HOUSE OF REPRESENTATIVES—*August 10, 1992*

The House met at 12 noon and was called to order by the Speaker pro tempore [Mr. MONTGOMERY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
August 10, 1992.

I hereby designate the Honorable G.V. (SONNY) MONTGOMERY to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

Bishop Gilbert E. Patterson, Church of God in Christ, Memphis, TN, offered the following prayer:

Almighty God, Creator, sustainer of the universe. Father of all mankind, who has made of one blood all nations of men. We beseech You at this hour of universal tension, political upheaval, and economic uncertainty, to give direction to the leaders of our world. You told us to pray for all men: kings, all in authority; that we may lead a quiet and peaceable life.

While the red horse of war and the black horse of famine are riding across the continents, only You can stop the pale horse of death and bring the blessings of life, peace, and justice. Bless now and give wisdom to the President, the Congress, and the Supreme Court of our great Nation. We ask all in Jesus' name. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio [Mr. STOKES] please come forward and lead the House in the Pledge of Allegiance?

Mr. STOKES led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 2549. An act to make technical corrections to chapter 5 of title 5, United States Code;

H.R. 3795. An act to amend title 28, United States Code, to establish 3 divisions in the Central Judicial District of California;

H.R. 4312. An act to amend the Voting Rights Act of 1965 with respect to bilingual election requirements; and

H.R. 5560. An act to extend for one year the National Commission on Time and Learning, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 2324. An act to amend title 28, United States Code, with respect to witness fees;

H.R. 2850. An act to make technical and conforming changes in title 5, United States Code, and the Federal Employees Pay Comparability Act of 1990, and for other purposes; and

H.R. 4004. An act to assist in the development of tribal judicial systems, and for other purposes.

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 544) "An act 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."

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 1770) "An act to convey certain surplus real property located in the Black Hills National Forest to the Black Hills Workshop and Training Center, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 2079) "An act to establish the Marsh-Billings National Historical Park in the State of Vermont, and for other purposes."

The message also announced that the Senate agrees to the Report of the Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3033) "An act to amend the Job Training Partnership Act to improve the delivery of services to hard-to-serve youth and adults, and for other purposes."

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5373) "An act making appropriations for energy and water development for the fiscal year ending September 30, 1993, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JOHNSTON, Mr. BYRD, Mr. HOLLINGS, Mr. BURDICK, Mr. SASSER, Mr. DECONCINI, Mr. REID, Mr. HATFIELD, Mr. GARN, Mr. COCHRAN, Mr. DOMENICI, Mr. SPECTER, and Mr. NICKLES, to be the conferees on the part of the Senate.

The message also announced that the Senate insist upon its amendments to the bill (H.R. 5428) "An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. SASSER, Mr. INOUYE, Mr. REID, Mr. FOWLER, Mr. BYRD, Mr. GRAMM, Mr. GARN, Mr. STEVENS, and Mr. HATFIELD, to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5503) "An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1993, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BYRD, Mr. JOHNSTON, Mr. LEAHY, Mr. DECONCINI, Mr. BURDICK, Mr. BUMPERS, Mr. HOLLINGS, Mr. REID, Mr. NICKLES, Mr. STEVENS, Mr. GARN, Mr. COCHRAN, Mr. RUDMAN, Mr. DOMENICI, Mr. GORTON, and Mr. HATFIELD, to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5518) "An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1993, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LAUTENBERG, Mr. BYRD, Mr. HARKIN, Mr. SASSER, Ms. MIKULSKI, Mr. D'AMATO, Mr. KASTEN, Mr. DOMENICI, and Mr. HATFIELD, to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1578. An act to recognize and grant a Federal Charter to the Military Order of World Wars;

S. 1607. An act to provide for the settlement of the water rights claims of the Northern Cheyenne Tribe, and for other purposes;

S. 2044. An act to assist Native Americans in assuring the survival and continuing vitality of their languages; and

☐ This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

S. 2681. An act relating to Native Hawaiian Health Care, and for other purposes.

WELCOME OF BISHOP GILBERT E. PATTERSON

(Mr. STOKES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STOKES. Mr. Speaker, on behalf of Congressman HAROLD FORD, who was unavoidably delayed, I am pleased to welcome Bishop Gilbert E. Patterson. Bishop Patterson is a spiritual giant in the Memphis, TN, community. He is the founder and pastor of the Temple of Deliverance Church of God in Christ in Memphis with an active membership of more than 3,000 members.

Bishop Patterson is the founder and president of Bountiful Blessings Ministries. His illustrious messages are heard nationwide on numerous television stations, including Black Entertainment Television Cable Network. He is also the president and general manager of a gospel radio station.

His untiring dedication to his ministries has led to many honors. Bishop Patterson was appointed jurisdictional prelate of the Church of God in Christ, Tennessee Fourth Ecclesiastical Jurisdiction in 1988.

He brings his message of hope to thousands of persons. During his ministerial career, he has organized seven churches in Memphis, TN; Detroit, MI; Toledo, OH; and Forrest City, AR.

On behalf of Congressman HAROLD FORD, I am pleased to introduce a spiritual leader of Bishop Patterson's dedication and standing. We have all been inspired by his words today and I want to thank him for coming to Washington to spread his message of hope.

EASTERN MUSIC AND APPALACHIAN FESTIVALS

(Mr. COBLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COBLE. Mr. Speaker, August 1 past was a significant day for the arts in North Carolina. It marked the season's conclusion of two important cultural events.

At the crown of the Blue Ridge Mountains the inimitable Chet Atkins and Doc Watson concluded the ninth season of an Appalachian Summer, a festival of music, arts, theater, and dance for the Appalachian State University students, tourists, and summer residents of the high country. Gil Morgenstern served as artistic director.

One hundred five miles to the east on the campus of the University of North Carolina at Greensboro under the directorship of music director Sheldon Morgenstern and Walter Heid, executive director, the Eastern Music Festival concluded its season. Founded 31 years ago on the campus of Guilford College, Eastern Music Festival is a program combining a 6-week world class concert series with a training program for exceptionally gifted young musicians from the United States and beyond.

Enthusiastic, appreciative audiences enjoyed these final 1992 performances, and we extend best wishes to an Appalachian Summer and the Eastern Music Festival.

CONFERENCE REPORT ON S. 5, FAMILY AND MEDICAL LEAVE ACT OF 1992

Mrs. SCHROEDER submitted the following conference report and statement on the Senate bill (S. 5) to grant employees family and temporary medical leave under certain circumstances, and for other purposes:

CONFERENCE REPORT (H. REPT. 102-816)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 5) to grant employees family and temporary medical leave under certain circumstances, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Family and Medical Leave Act of 1992".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.

TITLE I—GENERAL REQUIREMENTS FOR LEAVE

Sec. 101. Definitions.
Sec. 102. Leave requirement.
Sec. 103. Certification.
Sec. 104. Employment and benefits protection.
Sec. 105. Prohibited acts.
Sec. 106. Investigative authority.
Sec. 107. Enforcement.
Sec. 108. Special rules concerning employees of local educational agencies.
Sec. 109. Notice.
Sec. 110. Regulations.

TITLE II—LEAVE FOR CIVIL SERVICE EMPLOYEES

Sec. 201. Leave requirement.

TITLE III—COMMISSION ON LEAVE

Sec. 301. Establishment.
Sec. 302. Duties.
Sec. 303. Membership.
Sec. 304. Compensation.
Sec. 305. Powers.
Sec. 306. Termination.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Effect on other laws.
Sec. 402. Effect on existing employment benefits.
Sec. 403. Encouragement of more generous leave policies.
Sec. 404. Regulations.
Sec. 405. Effective dates.

TITLE V—COVERAGE OF CONGRESSIONAL EMPLOYEES

Sec. 501. Leave for certain Senate employees.
Sec. 502. Leave for certain congressional employees.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the number of single-parent households and two-parent households in which the single parent or both parents work is increasing significantly;

(2) it is important for the development of children and the family unit that fathers and mothers be able to participate in early childrearing and the care of family members who have serious health conditions;

(3) the lack of employment policies to accommodate working parents can force individuals to choose between job security and parenting;

(4) there is inadequate job security for employees who have serious health conditions that prevent them from working for temporary periods;

(5) due to the nature of the roles of men and women in our society, the primary responsibility for family caretaking often falls on women, and such responsibility affects the working lives of women more than it affects the working lives of men; and

(6) employment standards that apply to one gender only have serious potential for encouraging employers to discriminate against employees and applicants for employment who are of that gender.

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

(1) to balance the demands of the workplace with the needs of families, to promote the stability and economic security of families, and to promote national interests in preserving family integrity;

(2) to entitle employees to take reasonable leave for medical reasons, for the birth or adoption of a child, and for the care of a child, spouse, or parent who has a serious health condition;

(3) to accomplish the purposes described in paragraphs (1) and (2) in a manner that accommodates the legitimate interests of employers;

(4) to accomplish the purposes described in paragraphs (1) and (2) in a manner that, consistent with the Equal Protection Clause of the Fourteenth Amendment, minimizes the potential for employment discrimination on the basis of sex by ensuring generally that leave is available for eligible medical reasons (including maternity-related disability) and for compelling family reasons, on a gender-neutral basis; and

(5) to promote the goal of equal employment opportunity for women and men, pursuant to such clause.

TITLE I—GENERAL REQUIREMENTS FOR LEAVE

SEC. 101. DEFINITIONS.

As used in this title:

(1) COMMERCE.—The terms "commerce" and "industry or activity affecting commerce" mean any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce, and include "commerce" and any "industry affecting commerce", as defined in paragraphs (3) and (1), respectively, of section 120 of the Labor Management Relations Act, 1947 (29 U.S.C. 142 (3) and (1)).

(2) ELIGIBLE EMPLOYEE.—

(A) IN GENERAL.—The term "eligible employee" means any "employee", as defined in section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)), who has been employed—

(i) for at least 12 months by the employer with respect to whom leave is requested under section 102; and

(ii) for at least 1,250 hours of service with such employer during the previous 12-month period.

(B) EXCLUSIONS.—The term "eligible employee" does not include—

(i) any Federal officer or employee covered under subchapter V of chapter 63 of title 5, United States Code (as added by title II of this Act); or

(ii) any employee of an employer who is employed at a worksite at which such employer employs less than 50 employees if the total number of employees employed by that employer within 75 miles of that worksite is less than 50.

(C) DETERMINATION.—For purposes of determining whether an employee meets the hours of service requirement specified in subparagraph (A)(ii), the legal standards established under section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) shall apply.

(3) EMPLOY; STATE.—The terms "employ" and "State" have the same meanings given such terms in subsections (g) and (c), respectively, of section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203 (g) and (c)).

(4) EMPLOYEE.—The term "employee" means any individual employed by an employer.

(5) EMPLOYER.—

(A) IN GENERAL.—The term "employer"—

(i) means any person engaged in commerce or in any industry or activity affecting commerce who employs 50 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year;

(ii) includes—

(I) any person who acts, directly or indirectly, in the interest of an employer to any of the employees of such employer; and

(II) any successor in interest of an employer; and

(iii) includes any "public agency", as defined in section 3(x) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(x)).

(B) PUBLIC AGENCY.—For purposes of subparagraph (A)(iii), a public agency shall be considered to be a person engaged in commerce or in an industry or activity affecting commerce.

(6) EMPLOYMENT BENEFITS.—The term "employment benefits" means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employer or through an "employee benefit plan", as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)).

(7) HEALTH CARE PROVIDER.—The term "health care provider" means—

(A) a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or

(B) any other person determined by the Secretary to be capable of providing health care services.

(8) PARENT.—The term "parent" means the biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter.

(9) PERSON.—The term "person" has the same meaning given such term in section 3(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(a)).

(10) REDUCED LEAVE SCHEDULE.—The term "reduced leave schedule" means leave that reduces the usual number of hours per workweek, or hours per workday, of an employee.

(11) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(12) SERIOUS HEALTH CONDITION.—The term "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves—

(A) inpatient care in a hospital, hospice, or residential medical care facility; or

(B) continuing treatment by a health care provider.

(13) SON OR DAUGHTER.—The term "son or daughter" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is—

(A) under 18 years of age; or

(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

SEC. 102. LEAVE REQUIREMENT.

(a) IN GENERAL.—

(1) ENTITLEMENT TO LEAVE.—Subject to section 103, an eligible employee shall be entitled to a total of 12 work weeks of leave during any 12-month period for one or more of the following:

(A) Because of the birth of a son or daughter of the employee and in order to care for such son or daughter.

(B) Because of the placement of a son or daughter with the employee for adoption or foster care.

(C) In order to care for the spouse, or a son, daughter, or parent, of the employee, if such spouse, son, daughter, or parent has a serious health condition.

(D) Because of a serious health condition that makes the employee unable to perform the functions of the position of such employee.

(2) EXPIRATION OF ENTITLEMENT.—The entitlement to leave under subparagraphs (A) and (B) of paragraph (1) for a birth or placement of a son or daughter shall expire at the end of the 12-month period beginning on the date of such birth or placement.

(3) INTERMITTENT LEAVE.—

(A) IN GENERAL.—Leave under subparagraph (A) or (B) of paragraph (1) shall not be taken by an employee intermittently unless the employee and the employer of the employee agree otherwise. Subject to subparagraph (B), subsection (e), and section 103(b)(5), leave under subparagraph (C) or (D) of paragraph (1) may be taken intermittently when medically necessary.

(B) ALTERNATIVE POSITION.—If an employee requests intermittent leave under subparagraph (C) or (D) of paragraph (1) that is foreseeable based on planned medical treatment, the employer may require such employee to transfer temporarily to an available alternative position offered by the employer for which the employee is qualified and that—

(i) has equivalent pay and benefits; and

(ii) better accommodates recurring periods of leave than the regular employment position of the employee.

(b) REDUCED LEAVE.—On agreement between the employer and the employee, leave under subsection (a) may be taken on a reduced leave schedule. Such reduced leave schedule shall not result in a reduction in the total amount of leave to which the employee is entitled under subsection (a).

(c) UNPAID LEAVE PERMITTED.—Except as provided in subsection (d), leave granted under subsection (a) may consist of unpaid leave.

(d) RELATIONSHIP TO PAID LEAVE.—

(1) UNPAID LEAVE.—If an employer provides paid leave for fewer than 12 workweeks, the additional weeks of leave necessary to attain the 12 workweeks of leave required under this title may be provided without compensation.

(2) SUBSTITUTION OF PAID LEAVE.—

(A) IN GENERAL.—An eligible employee may elect, or an employer may require the employee, to substitute any of the accrued paid vacation leave, personal leave, or family leave of the employee for leave provided under subparagraph (A), (B), or (C) of subsection (a)(1) for any part of the 12-week period of such leave under such subsection.

(B) SERIOUS HEALTH CONDITION.—An eligible employee may elect, or an employer may require the employee, to substitute any of the accrued paid vacation leave, personal leave, or medical or sick leave of the employee for leave provided under subparagraph (C) or (D) of subsection (a)(1) for any part of the 12-week period of such leave under such subsection, except that nothing in this Act shall require an employer to provide paid sick leave or paid medical leave in any situation in which such employer would not normally provide any such paid leave.

(e) FORESEEABLE LEAVE.—

(1) REQUIREMENT OF NOTICE.—In any case in which the necessity for leave under subparagraph (A) or (B) of subsection (a)(1) is foreseeable based on an expected birth or adoption, the employee shall provide the employer with not less than 30 days notice, before the date the leave is to begin, of the employee's intention to take leave under such subparagraph, except that if the date of the birth or adoption requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

(2) DUTIES OF EMPLOYEE.—In any case in which the necessity for leave under subparagraph (C) or (D) of subsection (a)(1) is foreseeable based on planned medical treatment, the employee—

(A) shall make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the employer, subject to the approval of the health care provider of the employee or the health care provider of the son, daughter, spouse, or parent of the employee; and

(B) shall provide the employer with not less than 30 days notice, before the date the leave is to begin, of the employee's intention to take leave under such subparagraph, except that if the date of the treatment requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

(f) SPOUSES EMPLOYED BY THE SAME EMPLOYER.—In any case in which a husband and wife entitled to leave under subsection (a) are employed by the same employer, the aggregate number of workweeks of leave to which both may be entitled may be limited to 12 workweeks during any 12-month period, if such leave is taken—

(1) under subparagraph (A) or (B) of subsection (a)(1); or

(2) to care for a sick parent under subparagraph (C) of such subsection.

SEC. 103. CERTIFICATION.

(a) IN GENERAL.—An employer may require that a request for leave under subparagraph (C) or (D) of section 102(a)(1) be supported by a certification issued by the health care provider of the eligible employee or of the son, daughter, spouse, or parent of the employee, as appropriate. The employee shall provide, in a timely manner, a copy of such certification to the employer.

(b) SUFFICIENT CERTIFICATION.—Certification provided under subsection (a) shall be sufficient if it states—

(1) the date on which the serious health condition commenced;

(2) the probable duration of the condition;

(3) the appropriate medical facts within the knowledge of the health care provider regarding the condition;

(4)(A) for purposes of leave under section 102(a)(1)(C), a statement that the eligible employee is needed to care for the son, daughter, spouse, or parent and an estimate of the amount of time that such employee is needed to care for the son, daughter, spouse, or parent; and

(B) for purposes of leave under section 102(a)(1)(D), a statement that the employee is unable to perform the functions of the position of the employee; and

(5) in the case of certification for intermittent leave for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment.

(c) SECOND OPINION.—

(1) IN GENERAL.—In any case in which the employer has reason to doubt the validity of the certification provided under subsection (a) for leave under subparagraph (C) or (D) of section 102(a)(1), the employer may require, at the expense of the employer, that the eligible employee obtain the opinion of a second health care provider designated or approved by the employer concerning any information certified under subsection (b) for such leave.

(2) LIMITATION.—A health care provider designated or approved under paragraph (1) shall not be employed on a regular basis by the employer.

(d) RESOLUTION OF CONFLICTING OPINIONS.—

(1) IN GENERAL.—In any case in which the second opinion described in subsection (c) differs from the opinion in the original certification provided under subsection (a), the employer may require, at the expense of the employer, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employer and the employee concerning the information certified under subsection (b).

(2) FINALITY.—The opinion of the third health care provider concerning the information certified under subsection (b) shall be considered to be final and shall be binding on the employer and the employee.

(e) SUBSEQUENT RECERTIFICATION.—The employer may require that the eligible employee obtain subsequent recertifications on a reasonable basis.

SEC. 104. EMPLOYMENT AND BENEFITS PROTECTION.

(a) RESTORATION TO POSITION.—

(1) IN GENERAL.—Any eligible employee who takes leave under section 102 for the intended purpose of the leave shall be entitled, on return from such leave—

(A) to be restored by the employer to the position of employment held by the employee when the leave commenced; or

(B) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

(2) LOSS OF BENEFITS.—The taking of leave under section 102 shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced.

(3) LIMITATIONS.—Nothing in this section shall be construed to entitle any restored employee to—

(A) the accrual of any seniority or employment benefits during any period of leave; or

(B) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

(4) CERTIFICATION.—As a condition of restoration under paragraph (1), the employer may have a uniformly applied practice or policy that requires each employee to receive certification from the health care provider of the employee that the employee is able to resume work, except that nothing in this paragraph shall supersede a valid State or local law or a collective bargaining agreement that governs the return to work of employees taking leave under section 102(a)(1)(D).

(5) CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit an employer from requiring an employee on leave under section 102 to report periodically to the employer on the status and intention of the employee to return to work.

(b) EXEMPTION CONCERNING CERTAIN HIGHLY COMPENSATED EMPLOYEES.—

(1) DENIAL OF RESTORATION.—An employer may deny restoration under subsection (a) to any eligible employee described in paragraph (2) if—

(A) such denial is necessary to prevent substantial and grievous economic injury to the operations of the employer;

(B) the employer notifies the employee of the intent of the employer to deny restoration on such basis at the time the employer determines that such injury would occur; and

(C) in any case in which the leave has commenced, the employee elects not to return to employment after receiving such notice.

(2) AFFECTED EMPLOYEES.—An eligible employee described in paragraph (1) is a salaried eligible employee who is among the highest paid 10 percent of the employees employed by the employer within 75 miles of the facility at which the employee is employed.

(c) MAINTENANCE OF HEALTH BENEFITS.—

(1) COVERAGE.—Except as provided in paragraph (2), during any period that an eligible employee takes leave under section 102, the employer shall maintain coverage under any "group health plan" (as defined in section 5000(b)(1) of the Internal Revenue Code of 1986) for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously from the date the employee commenced the leave until the date the employee is restored under subsection (a).

(2) FAILURE TO RETURN FROM LEAVE.—The employer may recover the premium that the employer paid for maintaining coverage for the employee under such group health plan during any period of unpaid leave under section 102 if—

(A) the employee fails to return from leave under section 102 after the period of leave to which the employee is entitled has expired; and

(B) the employee fails to return to work for a reason other than—

(i) the continuation, recurrence, or onset of a serious health condition that entitles the employee to leave under subparagraph (C) or (D) of section 102(a)(1); or

(ii) other circumstances beyond the control of the employee.

(3) CERTIFICATION.—

(A) ISSUANCE.—An employer may require that a claim that an employee is unable to return to work because of the continuation, recurrence, or onset of the serious health condition described in paragraph (2)(B)(i) be supported by—

(i) a certification issued by the health care provider of the eligible employee, in the case of an employee unable to return to work because of a condition specified in section 102(a)(1)(D); or

(ii) a certification issued by the health care provider of the son, daughter, spouse, or parent of the employee in the case of an employee unable to return to work because of a condition specified in section 102(a)(1)(C).

(B) COPY.—The employee shall provide, in a timely manner, a copy of such certification to the employer.

(C) SUFFICIENCY OF CERTIFICATION.—

(i) LEAVE DUE TO SERIOUS HEALTH CONDITION OF EMPLOYEE.—The certification described in subparagraph (A)(i) shall be sufficient if the certification states that a serious health condition prevented the employee from being able to perform the functions of the position of the employee on the date that the leave of the employee expired.

(ii) LEAVE DUE TO SERIOUS HEALTH CONDITION OF FAMILY MEMBER.—The certification described in subparagraph (A)(ii) shall be sufficient if the certification states that the employee is needed to care for the son, daughter, spouse, or parent who has a serious health condition on the date that the leave of the employee expired.

SEC. 105. PROHIBITED ACTS.

(a) INTERFERENCE WITH RIGHTS.—

(1) EXERCISE OF RIGHTS.—It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this title.

(2) DISCRIMINATION.—It shall be unlawful for any employer to discharge or in any other manner discriminate against any individual for opposing any practice made unlawful by this title.

(b) INTERFERENCE WITH PROCEEDINGS OR INQUIRIES.—It shall be unlawful for any person to discharge or in any other manner discriminate against any individual because such individual—

(1) has filed any charge, or has instituted or caused to be instituted any proceeding, under or related to this title;

(2) has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this title; or

(3) has testified, or is about to testify, in any inquiry or proceeding relating to any right provided under this title.

SEC. 106. INVESTIGATIVE AUTHORITY.

(a) IN GENERAL.—To ensure compliance with the provisions of this title, or any regulation or order issued under this title, the Secretary shall have, subject to subsection (c), the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)).

(b) OBLIGATION TO KEEP AND PRESERVE RECORDS.—Any employer shall keep and preserve records in accordance with section 11(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(c)) and in accordance with regulations issued by the Secretary.

(c) REQUIRED SUBMISSIONS GENERALLY LIMITED TO AN ANNUAL BASIS.—The Secretary shall not under the authority of this section require any employer or any plan, fund, or program to submit to the Secretary any books or records more than once during any 12-month period, unless the Secretary has reasonable cause to believe there may exist a violation of this title or any regulation or order issued pursuant to this title, or is investigating a charge pursuant to section 107(b).

(d) SUBPOENA POWERS.—For the purposes of any investigation provided for in this section, the Secretary shall have the subpoena authority provided for under section 9 of the Fair Labor Standards Act of 1938 (29 U.S.C. 209).

SEC. 107. ENFORCEMENT.

(a) CIVIL ACTION BY EMPLOYEES.—

(1) LIABILITY.—Any employer who violates section 105 shall be liable to any eligible employee affected—

(A) for damages equal to—

(i) the amount of—

(I) any wages, salary, employment benefits, or other compensation denied or lost to such employee by reason of the violation; or

(II) in a case in which wages, salary, employment benefits, or other compensation have not been denied or lost to the employee, any actual monetary losses sustained by the employee as a direct result of the violation, such as the cost of providing care, up to a sum equal to 12 weeks of wages or salary for the employee;

(ii) the interest on the amount described in clause (i) calculated at the prevailing rate; and

(iii) an additional amount as liquidated damages equal to the sum of the amount described in clause (i) and the interest described in clause (ii), except that if an employer who has violated section 105 proves to the satisfaction of the court that the act or omission which violated section 105 was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of section 105, such court may, in the discretion of the court, reduce the amount of the liability to the amount and interest determined under clauses (i) and (ii), respectively; and

(B) for such equitable relief as may be appropriate, including, without limitation, employment, reinstatement, and promotion.

(2) STANDING.—An action to recover the damages or equitable relief prescribed in paragraph (1) may be maintained against any employer (including a public agency) in any Federal or State court of competent jurisdiction by any one or more employees for and in behalf of—

(A) the employees; or

(B) the employees and other employees similarly situated.

(3) FEES AND COSTS.—The court in such an action shall, in addition to any judgment awarded to the plaintiff, allow a reasonable attorney's fee, reasonable expert witness fees, and other costs of the action to be paid by the defendant.

(4) LIMITATIONS.—The right provided by paragraph (1) to bring an action by or on behalf of any employee shall terminate, unless such action is dismissed without prejudice on motion of the Secretary, on—

(A) the filing of a complaint by the Secretary of Labor in an action under subsection (d) in which—

(i) restraint is sought of any further delay in the payment of the damages described in paragraph (1)(A) to such employee by an employer liable under paragraph (1) for the damages; or

(ii) equitable relief is sought as a result of alleged violations of section 105; or

(B) the filing of a complaint by the Secretary in an action under subsection (b) in which a recovery is sought of the damages described in paragraph (1)(A) owing to an eligible employee by an employer liable under paragraph (1).

(b) ACTION BY THE SECRETARY.—

(1) ADMINISTRATIVE ACTION.—The Secretary shall receive, investigate, and attempt to resolve complaints of violations of section 105 in the same manner that the Secretary receives, investigates, and attempts to resolve complaints of violations of sections 6 and 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 and 207).

(2) CIVIL ACTION.—The Secretary may bring an action in any court of competent jurisdiction to recover on behalf of an eligible employee the damages described in subsection (a)(1)(A).

