The regulated industry reacted very negatively to the President's proposal and sought to significantly weaken its provisions with amendments here on the floor of the Senate. The Mitchell amendment which was adopted by the Senate contained a careful compromise on many issues in both the permit and enforcement titles.

In addition to the Senate debate, these issues were carefully considered again in the conference with the House. The principal issue of contention there was operational flexibility, how to authorize changes at a facility without undue complications as a result of the permit requirements. The final legislative language adopted by the Congress reflects a very explicit, delicate and detailed compromise on this issue.

It is stated in section 502(b)(10) of the Clean Air Act. That section authorizes changes in operations at a facility without need for a formal permit amendment provided that the changes do not constitute modifications under other parts of the law and provided that emissions will not increase.

A modification at a facility may trigger new control requirements under other parts of the law, so a permit would need to be amended. The fundamental purpose of a permit is to state emissions limits. If emissions increase, new limits need to be set and the public must be involved in that determination. The law requires formal permit amendments for modifications and emissions increases.

But flexibility is also allowed. A permit can anticipate changes at a plant. A permit can be written so that it covers many different operational configurations and includes emissions limits for each. And a facility can move the point of emissions within the plant, perhaps increasing emissions in one part of the operation and decreasing them at another. All of that is allowed by the law without a formal permit modification.

Despite the very clear statement of policy and legal requirements that the Congress made on the subject of operational flexibility, the rules proposed yesterday are ambiguous in this area. Industry wasn't happy with the compromise they got here in the Congress, so they have been pushing in the regulatory process to overturn the policy and requirements that were enacted.

Several drafts of this proposed rule have been circulated. One draft would have allowed emissions increased of up to 40 tons without any requirement to formally amend a permit. That was in clear violation of the law. I joined with several other Members of this body, including the majority leader, Senator MITCHELL, the distinguished chairman of the Environment and Public Works Committee, Senator BURDICK, and the chairman of the Environmental Protection Subcommittee, Senator BAUCUS, in a letter dated March 7, 1991, to protest that proposal.

The draft rule released yesterday no longer contains an explicit Federal policy on emissions increases. Rather, it delegates the issue to the States inviting them to consider operational flexibility in their permit programs and offering the possibility that State programs allowing emissions increases without formal amendment of the permit will be approved. Reviewing the preamble and the language of the actual rule, I find that the scope for State discretion unclear.

According to the draft preamble, EPA finds authority for States to allow emissions increases in section 502(b)(6) of the statute. That provision requires States to adopt expedited procedures for issuing permits, but says nothing at all about operational flexibility within the permit. But it does not authorize emissions increases. As we said in our March 7 letter, it is impossible to maintain that Congress authorized implicitly through 502(b)(6) that which it explicitly prohibited in section 502(b)(10), the section of the law addressing operational flexibility.

The draft rule released yesterday still disappoints this Senator on the subject of operational flexibility. The law is clear. It required a great deal of work to resolve this issue in the legislative process. It is a disservice to that effort—to the many long hours that were spent here in this body debating and deciding this issue—to have that policy overturned by the regulations.

But this is only a proposed rule. We will continue to press this point in the hope that the final rule will be in concert with the law on the question of operational flexibility. I know that other Senators have an interest in this issue, and I invite them to work with us to assure that the regulations implementing the new Clean Air Act

faithfully carry out the policies and requirements we enacted.●

CONGRESSIONAL RECORD STATEMENT HONORING HUTCHINSON SENIOR HIGH SCHOOL

● Mr. DURENBERGER. Mr. President, it is my distinct pleasure to announce that Hutchinson Senior High School will represent Minnesota in the We the People * * * National Bicentennial Competition on the Constitution and Bill of Rights, to be held April 27–29 in Washington, DC.

The National Bicentennial Competition is an outstanding and unique education program developed by the Center for Civic Education, and cosponsored by the Commission on the Bicentennial of the U.S. Constitution. This program provides high school students with a course of instruction on the development of our Constitution. It also provides high school students, through instruction and competition, with an understanding of the basic principles of the American constitutional system.

The outstanding students from Hutchinson Senior High School will be judged on the basis of their understanding of the Constitution and their ability to apply its principles to historical and contemporary issues. They are:

Teresa Becker, Eric Bergerson, Becky Fairchild, Margaret Felling, Eric Gehrke, Jeff Graves, Michele Helgemo, Kelly Hoversten, Kim Hoversten, Wade Mattsfield, Cory McClure, Kristen McGraw, Mike Polzin, Mike Remucal, Eric Schaefer, and Grant Wurdell.

I would also like to commend Jerry Benson, district coordinator, and Roger Wangen, State coordinator, who were responsible for supervising, administrating, and implementing the competition in Minnesota. I would especially like to congratulate the students' teacher, Mike Carls, who did a superb job preparing the students for the competition.

Mr. President, the resources developed by the Center for Civic Education are currently being used by classrooms in every congressional district in the Nation. I believe that all students, especially those that I am acknowledging today, are winners, because they gain valuable civic and intellectual skills enabling them to make informed and reasoned political decisions in today's society.

I extend my heartfelt congratulations to these students and their teacher, and I wish them the best in the competition. Their Senator, and their State, are very proud of them. They are fine representatives of the State of Minnesota.●

SOVIET REPRESSION IN THE BALTICS

● Mr. D'AMATO. Mr. President, the Soviet bear is on the loose again, it is on the rampage. Reports from Lithuania indicate that Soviet troops have occupied at least 12 buildings in 8 cities. Those troops are reportedly operating under direct orders from Soviet Defense Minister Yazov.

This is an outrage, and the United States must go on record now, before the violence escalates, to let the Soviets know how gravely we view these developments. I and other Senators are prepared to block any emergency aid to the Soviet Union if they engage in further acts of violence in the Baltics.

The Soviets have engaged in systematic intimidation and violence in the Baltics. First, they slapped an economic embargo on Lithuania. Later, they engaged in psuedo-military exercises which left innocent civilians dead on the streets of Lithuania and Latvia. Now, it seems they are determined to turn the heat up a few more degrees.

Mikhail Gorbachev must be held responsible for these atrocities. From the very beginning, he has left no stone unturned in his effort to intimidate the Baltic peoples. We in the United States have repeatedly tried to read benign intentions into his malevolent, malicious acts. That is nothing more than self-delusion. Mr. Gorbachev is a Communist, and like other Communists before him, will do all he can to hang onto power. It is time to look past his words of reform and focus on his acts of repression.

Senator LIEBERMAN and I are crafting a resolution to put the Congress on record on this matter. We will have it ready shortly. But given the impending recess, we felt compelled to come to the floor now to express our outrage.