(3) SUMS RECOVERED.—Any sums recovered by the Secretary on behalf of an employee pursuant to paragraph (2) shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to each employee affected. Any such sums not paid to an employee because of inability to do so within a period of 3 years shall be deposited into the Treasury of the United States as miscellaneous receipts.

(c) LIMITATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), an action may be brought under subsection (a) or (b) not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

(2) WILLFUL VIOLATION.—In the case of such action brought for a willful violation of section 105, such action may be brought within 3 years of the date of the last event constituting the alleged violation for which such action is brought.

(3) COMMENCEMENT.—In determining when an action is commenced by the Secretary under subsection (b) for the purposes of this subsection, it shall be considered to be commenced on the date when the complaint is filed.

(d) ACTION FOR INJUNCTION BY SECRETARY.—The district courts of the United States shall have jurisdiction, for cause shown, over an action brought by the Secretary to restrain violations of section 105, including actions to restrain the withholding of payment of wages, salary, employment benefits, or other compensation, plus interest, found by the court to be due to eligible employees.

SEC. 108. SPECIAL RULES CONCERNING EMPLOYEES OF LOCAL EDUCATIONAL AGENCIES.

(a) APPLICATION.—

(1) IN GENERAL.—Except as otherwise provided in this section, the rights (including the rights under section 104, which shall extend throughout the period of leave of any employee under this section), remedies, and procedures under this Act shall apply to—

(A) any "local educational agency" (as defined in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12))) and an eligible employee of the agency; and

(B) any private elementary and secondary school and an eligible employee of the school.

(2) DEFINITIONS.—For purposes of the application described in paragraph (1):

(A) ELIGIBLE EMPLOYEE.—The term "eligible employee" means an eligible employee of an agency or school described in paragraph (1); and

(B) EMPLOYER.—The term "employer" means an agency or school described in paragraph (1).

(b) LEAVE DOES NOT VIOLATE CERTAIN OTHER FEDERAL LAWS.—A local educational agency and a private elementary and secondary school shall not be in violation of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), or title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), solely as a result of an eligible employee of such agency or school exercising the rights of such employee under this Act.

(c) INTERMITTENT LEAVE FOR INSTRUCTIONAL EMPLOYEES.—

(1) IN GENERAL.—Subject to paragraph (2), in any case in which an eligible employee employed principally in an instructional capacity by any such educational agency or school requests leave under subparagraph (C) or (D) of section 102(a)(1) that is foreseeable based on planned medical treatment and the employee would be on leave for greater than 20 percent of the total number of working days in the period during which the leave would extend, the agency or school may require that such employee elect either—

(A) to take leave for periods of a particular duration, not to exceed the duration of the planned medical treatment; or

(B) to transfer temporarily to an available alternative position offered by the employer for which the employee is qualified, and that—

(i) has equivalent pay and benefits; and

(ii) better accommodates recurring periods of leave than the regular employment position of the employee.

(2) APPLICATION.—The elections described in subparagraphs (A) and (B) of paragraph (1) shall apply only with respect to an eligible employee who complies with section 102(e)(2).

(d) RULES APPLICABLE TO PERIODS NEAR THE CONCLUSION OF AN ACADEMIC TERM.—The following rules shall apply with respect to periods of leave near the conclusion of an academic term in the case of any eligible employee employed principally in an instructional capacity by any such educational agency or school:

(1) LEAVE MORE THAN 5 WEEKS PRIOR TO END OF TERM.—If the eligible employee begins leave under section 102 more than 5 weeks prior to the end of the academic term, the agency or school may require the employee to continue taking leave until the end of such term, if—

(A) the leave is of at least 3 weeks duration; and

(B) the return to employment would occur during the 3-week period before the end of such term.

(2) LEAVE LESS THAN 5 WEEKS PRIOR TO END OF TERM.—If the eligible employee begins leave under subparagraph (A), (B), or (C) of section 102(a)(1) during the period that commences 5 weeks prior to the end of the academic term, the agency or school may require the employee to continue taking leave until the end of such term, if—

(A) the leave is of greater than 2 weeks duration; and

(B) the return to employment would occur during the 2-week period before the end of such term.

(3) LEAVE LESS THAN 3 WEEKS PRIOR TO END OF TERM.—If the eligible employee begins leave under paragraph (A), (B), or (C) of section 102(a)(1) during the period that commences 3 weeks prior to the end of the academic term and the duration of the leave is greater than 5 working days, the agency or school may require the employee to continue to take leave until the end of such term.

(e) RESTORATION TO EQUIVALENT EMPLOYMENT POSITION.—For purposes of determinations under section 104(a)(1)(B) (relating to the restoration of an eligible employee to an equivalent position), in the case of a local educational agency or a private elementary and secondary school, such determination shall be made on the basis of established school board policies and practices, private school policies and practices, and collective bargaining agreements.

(f) REDUCTION OF THE AMOUNT OF LIABILITY.—If a local educational agency or a private elementary and secondary school that has violated title I proves to the satisfaction of the administrative law judge or the court that the agency, school, or department had reasonable grounds for believing that the underlying act or omission was not a violation of such title, such judge or court may, in the discretion of the judge or court, reduce the amount of the liability provided for under section 107(a)(1)(A) to the amount and interest determined under clauses (i) and (ii), respectively, of such section.

SEC. 109. NOTICE.

(a) IN GENERAL.—Each employer shall post and keep posted, in conspicuous places on the premises of the employer where notices to employees and applicants for employment are customarily posted, a notice, to be prepared or approved by the Secretary, setting forth excerpts from, or summaries of, the pertinent provisions of this title and information pertaining to the filing of a charge.

(b) PENALTY.—Any employer that willfully violates this section shall be assessed a civil money penalty not to exceed $100 for each separate offense.

SEC. 110. REGULATIONS.

Not later than 60 days after the date of enactment of this title, the Secretary shall prescribe such regulations as are necessary to carry out this title.

TITLE II—LEAVE FOR CIVIL SERVICE EMPLOYEES

SEC. 201. LEAVE REQUIREMENT.

(a) CIVIL SERVICE EMPLOYEES.—

(1) IN GENERAL.—Chapter 63 of title 5, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER V—FAMILY AND MEDICAL LEAVE

"§6381. Definitions

"For the purpose of this subchapter—

"(1) the term 'employee' means an individual who has been employed for at least 12 months on other than a temporary or intermittent basis—

"(A) as an employee as defined by section 6301(2) (excluding an individual employed by the Government of the District of Columbia); or

"(B) in a position referred to in clause (v) or (ix) of such section;

"(2) the term 'health care provider' means—

"(A) a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; and

"(B) any other person determined by the Director of the Office of Personnel Management to be capable of providing health care services;

"(3) the term 'parent' means the biological parent of an employee, or an individual who stood in loco parentis to an employee, when the employee was a son or daughter;

"(4) the term 'reduced leave schedule' means leave that reduces the usual number of hours per workweek, or hours per workday, of an employee;

"(5) the term 'serious health condition' means an illness, injury, impairment, or physical or mental condition that involves—

"(A) inpatient care in a hospital, hospice, or residential medical care facility; or

"(B) continuing treatment by a health care provider; and

"(6) the term 'son or daughter' means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is—

"(A) under 18 years of age; or

"(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

"§6382. Leave requirement

"(a)(1) An employee shall be entitled, subject to section 6383, to a total of 12 administrative work weeks of leave during any 12-month period for one or more of the following:

"(A) Because of the birth of a son or daughter of the employee and in order to care for such son or daughter.

"(B) Because of the placement of a son or daughter with the employee for adoption or foster care.

"(C) In order to care for the spouse, or a son, daughter, or parent, of the employee, if such spouse, son, daughter, or parent has a serious health condition.

"(D) Because of a serious health condition that makes the employee unable to perform the functions of the employee's position.

"(2) The entitlement to leave under subparagraph (A) or (B) of paragraph (1) based on the birth or placement of a son or daughter shall expire at the end of the 12-month period beginning on the date of such birth or placement.

"(3)(A) Leave under subparagraph (A) or (B) of paragraph (1) shall not be taken by an employee intermittently unless the employee and the employing agency of the employee agree otherwise. Subject to subparagraph (B), subsection (e), and section 6383(b)(5), leave under subparagraph (C) or (D) of paragraph (1) may be taken intermittently when medically necessary.

"(B) If an employee requests intermittent leave under subparagraph (C) or (D) of paragraph (1) that is foreseeable based on planned medical treatment, the employing agency may require such employee to transfer temporarily to an available alternative position offered by the employing agency for which the employee is qualified and that—

"(i) has equivalent pay and benefits; and

"(ii) better accommodates recurring periods of leave than the regular employment position of the employee.

"(b) On agreement between the employing agency and the employee, leave under subsection (a) may be taken on a reduced leave schedule. In the case of an employee on a reduced leave schedule, any hours of leave taken by such employee under such schedule shall be subtracted from the total amount of leave remaining available to such employee under subsection (a), for purposes of the 12-month period involved, on an hour-for-hour basis.

"(c) Except as provided in subsection (d), leave granted under subsection (a) shall be leave without pay.

"(d) An employee may elect to substitute for leave under subparagraph (A), (B), (C), or (D) of subsection (a)(1) any of the employee's accrued or accumulated annual or sick leave under subchapter I for any part of the 12-week period of leave under such subparagraph, except that nothing in this subchapter shall require an employing agency to provide paid sick leave in any situation in which such employing agency would not normally provide any such paid leave.

"(e)(1) In any case in which the necessity for leave under subparagraph (A) or (B) of subsection (a)(1) is foreseeable based on an expected birth or placement, the employee shall provide the employing agency with not less than 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave under such subparagraph, except that if the date of the birth or adoption requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

"(2) In any case in which the necessity for leave under subparagraph (C) or (D) of subsection (a)(1) is foreseeable based on planned medical treatment, the employee—

"(A) shall make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the employing agency, subject to the approval of the health care provider of the employee or the health care provider of the son, daughter, spouse, or parent of the employee; and

"(B) shall provide the employing agency with not less than 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave under such subparagraph, except that if the date of the treatment requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

"§6383. Certification

"(a) An employing agency may require that a request for leave under subparagraph (C) or (D) of section 6382(a)(1) be supported by certification issued by the health care provider of the employee or of the son, daughter, spouse, or parent of the employee, as appropriate. The employee shall provide, in a timely manner, a copy of such certification to the employing agency.

"(b) A certification provided under subsection (a) shall be sufficient if it states—

"(1) the date on which the serious health condition commenced;

"(2) the probable duration of the condition;

"(3) the appropriate medical facts within the knowledge of the health care provider regarding the condition;

"(4)(A) for purposes of leave under section 6382(a)(1)(C), a statement that the employee is needed to care for the son, daughter, spouse, or parent, and an estimate of the amount of time that such employee is needed to care for such son, daughter, spouse, or parent; and

"(B) for purposes of leave under section 6382(a)(1)(D), a statement that the employee is unable to perform the functions of the position of the employee; and

"(5) in the case of certification for intermittent leave for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment.

"(c)(1) In any case in which the employing agency has reason to doubt the validity of the certification provided under subsection (a) for leave under subparagraph (C) or (D) of section 6382(a)(1), the employing agency may require, at the expense of the agency, that the employee obtain the opinion of a second health care provider designated or approved by the employing agency concerning any information certified under subsection (b) for such leave.

"(2) Any health care provider designated or approved under paragraph (1) shall not be employed on a regular basis by the employing agency.

"(d)(1) In any case in which the second opinion described in subsection (c) differs from the original certification provided under subsection (a), the employing agency may require, at the expense of the agency, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employing agency and the employee concerning the information certified under subsection (b).

"(2) The opinion of the third health care provider concerning the information certified under subsection (b) shall be considered to be final and shall be binding on the employing agency and the employee.

"(e) The employing agency may require, at the expense of the agency, that the employee obtain subsequent recertifications on a reasonable basis.

"§6384. Employment and benefits protection

"(a) Any employee who takes leave under section 6382 for the intended purpose of the leave shall be entitled, upon return from such leave—

"(1) to be restored by the employing agency to the position held by the employee when the leave commenced; or

"(2) to be restored to an equivalent position with equivalent benefits, pay, status, and other terms and conditions of employment.

"(b) The taking of leave under section 6382 shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced.

"(c) Except as otherwise provided by or under law, nothing in this section shall be construed to entitle any restored employee to—

"(1) the accrual of any seniority or employment benefits during any period of leave; or

"(2) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

"(d) As a condition to restoration under subsection (a), the employing agency may have a uniformly applied practice or policy that requires each employee to receive certification from the health care provider of the employee that the employee is able to resume work.

"(e) Nothing in this section shall be construed to prohibit an employing agency from requiring an employee on leave under section 6382 to report periodically to the employing agency on the status and intention of the employee to return to work.

"§6385. Prohibition of coercion

"(a) An employee shall not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with the exercise of the rights of the employee under this subchapter.

"(b) For the purpose of this section, 'intimidate, threaten, or coerce' includes promising to confer or conferring any benefit (such as appointment, promotion, or compensation), or taking or threatening to take any reprisal (such as deprivation of appointment, promotion, or compensation).

"§6386. Health insurance

"An employee enrolled in a health benefits plan under chapter 89 who is placed in a leave status under section 6382 may elect to continue the health benefits enrollment of the employee while in such leave status and arrange to pay currently into the Employees Health Benefits Fund (described in section 8909), the appropriate employee contributions.

"§6387. Regulations

"The Office of Personnel Management shall prescribe regulations necessary for the administration of this subchapter. The regulations prescribed under this subchapter shall be consistent with the regulations prescribed by the Secretary of Labor under title I of the Family and Medical Leave Act of 1992.".

(2) TABLE OF CONTENTS.—The table of contents for chapter 63 of title 5, United States

Code, is amended by adding at the end the following:

"SUBCHAPTER V—FAMILY AND MEDICAL LEAVE

"6381. Definitions.
"6382. Leave requirement.
"6383. Certification.
"6384. Employment and benefits protection.
"6385. Prohibition of coercion.
"6386. Health insurance.
"6387. Regulations.".

(b) EMPLOYEES PAID FROM NONAPPROPRIATED FUNDS.—Section 2105(c)(1) of title 5, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (C); and

(2) by adding at the end the following new subparagraph:

"(E) subchapter V of chapter 63, which shall be applied so as to construe references to benefit programs to refer to applicable programs for employees paid from nonappropriated funds; or".

TITLE III—COMMISSION ON LEAVE

SEC. 301. ESTABLISHMENT.

There is established a commission to be known as the Commission on Leave (hereinafter referred to in this title as the "Commission").

SEC. 302. DUTIES.

The Commission shall—

(1) conduct a comprehensive study of—

(A) existing and proposed policies relating to leave;

(B) the potential costs, benefits, and impact on productivity of such policies on employers; and

(C) alternative and equivalent State enforcement of this Act with respect to employees described in section 108(a); and

(2) not later than 2 years after the date on which the Commission first meets, prepare and submit, to the appropriate Committees of Congress, a report concerning the subjects listed in paragraph (1).

SEC. 303. MEMBERSHIP.

(a) COMPOSITION.—

(1) APPOINTMENTS.—The Commission shall be composed of 12 voting members and 2 ex officio members to be appointed not later than 60 days after the date of the enactment of this Act as follows:

(A) SENATORS.—One Senator shall be appointed by the Majority Leader of the Senate, and one Senator shall be appointed by the Minority Leader of the Senate.

(B) MEMBERS OF HOUSE OF REPRESENTATIVES.—One Member of the House of Representatives shall be appointed by the Speaker of the House of Representatives, and one Member of the House of Representatives shall be appointed by the Minority Leader of the House of Representatives.

(C) ADDITIONAL MEMBERS.—

(i) APPOINTMENT.—Two Members each shall be appointed by—

(I) the Speaker of the House of Representatives;

(II) the Majority Leader of the Senate;

(III) the Minority Leader of the House of Representatives; and

(IV) the Minority Leader of the Senate.

(ii) EXPERTISE.—Such members shall be appointed by virtue of demonstrated expertise in relevant family, temporary disability, and labor-management issues and shall include representatives of employers.

(2) EX OFFICIO MEMBERS.—The Secretary of Health and Human Services and the Secretary of Labor shall serve on the Commission as nonvoting ex officio members.

(b) VACANCIES.—Any vacancy on the Commission shall be filled in the manner in which the original appointment was made. The vacancy shall not affect the power of the remaining members to execute the duties of the Commission.

(c) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall elect a chairperson and a vice chairperson from among the members of the Commission.

(d) QUORUM.—Eight members of the Commission shall constitute a quorum for all purposes, except that a lesser number may constitute a quorum for the purpose of holding hearings.

SEC. 304. COMPENSATION.

(a) PAY.—Members of the Commission shall serve without compensation.

(b) TRAVEL EXPENSES.—Members of the Commission shall be allowed reasonable travel expenses, including a per diem allowance, in accordance with section 5703 of title 5, United States Code, when performing duties of the Commission.

SEC. 305. POWERS.

(a) MEETINGS.—The Commission shall first meet not later than 30 days after the date on which all members are appointed, and the Commission shall meet thereafter on the call of the chairperson or a majority of the members.

(b) HEARINGS AND SESSIONS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(c) ACCESS TO INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this Act, if the information may be disclosed under section 552 of title 5, United States Code. Subject to the previous sentence, on the request of the chairperson or vice chairperson of the Commission, the head of such agency shall furnish such information to the Commission.

(d) EXECUTIVE DIRECTOR.—The Commission may appoint an Executive Director from the personnel of any Federal agency to assist the Commission in carrying out the duties of the Commission. Any appointment shall not interrupt or otherwise affect the civil service status or privileges of the employee appointed.

(e) USE OF FACILITIES AND SERVICES.—Upon the request of the Commission, the head of any Federal agency may make available to the Commission any of the facilities and services of such agency.

(f) PERSONNEL FROM OTHER AGENCIES.—On the request of the Commission, the head of any Federal agency may detail any of the personnel of such agency to assist the Commission in carrying out the duties of the Commission. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(g) VOLUNTARY SERVICE.—Notwithstanding section 1342 of title 31, United States Code, the chairperson of the Commission may accept for the Commission voluntary services provided by a member of the Commission.

SEC. 306. TERMINATION.

The Commission shall terminate 30 days after the date of the submission of the report of the Commission to Congress.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. EFFECT ON OTHER LAWS.

(a) FEDERAL AND STATE ANTI-DISCRIMINATION LAWS.—Nothing in this Act or any amendment made by this Act shall be construed to modify or affect any Federal or State law prohibiting discrimination on the basis of race, religion, color, national origin, sex, age, or disability.

(b) STATE AND LOCAL LAWS.—Nothing in this Act or any amendment made by this Act shall be construed to supersede any provision of any State and local law that provides greater employee leave rights than the rights established under this Act or any amendment made by this Act.

SEC. 402. EFFECT ON EXISTING EMPLOYMENT BENEFITS.

(a) MORE PROTECTIVE.—Nothing in this Act or any amendment made by this Act shall be construed to diminish the obligation of an employer to comply with any collective bargaining agreement or any employment benefit program or plan that provides greater family and medical leave rights to employees than the rights provided under this Act or any amendment made by this Act.

(b) LESS PROTECTIVE.—The rights provided to employees under this Act or any amendment made by this Act shall not be diminished by any collective bargaining agreement or any employment benefit program or plan.

SEC. 403. ENCOURAGEMENT OF MORE GENEROUS LEAVE POLICIES.

Nothing in this Act or any amendment made by this Act shall be construed to discourage employers from adopting or retaining leave policies more generous than any policies that comply with the requirements under this Act or any amendment made by this Act.

SEC. 404. REGULATIONS.

The Secretary of Labor shall prescribe such regulations as are necessary to carry out sections 401 through 403 not later than 60 days after the date of the enactment of this Act.

SEC. 405. EFFECTIVE DATES.

(a) TITLE III.—Title III shall take effect on the date of the enactment of this Act.

(b) OTHER TITLES.—

(1) IN GENERAL.—Except as provided in paragraph (2), titles I, II, and V and this title shall take effect 6 months after the date of the enactment of this Act.

(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a collective bargaining agreement in effect on the effective date prescribed by paragraph (1), title I shall apply on the earlier of—

(A) the date of the termination of such agreement; or

(B) the date that occurs 12 months after the date of the enactment of this Act.

TITLE V—COVERAGE OF CONGRESSIONAL EMPLOYEES

SEC. 501. LEAVE FOR CERTAIN SENATE EMPLOYEES.

(a) COVERAGE.—The rights and protections established under sections 101 through 105 shall apply with respect to a Senate employee and an employing office. For purposes of such application, the term "eligible employee" means a Senate employee and the term "employer" means an employing office.

(b) CONSIDERATION OF ALLEGATIONS.—

(1) APPLICABLE PROVISIONS.—The provisions of sections 304 through 313 of the Government Employee Rights Act of 1991 (2 U.S.C. 1204–1213) shall, except as provided in subsections (d) and (e)—

(A) apply with respect to an allegation of a violation of a provision of sections 101 through 105, with respect to Senate employment of a Senate employee; and

(B) apply to such an allegation in the same manner and to the same extent as such sections of the Government Employee Rights Act of 1991 apply with respect to an allegation of a violation under such Act.

(2) ENTITY.—Such an allegation shall be addressed by the Office of Senate Fair Employment Practices or such other entity as the Senate may designate.

(c) RIGHTS OF EMPLOYEES.—The Office of Senate Fair Employment Practices shall ensure that Senate employees are informed of their rights under sections 101 through 105.

(d) LIMITATIONS.—A request for counseling under section 305 of such Act by a Senate em-

ployee alleging a violation of a provision of sections 101 through 105 shall be made not later than 2 years after the date of the last event constituting the alleged violation for which the counseling is requested, or not later than 3 years after such date in the case of a willful violation of section 105.

(e) APPLICABLE REMEDIES.—The remedies applicable to individuals who demonstrate a violation of a provision of sections 101 through 105 shall be such remedies as would be appropriate if awarded under paragraph (1) or (3) of section 107(a).

(f) EXERCISE OF RULEMAKING POWER.—The provisions of subsections (b), (c), (d), and (e), except as such subsections apply with respect to section 309 of the Government Employees Rights Act of 1991 (2 U.S.C. 1209), are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate. No Senate employee may commence a judicial proceeding with respect to an allegation described in subsection (b)(1), except as provided in this section.

(g) SEVERABILITY.—Notwithstanding any other provision of law, if any provision of section 309 of the Government Employee Rights Act of 1991 (2 U.S.C. 1209) or of subsection (e) is invalidated, both such section 309 and subsection (e) shall have no force and effect, and shall be considered to be invalidated for purposes of section 322 of such Act (2 U.S.C. 1221).

(h) DEFINITIONS.—As used in this section:

(1) EMPLOYING OFFICE.—The term "employing office" means the office with the final authority described in section 301(2) of such Act (2 U.S.C. 1201(2)).

(2) SENATE EMPLOYEE.—The term "Senate employee" means an employee described in subparagraph (A) or (B) of section 301(c)(1) of such Act (2 U.S.C. 1201(c)(1)) who has been employed for at least 12 months on other than a temporary or intermittent basis by any employing office.

SEC. 502. LEAVE FOR CERTAIN CONGRESSIONAL EMPLOYEES.

(a) IN GENERAL.—The rights and protections under sections 102 through 105 (other than section 104(b)) shall apply to any employee in an employment position and any employing authority of the House of Representatives.

(b) ADMINISTRATION.—In the administration of this section, the remedies and procedures under the Fair Employment Practices Resolution shall be applied.

(c) DEFINITION.—As used in this section, the term "Fair Employment Practices Resolution" means the resolution in rule LI of the Rules of the House of Representatives.

And the House agree to the same.

From the Committee on Education and Labor, for consideration of titles I, III, and IV (except section 404) of the Senate bill, and titles I, III, and IV of the House amendment, and modifications committed to conference:

WILLIAM D. FORD,
WILLIAM CLAY,
GEORGE MILLER,
DALE E. KILDEE,
PAT WILLIAMS,
MATTHEW G. MARTINEZ,
MAJOR R. OWENS,
CHARLES A. HAYES,
TOM SAWYER,
DONALD M. PAYNE,
JOLENE UNSOELD,
CRAIG A. WASHINGTON,
JOSÉ E. SERRANO,
PATSY T. MINK,
JOHN W. OLVER,
ED PASTOR,
MARGE ROUKEMA,

From the Committee on Post Office and Civil Service, for consideration of title II of the Senate bill, and title II of the House amendment, and modifications committed to conference:

WILLIAM CLAY,
PAT SCHROEDER,
MARY ROSE OAKAR,
GERRY SIKORSKI,
GARY ACKERMAN,
BENJAMIN A. GILMAN,
CONSTANCE MORELLA,

From the Committee on House Administration, for consideration of section 404 of the Senate bill, and title V of the House amendment, and modifications committed to conference:

WILLIAM CLAY,
MARY ROSE OAKAR,
SAM GEJDENSON,
Managers on the Part of the House.

EDWARD M. KENNEDY,
HOWARD M. METZENBAUM,
CHRISTOPHER J. DODD,
TOM HARKIN,
B.A. MIKULSKI,
DAN COATS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill S. 5, to grant employees family and temporary medical leave under certain circumstances, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—GENERAL REQUIREMENTS FOR LEAVE

Leave entitlement—Birth of son or daughter

The Senate bill provides that an employee shall be entitled to leave "because of the birth of a son or daughter of the employee". The House amendment adds the requirement "and in order to care for such son or daughter".

The conference agreement adopts the House provision.

TITLE II—LEAVE FOR CIVIL SERVICE EMPLOYEES

Definition of employee

The Senate bill defines the term employee as an individual "who has been employed for at least 12 months by an employing agency and completed at least 1,250 hours of service with an employing agency during the previous 12-month period.". The House amendment defines the term employee as an individual "who has been employed for at least 12 months on other than a temporary or intermittent basis;".

The conference agreement adopts the House provision.

Definition of parent

The Senate bill defines the term parent as "the biological parent of the child or an individual who stood in loco parentis to a child when the child was a son or daughter". The House amendment defines the term parent as "the biological parent of an employee or individual who stood in loco parentis to an employee when the employee was—

"(A) under 18 years of age; or

"(B) 18 years of age or older and incapable of self-care because of a mental or physical disability".

The conference agreement provides that the term parent means "the biological parent of an employee, or an individual who stood in loco parentis to an employee, when the employee was a son or daughter;".

Definition of serious health condition

The Senate bill defines the term serious health condition as "an illness, injury, impairment, or physical or mental condition . . .". The House amendment defines the term serious health condition as "a disabling illness, injury, impairment, or physical or mental condition . . .".

Leave entitlement—Birth of son or daughter

The Senate bill provides that an employee shall be entitled to leave "because of the birth of a son or daughter of the employee". The House amendment adds the requirement "and in order to care for such son or daughter".

The conference agreement adopts the House provision.

Unpaid leave

The Senate bill provides that "leave granted under subsection (a) [family and medical leave] may consist of unpaid leave". The House amendment provides that "leave granted under subsection (a) shall be leave without pay".

The conference agreement adopts the House provision.

Substitution of paid leave

The Senate bill provides that an employee may elect, or an employing agency may require the employee, to substitute any of the employee's accrued annual leave for a period of unpaid leave based on the birth or adoption of a son or daughter or to care for a spouse, son, daughter, or parent who has a serious health condition. In addition, the Senate bill provides that an employee may elect, or an employing agency may require the employee, to substitute any of the employee's accrued annual or sick leave for the period of unpaid leave based on a serious health condition of the employee, except that the agency is not required to provide paid sick leave in any situation in which the agency would not normally provide such paid leave.

The House amendment does not permit an agency to require an employee to substitute accrued annual or sick leave for any period of unpaid family or medical leave. In addition, the House amendment permits an employee to substitute any of the employee's sick or annual leave for any period of unpaid family or medical leave, except that the agency is not required to provide paid sick leave in any situation in which the agency would not normally provide such paid leave.

The conference agreement adopts the House provision.

Certification of health care provider

The Senate bill provides that the employing agency may require an employee to obtain subsequent recertifications from a health care provider on a reasonable basis. The House amendment provides that such recertifications will be at the expense of the agency.

The conference agreement adopts the House provision.

Prohibition of coercion—Authority of the Merit Systems Protection Board and the special counsel

The Senate bill provides that an employee allegation of coercion is within the jurisdiction of the Merit Systems Protection Board and may be investigated by the Special Counsel as a prohibited personnel practice. The House amendment has no similar language. Under section 1216 of title 5, United States Code, the Special Counsel has author-

ity to investigate any activity prohibited by any civil service law, rule, or regulation and may investigate and seek corrective action in the same way as if a prohibited personnel practice were involved.

The conference agreement adopts the House provision.

Health insurance

The Senate bill provides that an agency may in certain circumstances recover health benefit premiums paid on behalf of an employee while on family or medical leave if the employee does not return to work upon the expiration of the leave. The House amendment has no similar provision.

The conference agreement adopts the House provision.

TITLE III—COMMISSION ON LEAVE

There are no differences between the Senate bill and the House amendment.

TITLE IV—MISCELLANEOUS PROVISIONS

With the exception of section 404 of the Senate bill, which is discussed below under Title V, there are no differences between the Senate bill and the House amendment.

TITLE V—COVERAGE OF CONGRESSIONAL EMPLOYEES

Coverage of congressional employees

Section 404 of the Senate extends coverage to employees of the Senate. Title V of the House amendment extends coverage to employees of both the Senate and the House of Representatives.

The conference agreement extends coverage to employees of both the Senate and the House of Representatives. The agreement makes technical changes to conform the Senate procedure for consideration of alleged violations to the procedure provided under existing law, including initial review by the Office of Senate Fair Employment Practices. The provisions for Congressional employees are intended to be exclusive remedies and are considered to be Constitutional exercises of rulemaking by the respective chambers.

From the Committee on Education and Labor, for consideration of titles I, III, and IV (except section 404) of the Senate bill, and titles I, III, and IV of the House amendment, and modifications committed to conference:

WILLIAM D. FORD,
WILLIAM CLAY,
GEORGE MILLER,
DALE E. KILDEE,
PAT WILLIAMS,
MATTHEW G. MARTINEZ,
MAJOR R. OWENS,
CHARLES A. HAYES,
TOM SAWYER,
DONALD M. PAYNE,
JOLENE UNSOELD,
CRAIG A. WASHINGTON,
JOSÉ E. SERRANO,
PATSY T. MINK,
JOHN W. OLVER,
ED PASTOR,
MARGE ROUKEMA,

From the Committee on Post Office and Civil Service, for consideration of title II of the Senate bill, and title II of the House amendment, and modifications committed to conference:

WILLIAM CLAY,
PAT SCHROEDER,
MARY ROSE OAKAR,
GERRY SIKORSKI,
GARY ACKERMAN,
BENJAMIN A. GILMAN,
CONSTANCE MORELLA,

From the Committee on House Administration, for consideration of section 404 of the Senate bill, and title V of the House amendment, and modifications committed to conference:

WILLIAM CLAY,
MARY ROSE OAKAR,
SAM GEJDENSON,
Managers on the Part of the House.

EDWARD M. KENNEDY,
HOWARD M. METZENBAUM,
CHRISTOPHER J. DODD,
TOM HARKIN,
B.A. MIKULSKI,
DAN COATS,
Managers on the Part of the Senate.

WE CANNOT STAND BY WHILE OTHER PEOPLE SUFFER

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, the harrowing still photographs and videotapes which reached the free world last week depicting the gaunt, hollow eyed, and emasculated Moslem Bosians behind barbed wire in various encampments in former Yugoslavia have certainly caused in all of us deep anxieties. Those pictures reminded us of what we remember of the Second World War when too many nations of the world looked aside and stood aside while millions of Jewish people, and others, were exterminated.

Thankfully that will not happen again, and, as a result of the leadership of the United States, the United Kingdom, and France, the U.N. Security Council is putting the finishing touches on a resolution that will order force, if necessary, in order to deliver humanitarian relief to those Bosian people.

Mr. Speaker, we must learn from World War II. We cannot look away when the world's people are being tortured, and they are being pursued and persecuted. We can never make that mistake again.

BILL CLINTON'S NEW COVENANT

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, Bill Clinton has promised the American people a new covenant. In case you are wondering, this new covenant really means more Government.

As Governor of Arkansas, Bill Clinton raised taxes and fees 128 times.

As President of the United States, Mr. Clinton will impose the largest tax increase in American history, larger than Jimmy Carter and Walter Mondale combined.

His economic plan will include $220 billion in more spending.

And his new regulations will throw 300,000 people in the auto industry out of work.

Mr. Speaker, a covenant, by definition, is a binding agreement between two parties.

If the American people vote for Bill Clinton, they are agreeing to have their taxes raised higher than they have ever been raised before.

They are agreeing to have 2.6 million jobs eliminated.

And they are agreeing to a return to those days of misery of the late seventies.

That is not the kind of agreement the American people are ready for.

□ 1210

PRESIDENT AND CONGRESS IN GRIDLOCK, URGED TO PASS MEANINGFUL LEGISLATION

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, few people can remember a time when relations between the White House and the Congress have been as bad as they are at the present time.

Last week the Washington Post, in a five-part series, emphasized that the Federal Government is in gridlock.

Last Monday's headline in the Washington Post: "In a System Divided, Partisan Politics Has Stranglehold on Progress."

The Post says our legislative scorecard reads gridlock: First, as to the soaring Federal deficit; second, violent crime; third, campaign finance reform; and fourth, revitalizing our Nation's schools.

Then yesterday—the Sunday New York Times front page headline—"President Bush and Congress: Rising Feud Produced a Legislative Deadlock."

A quote from the Times article:

> Rarely in modern American history, say scholars and politicians in both parties, has the relationship between the President and Congress been as sour and the legislative record as meager.
>
> President Bush blames the Congress.
>
> Many in Congress blame the President.
>
> President Bush and the Congress are sliding downward in the polls.

I urge that we in Congress and the White House work together during the remaining few weeks on this 102d Congress to pass meaningful legislation for the American people, helpful to them now and in the future.

CALIFORNIAN WINS WORLD SURFING CHAMPIONSHIP IN FRANCE

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, it is with a great sense of pride that I rise to recognize the accomplishments of Joey Hawkins, of Huntington Beach, CA, which is Surf City U.S.A. Underscoring that, Joey recently won the World Long Board Surfing Champion-

ship which took place in Biarritz, France. It is the first time in 8 years that an American has won this event. Joey is now the reigning world champion, the pride and joy at Surf City, and all California surfers, and all America.

Joey is a member of the Wind and Sea Surf Shop long board team. The owners of the Wind and Sea Surf Shop, Jack and Jim Flynn have long been supportive of local surfers, including myself. I also would like to point out that another Huntington Beach native, David Nuuhiwa, finished fifth at the competition in France.

Mr. Speaker, I am proud of these Huntington Beach natives and pledge to do my best to bring big surf, warm water, and bright Sun to the surfers in Huntington Beach. But on second thought, I think God has already taken care of that.

WHAT CLINTON'S PROJECTED SECRETARY OF DEFENSE MIGHT DO

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, today the Republican Chair, Mr. Bond, is trying to start to strike terror in the hearts of America by saying that if Clinton should become President, PAT SCHROEDER would be Secretary of Defense.

Let me assure America that I am not running for Secretary of Defense, and I am not quite sure what Mr. Bond means. If he means that I do believe that men and women who wear the same uniform and fight for the same flag should be treated equally, then he is right; then we have a real difference of opinion between the two parties on that issue and what the Secretary of Defense should do. And if he means that had I been Secretary of Defense, I would have counseled to spend those billions of dollars either on the debt or on very important educational issues and other things at home rather than going into the Persian Gulf, he again is right.

Of course, had I been Secretary of Defense and had I insisted that we spend the money at home rather than over there, Saddam Hussein would still be in office. But, wait a minute. He is.

So I am very confused as to what Chairman Bond really means by all that today, and I just wanted to set the record straight.

WASTE IN THE FEDERAL GOVERNMENT

(Mr. DUNCAN asked and was given permission to address the House for 1 minute.)

Mr. DUNCAN. Mr. Speaker, the biggest issue we face this year, our most pressing problem, is our $4 trillion debt and our continuing losses on top of that of $1 billion every day.

This is why our economy is weak. This is why we do not have jobs for everyone.

In this regard, I wish every American would read a new book by Martin Gross entitled "The Government Racket: Washington Waste from A to Z."

Mr. Gross gives example after example of waste and extravagance by our Federal bureaucracy, including billions on civilian, nomilitary jets, limousines, and cars.

Listen to these words of Mr. Gross:

> For the first time in decades, the majority of Americans are seriously debating the integrity and judgment of their federal government. Not that they are fully armed with information—they are not—but there is an undercurrent of grumbling overheard in supermaket checkout lines and voiced in public-opinion polls.
>
> "Why does Uncle Sam spend so much money?" people ask * * *. "Is the government truly my friend? Or if not my enemy, is the government indifferent to my concerns?"

Mr. Gross says:

> People are suspicious that something is fundamentally wrong in Washington. And they are right. Hundreds of billions of dollars are being taken from them each year under false pretenses. In fact, waste of enormous proportions is built into the federal system, though most of it is expertly hidden. Waste is more prevalent than efficiency; more common than good works. If it continues at its present pace, not only will it bankrupt the nation fiscally, it will destroy us morally as well.

THE NEED FOR IMMEDIATE ACTION TO RESCUE BOSNIA-HERCEGOVINA

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, late last week President Bush announced a plan for international action in response to the fighting and horrible atrocities taking place in Bosnia, including U.N. authorization for measures that would include multilateral military intervention.

As cochairs of the Helsinki Commission, Senator DENNIS DECONCINI and I issued a statement welcoming this move, which we had previously urged. We want our Nation to exercise the leadership that only the United States can provide in response to situations such as this. Working within multilateral institutions is, of course, necessary.

For these institutions to succeed, however, the United States can and should provide the leadership to garner the political will necessary for making the hard decisions that securing peace and democracy in the Balkans will require.

I say this, Mr. Speaker, because I strongly believe that the conflict within and among the former Yugoslav republics is not only a European concern but an American concern as well.

It will be all too easy for this conflagration, if it is not stopped now, to spread to Kosovo, Macedonia, and eventually envelop Albania, Greece, Turkey, and other Balkan States. If we wait for that to happen, we will confront a much more dangerous challenge that will necessitate an even greater U.S. commitment than we are talking about now.

As we come to know the atrocities being committed, we also become increasingly responsible for their continuation if we fail to do something about them. On this we cannot be neutral.

The facts in Yugoslavia and our moral obligations, Mr. Speaker, both argue for action without delay.

YUGOSLAVIA

(Mr. SCHIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHIFF. Mr. Speaker, it appears the United Nations is about to pass a resolution endorsing the use of force to insure that humanitarian assistance reaches the people of Bosnia-Hercegovina.

I would expect to support such a resolution, based upon the mounting evidence of violence and cruelty in the former Yugoslavian states, especially involving civilians.

However, two aspects of this process concern me greatly:

First, the fact that the United Nations must consider such a resolution at all points up the failure of the European Community to deal with the situation. Although, of course, the humanitarian concerns affect all of us, it is in Europe's clear national interest to act because the violence is destabilizing their continent. Why have they not done so?

Second, the humanitarian concern we are expressing for the people of Bosnia-Hercegovina is the same we should be expressing for the people of other nations in similar circumstances around the world.

In Somalia, there is another civil war preventing relief supplies from reaching civilians, causing even more death and destruction than in Yugoslavia. Yet, the U.N. resolution is not expected to authorize assistance in that country.

Mr. Speaker, I believe the United Nations should be equally concerned about all the victims of civil war, even if stark images of their suffering do not make it as frequently onto the front pages of our newspapers or the 10 o'clock news—and even if the victims are not white.

ENVIRONMENTAL ISSUES REMAIN IN NAFTA

(Mr. WYDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYDEN. Mr. Speaker, sometime this week the United States, Mexico, and Canada will likely reach agreement on a North American Free-Trade Agreement. Our citizens want an agreement that is going to create more jobs, protect the environment and public health, and secure the rights of our workers.

Unfortunately, reports indicate that there is more work to do on the environmental issues. Specifically, measures are needed to ensure adequate funding for environmental measures and the enforcement of those measures. The gentleman from New Mexico [Mr. RICHARDSON] and I have suggested that the funding be secured through a binational commission that could issue bonds, raise the money now, and pay it back through future economic growth. Fifty Democrats who voted for fast-track authority joined me earlier in sending a letter to the President calling for real environmental protection.

□ 1220

If only 20 of them had voted differently, there might not be fast track negotiations.

Mr. President, produce an agreement with adequate funding and enforcement for the environment so that all Members are going to be able to support it and secure real environmental protection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair would remind Members that the President is not to be addressed directly. The Chair is to be addressed in comments on the floor.

NATIONAL DIVIDEND ACT

(Mr. YOUNG of Alaska asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YOUNG of Alaska. Mr. Speaker, I am happy today to announce the gentleman from Louisiana [Mr. TAUZIN] and I am introducing a bill called the National Dividend Act.

The greatest threat to a free people is an economy that does not work. A government that promises people more than it can pay for must at some date in the future default on those promises. We have seen that in California.

What human tragedy awaits this country can only be imagined if we do not get our budget under control. Like the well-known commercial, you can pay me now or you can pay me later, that day of reckoning will come.

Mr. Speaker, the essence of our bill was the underpinning of the Alaska permanent fund dividend. I was not in favor of it in the beginning, but I have seen it work for the last decade. I can tell you it has done more for the people, for the economy of the State of Alaska, than any other thing I have ever seen passed by the legislative body.

The State of Alaska now has a surplus of $12 billion, and each year the Alaskan citizens participate as a partner in its government of a check usually around $1,000.

The bill that was introduced today, the National Dividend Act, goes much further than the permanent fund. It guarantees an early end to deficit spending and a secure, robust economy that will allow this country to keep its commitments without fear of default.

31 PRESIDENTIAL VETOES HURTING AMERICA

(Mr. OWENS of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS of New York. Mr. Speaker, yesterday in the New York Times there was a listing of the vetoes that have been cast by this administration, from 1 to 31. The last veto was cast July 2, 1992. The first one was cast June 13, 1989.

Thirty-one vetoes tell the story of why we are in a state of stagnation in this Nation, why we have no leadership, why the voters and the American people know something is wrong, and they are angry.

They are correct. We are stagnated, we have no leadership, and the record is right here for any grade school youngsters to see in these 31 vetoes.

The administration said no to a bill raising the minimum wage to $4.55 from $3.35 an hour. I remember very well that because as a member of the Committee on Education and Labor, we negotiated with the administration penny by penny, nickel by nickel, to get that back up.

The last veto cast was legislation that would have required States to allow voter registration when citizens apply for driver's licenses or government benefits.

All the way from providing minimum wage to workers to guaranteeing that everybody has an opportunity to register to vote, we have had 31 vetoes, and this tells the story of why our Nation is stagnating and not moving forward. We need a new administration to take us into the New World order.

PRESIDENT'S KNOWLEDGE OF GEOGRAPHY IS MISPLACED

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. APPLEGATE. Mr. Speaker, I do not think it is very important whether you know how to spell "potato," whether there is an "e" or an "o." There are a lot of words that I am sure I cannot spell either. But certainly President Bush ought to know where Arkansas is, because he claimed residency in Texas as a tax dodger for 25 years, saving himself $25,000 a year. But he says that Arkansas is located somewhere between Oklahoma and Texas.

Well, I certainly hope that he finds out where some of these places are in the United States. I would hate to think that he does not know where Ohio is, where eastern Ohio is, where I have a great number of people who are unemployed. I certainly know that he knows where Mexico is, because he wants to send all of our industries out of the country.

Mr. Speaker, I would suggest that the President look at some books and find out where some of our States and some of our countries are located.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HUBBARD). Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas or nays are ordered, or on which the vote is objected to under clause 4 of rule XV. Such votes, if postponed, will be taken tomorrow, Tuesday, August 11, 1992.

DEPENDENCY AND INDEMNITY COMPENSATION REFORM ACT OF 1992

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5008) to amend title 38, United States Code, to reform the formula for payment of dependency and indemnity compensation to survivors of veterans dying from service-connected causes, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5008

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 "Dependency and Indemnity Compensation Reform Act of 1992".

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES 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 title 38, United States Code.

TITLE I—REFORM OF DEPENDENCY AND INDEMNITY COMPENSATION PROGRAM

SEC. 101. REFORM IN PAYMENT FORMULA.

(a) SURVIVING SPOUSE RATE.—Subsection (a) of section 1311 is amended by striking out the

matter preceding the table and inserting in lieu thereof the following:

"(a)(1) Dependency and indemnity compensation shall be paid to a surviving spouse at the monthly rate of $750. Such rate shall be increased by $50 in the case of—

"(A) the death of a veteran while performing service in the active military, naval, or air service; or

"(B) the death of a veteran who at the time of death was in receipt of or was entitled to receive (or but for the receipt of retired pay or retirement pay was entitled to receive) compensation for a service-connected disability that either was rated totally disabling for a continuous period of at least five years immediately preceding death or, if so rated for a lesser period, was so rated from the date of such veteran's discharge.

"(2) In the case of dependency and indemnity compensation paid to a surviving spouse that is predicated on the death of a veteran before January 1, 1993, the monthly rate of such compensation shall be the amount based on the pay grade of such veteran, as set forth in the following table, if the amount is greater than the amount determined with respect to that veteran under paragraph (1):".

(b) ADDITIONAL RATE FOR SURVIVING SPOUSE WITH MINOR CHILDREN.—Subsection (b) of such section is amended by striking out "$71 for each such child" and inserting in lieu thereof "$100 for each such child during fiscal year 1993, $150 for each such child during fiscal year 1994, and $200 for each such child thereafter".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1993.

SEC. 102. EXCEPTION TO OPERATION OF OBRA PROVISION AND STUDY OF CERTAIN INDIVIDUALS AFFECTED BY OBRA.

(a) EXCEPTION.—(1) The amendments made by section 8004 of the Omnibus Budget Reconciliation Act of 1990 (105 Stat. 424) shall not apply to any case in which a legal proceeding to terminate a marital relationship was commenced before November 1, 1990, by an individual described in paragraph (2) if that proceeding directly resulted in the termination of such marriage.

(2) An individual referred to in paragraph (1) is an individual who, but for a subsequent remarriage, would be considered to be the surviving spouse of a veteran.

(b) STUDY.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall initiate a study to evaluate the effect of section 8004 of the Omnibus Budget Reconciliation Act of 1990 on certain former surviving spouses of veterans whose potential eligibility for benefits under the Dependence and Indemnity Compensation program was adversely affected by that section.

(2) As part of such study, the Secretary shall, to the extent reasonably feasible, conduct a survey of a representative group of those individuals whose claims for reinstatement of such benefits have been denied as the result of such section, to ascertain their current marital and economic circumstances, to ascertain the number of children in the household, and to ascertain the nature and type of Federal benefits and services currently available to them. The Secretary shall provide such individuals the option of submitting anonymous responses to any such survey to encourage greater participation.

(3) The Secretary shall carry out the study under paragraph (1) in consultation with the Secretary of Defense and the Secretary of Health and Human Services,

(4) Not later than September 1, 1993, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing the results of the study described in paragraph (1).

TITLE II—LIFE INSURANCE PROGRAMS

SEC. 201. SERVICEMEN'S GROUP LIFE INSURANCE.

Section 1967 is amended by adding at the end thereof the following:

"(e) In addition to the amounts of insurance otherwise provided under this section, an eligible member may, upon application, obtain increased coverage beyond that provided under this section in the amount of $100,000, or any lesser amount evenly divisible by $10,000.".

SEC. 202. VETERANS' GROUP LIFE INSURANCE.

Section 1977 is amended—

(1) in subsection (a)—

(A) by inserting "and (e)" after "1967(a) and after "1967(b)";

(B) by striking out "$100,000" each place it appears and inserting in lieu thereof "$200,000";

(C) by striking out "sixty days" and inserting in lieu thereof "60 days";

(D) by striking out "sixty-day period" and inserting in lieu thereof "60-day period"; and

(E) by striking out "of this section" after "subsection (e)";

(2) in subsection (b)(2), by striking out "nonrenewable" and inserting in lieu thereof "renewable";

(3) in subsection (g), by inserting "and at the end of such period shall be renewable on a five-year basis as provided in subsection (b)" before the period at the end of the second sentence; and

(4) in subsection (h)(2), by striking out "Notwithstanding subsection (b)(2) of this section" and inserting in lieu thereof "In accordance with subsection (b)".

SEC. 203. SUPPLEMENTAL SERVICE DISABLED VETERANS' INSURANCE FOR TOTALLY DISABLED VETERANS.

(a) IN GENERAL.—Subchapter I of chapter 19 is amended by inserting after section 1922 the following new section:

"§1922A. Supplemental service disabled veterans' insurance for totally disabled veterans

"(a) Any person insured under section 1922(a) of this title who qualifies for a waiver of premiums under section 1912 of this title is eligible, as provided in this section, for supplemental insurance in an amount not to exceed $10,000.

"(b) To qualify for supplemental insurance under this section a person must file with the Secretary an application for such insurance not later than the end of (1) the one-year period beginning on the first day of the first month following the month in which this section is enacted, or (2) the one-year period beginning on the date that the Department notifies the person that the person is entitled to a waiver of premiums under section 1912 of this title.

"(c) Supplemental insurance granted under this section shall be granted upon the same terms and conditions as insurance granted under section 1922(a) of this title, except that such insurance may not be granted to a person under this section unless the application is made for such insurance before the person attains 65 years of age.

"(d) No waiver of premiums shall be made in the case of any person for supplemental insurance granted under this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 19 is amended by inserting after the item relating to section 1922 the following new item:

"1922A. Supplemental service disabled veterans' insurance for totally disabled veterans.".

SEC. 204. INCREASE IN AMOUNT OF VETERANS' MORTGAGE LIFE INSURANCE.

Section 2106(b) is amended in the first sentence—

(1) by striking out "initial"; and

(2) by striking out "$40,000" and inserting in lieu thereof "$90,000".

SEC. 205. EFFECTIVE DATE.

The amendments made by this title shall take effect on October 1, 1992.

TITLE III—OTHER VETERANS' PROGRAMS

SEC. 301. INCREASE IN MONTGOMERY GI BILL EDUCATIONAL ASSISTANCE PAYMENTS.

(a) AMOUNT OF BENEFIT PAYMENTS UNDER CHAPTER 30.—Section 3015 is amended—

(1) in subsection (a)(1), by striking out "$300" and inserting in lieu thereof "$400"; and

(2) in subsection (b)(1), by striking out "$250" and inserting in lieu thereof "$325".

(b) AMOUNT OF BENEFIT PAYMENTS UNDER SELECTED RESERVE PROGRAM.—Section 2131(b)(1) of title 10, United States Code, is amended—

(1) in subparagraph (A), by striking out "$140" and inserting in lieu thereof "$190";

(2) in subparagraph (B), by striking out "$105" and inserting in lieu thereof "$143"; and

(3) in subparagraph (C), by striking out "$70" and inserting in lieu thereof "$95".

(c) CONFORMING AMENDMENTS TO CHAPTER 30.—Section 3015(f) is amended—

(1) by striking out paragraph (1);

(2) by redesignating paragraph (2) as paragraph (1) and in that paragraph striking out "may continue to pay" and all that follows through "such rates" and inserting in lieu thereof "shall provide a percentage increase in the monthly rates payable under subsections (a)(1) and (b)(1) of this section"; and

(3) by redesignating paragraph (3) as paragraph (2) and in that paragraph striking out "may" both places it appears and inserting in lieu thereof "shall".

(d) CONFORMING AMENDMENTS TO SELECTED RESERVE PROGRAM.—Section 2131(b)(2) of title 10, United States Code, is amended—

(1) by striking out subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (A) and in that subparagraph striking out "may continue to pay" and all that follows through "such rates" and inserting in lieu thereof "shall provide a percentage increase in the monthly rates payable under subparagraphs (A), (B), and (C) of paragraph (1)"; and

(3) by redesignating subparagraph (C) as subparagraph (B) and in that subparagraph striking out "may" both places it appears and inserting in lieu thereof "shall".

(e) EFFECTIVE DATE AND RULE OF CONSTRUCTION.—(1) The amendments made by this section shall take effect on April 1, 1993.

(2) The amendments made by this section shall not be construed to change the account from which payment is made for that portion of a payment under chapter 30 of title 38, United States Code, or chapter 106 of title 10, United States Code, which is a Montgomery GI bill rate increase and a title III benefit is paid. For the purposes of this subsection, the terms "Montgomery GI bill rate increase" and "title III benefit" have the meanings provided in section 393 of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (105 Stat. 99).

SEC. 302. APPLICABILITY TO SURVIVING SPOUSES OF LIMITATION ON PENSION FOR VETERANS RECEIVING MEDICAID-COVERED NURSING HOME CARE.

(a) REDUCTION IN PENSION.—Section 5503(f) is amended—

(1) by redesignating paragraphs (5) and (6) as paragraph (6) and (7), respectively; and

(2) by inserting after paragraph (4) the following new paragraph (5):

"(5) The provisions of this subsection shall apply with respect to a surviving spouse having no child in the same manner as they apply to a veteran having neither spouse nor child.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1992, and shall apply with respect to months after September 1992.