Once again, the Soviets are about to crush innocent civilians whose only crime is wanting to be free. We cannot remain silent in the face of these outrages. This Senator will work to block one dime of aid from going to the Soviets while they are crushing the forces of freedom in the Baltics.●

HONORING GREEN BAY SMALL BUSINESS DEVELOPMENT CENTER AND HOIDA LUMBER

● Mr. KASTEN. Mr. President, the small businesses of Wisconsin are the powerhouse of our State's economic growth. Over 62 percent of the new jobs created are directly attributable to these small businesses—ventures on the cutting edge of society, creating the products and services the American people desire.

I recently had the privilege of touring a number of successful small businesses in Wisconsin that have been assisted by small business development centers [SBDC's]. These SBDC's are excellent incubators of small business growth—and I would like to draw my colleagues' attention to the achievement of one of these centers today.

On April 4, I visited Hoida Lumber and Component, a family-owned home-improvement, lumber and preconstruction business located in Green Bay, WI. Hoida Lumber has prospered because it stands behind quality products. Thanks to its commitment to total quality management, the company has recently been honored with the Wisconsin Idea Award of the University of Wisconsin Extension Service.

Most of the credit for the success of Hoida Lumber goes to Donald Hoida, his family, and their 120 employees. But this success story would not have been possible without the assistance and counsel of SBDC director Dr. James Holly. At a time when some are proposing drastic cuts in the Federal budget for SBDC's, it is important to note successes like that experienced by Hoida Lumber.

Let us keep this system of small business incubators alive—by supporting full funding for SBDC's.●

LET'S ADMIT THE APACHE WORKED—AND WORKED WELL

● Mr. DECONCINI. Mr. President, for some time now, we have had to listen to the skeptics question the worth and effectivenesss of the AH-64 Apache attack helicopter. They said it was too expensive. They said it would not fly. They said it could not be maintained. Then came the war in the gulf. The Apache was sent to the gulf and it worked—and worked well.

That should have satisfied the critics. When the chips were down and the Apache was called upon, it performed superbly. It fired the first shots of the war by destroying Iraqi radar and anti-aircraft batteries as well as tanks and other enemy helicopters. It was used to take hundreds of Iraqi prisoners. It lived up to its reputation as the world's finest attack helicopter.

In January, an investigative team from the General Accounting Office [GAO] was sent to Saudi Arabia to evaluate the Apaches. The GAO team returned and, in a closed hearing in the House, apparently testified that the Apache was performing well in excess of Army requirements. Some people have placed its readiness rates at 90 percent or higher. The GAO noted some areas that needed work, but on the whole gave the Apache a clean bill of health. They found no show stoppers.

This was confirmed by Army Secretary Stone last month when he testified before the Defense Appropriations Subcommittee. I asked him how well the Apache performed in the gulf and he said that it exceeded its expected requirements. Later, before the Senate Armed Services Committee, Army Chief of Staff, General Vuono testified that:

(The Apache) was superb in its deployment, and during the operation our readiness rates were extremely high. The lethality of the system proved out with all the weapons that we had on it from the day the operation started until it ended, and gave us a capability, particularly as the weather got bad over there, which was fantastic, and the aircraft performed the way many of us expected it to perform.

Now, however, I have learned that the GAO is going back to the Persian Gulf to take another look at the Apaches. I guess some people are never satisfied. Because some people were disappointed that the GAO did not come up with their desired outcome—problems with the Apache and a negative report—the GAO is evidently going to continue to be sent out until it can find fault with the Apache. Apparently, until that happens, the outstanding performance data and the final word on its abilities will remain classified.

At the same time, the media is once again trying to find fault with a defense system which did what it was supposed to when called upon in battle. An article in the April 19 Wall Street Journal tries to compare the job of the Army's Apache with that of the Air Force's A-10 Warthog. This comparison is the most egregious case that this Senator has seen of the old "apples and oranges" adage. Both systems performed well in their appointed roles. But the A-10 stays in the air longer and flys farther because it scouts for targets and can only fly during the day. Flying hours is not a valid point of comparison. The Apache, however, is night-capable and waits for a scout helicopter to identify a target before it takes that target out. If the media are going to compare the Apache and the Warthog now, who is going to stop them from comparing an Abrams tank to a Aegis destroyer. After all, both of those systems are also part of the Pentagon's inventory.

I ask that the Wall Street Journal article referred to above, as well as an excellent and well-reasoned reply to the Journal article from Army Secretary Michael P.W. Stone be printed in the RECORD at the conclusion of my remarks. His letter should put this discussion to rest once and for all.

Mr. President, there is a time to raise questions about a defense system's performance. There is a time to examine its flaws. But there is also a time to stop beating a dead horse. Now is such a time. The Apache worked extremely well. The Army has gotten the message that high technology aircraft need better maintenance. It has taken steps to correct that problem. Now it is time for Congress and the media to move on. Let us not waste the taxpayer's money. Declassify the facts about the Apache and its gulf war performance. Let the public judge. Release both the Pentagon's assessment of the Apache as well as the GAO report. Let the American people know—once and for all—how well the Apache has performed. Let us let the GAO examine other problems and let the Apache continue to do its great job.

The article follows:

[From the Wall Street Journal, Apr. 19, 1991]

"ACTUAL" PERFORMANCE OF APACHE COPTERS IN GULF RAISES QUESTIONS ON ARMS BUYING

(By John J. Fialka)

WASHINGTON.—Among the unsung heroes of the Persian Gulf war are maintenance crews and civilian technicians who kept the Army's Apache helicopters flying despite recurrent breakdowns and spareparts problems, according to the General Accounting Office.

GAO investigators, who visited Apache bases in Saudi Arabia in January on the eve of the conflict, found that the Army had decided to "manage around the problem" with a number of desperate moves. These included the liberal use of civilian technicians and orders that virtually grounded some 250 Apaches based elsewhere in the world for use as a source of spare parts.

The management-intensive performance of the tank-killing Apache, praised as "superb" and "fantastic" by top Army officials, raises multibillion dollar questions for Congress and for Pentagon planners studying the issue of high-technology weapons purchases in the more tight-fisted budgetary atmosphere of the mid-1990s.

Rep. John Dingell (D., Mich.), chairman of a House Energy and Commerce subcommittee that has been investigating the Apache, has asked Defense Secretary Dick Cheney to assure that still-secret battle data relating to the Apache will be preserved so that the "cost effectiveness" of the helicopter can be compared with the simpler and older Air Force "Warthog."