(c) EXTENSION.—Such section is further amended by striking out "September 30, 1992" in paragraph (7) (as redesignated by subsection (a)(1)) and inserting in lieu thereof "September 30, 1997".

SEC. 303. EXTENSION OF AUTHORITY TO CARRY OUT INCOME VERIFICATION.

(a) TITLE 38.—Section 5317(g) is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1997".

(b) INTERNAL REVENUE CODE OF 1986.—(1) Subparagraph (D) of section 6103(l)(7) of the Internal Revenue Code of 1986 is amended by striking out "September 30, 1992" in the last sentence and inserting in lieu thereof "September 30, 1997".

(2) Clause (viii) of such subparagraph is amended—

(A) in subclause (II), by striking out "section 415" and inserting in lieu thereof "section 1315"; and

(B) in subclause (III), by striking out "section 610(a)(1)(I), 610(a)(2), 610(b), and 612(a)(2)(B)" and inserting in lieu thereof "sections 1710(a)(1)(I), 1710(a)(2), 1710(b), and 1712(a)(2)(B)".

SEC. 304. EXTENSION OF COPAYMENT PROGRAMS.

(a) MEDICATIONS.—Section 1722A(c) is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, the provisions of subsection (a) shall be in effect through September 30, 1996.".

(b) HEALTH-CARE CATEGORIES AND COPAYMENTS.—Section 8013(e) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, the amendments made by this section shall be in effect through September 30, 1996.".

The SPEAKER pro tempore (Mr. HUBBARD). Pursuant to the rule, the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 5008 and H.R. 5087.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

H.R. 5008, as amended, makes major changes in the Dependency and Indemnity Compensation [DIC] Program. DIC is a benefit paid to widows and children of veterans who die of service-connected disabilities.

As of June 1, 1992, there were 276,000 spouses and 37,000 children receiving DIC benefits. VA is expected to pay about $2.6 billion to these individuals in fiscal year 1993.

For many years, the payment of DIC has been based on the veteran's rank. The higher the rank, the greater the benefit.

Under current law, if a private dies on active duty, his widow receives $616 per month. The widow of a captain receives $832. If a three-star general is killed while on active duty or dies of a service-connected disability following service, his widow receives $1,400 per month more.

Many believe the rate paid the widow should be the same, regardless of rank.

H.R. 5008 would eliminate rank as the basis for setting the basic benefit level. It would pay the widow of the private the same amount it would pay the widow of the general. The basic benefits to all widows would be $750.00 per month effective January 1, 1993.

The bill will also improve the GI Education Program. Effective April 1, 1993, the bill would raise the basic benefit level from $350 to $400 per month for individuals who serve on active duty for at least 3 years. For members of the Reserves and National Guard the rate would be increased from $170 to $190 per month. In addition, the bill would provide for automatic cost-of-living increases beginning October 1, 1993.

There are other important provisions in the bill which will be explained by the distinguished Chairman of our Subcommittee on Compensation, Pension and Insurance when I yield to him in just a few minutes. Before doing so, let me talk a little bit about the cost of the bill and how we propose to pay for it.

The program changes we are making in the bill will cost additional money. According to CBO, the enactment of this bill would increase outlays by $172 million in the next fiscal year. Over the next 5 years the cost would be about $1.3 billion. The CBO estimate is contained in House report accompanying the bill.

Mr. Speaker, I want to assure all Members of the House that our committee has found a way to pay for the bill.

This bill is budget neutral. All costs will be offset by substantial savings in other VA functions. Let me explain how we intend to pay for the provisions I have mentioned and the others Chairman APPLEGATE will discuss. I hope LEON PANETTA and BILL GRADISON are listening. To pay for the increased benefits, the bill would make the following changes in current law:

First, it would extend and expand the scope of a provision contained in Public Law 101-508 that limits the payment of nonservice-connected disability pension and death pension to certain single veterans or surviving spouses who receive care in Medicaid-eligible nursing homes. Second, in addition, the bill would extend another provision contained in Public Law 101-508 that permits the VA to have access to certain income data from the Internal Revenue Service to allow them to verify veterans' continued eligibility for pension and other needs-based benefits. Third, the bill would extend for 4 years the medical copayment and prescription fee provisions of law currently in effect for certain veterans with nonservice-connected disabilities.

According to the Congressional Budget Office, these provisions would result in net outlay savings of $25 million in 1993 and $186 million during the next 5 fiscal years. Our committee is staying within the budget agreement and this bill will not add one penny to the deficit.

I want to commend my colleagues, DOUG APPLEGATE, and BOB STUMP, Mr. HAMMERSCHMIDT and all members of the Subcommittee on Compensation, Pension and Insurance who have worked for almost 2 years on this bill.

□ 1230

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. APPLEGATE], who is chairman of the Subcommittee on Compensation, Pension, and Insurance.

Mr. APPLEGATE. Mr. Speaker, I certainly want to thank my good chairman for yielding time to me and for bringing this to an expeditious conclusion.

There is a lot of good legislation that has passed during this particular session of Congress, some of which the President signed, much of which he vetoed, but this is one that I am sure, although he has not called me and told me, I am sure that he is going to sign this because it is basically good, equitable legislation.

And as our good chairman has explained, there is no addition to the deficit. And certainly, very importantly is that it is the most important piece of legislation to widows and orphans that this legislature or Congress has addressed in years.

As the chairman has indicated, the bill makes major changes and improvements to the DIC Program, and it would reform the rate structure of the program effective January 1, 1993, that will provide a monthly base rate of $750 to surviving spouses of veterans whose deaths are service connected.

Now, virtually everyone agrees that the current payment structure, which contains some 25 different rates based on rank, certainly has not been very equitable. The flat rate approach in this bill seeks to establish parity among surviving spouses at a very reasonable level of income than is currently received by a great majority of beneficiaries.

For all future deaths, there would be no reliance on the veteran's rank while on active duty. However, current DIC recipients would be grandfathered, if their benefits under the current rate structure are higher. So that they are not going to be reduced.

The $750 base rate would be increased by an additional 50 a month in two situations, and that is for a death in service or if the veteran was totally dis-

abled due to service-connected disabilities continuously for at least 5 years prior to their death.

Now, this is going to benefit approximately 150,000 widows, and there will be some hundreds of thousands of more widows in the future who will benefit by this increase. But importantly, the bill would also increase over a 3-year period the additional amounts payable for dependents. It is $71 per month per child. That, over a 3-year period, will go up to $200 a month per child. And this is going to affect some 25,000 orphans of those veterans now. This increase specifically reflects a distinction between the DIC Program, which is a death benefit to a veteran's survivors, and disability compensation, a benefit paid to disabled veterans, by recognizing the fact that while a veteran is alive, he or she and their spouse each have the potential to be wage earners. Once that veteran has died, however, the family wage earner potential is reduced to 1 person, as a single parent may not be able to be employed.

Also, in order to address the concerns of virtually all of the veterans organizations and the widows organizations, H.R. 5008 would provide a limited excepted to the reinstatement bar that was raised by the Omnibus Budget Reconciliation Act of 1990 for certain surviving spouses who had commenced divorce proceedings prior to its effective date of November 1, 1990.

It would also direct the Secretary of Veterans Affairs to study the effects of that OBRA provision on other ineligible veterans.

Finally, H.R. 5008 would make improvements to the servicemen's group life insurance and veterans' group life insurance programs by allowing people to enhance their coverage. In the case of veterans' group life insurance, veterans would be able to maintain their present levels of term life coverage through 5-year renewal terms. And the maximum coverage under both the SGLI and VGLI programs would be increased from $100,000 to $200,000. This is not just an out-and-out gift. These are discount rates that they would pay because the veterans would continue to pay.

Coverage beyond the $100,000 provided would be provided automatically, under SGLI, would be at the option of the service member.

Finally, the bill also provides needed improvements to the veterans mortgage life insurance program by raising its maximum coverage from $40,000 to $90,000, and that is to help take care of the specially adapted houses for the disabled veterans, and to the service disabled veterans life insurance program by allowing certain totally disabled veterans to purchase an additional $10,000 in coverage.

Again, this is not something that is going to be out-and-out free. Veterans will pay, but it will be at discounted rates. And I think as the chairman has pointed out a while ago, in explaining the funding mechanism, this is in keeping with the spirit of OBRA, which was passed in 1990, we cannot add on any more to the deficit.

This is budget neutral, and it does not add a penny to the deficit.

Let me just say this, I want to add a word of thanks to the gentleman from Mississippi, Chairman MONTGOMERY, for bringing this to the floor in such an expeditious manner, as well as the gentleman from Arizona, BOB STUMP, who is the ranking minority member, and also to our very good friend, the gentleman from Arkansas, JOHN PAUL HAMMERSCHMIDT. This may well be one of the last major bills that the gentleman from Arkansas, JOHN PAUL HAMMERSCHMIDT, is going to be working on. He has been one of the truly outstanding members of the Committee on Veterans' Affairs, as well as the Committee on Public Works and Transportation, on which I serve with him. And he has done yeoman's work, certainly, taking care of the people of this Nation and taking care of his district.

I can say this, that whichever side of the aisle that a Member is, politicalwise, the gentleman from Arkansas, JOHN PAUL HAMMERSCHMIDT, is going to be missed very much. But wherever you go and whatever you do, we certainly wish you much success in all of your future endeavors.

□ 1240

Mr. Speaker, I urge passage of this measure.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 5008, as amended. This bill certainly represents a lot of time and effort on the part of our committee, and, in particular, DOUG APPLEGATE, ranking member BOB STUMP, and Chairman SONNY MONTGOMERY.

H.R. 5008, as amended, embraces a totally different approach to providing compensation to the widows and children of service-connected disabled veterans. The new flat rate of payment is more equitable and one in which there is a consensus among the veterans service organizations.

In addition to the major reform of the Dependency and Indemnity Compensation Program for widows and survivors of service-connected disabled veterans, the measure provides for a much-needed increase in the Montgomery GI bill benefit.

The increase would help keep this an attractive program for the young men and women who are considering joining our armed services.

Though the Armed Forces in the foreseeable future will be somewhat smaller, they will still need to attract quality recruits to operate our high technology weapons. Of course, we also want to ensure that the Montgomery GI bill remains an adequate readjustment benefit in light of the steep rise in educational costs over the past few years.

Mr. Speaker, this bill also contains savings provisions to pay for higher priority programs. Even though the majority of veterans service organizations did not agree with the actions we took in the Omnibus Budget Reconciliation Act of 1990, where we had to find $3.5 billion in savings over 5 years, they realize in order to fund an agenda of higher priority items, other programs must be put on hold.

This measure extends some of those OBRA provisions and is a fiscally responsible bill.

Mr. Speaker, I urge my colleagues to give H.R. 5008, as amended, their wholehearted support.

Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. PENNY], a member of the Committee on Veterans' Affairs.

Mr. PENNY. Mr. Speaker, I simply want to add my words of support for the legislation. The major provisions of this legislation are well-crafted and deserving of our support.

Mr. Speaker, I do have a couple of reservations that I want to place on the record, however, I view the financing scheme as central to our role as legislators. If we cannot find the money to pay for these benefits, then we should not proceed with the legislation. I am pleased that as a committee we have taken that responsibility very seriously.

There is one small element of the financing mechanism that I would raise just out of concern. That is the continuation of the $2 copayment on prescription drugs at our VA medical facilities. I do not dispute that there are many veterans that can afford to pay this fee. I simply feel that in many of our facilities around the country it is viewed as a nuisance fee, and in some facilities, including the facility in Minneapolis, I have been told that about half of the amount that we are charging in the fee is used just to cover the overhead expense of collecting the fee, which does not seem to me to be a very cost-effective operation.

Having said that, by and large the financing mechanisms at least make this bill an honest bill in terms of the pay-as-you-go requirements, and I support that.

Mr. Speaker, my second concern has to do with the increased payment for dependent children under our DIC Program. I think we have already done a great service to those lower ranking military service members by increasing their basic pay, keeping in mind these lower ranking service members are those that are most likely to have

dependent children, so we have already given them an increased allotment.

We also in this bill increase from $70 to $100 in the first year the payment for each child, and increase that to $150 in the second year, and $200 in the third year and years beyond. I am concerned that the precedent we establish here in the DIC Program is one that will be expected of us in terms of other programs where dependent children are affected. The increase that we offer here is one that does not cost a great deal when only applied to the 37,000 dependent children, but it could cost significant sums of money if in future years we are asked by the veterans community to expand this benefit level increase to the 370,000 children that are beneficiaries under the compensation program available to disabled veterans.

Mr. Speaker, with that concern on the record, I simply want to alert the membership that we may very likely be asked to make a similar change in dependent coverage in the next session of Congress, and finding the money to handle that increase is going to be far more difficult than the challenge facing us to finance the legislation before us today.

Mr. Speaker, in raising the issue of the increase in children's benefits under this bill, I wish to share with the membership a letter I sent to my Veterans' Affairs colleagues following our committee consideration of H.R. 5008:

DEAR VETERANS' AFFAIRS COLLEAGUE: I just wanted to reiterate some of my concerns with the DIC reform bill.

First of all, this is not a question of whether to increase benefits for dependent children. We all agree that an increase is justifiable. Most families do receive an increase under the reform bill. The basic DIC reform will result in a benefit increase for all ranks E-1 through E-6. These lower ranking service personnel are those most likely to have dependent children. Current benefits for these ranks are as follows: E-1—$616, E-2—$635, E-3—$652, E-4—$693, E-5—$711, and E-6—$727.

All of these beneficiaries will now be paid $750 per month.

In addition to that basic increase, the bill also increases the benefit for each dependent child from the current $71 to $100 in fiscal year 1993, $150 in fiscal year 1994 and $200 in fiscal year 1995. The present rate of $71 per child is comparable to the existing $52 payment level for dependent children of those 100 percent disabled. Somewhat lower payments apply to children of those with lower disability ratings.

Clearly, once children's payments are increased for DIC—as a matter of equity and fairness—a demand will be made to increase payments for children of disabled veterans. Please recognize that there are 10 times as many children in the service-connected disability program. While the cost of this benefit increase for DIC is modest—it will be much harder to find the funds to provide higher payments to the families of service-connected veterans.

Fundamentally, there is no objective reason to provide a 300-percent increase in DIC children's payments now, except that, as Subcommittee Chairman Applegate put it: "the money is there." This is a precedent which we cannot afford to follow for the 350,000 children of the service-connected disabled. Unfortunately for them, the money most likely won't be there. As a consequence we have created an inequity that will be hard to explain to America's disabled veterans.

Sincerely,

TIMOTHY J. PENNY,
Member of Congress.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I appreciate what the gentleman from Minnesota [Mr. PENNY] has said. He is a very valuable member of our committee, and also is the chairman of the subcommittee. Certainly what he tells us we do not take lightly. I thank him for making his comments today.

The gentleman from Ohio [Mr. APPLEGATE] also mentioned the gentleman from Arkansas [Mr. HAMMERSCHMIDT]. I have enjoyed working with JOHN PAUL HAMMERSCHMIDT. We came together 26 years ago. He is always there working for veterans, and we will be counting on him, even though he might have left us, to give us his sound advice.

Mr. Speaker, I want to thank the chairman and ranking minority member of the Ways and Means Committee, Mr. ROSTENKOWSKI and Mr. ARCHER, for their cooperation in allowing this bill to move forward. Section 3 of this bill would extend the authority for the Internal Revenue Service to disclose certain tax information to the Department of Veterans Affairs that is needed to determine whether certain veterans are eligible for pension benefits. The Committee on Ways and Means met last Thursday and approved section 3 of the bill without amendment.

I also want to express my thanks to Chairman ASPIN, Mr. DICKINSON, Mrs. BYRON, and Mr. BATEMAN of the Committee on Armed Services. The section of the bill pertaining to the GI bill program also falls within the jurisdiction of Armed Services, and I appreciate their cooperation very much.

This is a very good bill, and I urge my colleagues to support it.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in support of H.R. 5008, the Dependency and Indemnity Compensation Reform Act of 1992.

The bill is financed by a noncontroversial tax provision that is in the jurisdiction of the Committee on Ways and Means. This provision would extend the present-law authority of the Department of Veterans Affairs to have access to taxpayer information from the Internal Revenue Service. This taxpayer information is used by the Department of Veterans Affairs to weed out claims for excessive benefits under its needs-based pension program and other programs.

The current authority to receive this taxpayer information expires September 30, 1992. The bill would extend that authority for 5 years.

The Committee on Ways and Means originally had included this noncontroversial tax provision as one of a number of funding sources for H.R. 776, the Comprehensive National Energy Act, which passed the House last May 27, 1992. After learning of the intention of the Committee on Veterans' Affairs to include this provision in H.R. 5008, however, the Ways and Means Committee has agreed that it is an appropriate funding mechanism for these veterans programs.

I have given Chairman MONTGOMERY my personal assurances that in conference on the energy bill, I will make every effort that this provision be dropped from the energy bill, so that this financing mechanism will be available to fund these worthy veterans programs in H.R. 5008.

Mr. Speaker, I urge my colleagues' support for H.R. 5008.

Mr. SMITH of New Jersey. Mr. Speaker, I am pleased to rise in support of H.R. 5008.

The leadership of the House Veterans' Affairs Committee is to be commended for the work that has been done to bring this dependency and indemnity reform package to the House floor.

Mr. Speaker, not only are significant benefit increases provided for widows and orphans, but H.R. 5008 also furnishes another needed increase in the Montgomery GI bill education benefit.

Perhaps the most important aspect of this bill is that the Veterans' Committee is again demonstrating its responsibility by financing the benefits which we report in legislation.

Mr. Speaker, the gentleman from Arizona and Chairman MONTGOMERY have crafted a bipartisan package of savings and revenue raisers which pay for all the benefits provided under this bill. These revenue raisers also finance several other benefit extensions which reside in other committee bills.

As the ranking minority member of the Education, Training and Employment Subcommittee, I would like to call attention to the provision in H.R. 5008 which further increases Montgomery GI bill benefits. I know Chairman MONTGOMERY has worked a very long time to increase these educational benefits and his efforts deserve hearty congratulations.

Mr. Speaker, the GI bill continues to help veterans achieve their education goals and is a model of efficiency and reliability. I commend our chairman and both Mr. STUMP and Mr. PENNY for their roles in bringing this $50 per month benefit to fruition.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 5008, the Dependency and Indemnity Compensation Reform Act of 1992, and I would like to commend the gentleman from Ohio [Mr. APPLEGATE] for introducing this important measure as well as the distinguished chairman of the committee, the gentleman from Mississippi [Mr. MONTGOMERY] and the ranking minority member, the gentleman from Arizona [Mr. STUMP] for the unceasing efforts to improve the quality of life for our Nation's veterans.

Compensating veterans and their dependents for service-related injuries or death has been a practice since colonial times. The current rate structure for benefits was formulated in 1969 under the guidelines of Public Law 91-96. Since that time, numerous changes have been made, however the basic intent and structure of the program has remained the same. H.R. 5008 replaces the rank-based rate scale with a flat-rate system, providing a base

payment of $750 per month to all surviving spouses of veterans who die after January 1, 1993.

I am pleased that this measure has addressed the concerns of several veterans' groups that the current dependency and indemnity compensation system is not equitable, and I urge my colleagues to fully support this measure.

Mr. MONTGOMERY. Mr. Speaker, I yield back the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUBBARD). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 5008, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend title 38, United States Code, to reform the formula for payment of dependency and indemnity compensation to survivors of veterans dying from service-connected causes, to increase the rate of payments for benefits under the Montgomery GI bill, and for other purposes.".

A motion to reconsider was laid on the table.

GI BILL AMENDMENTS

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5087) to amend title 38, United States Code, with respect to veterans' education assistance, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5087

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

SECTION 1. EXTENSION OF PERIOD FOR COMPLETING REQUIREMENTS FOR EQUIVALENCY CERTIFICATE FOR SECONDARY SCHOOL DIPLOMA.

(a) IN GENERAL.—(1) Section 3011 of title 38, United States Code, is amended—

(A) in subsection (a)(2), by inserting ", except as provided in subsection (e) of this section," after "who"; and

(B) by adding at the end thereof the following new subsection:

"(e) For the purposes of subsection (a)(2) of this section, an individual who was on active duty on August 2, 1990, and who completes the requirements of a secondary school diploma (or equivalency certificate) before the end of the 12-month period beginning on the date of the enactment of this subsection shall be considered to have completed such requirements within the individual's initial obligated period of active duty.".

(2) Section 3012 of such title is amended—

(A) in subsection (a)(2), by inserting "except as provided in subsection (f) of this section," after "who,"; and

(B) by adding at the end thereof the following new subsection:

"(f) For the purposes of subsection (a)(2) of this section, an individual who was on active duty on August 2, 1990, and who completes the requirements of a secondary school diploma (or equivalency certificate) before the end of the 12-month period beginning on the date of the enactment of this subsection shall be considered to have completed such requirements within the individual's initial obligated period of active duty.".

(b) NOTIFICATION REQUIREMENT.—Not later than 60 days after the date of enactment of this Act, the Secretary of each of the military departments shall notify each individual who was on active duty in the Armed Forces on August 2, 1990, and who has not met the requirements of a secondary school diploma (or equivalency certificate), of the extension of the period for the completion of such requirements afforded by the amendments made by this section.

SEC. 2. EXCLUSION OF CERTAIN PERIODS FROM INITIAL OBLIGATED PERIOD OF ACTIVE DUTY FOR PURPOSES OF DETERMINING EDUCATIONAL BENEFITS.

(a) IN GENERAL.—(1) Section 3011(b) of title 38, United States Code, is amended—

(A) by striking out "(b) The basic pay" and inserting in lieu thereof "(b)(1) Except as provided in paragraph (2), the basic pay";

(B) by adding the following new sentence at the end of paragraph (1) (as designated by subparagraph (A) of this paragraph): "An individual who becomes entitled to educational assistance under this chapter based upon the service described in subsection (d)(4)(B) shall be credited under this subsection with the amount of basic pay reduced under this subsection (if any) during a previous period of active duty."; and

(C) by adding after paragraph (1) (as designated by subparagraph (A) of this paragraph) the following:

"(2)(A) An individual described in subparagraph (B) who is establishing or has established entitlement to educational assistance under this chapter based upon the service described in subsection (d)(4)(B) shall pay to the Secretary of Defense an amount equal to the amount required by paragraph (1). A payment under this paragraph shall be made by reductions in basic pay, a payment of cash, or a combination thereof, in accordance with such regulations as the Secretary of Defense shall prescribe.

"(B) An individual referred to in subparagraph (A) is—

"(i) an individual who separated from service before the date of enactment of this subsection; or

"(ii) an individual whose discharge or release from active duty prevents the monthly reduction of basic pay under paragraph (1).".

(2) Section 3011(d) of such title is amended by adding the following new paragraphs at the end thereof:

"(4) Any initial period of active duty beginning after June 30, 1985, shall not be considered an individual's obligated period of active duty for purposes of this chapter if—

"(A) such period of active duty is one year or less in duration;

"(B) the individual concerned is discharged or released from such period of active duty with an honorable discharge for a reason specified in subclause (I) or (III) of subsection (a)(1)(A)(ii); and

"(C) the individual, subsequent to such discharge or release, completes a period of active duty that (i) is at least one month longer in duration than any previous active duty period from which the individual was so discharged or released and (ii) would have established entitlement to educational assistance under this chapter if the individual had not served the period of active duty referred to in subparagraph (A).

"(5) The commencement of any period of service that is not considered an individual's initial obligated period of active duty as a result of this subsection shall not be considered an individual's initial entry on active duty in the armed forces for purposes of subsection (c)(1) or section 3012(d)(1) of this title.".

(3) Section 3012(c) of such title is amended—

(A) by striking out "(c) The basic pay" and inserting in lieu thereof "(c)(1) Except as provided in paragraph (2), the basic pay";

(B) by adding at the end of paragraph (1) (as designated by subparagraph (A) of this paragraph) the following new sentence at the end thereof: "An individual who becomes entitled to educational assistance under this chapter based upon the service described in section 3011(d)(4)(B) of this title shall be credited under this subsection with the amount of basic pay reduced under this subsection (if any) during a previous period of active duty."; and

(C) by adding after paragraph (1) (as designated by subparagraph (A) of this paragraph) the following:

"(2)(A) An individual described in subparagraph (B) who is establishing or has established entitlement to educational assistance under this chapter based upon the service described in section 3011(d)(4)(B) of this title shall pay to the Secretary of Defense an amount equal to the amount required by paragraph (1). A payment under this paragraph shall be made by reductions in basic pay, a payment of cash, or a combination thereof, in accordance with such regulations as the Secretary of Defense shall prescribe.

"(B) An individual referred to in subparagraph (A) is—

"(i) an individual who separated from service before the date of enactment of this subsection; or

"(ii) an individual whose discharge or release from active duty prevents the monthly reduction of basic pay under paragraph (1).".

(4) Section 3013 of such title is amended by adding at the end thereof the following:

"(g)(1) The amount of an individual's entitlement specified in subsections (a) through (d) of this section that is based on service subsequent to a period of service described in section 3011(d)(4)(A) of this title shall be reduced by the amount of the individual's entitlement used (if any) that is based on service described in such section 3011(d)(4)(A).

"(2) No part of the net amount of an individual's entitlement based on service subsequent to a period of service described in section 3011(4)(B) of this title shall be used as a basis for payment of educational assistance under this chapter for education or training pursued by the individual prior to the date of enactment of this subsection.".

SEC. 3. BAR TO VETERANS EDUCATIONAL ASSISTANCE FOR COURSE ENROLLMENT UNDER THE GOVERNMENT EMPLOYEES TRAINING ACT.

Section 3681(a) of title 38, United States Code, is amended by striking out "and whose full salary is being paid to such person while so training".

SEC. 4. REQUIREMENT THAT TRAINING ESTABLISHMENTS CERTIFY HOURS WORKED UNDER THE MONTGOMERY GI BILL SELECTED RESERVE PROGRAM.

Section 2136(b) of title 10, United States Code, is amended by striking out "1780(c),".

SEC. 5. DISAPPROVAL OF NONACCREDITED INDEPENDENT STUDY.

(a) DISAPPROVAL.—(1) Section 3676 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(e) Notwithstanding any other provision of this title, a course of education shall not be approved under this section if it is to be pursued in whole or in part by independent study.".

(2) Chapter 36 of such title is amended by inserting after section 3680 the following new section:

"§3680A. Disapproval of enrollment in certain courses

"(a) The Secretary shall not approve the enrollment of an eligible veteran in—

"(1) any bartending course or personality development course;

"(2) any sales or sales management course which does not provide specialized training within a specific vocational field;

"(3) any type of course which the Secretary finds to be avocational or recreational in character (or the advertising for which the Secretary finds contains significant avocational or recreational themes) unless the veteran submits justification showing that the course will be of bona fide use in the pursuit of the veteran's present or contemplated business or occupation; or

"(4) any independent study program except an accredited independent study program leading to a standard college degree.

"(b) Except to the extent otherwise specifically provided in this title or chapter 106 of title 10, the Secretary shall not approve the enrollment of an eligible veteran in any course of flight training other than one given by an educational institution of higher learning for credit toward a standard college degree the eligible veteran is seeking.

"(c) The Secretary shall not approve the enrollment of an eligible veteran in any course to be pursued by radio or by open circuit television, except that the Secretary may approve the enrollment of an eligible veteran in a course, to be pursued in residence, leading to a standard college degree which includes, as an integral part thereof, subjects offered through open circuit television.

"(d)(1) Except as provided in paragraph (2) of this subsection, the Secretary shall not approve the enrollment of any eligible veteran, not already enrolled, in any course for any period during which the Secretary finds that more than 85 percent of the students enrolled in the course are having all or part of their tuition, fees, or other charges paid to or for them by the educational institution or by the Department of Veterans Affairs under this title or under chapter 106 of title 10. The Secretary may waive the requirements of this subsection, in whole or in part, if the Secretary determines, pursuant to regulations which the Secretary shall prescribe, it to be in the interest of the eligible veteran and the Federal Government. The provisions of this subsection shall not apply to any course offered by an educational institution if the total number of veterans and persons receiving assistance under this chapter or chapter 30, 31, 32, or 35 of this title or under chapter 106 of title 10 who are enrolled in such institution equals 35 percent or less, or such other percent as the Secretary prescribes in regulations, of the total student enrollment at such institution (computed separately for the main campus and any branch or extension of such institution), except that the Secretary may apply the provisions of this subsection with respect to any course in which the Secretary has reason to believe that the enrollment of such veterans and persons may be in excess of 85 percent of the total student enrollment in such course.

"(2) Paragraph (1) of this subsection does not apply with respect to the enrollment of a veteran—

"(A) in a course offered pursuant to section 3019, 3034(a)(3), 3234, or 3241(a)(2);

"(B) in a farm cooperative training course; or

"(C) in a course described in section 3689(b)(6).".

(3)(A) Chapter 34 of such title is amended by repealing section 3473.

(B) The table of sections at the beginning of chapter 34 of such title is amended by striking out the item relating to section 3473.

(4) Section 3034 of such title is amended—

(A) in subsection (a)(1), by striking out "3473,"; and

(B) in subsection (d)(1), by striking out "3473(b)" and inserting in lieu thereof "3680A(b)".

(5) Section 3241 of such title is amended—

(A) by striking out "3473," both places it appears; and

(B) in subsection (b)(1), by striking out "3473(b)" and inserting in lieu thereof "3680A(b)".

(6) Section 2136(c)(1) of title 10, United States Code, is amended by striking out "1673(b)" and inserting in lieu thereof "3680A(b)".

(7) Section 3523(a)(4) of title 38, United States Code, is amended by striking out "one" and all that follows and inserting in lieu thereof "an accredited independent study program leading to a standard college degree.".

(8) The table of sections at the beginning of chapter 36 of such title is amended by inserting after the item relating to section 3680 the following new item:

"3680A. Disapproval of enrollment in certain courses.".

(b) SAVINGS PROVISION.—The amendments made by paragraphs (2) through (6) of subsection (a) of this section shall not apply to any person receiving educational assistance for pursuit of an independent study program in which the person was enrolled on the date of enactment of this section for as long as such person is continuously thereafter so enrolled and meets the requirements of eligibility for such assistance for the pursuit of such program under title 38, United States Code, or title 10, United States Code, in effect on that date.

SEC. 6. MEASUREMENT OF COURSES.

(a) IN GENERAL.—Section 3688 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking out "thirty hours" and all that follows through "full time" and inserting in lieu thereof "22 hours per week of attendance (excluding supervised study) is required, with no more than 2½ hours of rest periods per week allowed";

(B) in paragraph (2), by striking out "twenty-five hours" and all that follows through "full time" and inserting in lieu thereof "18 hours per week net of instruction (excluding supervised study but which may include customary intervals not to exceed 10 minutes between hours of instruction) is required";

(C) in paragraph (4)—

(i) by striking out "in residence"; and

(ii) by inserting ", other than a course pursued as part of a program of education beyond the baccalaureate level," after "semester-hour basis";

(D) in paragraph (6), by striking out "3491(a)(2)" and inserting in lieu thereof "3034(a)(3), 3241(a)(2) or 3533(a)"; and

(E) by striking out paragraph (7) and all that follows to the end of the subsection and inserting in lieu thereof the following:

"(7) an institutional course not leading to a standard college degree offered by an educational institution on a standard quarter- or semester-hour basis shall be measured as full time on the same basis as provided in paragraph (4) of this subsection, but if the educational institution offering the course is not an institution of higher learning, then in no event shall such course be considered full time when it requires less than the minimum weekly hours of attendance required for full time by paragraph (1) or (2) of this subsection, as appropriate.";

(2) in subsection (b), by striking out "34" and inserting in lieu thereof "30, 32,"; and

(3) by striking out subsections (c), (d), and (e).

(b) INDEPENDENT STUDY.—Section 3532(c) of title 38, United States Code, is amended by striking out paragraphs (3) and (4).

SEC. 7. DEATH BENEFIT.

Section 3017(a)(1)(B) of title 38, United States Code, is amended by inserting before the comma "or within one year after discharge or release from active duty".

SEC. 8. EDUCATIONAL ASSISTANCE ENTITLEMENT DATES.

(a) CHANGE IN DATES.—Title 38, United States Code, is amended—

(1) in section 3011(a)(1)(B), by striking out "on October 19, 1984," and all that follows through "and—" and inserting in lieu thereof "at any time during the period beginning on October 19, 1984, and ending on July 1, 1985, continued on active duty without a break in service and—";

(2) in section 3012(a)(1)(B), by striking out "on October 19, 1984," and all that follows through "and—" and inserting in lieu thereof "at any time during the period beginning on October 19, 1984, and ending on July 1, 1985, continued on active duty without a break in service and—"; and

(3) in section 3031(e), by striking out "October 18, 1984" and inserting in lieu thereof "June 30, 1985".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as of October 28, 1986.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5087 would make important improvements in veterans' education programs.

Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. PENNY], the chairman of the Subcommittee on Education, Training and Employment of the Committee on Veterans' Affairs, for an explanation of the bill.

Mr. PENNY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, H.R. 5087, which was approved by the Subcommittee on Education, Training and Employment on July 9 and ordered reported, as amended, by the full committee on July 23, would improve veterans' education programs.

Briefly, the major provisions of H.R. 5087 are as follows.

First, the bill would extend the period for completing the requirement for a GED or secondary school diploma for Persian Gulf war veterans.

Under current law, individuals must complete the requirements for a GED before leaving active duty in order to be eligible for the Montgomery GI bill. Some service members were nearing completion of their GED when they were sent to Southwest Asia during the gulf war and, as a result, were unable to finish the GED requirements before their discharge from active duty—thus losing their GI bill eligibility. A provision of H.R. 5087 would correct this sit-

uation and enable those individuals who complete the GED within 12 months of the date of enactment of this bill, whether or not these individuals are still on active duty, to establish eligibility for their education assistance benefits.

H.R. 5087 would also provide that individuals who are discharged from service after less than 12 months on active duty and who later reenlist are eligible to participate in the GI bill.

Additionally, the bill would simplify and streamline the current complex measurement system and recognize the changes in teaching modes which have occurred during the past 20 years.

Finally, H.R. 5087 would extend eligibility for the death benefit established under section 3017 of title 38 to the survivors of chapter 30 participants who die of service-connected causes within 1 year of discharge from active duty. Current law provides this benefit only in the case of death while on active duty.

I want to point out that several of the provisions in H.R. 5087 were recommended by the Commission on Veterans Education Policy and the Department of Veterans Affairs.

CBO estimates that this measure will cost $5 million in fiscal year 1993 and $27 million over 5 years. In order to fully meet the pay-as-you-go budget requirements, the savings to cover the cost of H.R. 5087 are included in H.R. 5008, which was just approved by the House.

I want to thank the ranking minority member of the Subcommittee on Education, Training and Employment, CHRIS SMITH, and all members of the subcommittee for their cooperation in developing this legislation. I also want to express my appreciation to the chairman of the full committee, SONNY MONTGOMERY, and to the ranking minority member of the full committee, BOB STUMP, for their leadership and assistance.

H.R. 5087 is a good bill that will enhance veterans' education programs, and I encourage my colleagues to support this measure.

□ 1250

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to congratulate the chairman of the subcommittee, the gentleman from Minnesota [Mr. PENNY] and the gentleman from New Jersey, Mr. CHRIS SMITH, the ranking member, for reporting this bill out promptly to the full committee, and hence to the floor.

Mr. Speaker, I rise in support of H.R. 5087, a bill to amend the Montgomery GI bill provisions of title 39. Though these amendments are largely technical and clarifying in nature, several of them are substantive.

The substantive ones would affect only a small number of service members and veterans by modifying eligibility slightly to ensure that certain of those who had their pay reduced by $1,200 would indeed be eligible for their educational benefits.

Also, the death benefit for certain survivors would be extended to cover service-connected deaths occurring within the first year after active duty, as well as those occurring on active duty.

Finally, Mr. Speaker, so there is no confusion, I want to point out that the major Montgomery GI bill amendment to increase the basic educational benefit levels is not in this bill; it is in the DIC reform bill, H.R. 5008, which was just considered.

Because the legislative provisions to save the money to pay for the increase in the basic education benefit are in H.R. 5008, the increase authorization itself was also placed in H.R. 5008.

Mr. Speaker, I urge my colleagues to act favorably on H.R. 5087.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, this bill will really help our Persian Gulf veterans take advantage of the GI bill benefits, and I urge my colleagues to support this bill.

Mr. SMITH of New Jersey. Mr. Speaker, as a cosponsor of H.R. 5087, I rise in strong support of this measure clarifying certain veterans' education provisions.

Mr. Speaker, H.R. 5087 addresses aspects of the Montgomery GI bill that need revision. For example, this bill helps those military personnel who, due to the gulf war, were unable to complete their GED's prior to separation. This bill will give these veterans an additional year to complete the equivalency certificate, making them eligible for GI bill benefits.

This bill additionally protects the GI bill benefits of service members who served on active duty, had short separations, and then returned to active duty. Under current law, the second period of service would not entitle the person to further education benefits. H.R. 5087, however, will rectify that inequity.

This bill, Mr. Speaker, also addresses a number of issues which were recommended by the Department of Veterans Affairs. Among these provisions were reform of the death benefit and clock-hour measurement of classes.

Mr. Speaker, I thank the gentleman from Minnesota for swiftly reporting this bill from our subcommittee. I fully endorse the legislation and urge my colleagues to support its passage.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 5087, GI bill amendments, and I would like to commend the gentleman from Minnesota, [Mr. PENNY] for introducing this important measure as well as the distinguished chairman of the committee, the gentleman from Mississippi [Mr. MONTGOMERY] and for the ranking minority member, the gentleman from Arizona [Mr. STUMP] for their unceasing efforts to improve educational opportunities for our Nation's veterans.

H.R. 5087 amends the Montgomery GI bill—active duty program and the GI bill selected Reserve program to allow eligibility for any individual who was on active duty on August 2, 1990, and who completes his or her GED, high school equivalency requirement within 1 year of enactment, whether or not the individual is still on active duty.

I am pleased that this measure embodies this body's unequivocal support for our 415,000 brave men and women of our Armed Forces who were involved in the Persian Gulf crisis.

What was most impressive to all of us was the courageous manner and excellent competence of our brave men and women fulfilling their responsibilities in our Armed Forces. Clearly, our Armed Forces are the cream of the crop. Our men and women represent the best trained force that our Nation has seen, and our hearts swell with pride when we see how impeccable and effective their performance has been. Now it is the Congress' turn to show our appreciation and dedication to our men and women.

I am pleased to rise in support of this measure, and I urge my colleagues to vote in favor of this measure.

Mr. MONTGOMERY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore [Mr. HUBBARD]. The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 5087, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

REHABILITATION ACT AMENDMENTS OF 1992

Mr. OWENS of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5482) to revise and extend the programs of the Rehabilitation Act of 1973, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5482

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 "Rehabilitation Act Amendments of 1992".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Modification in short title of Public Law 93-112.
Sec. 4. Amendatory references.

TITLE I—GENERAL PROVISIONS

Sec. 101. Declaration of purpose.
Sec. 102. Rehabilitation Services Administration.
Sec. 103. Definitions.
Sec. 104. Audit.
Sec. 105. Administration of the Act.
Sec. 106. Reports.

Sec. 107. Evaluation.
Sec. 108. Carryover.
Sec. 109. Information on the client assistance program.
Sec. 110. Traditionally underserved populations.
TITLE II—VOCATIONAL REHABILITATION SERVICES
Subtitle A—General Provisions
Sec. 201. Declaration of purpose; authorization of appropriations.
Sec. 202. State plans.
Sec. 203. Individualized written rehabilitation program.
Sec. 204. Scope of vocational rehabilitation services.
Sec. 205. Evaluation standards.
Sec. 206. Expenditures of certain amounts.
Sec. 207. Training of employers with respect to Americans with Disabilities Act of 1990.
Subtitle B—Basic Vocational Rehabilitation Services
Sec. 211. State allotments.
Sec. 212. Payments to States.
Sec. 213. Client assistance program.
Sec. 214. Transfer of client assistance program; striking of provision under title V regarding effect on existing law.
Sec. 215. State Rehabilitation Consumer and Business Advisory Council.
Subtitle C—Innovation and Expansion Grants
Sec. 221. State allotments; payments to States.
Subtitle D—American Indian Vocational Rehabilitation Services
Sec. 231. Study of needs of American Indians with a disability.
Subtitle E—Monitoring and Review
Sec. 241. Monitoring and review.
Sec. 242. Review of data collection system.
TITLE III—RESEARCH AND TRAINING
Sec. 301. Declaration of purpose
Sec. 302. Authorization of appropriations.
Sec. 303. National Institute on Disability and Rehabilitation Research.
Sec. 304. Research.
Sec. 305. National Commission on Education and Rehabilitation of Individuals who are Blind and Visually Impaired.
TITLE IV—SUPPLEMENTARY SERVICES AND COMMUNITY REHABILITATION PROGRAMS
Sec. 401. Declaration of purpose.
Sec. 402. Grants for construction of rehabilitation facilities.
Sec. 403. Training.
Sec. 404. Community rehabilitation programs for individuals with a disability.
Sec. 405. Loan guarantees.
Sec. 406. Comprehensive rehabilitation centers.
Sec. 407. General grant and contract requirements.
Sec. 408. Funding for special projects and supplementary services.
Sec. 409. Special demonstration programs.
Sec. 410. Special recreational programs.
TITLE V—NATIONAL COUNCIL ON DISABILITY
Sec. 501. Establishment of National Council on Disability.
Sec. 502. Duties of National Council.
Sec. 503. Compensation of National Council members.
Sec. 504. Staff of National Council.
Sec. 505. Administrative powers of National Council.
Sec. 506. Authorization of appropriations.
TITLE VI—RIGHTS AND ADVOCACY
Sec. 601. Protection and advocacy of individuals rights.
Sec. 602. Employment of individuals with disabilities.
Sec. 603. Architectural and Transportation Barriers Compliance Board.
Sec. 604. Interagency Coordinating Council.
Sec. 605. Electronic equipment accessibility.
Sec. 606. Conforming amendment.
TITLE VII—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH A DISABILITY
Subtitle A—Community Service Employment Pilot Program for Individuals With a Disability
Sec. 701. Short title.
Sec. 702. Definitions.
Sec. 703. Authorization of appropriations.
Subtitle B—Projects With Industry
Sec. 711. Projects with industry.
Sec. 712. Business opportunities for individuals with a disability.
Sec. 713. Authorization of appropriations.
Sec. 714. Technical assistance.
Subtitle C—Supported Employment Services for Individuals With A Disability
Sec. 721. Purpose.
Sec. 722. Allotments.
Sec. 723. State plan.
Sec. 724. Services; availability and comparability.
Sec. 725. Savings provision.
Sec. 726. Authorization of appropriations.
TITLE VIII—COMPREHENSIVE SERVICES FOR INDEPENDENT LIVING
Sec. 801. Establishment of programs.
Sec. 802. Conforming amendments.
TITLE IX—HELEN KELLER NATIONAL CENTER ACT
Sec. 901. Congressional findings.
Sec. 902. Authorization for continued operation of the Helen Keller National Center.
Sec. 903. Audit; monitoring and evaluation.
Sec. 904. Establishment of Federal endowment program.
Sec. 905. Authorization of appropriations.
Sec. 906. Definitions.
Sec. 907. Construction of Act; effect on agreements.
TITLE X—TERMINOLOGY
Sec. 1001. References to individuals with a disability.
TITLE XI—COMPLIANCE WITH BUDGET ENFORCEMENT ACT OF 1990
Sec. 1101. Limitation on total costs.

SEC. 3. MODIFICATION IN SHORT TITLE OF PUBLIC LAW 93-112.

The first section of Public Law 93-112 is amended by striking "may be cited as the 'Rehabilitation Act of 1973':" and inserting "may be cited as the 'Vocational Rehabilitation, Employment, and Independent Living Act of 1992':".

SEC. 4. AMENDATORY REFERENCES.

Any reference made in this Act to an amendment or repeal of a provision shall be considered to be an amendment or repeal, respectively, of that provision of the Vocational Rehabilitation, Employment, and Independent Living Act of 1992 (as designated pursuant to section 3 of this Act), unless another public law is specified as being the subject of the amendment or repeal.

TITLE I—GENERAL PROVISIONS

SEC. 101. DECLARATION OF PURPOSE.

Section 2 (29 U.S.C. 701) is amended to read as follows:

"FINDING AND PURPOSE

"SEC. 2. (a) The Congress finds that—

"(1) some 43,000,000 Americans have one or more physical or mental disabilities, and this number is increasing as the population as a whole is growing older;

"(2) there are some 20 million working-age adults with work-related disabilities, and with over 13 million jobless individuals with a disability constitute one of the most disadvantaged groups in society;

"(3) the continued existence of discrimination and prejudice denies individuals with a disability the opportunity to compete on an equal basis and to pursue opportunities for employment, independence, and integration in the community;

"(4) increased employment of individuals with a disability can be achieved through the provision of individualized training, independent living, educational and support services and meaningful opportunities for employment in integrated work settings through the provision of reasonable accommodations; and

"(5) the Nation's goals regarding individuals with a disability as enunciated in the Americans with Disabilities Act of 1990, of assuring equality of opportunity, full participation, employment, independent living, and economic self-sufficiency can be advanced through the provision of comprehensive rehabilitation and related services.

"(b) It is the purpose of this Act—

"(1) to provide comprehensive employment opportunities to individuals with a disability in integrated settings to eliminate segregation and unemployment of such individuals;

"(2) to maximize the employability, independence and integration into the workplace and community of individuals with a disability through the provision of comprehensive and coordinated programs of vocational rehabilitation and independent living which includes research, training, support services, technology assistance, and the guarantee of equal opportunity;

"(3) to direct the provision of traditional rehabilitation services to recognize and acknowledge the career choices of individuals with a disability and to establish systems of services and supports that enable such individuals the opportunity of career advancement through the prompt provision of such services; and

"(4) to ensure that the Federal Government plays a leadership role in promoting the employment of individuals with a disability, especially those with a severe disability, and in assisting States and providers of services in fulfilling the aspirations of such individuals with a disability for meaningful and gainful employment and independent living.".

SEC. 102. REHABILITATION SERVICES ADMINISTRATION.

Section 3(a) (29 U.S.C. 702(a)) is amended in the first sentence by striking "appointed by the President by and with the advice and consent of the Senate." and inserting the following: "appointed by the Secretary, except that the person serving as Commissioner on the date of the enactment of the Rehabilitation Act Amendments of 1992 may, at the pleasure of the President, continue to serve as Commissioner.".

SEC. 103. DEFINITIONS.

(a) Paragraph (5).—Section 7(5) (29 U.S.C. 706(5)) is amended—

(1) in the matter preceding subparagraph (A), by striking "The term" and all that follows and inserting the following: "The term 'evaluation of rehabilitation needs' means, as appropriate for the individual involved, the following:";

(2) in subparagraph (A), by amending the subparagraph to read as follows:

"(A) A vocational assessment to determine that the individual has a substantial impediment to employment, and that vocational rehabilitation services are needed. Such assessment shall be completed within a reasonable time after the individual submits an application for services, which shall not exceed 60 calendar days unless the designated State unit notifies the individual with a disability that exceptional and unforeseen circumstances beyond the control of the agency preclude the agency from completing the determination within the prescribed time and the individual with a disability agrees that an extension of time is warranted or required.";

(3)(A) by redesignating subparagraphs (B) through (H) as subparagraphs (C) through (I), respectively; and

(B) by inserting after subparagraph (A) the following subparagraph:

"(B) Where appropriate, an assessment of an individual's needs for supported employment to determine whether the individual can attain a successful employment outcome.";

(4) in subparagraph (C) (as redesignated by paragraph (3) of this subsection), by amending the subparagraph to read as follows:

"(C) A diagnostic study consisting of a comprehensive assessment of pertinent medical, psychiatric, psychological, vocational, educational, cultural, social, recreational, and environmental factors which affect the individual's impediment to employment and the individual's rehabilitation needs including, to the degree needed, an evaluation of the individual's employment capacities, personality, intelligence level, educational achievements, work experience, vocational aptitudes and interests, personal and career interests and goals, potential employment opportunities, and other pertinent data helpful in determining the nature and scope of services needed. Information collected in such study shall be limited to that which is necessary to identify the rehabilitation needs of the individual and to develop an appropriate rehabilitation program. To the maximum extent possible and appropriate and in accordance with confidentiality requirements, existing information and that information which can be provided by the individual and, where appropriate, by the individual's family shall be used as a primary source of information in the study.";

(5) in subparagraph (D) (as redesignated by paragraph (3) of this subsection)—

(A) by striking "an appraisal" and inserting "An appraisal";

(B) by striking "to acquire" and all that follows through "social" and inserting the following: "to acquire occupational skills and develop work attitudes, work habits, and work tolerance, with assistive technology devices and services as appropriate, and to develop social"; and

(C) by striking the semicolon at the end and inserting a period;

(6) in subparagraph (E) (as redesignated by paragraph (3) of this subsection), by amending the subparagraph to read as follows:

"(E) Any other goods or services provided for the purposes of ascertaining the nature of the disability and whether, with the aid of assistive technology devices and services, it may reasonably be expected that the individual can benefit from vocational rehabilitation services.";

(7) in subparagraph (F) (as redesignated by paragraph (3) of this subsection), by striking "referral;" and inserting "Referral.";

(8) in subparagraph (G) (as redesignated by paragraph (3) of this subsection), by amending the subparagraph to read as follows:

"(G) The administration of these assessment and evaluation services.";

(9) in subparagraph (H) (as redesignated by paragraph (3) of this subsection)—

(A) in clause (i), by striking "the provision" and inserting "The provision"; and

(B) in clause (ii), by striking "; and" at the end and inserting a period; and

(10) in subparagraph (I) (as redesignated by paragraph (3) of this subsection), by striking "where appropriate" and all that follows through "services" and inserting the following: "Where appropriate, the provision of rehabilitation engineering services, including assistive technology devices and services,".

(b) PARAGRAPH (6).—Section 7(6) (29 U.S.C. 706(6)) is amended—

(1) by striking "abilities" and all that follows through "market" and inserting the following: "abilities of the individual, and to the greatest extent practicable, within the integrated competitive labor market or to satisfy the vocational outcome of supported employment,"; and

(2) by adding at the end the following sentence: "Such term includes the establishment of intermediate objectives leading to the support of improved employment outcomes, including the ability to function more independently in a work situation or at home or in the community and the completion of training, including higher and continuing education programs.".

(c) PARAGRAPH (7).—Section 7(7)(B) (29 U.S.C. 706(7)(B)) is amended by inserting "and each subsequent fiscal year" before the period at the end.

(d) PARAGRAPH (8).—Section 7(8) (29 U.S.C. 706(8)) is amended—

(1) in subparagraph (A), by amending the subparagraph to read as follows: "(A) Except as otherwise provided in subparagraph (B), the term 'individual with a disability' means any individual who (i) has a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment, and (ii) can attain a successful employment outcome pursuant to titles I, III, and VI.";

(2) in subparagraph (B)—

(A) by striking "the term" and all that follows through "means" and inserting the following: "the term 'individual with a disability' means"; and

(B) by striking "titles IV and V" and inserting "sections 2, 14, and 15 and title II, IV and V"; and

(3) in subparagraph (C)—

(A) in clause (i), by striking "the term" and all that follows through "include" and inserting the following: "the term 'individual with a disability' does not include";

(B) in clause (ii), in the matter preceding subclause (I), by striking "handicaps" and inserting "a disability"; and

(C) in clause (iv), in the first sentence—

(i) by striking "handicapped student" and inserting "student with a disability";

(ii) by striking "currently"; and

(iii) by striking "nonhandicapped students" and inserting "students without a disability".

(e) PARAGRAPH (12).—Section 7(12) (29 U.S.C. 706(12)) is amended by adding at the end the following sentence: "Such term also includes assistive technology devices and services.".

(f) PARAGRAPH (13).—Section 7(13) (29 U.S.C. 706(13)) is amended to read as follows:

"(13) The term 'community rehabilitation program' means a program that provides directly or facilitates the provision of vocational rehabilitation services to individuals with a disability, and that provides singly or in combination, for an individual with a disability to enable the individual to maximize opportunities for employment, including career advancement—

"(A) medical, psychiatric, psychological, social, and vocational services that are provided under one management;

"(B) testing, fitting, or training in the use of prosthetic and orthotic devices;

"(C) recreational therapy;

"(D) physical and occupational therapy;

"(E) speech, language, and hearing therapy;

"(F) psychiatric, psychological and social services, including positive behavior management;

"(G) assessment for determining eligibility and vocational rehabilitation needs;

"(H) rehabilitation technology, including assistive technology devices and assistive technology services;

"(I) job development, placement, and retention services;

"(J) evaluation or control of specific disabilities;

"(K) orientation and mobility services for individuals who are blind;

"(L) extended employment;

"(M) psychosocial rehabilitation services;

"(N) supported employment services and extended services;

"(O) services to family members when necessary to the vocational rehabilitation of the individual;

"(P) personal assistance services; or

"(Q) services similar to the services described in one of subparagraphs (A) through (P).".