Despite the pampering, the average Apache helicopter was available to fly less than 37 hours during the six-week Gulf conflict. While the Army says preliminary studies show Apaches destroyed over 500 Iraqi tanks, the helicopters appear to have been outgunned and outflown by A-10s. "Warthogs," on the verge of being scrapped by the Air Force, destroyed over 1,000 tanks and were able to spend 3.5 times as many hours over the battlefield, according to Army and Air Force statistics.

Richard Davis, who headed the GAO team that looked into the Apache's performance, told the House subcommittee during a closed hearing in February that maintenance crews "did not see significant improvement" in a number of problem areas—including malfunctions of the helicopter's 30mm cannon—compared to how well the Apache did during the 1989 U.S. invasion of Panama.

A copy of his testimony, made available to The Wall Street Journal, says round-the-clock efforts to keep Apaches flying required use of numerous full-time civilian technicians including teams from Martin Marietta Corp., which makes the helicopter's targeting system.

The Martin Marietta technicians replaced faulty battery packs connected to the lasers that direct the helicopter's Hellfire missiles. The Army crews, according to Mr. Davis's testimony, "were surprised because they had no idea there might be problems with these units."

The $12 billion Apache program fielded 532 helicopters during the 1980s. The Apache has been touted by Army officials as the state of the art in high-flying high-technology weaponry. Compared with the A-10, which can only carry four anti-tank missiles per mission, the Apache theoretically is capable of much more destruction. It carries 16.

When the Army was unable to get parts from the U.S., according to the GAO official, it frequently took parts from other Apaches based in Saudi Arabia. But the swapping sometimes didn't show up on reports that still listed both sets of aircraft as "mission capable."

Col. David Carothers, who supervises aviation for the Army's operations and planning office, acknowledged that what the Army calls "controlled substitution" was used in the Gulf to borrow parts from other Apaches. But he insisted that any commander who reported the readiness of both helicopters would have been "burned" for violating Army regulations. "There may be some honest mistakes out there," he added.

He said both Army and Martin Marietta officials knew about the problem with the targeting lasers and that they were fixed before the war. And he insisted that comparing the Apache's performance to that of the A-10 is "comparing apples to oranges."

While the A-10s hunted for Iraqi tanks over the battleground, the Apaches waited on the ground for Army scout-helicopters to find targets for them, he explained. "The amount of flying time that a guy spends on the battlefield has nothing to do with his battlefield efficiency," he asserted.

In its prewar efforts to junk the A-10, the Air Force at one point offered the Warthogs to the Army as scout planes for the Apaches. The offer was rejected, according to Col. Carothers.

SECRETARY OF THE ARMY,
Washington, April 22, 1991.

Mr. NORMAN PEARLSTINE,
Managing Editor, the Wall Street Journal, New York, NY.

DEAR MR. PEARLSTINE: I am writing to express my concern over an article that appeared in The Wall Street Journal on 19 April. The article, written by Mr. John Fialka, was about the Apache helicopter performance in Operation Desert Storm. I found the article to be fundamentally flawed and misleading.

As I see it, Mr. Fialka wanted to leave the reader with two impressions: First, "high technology" systems like the Apache are not really required because "low technology" systems like the A-10 proved they can do a better job. Second, despite "desperate moves" by the Army to fix maintenance problems, the Apache was still not able to perform its missions. Neither conclusion is warranted or justified by the facts.

Comparing the Apache AH-64 to an A-10 is like comparing a sports car to a station wagon. They both go down the road, but which one meets your requirements? Well, it depends on what you want to do. The A-10 has many virtues, and I join the chorus of voices praising its performance in the Gulf war. The A-10, however, was designed as a daytime fighter. It cannot attack targets at night. From a survivability standpoint, this is a tremendous disadvantage. The Apache's sophisticated "high tech" systems allowed it to fly through adverse weather at night at very low flight altitudes to attack targets with precision. The Apaches fought on every night of the 100-hour ground campaign, with devastating effect and pinpoint accuracy, supporting the ground attack. Without the A-10's needs for loitering in daylight and awaiting target acquisition and direction, the Apache could proceed directly to the target from a forward position, not a fixed rear airbase, laser designate the target either it-

self or with the assistance of an accompanying scout helicopter, and return to a forward base in minutes. No wonder Apache flying times were shorter. In one of the last actions of the operation, one Apache battalion fired 102 Hellfires and had 97 direct hits, resulting in 97 track or vehicle kills. Support was immediate, lethal, at night, and consumed minimal flight hours.

Significantly, the first shots fired in Operation Desert Storm were by Apaches. On the night of January 16, eight Apaches of the 101st Airborne Division destroyed Iraqi early-warning radars and support systems far inside western Iraq. Achieving complete surprise by flying close to the ground, these Apaches fired 27 Hellfire missiles and several thousand rounds from their 30mm cannons. All the targets were destroyed and no Apache was damaged. This action cleared the air corridor for the air forces which bombed Iraq shortly afterward. Fixed-wing aircraft could not have accomplished this mission without substantial risk of alerting the Iraqis.

Mr. Fialka alleges that the Apaches were "outgunned and outflown by A-10s." By giving the impression that the A-10 is better than the Apache, basing his comments only on superficial comparisons of flying times, Mr. Fialka insults the intelligence of his readers. Indeed, an analytical reader would pick up on the fact that, if A-10s killed 1,000 tanks and flew 3.5 times as many hours as Apaches during Desert Storm, then Apaches, by killing 500 tanks, proved that these helicopters are better tank killers (to be on par with Apaches, the A-10s, by flying 3.5 times more, should have killed 1,750 tanks). Mr. Fialka goes on to write that despite the pampering (referring to maintenance) the average Apache was available to fly less than 37 hours during the six-week Gulf war. Mr. Fialka knows full well (from briefings by Army officials) that the average Apache was required (i.e., given a mission to execute) to fly less than 37 hours during those 6 weeks. At any time during that period over ninety percent of our Apaches were available for missions. By using the word available instead of required, Mr. Fialka once again appeared to want to leave his readers with the erroneous impression that the Apache's maintenance problems resulted in a poor battlefield performance. Nothing could be further from the truth.

Now let me turn to the second impression—faulty maintenance/spare parts management. At no time was the maintenance management of the Apache "desperate", as Mr. Fialka asserts. Apache maintenance programs, like those of all Army aviation systems are carefully and deliberately controlled. In the case of Desert Storm, Army planners estimated that the harsh environment of South West Asia would require spare parts inventories to be doubled for the Apache. The planners also estimated that Apaches deployed to Desert Storm would be flying 2.5 times the amount non-deployed Apaches would be flying. Spare parts requirements for Apaches deployed to Desert Storm were therefore increased by a factor of 5 (2.5 X 2).

How were we able to secure sufficient spare parts? One thing we did was to ask contractors to accelerate delivery times for spare parts. We also reduced the flying hours for non-deployed Apaches. Mr. Fialka states that these 250 Apaches were virtually grounded to be used as a source of spare parts. Mr. Fialka gives his readers the impression that half the Apache fleet was grounded because parts were being taken off these aircraft to be used by Apaches in Desert Storm. This is simply not true. These aircraft remained in a mission capable status. The number of flying hours per aircraft per month was reduced from 14.5 to 6. By reducing the flying hours, maintenance—and thus spare parts—requirements were reduced. Spare parts that would normally be sent to a non-deployed unit were therefore available for deployed Apache units. This seems to me to have been prudent management. Instead, the article implies improper parts management, Army culpability, and weakness throughout the whole Apache maintenace system. As the following paragraphs try to explain, having large parts inventories to support Army weapons systems, as desirable as that may be from a wartime perspective, is probably not something that the Army should do or can afford to do.

Estimating spare parts requirements, to cover both peacetime and wartime needs, and then determining the means to achieve those requirements is a diffcult management task, yet somehow Mr. Fialka leaves the reader with the impression that our inventory management was faulty. Allow me to explain the fundamental dilemma the Army is confronted with when it faces the subject of inventory management.

Ideally, in the best of all possible worlds, the Army would like to keep in stock an inventory of spare parts that would keep all weapon systems operating in a high-intensity conflict for a stipulated number of days. Many variables can enter into the calculation for the most desired inventory level for each system. Suffice to say that, with the possible exception of ammunition, the level of inventory is usually not as high as the Army would like it to be.

If the inventory were as high as the Army academically would like it to be, very large sums of money would be tied up for indefinite periods of time. Storage requirements are substantial. Obsolescence after a time begins to be a factor, and even if a system is becoming obsolete, there is usually justification for maintaining a substantial spare parts inventory.

As this cycle evolves, the Army can easily be criticized, and is indeed frequently criticized, for maintaining too high an inventory of spare parts. While some of the attention is focused on "dead" inventory, meaning inventory for which there is no or little use and inventory that has not been excessed (i.e., sold off) quickly enough, some of the attention is focused on inventory levels per se (inventory of all parts, dead inventory or not). The Army is raked over the coals almost every year for maintaining excess inventories.

The other horn of the dilemma is a condition which finds the Army with too low a spare parts inventory to sustain consumption during a conflict situation. This is the implication contained in Mr. Fialka's article. Apache parts availability, aside from the issues discussed above, has been affected by two extraneous factors. First, there have been a number of design changes, as Apache reliability and performance have been increased. Many of these changes have required spare parts modification, hence a need to build new inventories. Second, as has frequently been pointed out by the Army, the severe 1989 wind storm damage, damage that was sustained by 25% of the entire Apache fleet, depleted Apache parts inventories, and the Army was only just in the position of satisfactorily replenishing those inventories in adequate quantity when Operation Desert Shield started a year after the wind storms occurred.

The final factor to note is one that relates to the industrial base in the United States. The Apache is nearing the end of its production run for the United States Army. Follow-on export orders are materializing, but in limited quantities. As the production winddown occurs (McDonnell Helicopter let go another 350 employees last week), subvendors, many of them parts manufacturers, find the Apache program unappealing and either withdraw corporate assets from it or have to raise parts prices subtantially or both. Either action makes inventory replenishment, and particularly surge production, extremely difficult and costly.

Let me conclude this by stating that through the years I have found The Wall Street Journal to be an excellent newspaper with a fine reputation. Articles have always appeared to be well researched and reported in a fair and impartial manner. While Mr. Fialka's article may have been well researched it was certainly not reported in a fair and impartial manner. In meetings with Army officials, Mr. Fialka was given every opportunity at least to get his facts straight. He didn't. He compounded this failure by drawing flawed conclusions. Mr. Fialka did not provide your readership with facts—only incorrect impressions. Your readers deserve better.

Yours sincerely,

M.P.W. STONE.•

COSPONSORSHIP OF S. 152—LEGISLATION TO DOUBLE THE PERSONAL EXEMPTION

• Mr. KASTEN. Mr. President, today I want to announce my cosponsorship of S. 152, legislation by Senator COATS to double the personal exemption to $4,000, and index it thereafter for inflation.

Yesterday, the Senate chose to vote down a proposal to reduce the payroll tax burden on America's 132 million workers. This would have provided tremendous tax relief for families. While I am disappointed by this vote, I accept the decision of my colleagues. Since I obviously continue to believe that the tax burden on America's families is too high I am pleased to join in Senator COATS proposal to reduce that burden by increasing the personal exemption. This proposal would help to provide some of the tax relief that families desperately need.

In 1950 the personal exemption was the equivalent of over $3,000 in today's dollars. Today the personal exemption is only $2,050. In 1950 when the median family income stood at $3,319, the personal exemption was $600 per year. An average family of four with no other exemptions could deduct over 70 percent of its income from taxation. Today, that same average family would be able to deduct less than one-fourth of its income due to the personal exemptions. Rising payroll tax rates and the declining value of the personal exemption are the primary reasons that the tax burden on working families has risen so dramatically in recent decades.

Increasing the personal exemption is fair and long overdue. This increase

would be particularly helpful to low-income families with children. As Senator COATS is fond of pointing out, his proposal would allow poor families to better care for their own needs by returning their money to their own pockets.

Ten days ago the Tax Foundation reported that the Nation's Tax Freedom Day is now May 8. This date is the latest ever, and is in fact 3 days later than it was just last year. This means that the average American will work 128 days out of the year just to meet the combined Federal, State, and local tax burden. This growning tax burden is the greatest justification I can think of for enacting the Coats proposal to double the personal exemption. I am pleased to join him in this effort. It is time to start moving Tax Freedom Day back.•

THE 100TH ANNIVERSARY OF THE DENNI HLSATEL NEWSPAPER

• Mr. DIXON. Mr. President, I am proud to offer my sincere congratulations to the Denni Hlsatel newspaper for its 100 years of outstanding and faithful service to the Czechoslovak-American community in the Chicago area. It is inspiring to see a newspaper which was formed during the adversity of a printers strike in 1891, rise to become the largest foreign daily newspaper in the United States and the only Czechoslovakian daily newspaper in the free world.

The Denni Hlsatel is representative of the Czechoslovakian community as a whole. The Denni Hlsatel represents the hard work, loyalty and dedication on which Czechoslovakians have always prided themselves. It is important that each and every ethnic group has a newspaper or other publication in which all members of the ethnic community can take great pride. The Denni Hlsatel provides the Czechoslovak-American with such a publication. It is satisfying to know that the Denni Hlsatel has now been serving the Czechoslovakian community in the Chicago area for a century promoting their proud heritage and contributing to the rich ethnic diversity that makes the Chicago metropolitan area so unique.