(g) PARAGRAPH (15).—Section 7(15) (29 U.S.C. 706(15)) is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking "the term" and all that follows through "means" and inserting the following: "the term 'individual with a severe disability' means"; and

(B) in clause (i), by striking "disability which" and inserting "impairment which"; and

(2) in subparagraph (B), by striking "the term" and all that follows through "means" and inserting the following: "the term 'individual with a severe disability' means".

(h) PARAGRAPH (16).—Section 7(16) (29 U.S.C. 706(16)) is amended to read as follows:

"(16) The term 'State' includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658). The appropriate State agency designated as provided in section 101(a)(1) of this Act shall be the Governor of American Samoa.".

(i) PARAGRAPH (18).—Section 7(18) (29 U.S.C. 706(18)) is amended to read as follows:

"(18)(A) The term 'supported employment' means competitive work in integrated work settings for those individuals with the most severe disabilities—

"(i)(I) for whom competitive employment has not traditionally occurred; or

"(II) for whom competitive employment has been interrupted or intermittent as a result of a severe disability; and

"(ii) who, because of the nature and severity of their disability, need intensive supported employment services or extended services in order to perform such work.

"(B) Such term includes transitional employment for persons who are individuals with the most severe disabilities due to mental illness.".

(j) ADDITIONAL PARAGRAPHS.—Section 7 (29 U.S.C. 706) is amended by adding at the end the following paragraphs:

"(23) The term 'successful employment outcome' means the successful completion of goals in the individualized written rehabilitation program, including the completion of such documentable outcomes as the ability to function more independently within the workplace, at home or in the community, the completion of training, including higher and continuing education programs and a minimum of 60 days of successful employment.

"(24) The term 'extended services' means ongoing support services and other appropriate services, needed to support and maintain an individual with the most severe disability in supported employment, that—

"(A) are provided singly or in combination and are organized and made available in such a way as to assist an eligible individual in maintaining integrated, competitive employment;

"(B) are based on a determination of the needs of an eligible individual, as specified in an individualized written rehabilitation program; and

"(C) are provided by a State agency, a nonprofit private organization, employer, or any other appropriate resource, after an individual has made the transition from support provided by the designated State unit.

"(25) The term 'ongoing support services' means services—

"(A) provided to individuals with the most severe disabilities;

"(B) provided, at a minimum, twice monthly—

"(i) to make an assessment, regarding the employment situation, at the worksite of each such individual in supported employment, or, under special circumstances, especially at the request of the client, off site; and

"(ii) based on the assessment, to provide for the coordination or provision of specific intensive services, at or away from the worksite, that are needed to maintain employment stability; and

"(C) consisting of—

"(i) the provision of skilled job trainers who accompany the individual for intensive job skill training at the work site;

"(ii) job development and placement;

"(iii) social skills training;

"(iv) regular observation or supervision of the individual;

"(v) follow-up services such as regular contact with the employers, the individuals, family members, guardians, advocates, or authorized representatives of the individuals, and other suitable professional and informed advisors in order to reinforce and stabilize the job placement;

"(vi) facilitation of natural supports at the worksite;

"(vii) any other service identified in section 103; or

"(viii) a service similar to another service described in this subparagraph.

"(26) The term 'transition services' means a coordinated set of activities for a student, designed within an outcome-oriented process, which promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

"(27) The term 'assistive technology device' has the meaning given such term in section 3(1) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988.

"(28) The term 'assistive technology service' has the meaning given such term in section 3(2) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988.

"(29) The term 'personal assistance', with respect to an individual with a disability, means on-the-job or other related personal assistance services and includes a range of services provided by one or more persons assisting such individual with tasks which the individual would typically do if the individual did not have a disability. Such services shall be designed to increase the individual's control in life and ability to perform everyday activities on or off the job.".

SEC. 104. AUDIT.

Section 9 (29 U.S.C. 708) is amended in last sentence by inserting "a fiscal audit of" after "pertinent to".

SEC. 105. ADMINISTRATION OF THE ACT.

SUBSECTION (a).—Section 12(a)(2) (29 U.S.C. 711(a)(2)) is amended by inserting before the semicolon the following: ", including training the personnel of community rehabilitation programs, centers for independent living, and other providers of services (including job coaches)".

(b) ADDITIONAL SUBSECTION.—Section 12 (29 U.S.C. 711) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following subsection:

"(c)(1) Not later than 120 days after the date of the enactment of the Rehabilitation Act Amendments of 1992, the Commissioner shall receive public comment and promulgate regulations establishing criteria pertaining to the selection of the vocational rehabilitation services providers by an individual with a disability, consistent with the individual's individualized written rehabilitation program under section 102.

"(2) Regulations under paragraph (1) shall include the following:

"(A) Procedures which States must adopt to ensure that the goods and services provided under this Act are of sufficient scope and quality, that the costs of such goods and services and the length of time such goods and services provided are reasonable, and that such goods and services are available in a timely manner.

"(B) Procedures that prevent fraud, waste, and abuse.

"(C) Procedures to assure that services are provided in the most integrated settings.

"(D) Procedures to assure that rehabilitation providers comply with State guarantees, such as—

"(i) affirmative action with respect to the employment of individuals with a disability;

"(ii) standards governing community rehabilitation programs and qualified personnel utilized for the provision of vocational rehabilitative services; and

"(iii) the establishment and maintenance of minimum standards to assure the availability of personnel, to the maximum extent feasible, trained to communicate in the client's native language or mode of communication.

"(E) Guidelines for the use of out of state providers and the use of providers with religious affiliations.

"(F) Standards to be adhered to by providers to help ensure the integrity of services.

"(G) Guidelines for assisting individuals with a disability and for providing information about available rehabilitation service providers, especially for assisting individuals with cognitive and other disabilities and their parents, family members, guardians, advocates or authorized representatives, who due to the nature of the disability require support and assistance in fully implementing the individual selection and procurement of services.".

SEC. 106. REPORTS.

Section 13 (29 U.S.C. 712) is amended to read as follows:

"REPORTS

"SEC. 13. (a) Not later than one hundred and twenty days after the close of each fiscal year, the Commissioner shall prepare and submit to the President and to the Congress a full and complete report on the activities carried out under this Act, including the activities and staffing of the information clearinghouse under section 15.

"(b)(1) In preparing reports under subsection (a), the Commissioner shall annually collect information on each client whose case is closed out in the preceding fiscal year and include the information in the report required by this section. The information shall set forth a complete count of such cases in a manner permitting the greatest possible cross-classification of data.

"(2) The data elements under paragraph (1) shall include, but not be limited to, age, sex, race, ethnicity, education, marital status, and, when it can be determined, other program participation during 3 years prior to application, number of jobs, hours worked, and earnings in 3 years prior to application, household composition, family earnings before and after receiving services, type of major and secondary disability, date of onset of disabling condition, severity of disability, sources of referral, key rehabilitation process dates, earnings, hours worked, work status, occupation, size of place of employment and industry code at time of entry into the program and at the termination of services, types of services provided, number and cost of each service provided, types of facilities or agencies which furnished services and whether each such facility or agency is public or private, types of public support received by the client, primary sources of economic support and amounts of public assistance received before and after receiving services, whether covered by health insurance from any source and whether health insurance is available through client's employment, supported employment status, and reasons for terminating services.

"(c) The Commissioner shall take whatever action is necessary to assure that the identity of each client for which information is supplied under this section is confidential. Such annual reports shall also include statistical data reflecting services and activities provided individuals during the preceding fiscal year. The annual report shall include an evaluation of the status of individuals with a severe disability participating in programs under this Act.".

SEC. 107. EVALUATION.

Section 14 (29 U.S.C. 713) is amended—

(1) by striking "Commissioner" each place such term appears and inserting "Secretary";

(2) in subsection (a), in the third sentence, by inserting before the period the following: "and the successful employment outcome attained";

(3) in subsection (b)—

(A) by inserting "(1)" after the subsection designation;

(B) in paragraph (1) (as so designated), by striking "shall," and all that follows through "obtain" and inserting "shall obtain"; and

(C) by adding at the end the following paragraph:

"(2) The statewide assessment of the rehabilitation needs of individuals with a disability required by this Act shall include the active participation of rehabilitation service providers."; and

(4)(A) by redesignating subsection (f) as subsection (h); and

(B) by inserting after subsection (e) the following subsections:

"(f) The Secretary shall verify through on site review of records that the State is following an order of selection.

"(g) To assess the linkages between vocational rehabilitation services and economic and non-economic outcomes, the Secretary shall conduct a longitudinal study of a national sample of rehabilitation applicants from referral through the eligibility and service phases to termination of services and for a further period. The evaluation study should address factors related to attrition and completion of the program and factors within and outside the program affecting results. Appropriate comparisons should be used to contrast the experiences of similar persons who do not obtain services. The evaluation should be planned to cover the full application, eligibility determination, and services as well as not less than 2 years of follow-up after terminating services.".

SEC. 108. CARRYOVER.

(a) IN GENERAL.—The Act (29 U.S.C. 701 et seq.) is amended by inserting after section 18 the following section:

"CARRYOVER

"SEC. 19. Notwithstanding any other provision of law, any funds appropriated for a fiscal year to carry out any formula grant program under this Act that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year shall remain available for obligation and expenditure by such recipients during such succeeding fiscal year.".

(b) TECHNICAL AMENDMENT.—The Act (29 U.S.C. 701 et seq.) is amended in the table of contents in the first section by inserting after the item relating to section 18 the following item:

"Sec. 19. Carryover.".

SEC. 109. INFORMATION ON THE CLIENT ASSISTANCE PROGRAM.

The Act, as amended by section 108, is amended—

(1) by inserting after section 19 the following section:

"INFORMATION ON THE CLIENT ASSISTANCE PROGRAM

"SEC. 20. All programs, projects, and facilities that provide services to an individual with a disability under this Act shall advise such individual, and if appropriate, a parent, family member, guardian, advocate, or authorized representative of such individual, of the availability and purposes of the client assistance program under section 500 of the Act, including detailed information, when available, on how to seek assistance under this program."; and

(2) in the table of contents in the first section, by inserting after the item relating to section 19 the following item:

"Sec. 20. Information on the client assistance program.".

SEC. 110. TRADITIONALLY UNDERSERVED POPULATIONS.

(a) IN GENERAL.—The Act, as amended by section 109 of this Act, is amended by inserting after section 20 the following section:

"TRADITIONALLY UNDERSERVED POPULATIONS

"SEC. 21. (a) With respect to the programs authorized in titles II through VII of this Act, the Congress finds as follows:

"(1) America's racial profile is rapidly changing. While the rate of increase for white Americans is 3.2 percent, the rate of increase for racial and ethnic minorities is much higher: 38.6 percent for Latinos, 14.6 percent for African-Americans, and 40.1 percent for Asian-Americans and other ethnic groups. By the year 2000, this Nation will have 260 million people, one of every three of whom will be either African-American, Latino, or Asian-American.

"(2) Ethnic and racial minorities tend to have disabling conditions at a disproportionately high rate. The rate of work-related disability for American Indians is about one and one half times that of the general population. African-Americans are also one and one half times more likely to be disabled than whites and twice as likely to be severely disabled.

"(3) Patterns of inequitable treatment of minorities have been documented in all major junctures of the vocational rehabilitation process. As compared to white Americans, a larger percentage of African-American applicants to the vocational rehabilitation system is denied acceptance. Of applicants accepted for service, a larger percentage of African-American cases are closed without being rehabilitated, and minorities are provided less training and consistently less money is spent on them than their white counterparts.

"(4) Recruitment efforts within vocational rehabilitation at the level of preservice, continuing education, and inservice must focus on bringing larger numbers of minorities into the profession in order to provide appropriate practitioner knowledge, role models and sufficient manpower to address the clearly changing demography of vocational rehabilitation.

"(b)(1) The Commissioner shall develop a policy to mobilize the Nation's resources to prepare minorities for careers in vocational rehabilitation, independent living, and related services. This policy should focus on—

"(A) the recruitment of minorities into the field of vocational rehabilitation counseling and related disciplines; and

"(B) financially assisting Historically Black Colleges and Universities, Hispanic-serving institutions of higher education, and other institutions of higher education (whose minority enrollment is at least 50%) to prepare students for vocational rehabilitation and related service careers.

"(2)(A) The Commissioner shall develop a plan to provide outreach services and other related activities to the entities described in subparagraph (B) (such as cooperative efforts) in order to enhance the capacity and increase the participation of such entities in competitions for grants, contracts, and cooperative agreements under titles I through VII of this Act.

"(B) The entities referred to in subparagraph (A) are—

"(i) Historically Black Colleges and Universities, Hispanic-serving institutions of higher education, and other institutions of higher education whose minority student enrollment is at least 50 percent;

"(ii) nonprofit and for profit agencies at least 51 percent owned or controlled by one or more minority individuals; and

"(iii) underrepresented populations.

"(C) For the purpose of implementing the plan required in subparagraph (A), the Commissioner shall, for each of the fiscal years 1993 through 1997, expend 1 percent of the funds appropriated for the fiscal year involved for carrying out programs authorized in titles II through VII of this Act.

"(3) The Commissioner shall exercise her/his utmost authority, resourcefulness, and diligence to meet the requirements of this section.

"(4) Not later than January 31 of each year, starting with fiscal year 1994, the Commissioner shall submit to Congress a final report on the progress toward meeting the goals of this section during the preceding fiscal year. The report shall include—

"(A) a full explanation of any progress toward meeting the goals of this section; and

"(B) a plan to meet the goals, if necessary.

"(5) In awarding grants, contracts, or cooperative agreements under titles I through VII, the Commissioner and the Director of the National Institute on Disability and Rehabilitation Research, where appropriate, shall require applicants to demonstrate how they will address, in whole or in part, the needs of individuals with a disability from minority backgrounds.".

(b) TECHNICAL AMENDMENT.—The Act, as amended by section 109(2) of this Act, is amended in the table of contents in the first section by inserting after the item relating to section 20 the following item:

"Sec. 21. Traditionally underserved populations.".

TITLE II—VOCATIONAL REHABILITATION SERVICES

Subtitle A—General Provisions

SEC. 201. DECLARATION OF PURPOSE; AUTHORIZATION OF APPROPRIATIONS.

Section 100 (29 U.S.C. 720) is amended—

(1) in subsection (a), by inserting "as a means to living independently" after "gainful employment";

(2) in subsection (b)—

(A) by striking paragraph (2);

(B) by striking "(b)(1)(A)" and inserting "(b)(1)"; and

(C) by redesignating subparagraphs (B) and (C) as paragraphs (2) and (3), respectively;

(3) in subsection (b), as amended by paragraph (2) of this section—

(A) in paragraph (1), in the first sentence—

(i) by striking "and" after "1987,"; and

(ii) by inserting before the period the following: ", $1,839,852,000 for fiscal year 1993, and the amount determined under subsection (c) for each of the fiscal years 1994 through 1997";

(B) in paragraph (2), in the first sentence, by striking "1992" and inserting "1997"; and

(C) in paragraph (3)—

(i) by striking "and" after "1991,"; and

(ii) by inserting before the period the following: ", $1,875,512,100 for fiscal year 1993, and the amount determined under subsection (c) for each of the fiscal years 1994 through 1997"; and

(3) in subsection (c)(2)(A), by striking "under subsection (b)(1)" and inserting "under subsection (b)".

SEC. 202. STATE PLANS.

(a) IN GENERAL.—Section 101(a) (29 U.S.C. (a)) is amended in the matter preceding paragraph (1) by amending the matter to read as follows: "(a) In order to be eligible to participate in programs under this title, a State shall submit to the Commissioner a State

plan for vocational rehabilitation services for a three-year period, which shall include information demonstrating that the State has conducted public hearings to enable the general public to comment on such plan before its submission to the Commissioner or adoption by the State, has provided adequate notice of such hearings, and has included within such plan a summary of public comments and the State's responses. Upon request of the Commissioner, the State shall make such annual revisions in the plan as may be necessary. Each such plan shall—".

(b) PARAGRAPH (5).—Section 101(a)(5) (29 U.S.C. 721(a)(5)) is amended—

(1) in subparagraph (A), in the matter preceding clause (i)—

(A) by striking "and" after "title VI of this Act,"; and

(B) by striking "utilize existing rehabilitation facilities to the maximum extent feasible;" and inserting the following: "utilize existing community rehabilitation programs to the maximum extent feasible, and a description of how the State will provide vocational rehabilitation services to all individuals with a disability within the State eligible for such services or else describe the order of selection it will follow;";

(2) in subparagraph (B), by inserting before the semicolon the following: ", including the use of funds under part C of title VI of this Act to supplement funds under part B of title I of this Act for the cost of services leading to supported employment"; and

(3) in subparagraph (C), by inserting after "engineering services" the following: "and a broad range of assistive technology devices and services".

(c) PARAGRAPH (7).—Section 101(a)(7) (29 U.S.C. 721(a)(7)) is amended to read as follows:

"(7) describe (consistent with the purposes of this Act) a comprehensive system of personnel development, which shall include—

"(A) a description of the procedures and activities the State agency will undertake to ensure an adequate supply of qualified State rehabilitation professionals and paraprofessionals for the designated State unit including the development and maintenance of a system for determining, on an annual basis—

"(i) the number and type of personnel that are employed by the State agency in the provision of rehabilitation services, including counselor to consumer ratios; and

"(ii) the number and type of personnel needed by the State, and a projection of the numbers of such personnel that will be needed in five years, based on projections of the number of individuals to be served, the number of such personnel who are expected to retire or leave the field, and other relevant factors;

"(B) a description of how activities will be undertaken through this section to coordinate with personnel development under the Individuals with Disabilities Education Act;

"(C) the development and maintenance of a system of determining, on an annual basis, the institutions of higher education within the State that are preparing rehabilitation professionals, including—

"(i) the numbers of students enrolled in such programs; and

"(ii) the number who graduated with certification or licensure, or with credentials to qualify for certification or licensure, during the past year;

"(D) the development, updating, and implementation of a plan that—

"(i) will address the current and projected rehabilitation services personnel training needs for the designated State unit; and

"(ii) provides for the coordination and facilitation of efforts between the designated State unit and institutions of higher education and professional associations to recruit, prepare and retain qualified personnel, including personnel from minority backgrounds, and personnel with a disability;

"(E) a description of the procedures and activities the State agency will undertake to ensure that all personnel employed by the designated State unit are appropriately and adequately trained and prepared, including—

"(i) a system for the continuing education of rehabilitation professionals and paraprofessionals within the designated State unit, particularly in assistive technology; and

"(ii) procedures for acquiring and disseminating to rehabilitation professionals and paraprofessionals within the designated State unit significant knowledge from research and other sources; and

"(F) policies and procedures relating to the establishment and maintenance of personnel standards to ensure that personnel within the designated State unit are appropriately and adequately prepared and trained, including—

"(i) provisions for the establishment and maintenance of personnel standards that are consistent with any national or State licensure laws, regulations, approved or recognized certification, registration or other comparable requirements which apply regarding the provision of vocational rehabilitation services in the State;

"(ii) provisions for the establishment and maintenance of standards to ensure the availability of personnel within the designated State unit, to the maximum extent feasible, trained to communicate in the consumer's native language or mode of communication; and

"(iii) a description of the steps the State is taking to ensure that vocational rehabilitation professionals and paraprofessionals within the designated State unit are retrained or hired that meet the appropriate professional requirements in the State;".

(d) PARAGRAPH (8).—Section 101(a)(8) (29 U.S.C. 721(a)(8)) is amended by inserting before the semicolon the following: "or where a job placement would be lost due to a delay in the provision of such comparable benefits".

(e) PARAGRAPH (10).—Section 101(a)(10) (29 U.S.C. 721(a)(10)) is amended—

(1) by inserting "(A)" after the paragraph designation;

(2) in subparagraph (A) (as so designated), by adding "and" after the semicolon at the end; and

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

"(B) provide that reports under subparagraph (A) will include, but are not limited to—

"(i) the number of persons evaluated and the number rehabilitated; and

"(ii) the costs of administration, counseling, direct services, facility development and other purposes and the utilization of other programs pursuant to paragraph (11) of this section;".

(f) PARAGRAPH (11).—Section 101(a)(11) (29 U.S.C. 721(a)(11)) is amended—

(1) by inserting "(A)" after the paragraph designation;

(2) in subparagraph (A) (as so designated)—

(A) by striking "the Education of the Handicapped Act" and inserting "the Individuals with Disabilities Education Act";

(B) by striking "Carl D. Perkins Vocational Education Act" and inserting "Carl D. Perkins Vocational and Applied Technology Education Act"; and

(C) by adding "and" after the semicolon at the end; and

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

"(B) provide that arrangments under subparagraph (A) shall include, to the extent practicable, means for providing training to staff of such other programs as to the availability and benefits of, and eligibility standards, for rehabilitation services in order to enhance the opportunity of individuals receiving such other services to obtain rehabilitation services;".

(g) PARAGRAPH (15).—

(1) DESIGNATION.—Section 101(a) (29 U.S.C. 721(a)) is amended in the matter following paragraph (13) and preceding paragraph (16) by striking "provide for continuing statewide studies" and inserting the following:

"(15) provide for continuing statewide studies".

(2) AMENDMENTS.—Section 101(a)(15), as designated by paragraph (1) of this subsection, is amended—

(A) in subparagraph (B), by striking "and" after the semicolon at the end;

(B) in subparagraph (C), by inserting "and" after the semicolon at the end;

(C) by adding at the end the following subparagraph:

"(D) develop outreach procedures to identify and serve individuals with a disability from minority backgrounds and individuals with a disability who have been unserved or underserved by the vocational rehabilitation system;".

(h) PARAGRAPH (16).—Section 101(a)(16) (29 U.S.C. 721(a)(16)) is amended to read as follows:

"(16) provide for—

"(A) at least an annual review and reevaluation of the status of individuals with a disability placed in extended employment within, through, or outside community rehabilitation programs (including workshops or other employment under section 14(c) of the Fair Labor Standards Act) to determine the needs of such individuals for their employment, or training for employment, in the competitive labor market;

"(B) maximum efforts, including the identification of vocational services, reasonable accommodations, and other support services to enable such individuals to benefit from training or to be placed in employment in integrated settings; and

"(C) transition services designed to promote movement from extended employment to integrated employment, including supported employment, independent living and community participation;".

(i) PARAGRAPH (17).—Section 101(a)(17) (29 U.S.C. 721(a)(17)) is amended—

(1) in the matter preceding subparagraph (A), by striking "where such State plan includes provisions for the construction of rehabilitation facilities" and inserting the following: "if, under special circumstances, the State plan includes provisions for the construction of facilities for community rehabilitation programs"; and

(2) in subparagraph (C), by striking "rehabilitation facilities" and inserting "facilities for community rehabilitation programs".

(j) PARAGRAPH (18).—Section 101(a)(18) (29 U.S.C. 721(a)(18)) is amended by striking "and providers of vocational rehabilitation services" and inserting the following: "providers of vocational rehabilitation services, and the Director of the client assistance program under section 500".

(k) PARAGRAPH (23).—Section 101(a)(23) (29 U.S.C. 721(a)(23)) is amended—

(1) by striking "and" before "(B)"; and

(2) by inserting before the semicolon the following: ", and (C) provide satisfactory assurances that the State agency will consult with the Director of the client assistance program under section 500 in the formulation of policies governing the provision of rehabilitation services consistent with the State plan and other revisions".

(l) PARAGRAPHS (24) AND (25).—Section 101(a) (29 U.S.C. 721(a)) is amended by striking paragraphs (24) and (25) and inserting the following paragraphs:

"(24)(A) contain the plans, policies and methods to be followed to assist in the transition from education to employment related activities, including specific plans for coordination with State educational agencies in the provision of transition services specified in the individualized education programs of students with a disability; and

"(B) provide that such plans, policies and methods will address—

"(i) provisions for determining State lead agencies and qualified personnel responsible for transition services;

"(ii) procedures for outreach to and identification of youth in need of such services; and

"(iii) a time frame for evaluation and follow-up of youth who have received such services;

"(25) provide assurances satisfactory to the Secretary that the State has an acceptable plan for part C of title VI, including the use of funds under that part to supplement funds under part B of this title for the cost of services leading to supported employment;".

(m) ADDITIONAL PARAGRAPHS.—Section 101(a) (29 U.S.C. 721(a)) is amended by adding at the end the following paragraphs:

"(26) describe the manner in which on-the-job or other related personal assistance services will be provided to assist individuals with a disability while receiving vocational rehabilitation services;

"(27) describe the manner in which cooperative agreements with private nonprofit vocational rehabilitation service providers are established;

"(28) identify the needs and utilization of community rehabilitation programs with regard to the Javits-Wagner O'Day Act (Public Law 92-98);

"(29) describe the manner in which individuals with a disability will be given choice and increased control in determining their vocational rehabilitation goals and objectives;

"(30) describe the manner in which students with a disability who are not in special education can access and receive vocational rehabilitation services, where appropriate;

"(31) describe the manner in which assistive technology devices and services will be provided, or worksite assessments will be made as part of the assessment of the rehabilitation needs or employment needs of an individual;

"(32) describe the manner in which the State is addressing vocational rehabilitation issues raised by the State Rehabilitation Consumer and Business Advisory Council;

"(33) describe the manner in which the State modifies its policies and procedures based on consumer satisfaction surveys conducted by the Council;

"(34) describe the manner in which a State agency has employed at least one job development specialist who provides services such as gathering and disseminating information on employment opportunities and maintains contact with employers to foster employment in the community for individuals with a disability referred by the State Vocational Rehabilitation agency;".

SEC. 203. INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM.

(a) SUBSECTION (a).—Section 102(a) (29 U.S.C. 722(a)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) in paragraph (1) (as so designated), by striking "is developed jointly" and all that follows and inserting the following: "is developed jointly, agreed upon and signed by the vocational rehabilitation counselor and the individual with a disability, and if appropriate, a parent, family member, guardian, advocate, or authorized representative of such individual, and that a copy of the individualized written rehabilitation program and any subsequent amendments to such program are provided to such individual in an accessible format, and that such program meets the requirements in subsection (b) of this section."; and

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

"(2) An individual is eligible for assistance under this title if the individual—

"(A) is an individual with a disability under section 7(8)(A); and

"(B) requires vocational rehabilitation services to prepare for, enter, engage in, or retain gainful employment.

"(3) An individual who has a disability or is blind as determined pursuant to title II or title XVI of the Social Security Act (42 U.S.C. 401 et seq. and 1381 et seq.) shall be considered to have—

"(A) a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment under section 7(8)(A)(i); and

"(B) a severe physical or mental impairment which seriously limits one or more functional capacities in terms of an employment outcome under section 7(15)(A)(i).

"(4) Determinations made by officials of other agencies, particularly educational officials, regarding whether an individual satisfies one or more factors relating to whether an individual is an individual with a disability under section 7(8)(A) or an individual with a severe disability under section 7(15)(A) shall be used (to the extent appropriate and available and consistent with the requirements under this Act) for making such determinations under this Act.