May the Denni Hlsatel continue to provide insight and information to the Czechoslovak-American community for the next 100 years!•

REVIVING U.S. MANUFACTURING

• Mr. ROCKEFELLER. Mr. President, I introduced legislation Tuesday (S. 886) that packs a triple punch. It is energy policy, economic policy, and environmental policy rolled into one. The bill has a simple goal. That goal is to help revive our manufacturing by developing advanced, more efficient technology for use in the plants and on the shop floors of American industry.

Our industrial sector uses the most energy of any sector, accounting for 35 percent of total domestic energy use. The oil shocks of the 1970's caused some improvements in conservation. Unfortunately, by the 1980's, efficiency gains started slipping. Also, since 1981, research and development funding for conservation has been cut by more than 55 percent. Secretary of Energy Watkins put the point simply and clearly last fall. Speaking of the impact of low oil prices in the early 1980's on conservation and efficiency programs, he said, "clearly, we dropped the ball."

The result of dropping the ball is that the United States uses two times as much energy per dollar of GNP as Japan and West Germany, and the disparity has actually grown since 1973. Compared to 1973, Japan's economy now produces 81 percent more per unit of energy. Because of heavy investment in new equipment and factories, Japan uses over 30 percent less energy in manufacturing than we do. A Newsweek story in January suggested these facts might account for a belief in Japan that Middle East conflict does not threaten Japan the way it does the United States. A Tokyo woman was quoted as saying that it was "like looking at a fire on the other side of the river." Improving our energy efficiency is critical to restoring our energy security.

Lackluster technological efficiency is not only relevant to energy policy but to our lagging productivity and eroding living standards. In the 1980's, soaring deficits, the inflated dollar, and slipping technology destroyed our export markets and padlocked plant gates throughout American industry. There have been some recent improvements in our export performance, but I am afraid that is more a result of our falling wages than of improved efficiency and improved technology.

There are some apologists for the decline of U.S. manufacturing who say that it does not matter because the wave of the future is in services. This view is mistaken because services and manufacturing are closely linked. Those who make the machines make the software. Countries that manufacture the products will be the ones whose financial institutions flourish. The historic decline of London as a financial center was closely linked to the decline of British industry.

Finally, improved, more efficient manufacturing technology is an important component of environmental policy. Many of the technologies addressed in this legislation have specific environmental benefits. Moreover, an overall goal of the program is to improve energy efficiency. There is broad consensus among both environmentalists and industry that this is a sensible approach to addressing global climate change concerns. Improved efficiency means more production can be accomplished with lower emissions.

A feature of this bill which I believe is fairly novel is its focus on technology that utilizes electricity. Other technologies should of course receive attention also. But I believe this is an area that has been neglected and which now deserves emphasis.

Under the bill, the Secretary of Energy is to establish a cooperative research and development program with private industry on advanced technologies for more efficient use of electricity in manufacturing. The program also covers research on advanced electric energy storage systems for conservation. And the bill covers development of electric vehicles, along with study of the contribution that such technology can make to conservation of energy resources.

If we are going to revive American manufacturing, we are going to have to put aside the paper entrepreneurialism of the 1980's and return to the real thing. We are going to have to go back to school in how to make things.

Let me give some brief examples of the potential economic advantages of some of the advanced, more efficient technologies addressed in my bill. High-energy density and precise control can yield increased production rates with lower fixed costs. Precise control and short heating times can also reduce energy consumption. Equipment can be in smaller units. This means that instead of the economies of scale that normally dominate factory planning, there may be economies of reduced scale. Facilities can be decentralized and located to improve proximity to resources and markets.

Mr. President, this is not controversial or complex legislation. Everyone agrees that there is an important role for targeted Government programs in research and development. Because of what the economists call free rider effects, industry by itself does not do enough research and development. Everyone agrees that, as Secretary Watkins said, in the 1980's this country "dropped the ball" on energy efficiency research and development. Policy was in the grip of dogmatism. The dogma did not ask what government could do well and what it could do poorly. The dogma was that the Government should sit back and do nothing. We know the results. We saw our infrastructure decay, our savings industry go overboard, and our manufacturing decline. While we fought with one hand tied behind our backs, our rivals used both hands and gladly took our customers in the markets of the world.

It is long past time to abandon dogmatism for the old American tradition of doing what works. We might begin by banishing from our vocabulary the journalistic phrase "rust belt." That is

a phrase born out of inaction, dogmatism, and defeatism—uncharacteristic attitudes for Americans.

America's manufacturing industry does not have to be a place with padlocked plants and shuttered windows. It can be again a jewel in the crown of the Nation's economy. The Rust Belt is as much a state of mind as it is a place. It is time to change our minds. It is time to change course. I urge the support of my colleagues for this bill and for its speedy enactment.•

S. 544—THE ANIMAL RESEARCH FACILITIES PROTECTION ACT

• Mr. KERRY. Mr. President, I rise today to offer my support to S. 544 the Animal Research Facilities Protection Act sponsored by the Senator from Alabama [Mr. HEFLIN].

Mr. President, I believe in protecting animals from unnecessary pain and slaughter. In 1988 I sponsored the Marine Mammal Protection Act which has made great improvements in the way dolphins and other marine mammals are treated. I am a vigorous supporter of the Endangered Species Act and in 1985 I supported the Animal Welfare Act which mandates minimum standards for the care and treatment of dogs, cats, hamsters, and monkeys.

I believe, however, that our efforts to provide humane treatment for animals should be balanced by an understanding that legitimate biomedical research on animals continues to be an indispensable part of worthy scientific efforts. One of Massachusetts' greatest strengths is the scientific and medical research that is conducted in its schools and hospitals. This research continues to bring us countless breakthroughs in our understanding of disease, medicine, and other vital fields. Such efforts by people who are working to save and protect lives and advance scientific inquiry should not be subject to harassment or illegal disruption.

This bill would bring stringent penalties to those who intentionally damage or vandalize an animal research facility. Such people confuse wanton destruction with activism and their foolish actions should not be condoned. I realize that most people involved with the protection of animals act in a positive and intelligent manner that constructively raises the level of public debate. This bill is not designed to hinder their efforts, but to stop those few who step beyond the bounds of legitimate debate into theft and violence.•

TRIBUTE TO DR. FANG LIZHI AND DR. LI SHUXIAN

• Mr. AKAKA. Mr. President, I rise to pay special tribute to a remarkable couple whose courage and vision stand as an inspiration for the people of China and the world. As internationally renowned scientists, Dr. Fang Lizhi and Dr. Li Shuxian have explored the realm of the unkown in search of answers, challenging and stimulating intellectual discussion. As internationally recognized human rights leaders, they have investigated the realm of individual rights, questioning laws, regulations and practices in the pursuit of truth and the defense of the dignity of the individual.

Dedicated to the cause of justice, they have toiled through years of persecution and harsh treatment to advance the basic rights and freedoms of people everywhere. Their ideas have inspired the birth of a new generation of people committed to the ideals of humanity, understanding, fraternity, and democracy. Dr. Fang Lizhi and Dr. Li Shuxian have become the symbols of the human struggle for decency and respect in China.

We remember their courage during their year-long confinement in the American Embassy in Beijing, shortly after the June 4, 1989 massacre. Though isolated from their countrymen, denounced by Chinese Government leaders, and denied basic freedoms, Drs. Fang and Li's sacrifices continued to spark the hopes and aspirations of the people of China. Though now exiled in the United States, they remain the spirit of a new China, its destiny as a nation in a more democratic and free world.

The world will soon mark the second anniversary of the June 4, 1989 Beijing massacre, when hundreds and perhaps thousands of demonstrators were killed by Chinese Government troops at Tiananmen Square. Since the massacre and the subsequent brutal crackdown on participants and sympathizers of the pro-Democracy movement, many people remain in prison facing long sentences. The Chinese authorities, despite pleas by the United States Government for compassion, have refused to release these individuals.

In addition, there have been reports that prisons where pro-Democracy participants have been incarcerated, produce goods for export. This would clearly be an abuse of prison labor, contrary to international and U.S. laws.

It is altogether fitting to honor this courageous couple now that some Americans are questioning our relations with China. Since the massacre, peaceful coexistence, a theme advocated by Dr. Fang Lizhi, has been severely tested. There have been persistent reports that China has sold to certain nations, M-9 missiles which may exceed the MTCR limits, threatening the security of Israel and other allied nations. There are also allegations that the Chinese are supporting some nations with nuclear technology which would have adverse effects on regional and global stability.

Mr. President, we are committed as Americans to the pursuit of justice and equality, and dedicated to the rights of the individual. I commend Drs. Fang and Li for their work in advancing human rights. They are the voice of reason, the spirit of justice, and the symbol of freedom.•

COMMENDATION OF KATHLEEN MITCHELL TAFT, RECIPIENT OF THE 1991 DISTINGUISHED ALUMNA AWARD, WESTERN WASHINGTON UNIVERSITY

• Mr. GORTON. Mr. President, it is with great honor that I rise today to pay tribute to Kathleen Mitchell Taft of Spokane, WA, as Western Washington University's [WWU] Distinguished Alumna for 1991. Kathleen, 84, is a 1925 graduate of Bellingham State Normal School, now known as WWU.

A longtime practicing Spokane attorney, Taft has earned herself wide recognition for her compassion, keen intellect, diligent work, and commitment to excellence in her field. Kathleen Taft is considered a renowned pioneer and an inspiration to women.

Taft began her professional career as a school teacher at age 17 in Stevens County, WA and later, in Coeur d'Alene, ID. She worked her way through law school, attending Gonzaga University and graduating from the University of Washington, where she earned her law degree in 1936.

Following her marriage to Willard (Duke) Taft in 1938, she increasingly became involved in community activities. Taft's 54-year career in the practice of civil and criminal law has kept her closely involved in public service.

During the 1940's, Taft worked at the Spokane Office of Price Administration, an agency which handled price and rationing matters during World War II. In 1950, she became Spokane County Family Court commissioner, serving on a part-time basis while continuing her private practice.

Taft has earned the respect and admiration of her clients, her colleagues, and her community through her integrity and hard work. As she continues her practice today, her keen intellect remains a formidable burden to her opposition, and a special gift to her allies.

I commend Kathleen Mitchell Taft for her continued excellence in the field of law and in the betterment of her community. Her willingness to share both knowledge and experience with others serves as an inspiration to us all. Further, I am pleased to honor Kathleen Mitchell Taft as the recipient of Western Washington University's 1991 Distinguished Alumna award.•

STATE AUDITOR DENUCCI'S STUDY ON SPECIAL EDUCATION

• Mr. KERRY. Mr. President, I would like to call the Senate's attention to a study on an important program in the Commonwealth of Massachusetts. The study, compiled by Massachusetts State Auditor A. Joseph DeNucci reports on the status of special education in Massachusetts. It was conducted to analyze, review, and offer recommendations to improve an entitlement program that has grown in size from $25 million in 1972 to $740 million in 1989. Remarkably, the programs costs have increased 90 percent over the last 5 years. In an attempt to understand these increases and to recommend improvements in the system, the study surveyed 282 local school districts and involved onsite visits to 10 school districts, 12 educational collaboratives, and 3 private schools.

Included in this report are 41 recommendations, the most important of which calls for a statewide mainstreaming initiative to move special education students into the regular classroom. The auditor's report found that special education was increasingly being conducted in environments completely separate from regular classrooms. This method is often costly and deprives some students of a fruitful learning environment. Naturally, to bring special needs students into regular classrooms, we need teachers who are trained and have the resources they need. The report, therefore outlines several ways Massachusetts can recommit itself to preparing teachers better so we can have a more vibrant, integrated classroom.

Understanding that goals are inconsequential without the means to achieve them, the report recommends that state and local officials aggressively pursue third-part reimbursements, including Medicaid, for services provided as part of a child's special education program. In Massachusetts alone, this reimbursement opportunity could generate $40 million to $50 million per year for local school districts.

Mr. President, one expects an auditor to show a hardnosed commitment to make government less costly. Auditor DENUCCI has combined this commitment with a sense of empathy for the needy. His comprehensive study provides us with guidance as we seek to maintain needed services under fiscal restraints. I wish to thank him, his Deputy Auditor Linda Luongo, and his entire staff for their fine work.•

COMMEMORATING THE 1-YEAR ANNIVERSARY OF THE INAUGURATION OF PRESIDENT CHAMORRO OF NICARAGUA

• Mr. DURENBERGER. Mr. President, on the occasion of the 1-year anniversary of Nicaraguan President Violeta Chamorro's inauguration, I rise to offer my congratulations and commendations to her, the new government, and the people of Nicaragua.

One year ago, I traveled to Nicaragua as a member of the official United States delegation to witness the momentous transfer of power to that country's democratically elected government. That historic occasion epitomized the Nicaraguan people's sense of optimism and hopefulness for the future of their country.