"(5) It shall be presumed that an individual can benefit in terms of an employment outcome from vocational rehabilitation services under section 7(8)(A)(ii), unless the designated State unit can demonstrate by clear and convincing evidence that such individual is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome.".

(b) SUBSECTION (b).—

(1) PARAGRAPH (1).—Section 102(b)(1) (29 U.S.C. 722(b)(1)) is amended—

(A) in subparagraph (A), by striking "determination" and all that follows and inserting the following: "assessment of rehabilitation needs designed to maximize the capacity of the individual to achieve employment in an integrated work setting leading to living independently;"

(B) in subparagraph (B), by striking "assessment" and all that follows and inserting the following: "assessment of career interests and related rehabilitation needs of the individual, which goals shall, to the maximum extent appropriate, include placement in integrated settings;";

(C) in subparagraph (D), by inserting "(including assistive technology devices and services)" after "engineering services";

(D) in subparagraph (F), by inserting before the semicolon the following: "which services shall, to the maximum extent appropriate, be provided in integrated work settings";

(E) in subparagraph (H)—

(i) by striking "prior to case closure" and inserting "prior to termination of services"; and

(ii) by striking "and" after the semicolon at the end;

(F) in subparagraph (I), by striking the period at the end and inserting "; and"; and

(G) by inserting after subparagraph (I) the following subparagraphs:

"(J) include the views and choices of the individual with a disability, and if appropriate, a parent, family member, guardian, advocate, or authorized representative of such individual, along with documentation of the involvement of the individual in the selection of a vocational objective and the services to be provided to attain the vocational objective;

"(K) to the maximum extent possible, be provided in the native language, or mode of communication of the individual with a disability, and if appropriate, a parent, family member, guardian, advocate, or authorized representative of such individual;

"(L) where appropriate, include a statement of the specific on-the-job and related personal assistance services to be provided to assist in the implementation of the intermediate objectives and long-range rehabilitation goals for the individual while the individual is receiving vocational rehabilitation services;

"(M) where appropriate, and when desired by the individual with a disability, provide the individual the necessary training in managing, supervising, and directing a person who is providing the on-the-job and related personal assistance services required by the individual's individualized written rehabilitation program;

"(N) include an identification of other related services and benefits provided pursuant to any Federal, State, or local program which will enhance the capacity of the individual to achieve his or her vocational objectives, including but not limited to financial benefits, work incentives, personal assistance services, child care services, health care, including home health care services, special recreational, family support, and other supplementary services; and

"(O) specify whether any services requested by the individual with a disability were denied and describe the reasons for such denial.".

(2) PARAGRAPH (2).—Section 102(b)(2) (29 U.S.C. 722(b)(2)) is amended—

(A) in the second sentence, by inserting before the period the following: "and any such revisions or amendments thereto shall be incorporated into or affixed to such program"; and

(B) by adding at the end the following sentence: "Such revisions shall be agreed to and signed by the individual with a disability, and if appropriate, by a parent, family member, guardian, advocate, or authorized representative of such individual.".

(c) SUBSECTION (d).—Section 102(d) (29 U.S.C. 722(d)) is amended—

(1) in paragraph (1), by adding at the end the following sentence: "Such procedures shall provide that, during the period in which such review is conducted, vocational rehabilitation services will continue to be made available to the individual with a disability.";

(2) in paragraph (2), by adding at the end the following sentence: "Such officer shall be an individual certified as having satisfac-

torily completed a training program conducted by the State unit in conjunction with the client assistance program under section 500. Such officers may not have financial ties, either as an individual or through their employer, to the State vocational rehabilitation agency. Such individual must not be involved in any previous decisions regarding the vocational rehabilitation of the applicant or client.";

(3) in paragraph (3)—

(A) by striking subparagraphs (B) and (C) and inserting the following subparagraphs:

"(B) The impartial hearing officer shall be selected to hear a particular case from a pool of qualified persons identified jointly by the State unit designated under section 101(a)(2) and the non-agency members of the State Rehabilitation Consumer and Business Advisory Council. If agreement can not be made, selection shall be made on a random basis from the pool of qualified persons.

"(C) The decision of an impartial hearing officer shall be final. Such decision shall be made in writing and shall include a full report of the findings and grounds for the decision. A copy of the decision shall be provided to the individual, or where appropriate, the parent, family member, guardian, advocate, or authorized representative of such individual.";

(B) by redesignating subparagraph (D) as subparagraph (E); and

(C) by inserting after subparagraph (C) the following subparagraph:

"(D) The Director may not overturn or modify an impartial hearing officer's decision or part there of which supports the individual's position unless he or she concludes, based on clear and convincing evidence, that the impartial hearing officer's decision is contrary to Federal or State law."; and

(4) in paragraph (5)(B)—

(A) by redesignating paragraphs (1) through (4) as clauses (i) through (iv);

(B) in clause (iii) (as so redesignated), by striking "and" after the semicolon at the end;

(C) in clause (iv) (as so redesignated), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following clause:

"(v) how many requests the client assistance program under section 500 receives annually, how many requests such program is unable to serve, and the reasons that the program is unable to serve all the requests.".

SEC. 204. SCOPE OF VOCATIONAL REHABILITATION SERVICES.

(a) SUBSECTION (a).—Section 103(a) (29 U.S.C. 723(a)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A)—

(i) by striking "rehabilitation potential, including" and inserting the following: "rehabilitation needs, which should be based on relevant existing reports to the maximum extent appropriate, including, where appropriate"; and

(ii) by striking "services to be provided, including, where appropriate" and inserting "services to be provided, including the individual's self-assessment, and where appropriate";

(B) in subparagraph (A), by striking "technology; and" and inserting the following: "technology services and the selection and application of assistive technology devices;";

(C) in subparagraph (B), by adding "and" after the semicolon at the end; and

(D) by adding at the end the following subparagraph:

"(C) an assessment of an individual's needs for supported employment;";

(2) in paragraph (2)—

(A) by inserting "work-related" before "placement services";

(B) by inserting before "followup," the following: "job search assistance, placement, job retention, and personal assistance services,";

(C) by striking "maintain or regain employment" and inserting "maintain, regain, or advance in employment"; and

(D) by striking "agencies," and inserting "agencies or entities,";

(3) in paragraph (3)—

(A) by striking "and" after "training materials,"; and

(B) by striking "such individuals:" and inserting "such individuals, and services to students to assist in the transition from school to employment:";

(4) in paragraph (4)(A)—

(A) by striking "handicap to employment," and inserting "impediment to employment,"; and

(B) by striking "substantially reduce the handicap" and inserting "reduce such barriers to employment"; and

(5) by striking paragraphs (11) and (12) and inserting the following paragraphs:

"(11) rehabilitation engineering and assistive technology devices and services including such products as environmental control units, augmentative communication, computers and computer input devices and telecommunication devices;

"(12) services for individuals with sensory, mobility and/or cognitive impairments;

"(13) services which enable a student to transition from school to employment in an integrated setting, and where appropriate, vocational rehabilitation counselors shall participate in the development of the individual education plan in order to facilitate transition from school to employment at least one year prior to the student's availability to work; and

"(14) on-the-job personal assistance services while receiving vocational rehabilitation services.".

(b) SUBSECTION (b).—Section 103(b) (29 U.S.C. 723(b)) is amended—

(1) in the matter preceding paragraph (1), by striking "groups of individuals," and inserting the following: "groups of individuals or for the employment of an individual in an integrated work setting within the competitive labor market,";

(2) in paragraph (1)—

(A) by striking "in the case" and inserting "In the case"; and

(B) by striking the semicolon at the end and inserting a period;

(3) in paragraph (2)—

(A) by striking "the construction" and all that follows through "rehabilitation facilities)" and inserting the following: "The establishment, development, or improvement of community rehabilitation programs, including, under special circumstances, the construction of a facility, and the provision of other services (including services offered at community rehabilitation programs)";

(B) by striking the semicolon at the end and inserting a period; and

(C) by adding at the end the following sentence: "Such funds shall be used to provide services that promote integration and competitive employment.";

(4) in paragraph (3)—

(A) by striking "the use of" and inserting "The use of"; and

(B) by striking "; and" and inserting a period;

(5) in paragraph (4), by striking "the use of" and inserting "The use of"; and

(6) by adding at the end the following paragraph:

"(5) Technical assistance and support services to businesses that are not subject to title I of the Americans with Disabilities Act of 1990 and that are seeking to employ individuals with a disability.".

SEC. 205. EVALUATION STANDARDS.

(a) IN GENERAL.—Part A of title I (29 U.S.C. 720 et seq.) is amended by adding at the end the following section:

"EVALUATION STANDARDS

"SEC. 105. (a) The Commissioner shall, by the end of fiscal year 1994, publish evaluation standards and performance indicators for the vocational rehabilitation program under this title. The standards and indicators shall include outcome and related measures of program performance and shall be developed with input from State vocational rehabilitation agencies, related professional and consumer organizations, recipients of vocational services, and other interested parties.

"(b)(1) In accordance with regulations established by the Secretary, each State shall report to the Commissioner after the end of each fiscal year the extent to which it is in compliance with the evaluation standards and indicators.

"(2) If the Commissioner determines that any State's performance is below established standards, a program improvement plan outlining the specific actions to be taken by the State to improve program performance shall be developed jointly by the Commissioner and the State. The Commissioner shall—

"(A) review the State's program improvement efforts on a biannual basis and, where necessary, request the State to make further revisions to the plan to improve performance; and

"(B) continue to do so until satisfactory performance is sustained over a period of more than one year.

"(c) If the Commissioner determines that a State whose performance falls below the standards and indicators established under subsection (a) has failed to enter into a program improvement plan, or is not complying substantially with the terms and conditions of its program improvement plan, then the Commissioner shall, consistent with the provisions in section 101 (c) and (d) of this Act, reduce or make no further payments to that State under this program, until the State has entered into an approved program improvement plan, or satisfies the Commissioner that it is complying substantially with the terms and conditions of its program improvement plan, as appropriate.

"(d) Beginning in fiscal year 1996, the Commissioner shall include in each annual report to the Congress an analysis of program performance, including relative State performance, based on the standards and indicators.".

(b) TECHNICAL AMENDMENT.—The Act (29 U.S.C. et seq.) is amended in the table of contents in the first section by inserting after the item relating to section 104 the following:

"Sec. 105. Evaluation standards.".

SEC. 206. EXPENDITURES OF CERTAIN AMOUNTS.

(a) IN GENERAL.—Part A, as amended by section 205 of this Act, is amended by adding at the end the following section:

"EXPENDITURE OF CERTAIN AMOUNTS

"SEC. 106. (a) Amounts described in subsection (b) may not be expended by a State for any purpose other than carrying out programs for which the State receives financial

assistance under this title, under part C of title VI, or under title VII.

"(b) The amounts referred to in subsection (a) are amounts provided to a State under the Social Security Act as reimbursement for the expenditure of payments received by the State from allotments under section 110 of this Act.".

(b) TECHNICAL AMENDMENT.—The Act, as amended by section 205 of this Act, is amended in the table of contents in the first section by inserting after the item relating to section 105 the following:

"Sec. 106. Expenditure of certain amounts.".

SEC. 207. TRAINING OF EMPLOYERS WITH RESPECT TO AMERICANS WITH DISABILITIES ACT OF 1990.

(a) IN GENERAL.—Part A, as amended by section 206 of this Act, is amended by adding at the end the following section:

"TRAINING OF EMPLOYERS WITH RESPECT TO AMERICANS WITH DISABILITIES ACT OF 1990

"SEC. 107. A State may expend payments received under section 111—

"(1) to carry out a program to train employers with respect to compliance with the requirements of title I of the Americans with Disabilities Act of 1990; and

"(2) to inform employers of the existence of the program and the availability of the services of the program.".

(b) TECHNICAL AMENDMENT.—The Act, as amended by section 206 of this Act, is amended in the table of contents in the first section by inserting after the item relating to section 106 the following:

"Sec. 107. Training of employers with respect to Americans with Disabilities Act of 1990.".

Subtitle B—Basic Vocational Rehabilitation Services

SEC. 211. STATE ALLOTMENTS.

Section 110 (29 U.S.C. 721) is amended—

(1) in subsection (a), by striking paragraph (4);

(2) in subsection (b)—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and

(3) in subsection (d)(2)—

(A) by striking "¼" and inserting "½"; and

(B) by striking "one percent" the second place such term appears and inserting "1.5 precent".

SEC. 212. PAYMENTS TO STATES.

Section 111(a) (29 U.S.C. 731(a)) is amended—

(1) in paragraph (1), by striking "year (including" and all that follows through "110(b)),'' and inserting "year,"; and

(2) in paragraph (2)—

(A) by striking "(and" and all that follows through "(b))";

(B) by amending subparagraph (B) to read as follows:

"(B)(i) For fiscal year 1993, the amount otherwise payable to a State for a fiscal year under this section shall be reduced by the amount by which expenditures from non-Federal sources under the State plan under this title for the previous fiscal year are less than the average of the total of such expenditures for the three fiscal years preceding that previous fiscal year.

"(ii) For fiscal year 1994 and each fiscal year thereafter, the amount otherwise payable to a State for a fiscal year under this section shall be reduced by the amount by which expenditures from non-Federal sources under the State plan under this title for the previous fiscal year are less than the total of such expenditures for the second fiscal year preceding that previous fiscal year.".

SEC. 213. CLIENT ASSISTANCE PROGRAM.

Section 112 (29 U.S.C. 732) is amended—

(1) in subsection (a)—

(A) by striking "to assist such clients" and inserting "to assist and advocate for such clients";

(B) by inserting "and advocacy" after "including assistance";

(C) by inserting before the period in the first sentence the following: "and to facilitate access to the services funded under this Act through individual and systemic advocacy"; and

(D) by amending the second sentence to read as follows: "The client assistance program shall provide information on the available services and benefits under this Act and the Americans with Disabilities Act of 1990 to individuals with a disability in the State, especially with regard to individuals traditionally underserved by rehabilitation programs.";

(2) in subsection (c)(1)(B), by striking "notice" and all that follows and inserting the following: "30 days notice and an opportunity for the designated agency to respond to the assertion that good cause has been shown and timely notice and opportunity for public comment has been given to individuals with a disability or their representatives of the intention to make such redesignation.";

(3) in subsection (e)(1)(D)—

(A) in clause (i), by striking "$75,000" and inserting "$100,000"; and

(B) in clause (ii)—

(i) by striking "subsection (c)," and inserting "clause (i),";

(ii) by striking "subparagraph (A)" and inserting "subparagraphs (A) and (B)"; and

(iii) by striking "fiscal year by more than" and all that follows and inserting "fiscal year.";

(4) in subsection (g), by adding at the end the following paragraph:

"(5) For purposes of such report or for any other periodic audit, report, or evaluation of the performance of a client assistance program under section 500, the Secretary shall not require such a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.";

(5) by striking subsection (h);

(6) by redesignating subsection (i) as subsection (h); and

(7) in subsection (h) (as redesignated by paragraph (6) of this section)—

(A) by striking "and" after "1991,"; and

(B) by inserting after "1992," the following: "$9,434,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997,".

SEC. 214. TRANSFER OF CLIENT ASSISTANCE PROGRAM; STRIKING OF PROVISION UNDER TITLE V REGARDING EFFECT ON EXISTING LAW.

(a) STRIKING OF PROVISION.—Title V (29 U.S.C. 790 et seq.) is amended by striking section 500.

(b) TRANSFER OF PROVISION.—Section 112, as amended by section 213 of this Act, is—

(1) transferred to title V;

(2) redesignated as section 500; and

(3) inserted before section 501.

(c) TECHNICAL AMENDMENT.—The Act (29 U.S.C. et seq.) is amended in the table of contents in the first section—

(1) by striking the item relating to section 112;

(2) by striking the item relating to section 500; and

(3) by inserting before the item relating to section 501 the following:

"Sec. 500. Client assistance program.".

SEC. 215. STATE REHABILITATION CONSUMER AND BUSINESS ADVISORY COUNCIL.

(a) IN GENERAL.—Part B, as amended by section 214 of this Act, is amended by inserting after section 111 the following section:

"STATE REHABILITATION CONSUMER AND BUSINESS ADVISORY COUNCIL

"SEC. 112. (a)(1) Except in the case of a State that has an independent commission described in section 101(a)(35)(A)(ii), any State which desires to receive financial assistance under this title shall, not later than 1 year after the date of the enactment of the Rehabilitation Act Amendments of 1992, establish a State Rehabilitation Consumer and Business Advisory Council.

"(2) In the case of a State that has a separate designated unit for services to individuals who are blind, the State may provide, at the option of the State, for the establishment of a separate Rehabilitation Consumer and Business Advisory Council regarding such individuals.

"(b)(1) The Council shall be composed as follows:

"(A) The Chair or a designee of the chair of the Statewide Independent Living Council.

"(B) A representative of the Parent Training Center established pursuant to section 631(c) of the Individuals with Disabilities Education Act.

"(C) A representative of the client assistance program under section 500 of this Act.

"(D) At least one representative of community service providers.

"(E) Four representatives of business, industry, and labor.

"(F) Representatives of disability advocacy groups representing a cross section of individuals with physical, cognitive, sensory, and mental disabilities.

"(G) Current or former applicants for or recipients of vocational rehabilitation services.

"(2) The director of the designated State unit shall be an ex-officio member of the council.

"(c) The Council shall be appointed by the Governor or the appropriate entity within the State responsible for making appointments.

"(d) A majority of the Council members shall be individuals with a disability not employed by the designated State unit.

"(e) The Council chairperson shall be selected from among the membership except in cases where the Governor has no veto power and in such cases the Governor shall designate a member of the Council to serve as the chairperson of the Council or shall require the Council to so designate such a member.

"(f) The Governor shall provide for term limits and staggered terms so that no more than one-third of the Council will be appointed each year.

"(g) The Council shall meet at least 4 times a year and in such places as it deems necessary to conduct Council business. The meetings shall be publicly announced and open and accessible to the general public.

"(h)(1) The director of the State agency designated under section 101(a)(1) and the Council shall prepare a budget using funds under this title to reimburse members of the Council for reasonable and necessary expenses for attending Council meetings and performing Council duties, to pay compensation to a member of the Council if such member is not employed or must forfeit wages from other employment when performing official Council business, to hire staff, and to obtain the services of such professional, technical, and clerical support as

may be necessary to carry out its functions under this title.

"(2) No member of the Council shall cast a vote on any matter which would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under State law.

"(3) From funds provided to the State under this title, the State shall reserve an amount not to exceed $200,000 for purposes of this section. Funds under this section may not be used to defray the expenses of members who are employees of State agencies or representatives of business, industry, and labor.

"(i) The Council shall—

"(1) review, analyze, and advise the designated State unit on matters relating to eligibility for services, including order of selection, the extent, scope, and effectiveness of services provided and functions performed by all State agencies which affect or which potentially affect the ability of individuals with a disability in achieving rehabilitation goals and objectives under this title;

"(2) advise the State agency designated under section 101(a)(1) and, at the discretion of such agency, assist in the preparation of applications, the State plan, the Innovation and Expansion grant application, and amendments thereto, reports, needs assessments, and evaluations required by this title;

"(3) to the extent feasible, conduct a review and analysis of the effectiveness of, and consumer satisfaction with—

"(A) the functions performed by State agencies and other public and private entities responsible for performing functions for individuals with a disability; and

"(B) vocational rehabilitation services—

"(i) provided, or paid for from funds made available, under this Act or through other public or private sources; and

"(ii) provided by State agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals with a disability;

"(4) prepare and submit an annual report to the Governor and the Commissioner on the status of vocational rehabilitation programs in the State and make the report available to the public;

"(5) coordinate with other Councils within the State, including the Statewide Independent Living Council established under Title VII of this Act, the advisory council established under part B of the Individuals with Disabilities Education Act, the Developmental Disabilities Council established under the Developmental Disabilities Assistance and Bill of Rights Act, and the Comprehensive Mental Health Planning Council; and

"(6) advise the State agency designated under section 101(a)(1) and provide for the coordination and linkages with the Statewide Independent Living Council and centers for independent living within the State.

"(j) To the extent that a State has established a Council before September 30, 1992, that is comparable to the Council described in this section, such established Council shall be considered to be in compliance with this section. Within 1 year after the date of enactment of the Rehabilitation Act Amendments of 1992, such State shall establish a Council that complies in full with this section.".

(b) AMENDMENTS REGARDING STATE PLAN.—Section 101(a), as amended by section 202 of this Act, is amended by adding at the end the following paragraphs:

"(35) provide satisfactory assurances to the Commissioner that—

"(A) the designated State unit has established—

"(i) a Rehabilitation Consumer and Business Advisory Council that meets the criteria set forth in section 112; or

"(ii) an independent commission which (I) is responsible under State law for overseeing the operation of the designated State unit and is required by such State law to be consumer controlled by individuals with physical or mental impairments that substantially limit their major life activities, and (II) represents individuals with a broad range of disabilities, including individuals with a disability who have been historically unserved or underserved with respect to vocational rehabilitation services; and

"(B) the designated State unit or units seek and seriously consider, on a regular and on-going basis, advice from such Council regarding the development and implementation of the State plan under this subsection, the Innovation and Expansion grant application and the State plan for Independent Living, and any amendments thereto, and any rules that are adopted that have general applicability pertaining to the provision of vocational rehabilitation services; and

"(36) include an annual report to the Commissioner, a summary of the recommendations from the Council or commission required in paragraph 35(A), including a survey of consumer satisfaction and other reports prepared by the Council, and the designated unit's response to such advice and recommendations.".

(c) TECHNICAL AMENDMENT.—The Act, as amended by section 214(c) of this Act, is amended in the table of contents in the first section by inserting after the item relating to section 111 the following:

"Sec. 112. State Rehabilitation Consumer and Business Advisory Council.".

Subtitle C—Innovation and Expansion Grants

SEC. 221. STATE ALLOTMENTS; PAYMENTS TO STATES.

(a) IN GENERAL.—Part C of title I (29 U.S.C. 740 et seq.) is amended by striking sections 120 and 121 and inserting the following sections:

"STATE ALLOTMENTS

"SEC. 120. (a) From sums available pursuant to section 110(e) for any fiscal year, each State shall use 1.5% of such funds for activities authorized under section 121(b). Each State shall be allotted an amount bearing the same ratio to such sums as the population of the State bears to the population of all States, except that no State shall receive less than $100,000, or one-quarter of 1 percent, whichever is greater.

"(b) If the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the activities authorized under section 121(b), the Commissioner shall make such amount available to one or more States which the Commissioner determines will be able to use additional amounts during such year for carrying the activities authorized under section 121(b) of this part.

"PAYMENTS TO STATES

"SEC. 121. (a)(1)(A) Any State desiring to receive assistance under this part shall prepare and submit to the Commissioner an application describing the activities it plans to undertake consistent with subsection (b) of this section to achieve long-term success in expanding and improving vocational rehabilitation services, including supported employment, within the State.

"(B) The application shall cover a three year period and sums appropriated for grants under this part shall remain available until expended;

"(C) Prior to developing the State application, the State shall hold public meetings and consult and receive recommendations from members of the State Rehabilitation Consumer and Business Advisory Council;

"(D) Recommendations shall be considered and if rejected, written explanations shall be included in the State application;

"(E) The application must be reviewed on an annual basis to reflect the activities achieved over the previous year and any input made by the State Rehabilitation Consumer and Business Advisory Council and other interested parties;

"(2) Any State which receives assistance under this part must describe the activities it has undertaken consistent with subsection (b) of this section in its State plan submitted under section 101 of title I of this Act.

"(3) In any fiscal year in which a State outlines their activities authorized under subsection (b) of this section and consistent with this part and Section 101 of Title I of this Act, the Commissioner shall pay to such State its full allotment under Section 120(a).

"(b) From each State's allotment under this part for any fiscal year, the Commissioner shall pay to such State or, at the option of the State agency designated under section 101(a)(1), to a public or nonprofit organization or agency, funds to use in the cost of planning, initiating, implementing or evaluating special programs or activities that are consistent with section 101 of this Act to expand and improve vocational rehabilitation services offered in the State. Such programs or activities shall include no less than one of the following:

"(1) Programs to initiate and expand employment opportunities for individuals with a severe disability in integrated settings that allow for the use of on-the-job training to promote the intent of title I of the Americans with Disabilities Act of 1990.

"(2) Programs or activities to improve and expand employment services in integrated settings to individuals with sensory, cognitive, physical and mental impairments that have traditionally not been served by the State vocational rehabilitation agency.

"(3) Programs and activities to maximize the ability of individuals with a disability to use rehabilitation technology, including assistive technology devices and services, in employment settings.

"(4) Programs and activities that assist employers in accommodating, evaluating, training or placing individuals with a disability in the employer's workplace consistent with provisions under this Act and title I of the Americans with Disabilities Act of 1990. Such activities may include short term technical assistance or other effective strategies.

"(5) Programs and activities that expand and improve the extent and type of consumer involvement in the review and selection of his or her training and employment goals.

"(6) Programs and activities that expand and improve opportunities for career advancement for individuals with a severe disability.

"(c) The Commissioner may require that any portion of a State's allotment under this section be expended in connection with only such projects as have first been approved by the Commissioner.".

(b) CONFORMING AMENDMENTS.—Section 110 (29 U.S.C. 730) is amended—

(1) in subsection (a)(1), by striking "subsection (d)" and inserting "subsections (d) and (e)";

(2) in subsection (d)(1), by striking "100(b)(1)" and inserting "100(b)"; and

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

"(e) For fiscal year 1993 and for each subsequent fiscal year, the Commissioner shall reserve from the amount appropriated under section 100(b) for allotment under this section a sum of not less than 1.5 percent to carry out the purposes of part C of this title.".

Subtitle D—American Indian Vocational Rehabilitation Services

SEC. 231. STUDY OF NEEDS OF AMERICAN INDIANS WITH A DISABILITY.

Part D of title I (29 U.S.C. 750 et seq.) is amended by striking section 131.

Subtitle E—Monitoring and Review

SEC. 241. MONITORING AND REVIEW.

(a) IN GENERAL.—Title I, as amended by section 231 of this Act, is amended by adding at the end the following part:

"PART E—MONITORING AND REVIEW

"MONITORING AND REVIEW

"SEC. 141. (a)(1) In carrying out the duties of the Commissioner under this title, the Commissioner shall—

"(A) provide for the annual review and periodic on-site monitoring of programs under this title; and

"(B) determine whether, in the administration of the State plan, a State is complying substantially with the provisions of such plan and with evaluation standards and performance indicators established under section 105.