Although it has been difficult and painful in many respects, President Chamorro has begun the long process of transforming Nicaraguan society from the repression of Sandinista rule to the openness and freedom of democratic governance. President Chamorro ended the civil war; secured the demobilization of the Contras; and reduced the Sandinista army from 80,000 to 27,000 members. Land is being redistributed, and difficult economic reforms have been undertaken.

There have been many successes, but there is a long road yet to travel. The enormous problems and challenges confronting the people of Nicaragua require the hard work, perseverance, and cooperation of all Nicaraguans. Although the Sandinistas permitted the peaceful transfer of power and the reduction of the army, their obstruction of President Chamorro's economic and political reforms is a set back for all Nicaraguans.

Nicaragua faces a difficult enough task as it is. National reconciliation requires the participation and cooperation of all parties involved. Nicaragua's future political, economic, and social stability requires this kind of cooperation.

For President Chamorro and the people of Nicaragua to succeed, it will also require the continuing support of the United States. National reconciliation and economic stabilization do not occur overnight. The desperate state of affairs in Nicaragua when President Chamorro assumed office will require many years to overcome.

Not only do we in this country have an obligation to assist Nicaragua in this process, but it is also in our best interest to do so. The United States benefits from stable, peaceful, and hopefully prosperous countries in our own hemisphere. This is crucially important. Stable democracies tend not to go to war with each other. They tend not to promote instability among their neighbors. They also tend to provide good markets for U.S. products as well as good sources of U.S. imports.

Mr. President, during her recent visit to the United States, President Chamorro addressed a joint session of Congress. It was an impressive statement. And it was very warmly received, not only in Congress, but across the country. I am pleased that I was there in the House Chamber to experience this event.

President Chamorro noted the accomplishments of her young administration, and she also discussed the problems and challenges encountered during the first year as well as those still confronting the nation. And she stressed her keen desire to strengthen the relationship between our two countries.

I share that desire, and I am committed to assisting President Chamorro and the people of Nicaragua to achieve this objective. Nicaragua deserves our assistance and continued support. The United States should maintain that support as a steady, reliable, and dependable friend of democracy in Nicaragua.•

FEDERAL EMPLOYEES RETIREMENT SYSTEM

• Mr. STEVENS. Mr. President, in 1986, Congress created the Federal employees retirement system, commonly referred to as FERS. Part of this new system, which applies to all Federal employees hired since 1984, allows employees to contribute up to 10 percent of their salary, on a pretax basis, to a newly created thrift savings plan [TSP]. The Federal Government then matches up to half of the employee's contribution. The thrift savings plan is basically a 401(k) plan for Federal workers.

After the first open season for the TSP in 1987, 28.9 percent of all FERS employees voluntarily contributed a percentage of their salaries as part of their retirement planning. As time went by, more and more employees recognized the substantial benefits of this program. In 1989, the participation rate was up to 50 percent.

The final figures for the most recent open season are in and I am very pleased to report that the initial projections were low. The Federal Retirement Thrift Investment Board reports that 59.3 percent of all FERS employees now contribute to the thrift savings plan.

Mr. President, I would like to take this opportunity to congratulate the Thrift Investment Board and all of the staff on a job well done. Congress created the thrift savings plan, but it took long hours and hard work by the Board and staff to produce a program which is widely recognized as an example of one of the best retirement tools available today.•

SOVIET USE OF FORCE IN LITHUANIA

• Mr. RIEGLE. Mr. President, once again, the Soviet Union used military force in the Baltic States, today, taking control of at least 12 buildings throughout Lithuania. Although this event did not involve the senseless violence and killing of innocent civilians which accompanied the crackdown in

January, it is clear that the Soviets are still intent on placing military obstacles in Lithuania's nonviolent path to independence.

I remain deeply distressed that despite the Baltic people's peaceful quest to determine their own future—outside of the domination of the Soviet military—Moscow persists in using tactics designed to intimidate and instill fear in the population. For the last year, talks between the rebellious Balts and the central Soviet Government have continued on and off. But, unfortunately, they have accomplished very little. Moscow has not permitted true negotiations focusing on the restoration of the rightful independence of the Baltic States. On the contrary, we have witnessed talks about talks. Not until the Soviet Union commits itself to true negotiations directed toward freeing the Baltic States should we in the West relax.

In January, I introduced legislation which addresses Soviet violence in the Baltic States. If passed, it would impose economic penalties if Moscow does not cease all hostilities against the Baltic people, remove all troops from Baltic buildings, and initiate good faith negotiations with democratically elected governments of Lithuania, Latvia, and Estonia regarding the restoration of their independence. It is apparent that the Soviet Union is once again sending a signal of rejection to the Balts, the United States, and the world.

Mr. President, we must not carry on business as usual with the Soviet Union until they halt their campaign of fear and coercion against the Baltics and other republics. If this means invoking the economic sanctions imposed by my legislation, then so be it. President Gorbachev cannot be allowed to presume that he can clamp down on the Baltic States with impunity. America must make clear that the storming of buildings by Red Army paratroops in a psychological campaign against the Baltic people will not be tolerated.●

Mr. FORD. Mr. President, 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 assistant legislative clerk proceeded to call the roll.

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

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

WHIP RELATIONS

Mr. SIMPSON. Mr. President, I commend the Senator from Kentucky. I do not believe I have on the record indicated the pleasure I enjoy in working with him since he has become designated as the majority whip. In my role as minority whip, Republican whip, the two of us necessarily work very closely together and very productively so. At least I feel that way, and I think the record to date discloses that. I just wanted to express that I thoroughly enjoy the working relationship and the other relationships that go with our service in the Senate.

Mr. President, I have an engagement, and I must leave the Chamber. I have no hesitation in doing so. I know the majority leader is going to come here and review some things. I feel no need for our side of the aisle to be represented.

The majority leader is going to present a nonexclusive list of legislation, and those of us on our side of the aisle have reviewed eight of the items to be presented. There are two that will be added, and I state only for the purposes of the RECORD and for staff purposes that the majority leader has added to the previous list, including the one on which cloture will be sought on Tuesday, the Central American economic recovery bill, S. 100, Calendar Item No. 61, and the motor voter registration bill, S. 250, if reported by the Rules Committee, and I believe that has been reported according to the chairman of the Rules Committee, the majority whip. The committee, yes, ordered that reported on April 24.

So I alert our members to those two additional items. One in particular had not been indicated on any previous draft list, and we are perfectly willing to accept that as something that will be addressed.

Mr. FORD. Mr. President, I thank my friend from Wyoming for his kind remarks. We have worked well together in the first few months of my tenure. We have agreed where we could, we have disagreed where we should, and we have not been disagreeable.

I am very pleased with our relationship. We both understand each other well. It is one of those chemical-mixing operations that we talk about on occasion. I am very pleased to have the opportunity to work with him, and again thank him for his kind remarks.

I hope that when this year ends we will feel the same way. I am sure we will.

THE SENATE'S SCHEDULE

Mr. MITCHELL. Mr. President, I will shortly send to the desk a nonexclusive list of legislation that the Senate may consider when we reconvene in May.

It has been my practice in making decisions with respect to the Senate schedule to consult regularly with the distinguished Republican leader, and to keep him and other Senators advised of what I intend to consider in determining the schedule for the Senate in each legislative period.

Momentarily, I will ask that the Senate go into recess until we return a week from Monday, and at that time it is my hope that we will be able to consider several of the matters listed on the documents which I will shortly send to the desk.

They include, among other things: Retail price maintenance bill, S. 429; education bill, S. 2; campaign finance reform bill, S. 3; telecommunications equipment research and manufacturing competition bill, S. 173; fast-track disapproval resolution, Senate Resolution 78, if reported by the Finance Committee; possible resolution waiving the Gramm-Rudman law, depending upon upcoming figures with respect to the gross national product; possible supplemental appropriations request for Kurdish assistance; family and medical leave bill, S. 5, if reported by the Labor Committee; Central American economic recovery bill, S. 100; and the motor voter registration bill, S. 250, if reported by the Rules Committee.

Mr. President, Members of the Senate, this is not an exclusive list, because we can never predict precisely in advance what action will be required by the Senate. But I make this information available in accordance with my practice of informing Senators as fully as possible as to what matters may be before them in the future.

I wish to emphasize that other matters may be considered as well. As soon as decisions are made in that regard, I will make that information available to the distinguished Republican leader, and to all Senators.

SENATOR ROBERT C. BYRD

Mr. MITCHELL. Mr. President, there is one fact about the Senate of the United States that no one would dispute. In this body's 202-year history, the Senator who stands at the front rank of all who have served here in his knowledge of the Senate's history, traditions, rules, precedents, and political culture is our distinguished colleague, ROBERT C. BYRD.

There are many measures of respect with which he is held by his constituents and his colleagues. He has set many records. To cite just three: He has represented his State in the Senate longer than any other West Virginian; he has cast more rollcall votes than any Senator in history; and no one has equaled his tenure as an elected Member of the Senate's Democratic leadership.

In my judgment, there has never been a Senator more deserving of a permanent memorial in the U.S. Capitol than ROBERT C. BYRD.

He was the first majority leader to occupy suites 221, 222, 223, and 224. During his residence there, the Senate of the 100th Congress achieved one of the most productive legislative sessions of the past quarter century.

His love of the Senate is legendary. His history lessons, which began in 1980, shortly before I took my Senate

oath for the first time, have been a source of valued instruction to Senators, scholars, students, and the general public. During the entire decade of the 1980's, he delivered more than 100 separate addresses on the Senate's history and traditions.

Forty-three of those floor addresses were assembled and published as volume I of ROBERT C. BYRD'S magisterial work: "The Senate, 1789–1989."

On that volume's official publication date, February 23, 1989, the Senate adopted Senate Resolution 65, designating the Robert C. Byrd rooms "in recognition of the unequaled service in this body of ROBERT C. BYRD on behalf of the people of the United States."

Early in June of this year, the Government Printing Office will publish volume II of Senator BYRD'S addresses. That magnificent work is his gift to the Senate and the Nation. I am pleased to inform the Members of the Senate that the bronze plaques designating the rooms to which I referred have been received and installed. Earlier this week I had the honor of presenting to Senator BYRD a replica of these plaques, and they are now situated permanently just outside the entrance to the office of the majority leader.

I might say, on a personal level, that Senator BYRD has been a source of counsel, advice, and guidance to me since I entered the Senate and, especially, since I became majority leader. He has been a friend, and I look forward to the benefit of his continued advice and counsel for many years to come.

VOTE ON CLOTURE MOTION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the vote on the motion to invoke cloture on the motion to proceed to S. 429 on Tuesday, May 7, occur immediately upon the disposition of Senate Resolution 17, with the required live quorum having been waived.

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

ORDERS FOR MONDAY, MAY 6, 1991

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 1 p.m. on Monday, May 6; that following the prayer, the Journal of the proceedings be deemed approved to date; that following the time for the two leaders, there be a period for morning business not to extend beyond 2 p.m. with Senators permitted to speak therein for up to 5 minutes each.

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

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, on Monday, May 6, the Senate will be debating the motion to proceed to S. 429, the retail price maintenance bill, and a vote on the motion to invoke cloture on that motion to proceed will occur on Tuesday, May 7, in accordance with the previous order. Therefore, there will be no rollcall votes on Monday, May 6.

To recapitulate, for the information of Senators, there has been objection by one or more Senators to the Senate proceeding to the retail price maintenance bill, S. 429. Therefore, I have made a motion to proceed to that bill and filed cloture on that motion to proceed. By unanimous consent, just obtained, the vote on that cloture motion on the motion to proceed will occur on the afternoon of Tuesday, May 7. Therefore, Monday, May 6, will be devoted to debating the motion to proceed, and there will be no rollcall votes on that day.

RECESS UNTIL MONDAY, MAY 6, 1991, AT 1 P.M.

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess, under Senate Concurrent Resolution 31, until 1 p.m. on Monday, May 6, 1991.

There being no objection, the Senate, at 8:53 p.m., recessed until Monday, May 6, 1991, at 1 p.m.

NOMINATIONS

Executive nominations received by the Senate April 25, 1991:

THE JUDICIARY

SAUNDRA BROWN ARMSTRONG, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA VICE WILLIAM A. INGRAM, RETIRED.

TIMOTHY K. LEWIS, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA VICE PAUL A. SIMMONS, RETIRED.

WILLIAM L. OSTEEN, SR., OF NORTH CAROLINA, TO BE U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF NORTH CAROLINA VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

DEPARTMENT OF JUSTICE

W. BRUCE BEATY, OF TEXAS, TO BE U.S. MARSHAL FOR THE NORTHERN DISTRICT OF TEXAS FOR THE TERM OF 4 YEARS VICE DAVID E. BALDELLI, RESIGNED.

DEPARTMENT OF DEFENSE

NANCY PATRICIA DORN, OF TEXAS, TO BE AN ASSISTANT SECRETARY OF THE ARMY, VICE ROBERT W. PAGE, SR., RESIGNED.

IN THE ARMY

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. DAVE R. PALMER [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

LT. GEN. HOWARD D. GRAVES [redacted] U.S. ARMY.