"(2) In conducting reviews under this section the Commissioner shall consider, at a minimum—

"(A) State policies and procedures;

"(B) guidance materials;

"(C) decisions resulting from hearings conducted in accordance with due process;

"(D) strategic plans and updates;

"(E) plans and reports prepared under section 105(b);

"(F) consumer satisfaction surveys;

"(G) information provided by the State Rehabilitation Consumer and Business Advisory Council established under section 112 of this Act; and

"(H) reports.

"(3) In conducting monitoring under this section the Commissioner shall conduct—

"(A) on-site visits;

"(B) public hearings and other strategies for collecting information from the public;

"(C) meetings with the State Rehabilitation Consumer and Business Advisory Council;

"(D) reviews of individual case files, including individualized written rehabilitation programs and ineligibility determinations; and

"(E) meetings with rehabilitation counselors and other personnel.

"(4) In conducting the review and monitoring, the Commissioner shall examine—

"(A) the eligibility process;

"(B) the provision of services, including, if applicable, the order of selection;

"(C) whether the personnel evaluation system described in section 101(a)(7) facilitates and does not impede the accomplishments of the program;

"(D) such other areas as may be identified by the public or through meetings with the State Rehabilitation Consumer and Business Advisory Council; and

"(E) such other areas of inquiry as the Commissioner may consider appropriate.

"(b) The Commissioner shall—

"(1) provide technical assistance to programs regarding improving the quality of vocational rehabilitation services provided; and

"(2) provide technical assistance and establish a corrective action plan for a program under this title if the Commissioner finds that the program fails to comply substantially with the provisions of the State plan, or with evaluation standards or performance indicators established under section 105, in order to ensure that such failure is corrected as soon as practicable.

"(c)(1) Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of the State plan approved under section 101, finds that—

"(A) the plan has been so changed that it no longer complies with the requirements of section 101(a); or

"(B) in the administration of the plan there is a failure to comply substantially with any provision of such plan or with an evaluation standard or performance indicator established under section 105,

the Commissioner shall notify such State agency that no further payments will be made to the State under this title (or, in the discretion of the Commissioner, that such further payments will be reduced, in accordance with regulations the Commissioner shall prescribe, or that further payments will not be made to the State only for the projects under the parts of the State plan affected by such failure), until the Commissioner is satisfied there is no longer any such failure.

"(2) Until the Commissioner is so satisfied, the Commissioner shall make no further payments to such State under this title (or shall limit payments to projects under those parts of the State plan in which there is no such failure).

"(3) The Commissioner may, in accordance with regulations the Secretary shall prescribe, disburse any funds withheld from a State under paragraph (1) to any public or nonprofit private organization or agency within such State or to any political subdivision of such State submitting a plan meeting the requirements of section 101(a). The Commissioner may not make any payment under this paragraph unless the entity to which such payment is made has provided assurances to the Commissioner that such entity will contribute, for purposes of carrying out such plan, the same amount as the State would have been obligated to contribute if the State received such payment.

"(d)(1) Any State that is dissatisfied with a final determination of the Commissioner under section 101(b) or subsection (c) may file a petition for judicial review of such determination in the United States Court of Appeals for the circuit in which the State is located. Such a petition may be filed only within the 30-day period beginning on the date notice of such final determination was received by the State. The clerk of the court shall transmit a copy of the petition to the Commissioner or to any officer designated by the Commissioner for that purpose. In accordance with section 2112 of title 28, United States Code, the Commissioner shall file with the court a record of the proceeding on which the Commissioner based the determination being appealed by the State. Until a record is so filed, the Commissioner may modify or set aside any determination made under such proceedings.

"(2) If, in an action under this subsection to review a final determination of the Commissioner under section 101(b) or subsection (c), the petitioner or the Commissioner applies to the court for leave to have additional oral submissions or written presentations made respecting such determination, the court may, for good cause shown, order the Commissioner to provide within 30 days an additional opportunity to make such submissions and presentations. Within such period, the Commissioner may revise any findings of fact, modify or set aside the determination being reviewed, or make a new determination by reason of the additional submissions and presentations, and shall file such modified or new determination, and any revised findings of fact, with the return of such submissions and presentations. The court shall thereafter review such new or modified determination.

"(3)(A) Upon the filing of a petition under paragraph (1) for judicial review of a determination, the court shall have jurisdiction—

"(i) to grant appropriate relief as provided in chapter 7 of title 5, United States Code, except for interim relief with respect to a determination under subsection (c); and

"(ii) except as otherwise provided in subparagraph (B), to review such determination in accordance with chapter 7 of title 5, United States Code.

"(B) Section 706 of title 5, United States Code, shall apply to the review of any determination under this subsection, except that the standard for review prescribed by paragraph (2)(E) of such section 706 shall not apply and the court shall hold unlawful and set aside such determination if the court finds that the determination is not supported by substantial evidence in the record of the proceeding submitted pursuant to paragraph (1), as supplemented by any additional submissions and presentations filed under paragraph (2).".

(b) TECHNICAL AMENDMENT.—The Act (29 U.S.C. et seq.) is amended in the table of contents in the first section—

(1) by striking by the item relating to section 131;

(2) by inserting after the item relating to section 130 the following:

"PART E—MONITORING AND REVIEW

"Sec. 141. Monitoring and review.".

SEC. 242. REVIEW OF DATA COLLECTION SYSTEM.

(a) REVIEW.—The Secretary of Education (in this section referred to as the 'Secretary') shall undertake a comprehensive review of the current system for collecting and reporting client data under the Rehabilitation Act of 1973, particularly data on clients of the programs under title I of the Rehabilitation Act of 1973.

(b) CONSIDERATIONS.—In conducting the review, the Secretary shall examine the kind, quantity, and quality of the data that are currently reported, taking into consideration the range of purposes that the data serve at the Federal, State, and local levels.

(c) RECOMMENDATIONS.—Based on the review, the Secretary shall recommend improvements in the data collection and reporting system.

(d) VIEWS.—In developing the recommendations, the Secretary shall seek views of persons and entities providing or using such data, including State agencies, State Rehabilitation Consumer and Business Advisory Councils, providers of rehabilitation services, professionals in the field of vocational rehabilitation, consumers and organizations representing consumers, the National Council on Disability, other Federal agencies, non-Federal researchers, other analysts using the data, and other members of the public.

(e) PUBLICATION AND SUBMISSION OF REPORT.—Not later than 18 months after the

date of the enactment of this Act, the Secretary shall publish the recommendations in the Federal Register and shall submit a report containing the recommendations to the appropriate committees of Congress. The Secretary shall not implement the recommendations earlier than 90 days after the date on which the Secretary submits the report.

TITLE III—RESEARCH AND TRAINING

SEC. 301. DECLARATION OF PURPOSE

Section 200 (29 U.S.C. 760) is amended—

(1) in paragraph (1)—

(A) by inserting "and independent living" after "rehabilitation" the first place such term appears; and

(B) by striking "to train persons who provide rehabilitation services" and inserting the following: "to improve the provision of rehabilitation and independent living services, including the training of persons who provide such services";

(2) in paragraph (2), by striking "devices" and inserting "assistive technology devices and services"; and

(3) by striking paragraphs (3) and (4) and inserting the following paragraphs:

"(3) improve the procurement process for the purchase of assistive technology devices and services enabling the purchase of such technologies on a regular basis, develop the utilization of assistive technology and rehabilitation engineering on a national basis through demonstration programs, and encourage the specific adaptations or customizations of products that would assist in the vocational rehabilitation of an individual with a disability;

"(4) increase access to the scientific and technological information presently available in the field of rehabilitation and encourage the collection, management and availability of assistive technology and related information on a community and statewide level;

"(5) identify effective strategies that enhance the opportunities of individuals with a disability to engage in productive work;

"(6) increase opportunities for researchers who are members of traditionally underserved populations, including individuals from diverse multicultural backgrounds and individuals with a disability, which activities shall include—

"(A) providing technical assistance information and training to agencies, institutions and organizations regarding techniques and approaches for submitting applications for grants, contracts and cooperative agreements under this section addressing the rehabilitation of individuals with a disability from minority backgrounds;

"(B) providing information to and from agencies, institutions, and organizations providing rehabilitation to individuals with a disability from minority backgrounds; and

"(C) providing research activities focusing on both serving individuals with a disability who are from minority backgrounds and training professionals and paraprofessionals from minority backgrounds.".

SEC. 302. AUTHORIZATION OF APPROPRIATIONS.

Section 201(a) (29 U.S.C. 761(a)) is amended—

(1) in paragraph (1), by striking "1992" and inserting "1997"; and

(2) in paragraph (2)—

(A) by striking "and" after "1991," the first place such term appears;

(B) by inserting after "1992" the first place such term appears the following: ", $62,952,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997"; and

(C) by striking "section 204, of which" and all that follows and inserting "section 204.".

SEC. 303. NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH.

Section 202 (29 U.S.C. 761a) is amended—

(1) in subsection (b)—

(A) in paragraph (2), by inserting before the semicolon the following: "and to practitioners, consumers, their families, guardians, advocates, authorized representatives, and organizations receiving assistance under this Act";

(B) in paragraph (4), by amending the paragraph to read as follows:

"(4) widespread dissemination of educational materials and research results on improving the quality of life of individuals with a disability to primary and secondary schools, institutions of higher education, practitioners, consumers and families (especially those from minority backgrounds and from underserved populations), and to public and private entities;";

(C) in paragraph (6)—

(i) by striking "in-service training" and inserting "in-service and consumer training"; and

(ii) by striking "research and engineering advances" and inserting "research, engineering, and assistive technology advances";

(D) in paragraph (7), by striking "; and" and inserting ", including dissemination activities;";

(E) in paragraph (8)—

(i) by inserting "consumers, their families, guardians, advocates or authorized representatives," before "and others to assist";

(ii) by striking "planning and evaluation" and inserting "planning, assessment, and evaluation"; and

(iii) by striking the period at the end and inserting a semicolon; and

(F) by adding at the end the following paragraphs:

"(9) conducting research on consumer satisfaction with rehabilitation services for the purpose of identifying effective rehabilitation programs and policies that promote the independence of individuals with a disability and achievement of long-term vocational goals; and

"(10) conducting research to examine the relationship between the provision of specific services and long term vocational outcomes.";

(2) in subsection (c), by striking "appointed by the President, by and with the advice and consent of the Senate." and inserting "appointed by the Secretary, except that the person serving as the Director on the date of the enactment of the Rehabilitation Act Amendments of 1992 may, at the pleasure of the President, continue to serve as Director.";

(3) in subsection (d), by inserting ", including individuals with a disability," after "research fellows";

(4) in subsection (e), by striking "rehabilitation field." and inserting the following: "rehabilitation and independent living fields and consumers, their families, guardians, and advocates or authorized representatives. The Director shall solicit nominations for such committees from the public and shall publish the names of all committee members.";

(5) in subsection (f), by amending the subsection to read as follows:

"(f) Not less than 90 percent of the funds appropriated under this title for any fiscal year shall be expended by the Director to carry out activities through grants, cooperative agreements or contracts. Up to 10 percent of the funds appropriated under this title for any fiscal year may be expended directly for the purpose of carrying out the Director's authority under section 202.";

(6) in subsection (g)—

(A) in paragraph (2), by striking "and" after the semicolon at the end;

(B) in paragraph (3), by striking the period and inserting a semicolon; and

(C) by inserting after parargraph (3) the following paragraphs:

"(4) specify plans for widespread dissemination of research results in accessible formats to practitioners, consumers, their families, guardians, and advocates or authorized representatives; and

"(5) specify plans for widespread dissemination of research results that concern individuals with a disability who are from minority or traditionally underserved populations.";

(7) in subsection (j)—

(A) by striking paragraphs (1) and (2); and

(B) by striking "(3)";

(8) in subsection (k), by inserting before the period the following: ", with particular attention to research areas that support the implementation and objectives of this Act"; and

(9) by striking subsections (l) and (m).

SEC. 304. RESEARCH.

(a) SUBSECTION (a).—Section 204(a) (29 U.S.C. 762(a)) is amended in the last sentence by inserting before the period the following: "as described in the State plans submitted by State agencies".

(b) SUBSECTION (b).—

(1) PARAGRAPH (1).—Section 204(b)(1) (29 U.S.C. 762(b)(1)) is amended—

(A) in the first sentence—

(i) by redesignating subparagraphs (A) through (C) as subparagraphs (B) through (D), respectively;

(ii) by inserting after "for the purpose of" the following: "(A) providing an integrated program of research,";

(iii) in subparagraph (C) (as redesignated by clause (i) of this subparagraph), by striking "and" at the end; and

(iv) by inserting before the period the following: ", and (E) providing information and technical assistance to providers and consumers of services and public and private agencies through conferences, workshops, public education programs, short-term training programs and similar activities";

(B) by inserting after the first sentence the following sentence: "Such centers shall be centers of national excellence and shall be national and regional resources for providers and consumers.";

(C) in the third sentence (as placed pursuant to subparagraph (B) of this paragraph), by amending the sentence to read as follows: "The research to be carried out at each Center shall be determined on the basis of the particular needs of individuals with a disability in the geographic area served by the Center, and as appropriate shall include consideration of both urban and rural issues, and may include basic or applied medical rehabilitation research; research regarding the psychological and social aspects of rehabilitation; research related to vocational rehabilitation; research that promotes emotional, social, educational, and developmental growth of children with a disability; research to develop and evaluate interventions, policies, and services that support families of children and adults with a disability; and research that will improve services and policies that foster productivity, independence, and social integration and enable individuals with mental retardation and/or other disabilities to live in their communities."; and

(D) in the last sentence, by striking "clause (C)" and inserting "subparagraph (D)".

(2) PARAGRAPH (2).—Section 204(b)(2) (29 U.S.C. 762(b)(2)) is amended to read as follows:

"(2) Establishment and support of Rehabilitation Engineering Research Centers operated to—

"(A) develop and disseminate innovative methods of applying advanced medical technology, scientific achievement, and psychiatric, psychological, and social knowledge to solve rehabilitation problems through planning and conducting research, including cooperative research with public or private agencies and organizations, designed to produce new scientific knowledge, methods, equipment, and devices suitable for solving problems in the rehabilitation of individuals with a disability and for reducing environmental barriers;

"(B) demonstrate and disseminate innovative models for the delivery to rural and urban areas of cost-effective rehabilitation engineering and assistive technology services that promote utilization of assistive technology devices and other scientific research to assist in meeting the employment and independent living needs of individuals with a severe disability;

"(C) cooperate with State agencies designated under section 101(a)(1) in developing systems of information exchange and coordination to promote the prompt utilization of rehabilitation engineering and assistive technology, and other scientific research to assist in solving problems in the rehabilitation of individuals with a disability;

"(D) demonstrate and disseminate innovative models for the delivery of cost-effective rehabilitation engineering and assistive technology services to assist in meeting the needs of, and addressing the barriers confronted by, individuals with a disability; and

"(E) provide training in rehabilitation research.".

(3) PARAGRAPH (3).—Section 204(b)(3) (29 U.S.C. 762(b)(3)) is amended to read as follows:

"(3)(A) Conduct of a program for spinal cord injury research, including the making of grants to public or private agencies and organizations to pay part or all of the costs of special projects and demonstrations for spinal cord injuries, that will—

"(i) ensure widespread dissemination of research findings among all Spinal Cord Injury Centers, to practitioners, consumers, and their families and to organizations receiving financial assistance under this Act;

"(ii) provide encouragement and support for initiatives and new approaches by individual and institutional investigators; and

"(iii) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among spinal cord injury investigations.

"(B) Any project or demonstration assisted by a grant under this paragraph that provides services to individuals with spinal cord injuries shall—

"(i) establish, on an appropriate regional basis, a multidisciplinary system of providing vocational and other rehabilitation services, specifically designed to meet the special needs of individuals with spinal cord injuries, including acute care as well as periodic inpatient or outpatient follow-up and services;

"(ii) demonstrate and evaluate the benefits to individuals with spinal cord injuries served in, and the degree of cost effectiveness of, such a regional system;

"(iii) demonstrate and evaluate existing, new, and improved methods and equipment essential to the care, management, and rehabilitation of individuals with spinal cord injuries; and

"(iv) demonstrate and evaluate methods of community outreach for individuals with spinal cord injuries and community education in connection with the problems of such individuals in areas such as housing, transportation, recreation, employment, and community activities.

"(C) In awarding grants under this paragraph, the Director shall take into account the location of any proposed Center and the appropriate geographic and regional allocation of such Centers.".

(4) PARAGRAPH (9).—Section 204(b)(9) (29 U.S.C. 762(b)(9)) is amended by inserting "and urban" after "rural".

(5) PARAGRAPH (11).—Section 204(b)(11) (29 U.S.C. 762(b)(11) is amended by inserting "assessment," after "early intervention,".

(6) PARAGRAPH (12).—Section 204(b)(12) (29 U.S.C. 762(b)(12)) is amended—

(A) in the matter preceding subparagraph (A), by striking "employment potential" and inserting "employment needs"; and

(B) in subparagraph (B), by striking "potential" and inserting "needs".

(7) ADDITIONAL PARAGRAPHS.—Section 204(b) (29 U.S.C. 762(b)) is amended by adding at the end the following paragraphs:

"(16) Conduct of a study to examine the factors which have created barriers to successful rehabilitation outcomes for individuals with a disability from minority backgrounds, and develop and evaluate policy, research and training strategies for overcoming these barriers.

"(17) Conduct of a study to examine the factors which have created significant underrepresentation of individuals from minority backgrounds in the rehabilitation professions, including researchers, and develop and evaluate policy, research, and training strategies for overcoming this underrepresentation.

"(18) Conduct of a study to examine the factors which have created barriers to successful rehabilitation outcomes for individuals with neurological or other related disorders, and how the hidden and/or episodic nature of the disability affects eligibility and the provision of services.".

SEC. 305. NATIONAL COMMISSION ON EDUCATION AND REHABILITATION OF INDIVIDUALS WHO ARE BLIND AND VISUALLY IMPAIRED.

(a) IN GENERAL.—Title II (29 U.S.C. 760 et seq.) is amended by adding at the end the following section:

"NATIONAL COMMISSION ON EDUCATION AND REHABILITATION OF INDIVIDUALS WHO ARE BLIND AND VISUALLY IMPAIRED

"SEC. 205. (a) The Congress makes the following findings:

"(1) Because of an apparent trend away from the provision of specialized services, a broad examination supported at the national level is required to identify the education and rehabilitation needs of all individuals who are blind or visually impaired and to recommend best practices and approaches for meeting these needs.

"(2) There is no specific national policy regarding education and rehabilitation services for children, youth and adults who are blind or who have severe visual impairments, and that such a policy is necessary in order to maximize the benefit of such services to this population.

"(3) Full implementation of the Americans with Disabilities Act of 1990 (Public Law 101-336) requires a solid foundation in effective education and rehabilitation. If the goals of this historic legislation are to be fully realized by individuals who are blind and visually impaired, a national policy addressing the problems of this population is paramount.

"(4) With the national emphasis on literacy skills and excellence in education, the effect of educational policies and goals must be carefully examined in order to provide equal opportunities for individuals with visual impairments. Additionally, while technology holds great promise for improving the lives of individuals who are blind or visually impaired, these developments must be carefully examined to ensure that they do not negatively affect this population.

"(5) This low incidence population is growing, especially among the very young and the elderly. Medical advances in neonatal care are resulting in the survival of increasing numbers of premature and low-birthweight babies who have visual impairments as well as other disabilities; in addition, with the general aging of the population, there are growing numbers of elderly individuals with visual impairments.

"(b) There is hereby established a Commission on Education and Rehabilitation of Individuals Who are Blind and Visually Impaired (referred to in this section as the 'Commission') for the purpose of studying the nature, quality, and adequacy of infant and early childhood education programs; elementary, secondary, postsecondary, adult and continuing education programs; vocational rehabilitation, independent living, supported employment and other employment-related programs for individuals who are blind and visually impaired, and to make to the President and to the Congress recommendations designed to improve such programs for the benefit of such individuals.

"(c)(1) The Commission shall be comprised of members to be appointed from among individuals (or where appropriate, their parents, family members, guardians, advocates, or legal representatives) who are (A) blind or visually impaired consumers of education and/or rehabilitation services and/or members of recognized organizations of blind consumers, and (B) individuals recognized by education, knowledge, or experience as blindness and visual impairment experts and/or members of recognized organizations of or for individuals who are blind. A majority of the members shall be individuals who are qualified for appointment under subparagraph (A), except that individuals so qualified shall not be officers or employees of agencies providing education and/or rehabilitation.

"(2) Appointments shall be made in the following manner:

"(A) The President, through the Secretary, shall publish in the Federal Register a notice of the establishment of the Commission and request nominations from organizations and individuals representing all aspects of the blind community, including but not limited to individuals who are blind (or where appropriate, their parents, family members, guardians, advocates, or legal representatives), consumers of State and Federal services who are blind, and individuals with expertise in the education of individuals who are blind. Such Federal Register notice shall stipulate a period of not less than 60 days for receipt of nominations.

"(B) At the same time, the President shall direct the Secretary to ensure that a similar notice is widely distributed through channels and media serving individuals who are blind, organizations representing such individuals, and where appropriate, their parents, family members, guardians, advocates, or legal representatives.

"(C) The President, through the Secretary, shall transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate all nominations received.

"(D) In filling the appointments to the Commission, the Speaker of the House and the President pro tempore of the Senate shall consult with each other and shall give due consideration to the appointment of individuals who will provide appropriate representation based upon geographic regions, service interest, and expertise and experience.

"(3) Appointments to the Commission shall be made within 60 days following the end of the period set forth in subparagraph (A).

"(4) Members of the Commission shall be appointed as follows:

"(A) 4 members shall be appointed by the President, or with his delegation of authority, by the Secretary of Education.

"(B) 4 members shall be appointed by the President pro tempore of the Senate, with the advice and approval of the majority leader and minority leader of the Senate.

"(C) 4 members shall be appointed by the Speaker of the House of Representatives with the advice of the majority leader and the minority leader of the House of Representatives.

"(5) Any vacancy in the membership of the Commission shall be filled in the same manner as the original appointment.

"(d) The Chair of the Commission shall be appointed by the President from among members of the Commission, in consultation with the approval of the President pro tempore of the Senate and the Speaker of the House of Representatives.

"(e) The Commission, directly or through Federal agency staff or consultants, shall conduct studies and analyses, hold such hearings and meetings as it deems appropriate, develop policy papers, and write a comprehensive report which includes specific recommendations, with respect to the following issues, and such other issues as the Commission may identify:

"(1) General and disability-specific service needs of infants who are blind and severely visually impaired and their families.

"(2) Effectiveness of preschool services, residential schools, specialized classrooms, specialized day programs, and mainstreaming for children and youths who are blind and visually impaired.

"(3) Effectiveness of current instruction in braille reading and writing, and low vision utilization, and the need for curriculum development in these and other fields to improve the literacy and educational outcomes for individuals who are blind and visually impaired.

"(4) The role of education and rehabilitation in reducing unemployment and underemployment among youths and adults who are blind and visually impaired and the role of transition programs in best serving these individuals.

"(5) The causes and extent of the shortage of teachers, orientation and mobility instructors, rehabilitation teachers and counselors, and other professionals serving individuals who are blind and visually impaired.

"(6) The need for specialized services and agencies, and the adequacy of general service agencies, generic services and nondisability specific professionals in education and rehabilitation to meet the needs of individuals who are blind and visually impaired.

"(7) The role of professionals in education and rehabilitation in meeting the need of children and adults with multiple disabilities who are also visually impaired.

"(8) The need for changes in the Randolph-Sheppard program to better ensure accomplishment of its purposes.

"(9) Examination of the needs and development of strategies to effectively serve the increasing numbers of elderly individuals who are visually impaired.

"(10) Examination of and recommendations relating to accessibility issues, including but not limited to, developments in technology which may negatively affect individuals who are blind or visually impaired.

"(11) The staffing and funding adequacy of the Rehabilitation Services Administration and its Division for the Blind and Visually Impaired; the Office of Special Education Programs; and the National Institute on Disability and Rehabilitation Research, in addressing policy and program issues specifically affecting blind and visually impaired individuals, and overseeing programs administered by States and other recipients of Federal grants, contracts, and cooperative agreements.

"(f) The Commission, with respect to the requirements and issues described in subsection (e), shall submit a final report to the President and to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives not later than 18 months after the date of the enactment of the Rehabilitation Act Amendments of 1992. The Commission is authorized to submit such interim analyses, recommendations, and reports as it deems necessary.

"(g) The Commission shall be terminated not later than 90 days following the submission of the final report described in subsection (f). Any unobligated funds shall be returned to the Treasury as miscellaneous receipts, and any supplies or equipment purchased for use by the Commission shall be turned over to the General Services Administration for disposition.

"(h)(1) The Commission may appoint no more than 6 full-time equivalent positions for professsional and clerical personnel. Such appointments shall be made without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and such personnel may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the maximum rate authorized for GS-15 of the General Schedule.

"(2) The Commission may also appoint a staff director, who shall be compensated at the rate payable for level V of the Executive Schedule under section 5316 of title V, United States Code. Such appointment shall be made without regard to the provisions specified in paragraph (1) regarding appointments and pay.

"(3) The Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

"(i) The Commission is authorized to consult with any organization of and for the blind; public and private service providers; Federal, State, and local agencies; educators and schools; individual experts; and such other persons and entities as will aid the Commission in carrying out its duties under this Act.

"(j)(1) The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality (including the General Accounting Office) of the United States, information and statistics to carry out the provisions of this section. Each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information directly to the Commission, upon request made by its Chair.

"(2) For the purpose of securing necessary data and information the Commission is authorized to procure directly by contract or other means from universities, research institutions, foundations, and other competent public or private agencies.

"(k) The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the Commission in carrying out the purposes of this Act. The Commission is authorized to utilize, with their consent, the services, personnel, information, and facilities of other Federal, State, local and private agencies with or without reimbursement.

"(l)(1) Members of the Commission who are officers or full-time 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.

"(2) Members of the Commission who are not officers or full-time employees of the United States shall receive an honorarium of $150 for each day (including travel time) during which such members are engaged in the actual performance of duties vested in the Commission. In addition, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.".

(b) FUNDING.—Section 201(a)(2) (29 U.S.C. 761(a)(2)), as amended by section 302(2) of this Act, is amended by inserting before the period the following: "and for the purpose of carrying out section 205".

(c) TECHNICAL AMENDMENT.—The Act is amended in the table of contents in the first section by inserting after the item relating to section 204 the following:

"Sec. 205. National Commission on Education and Rehabilitation of Individuals Who are Blind and Visually Impaired.".

TITLE IV—SUPPLEMENTARY SERVICES AND COMMUNITY REHABILITATION PROGRAMS

SEC. 401. DECLARATION OF PURPOSE.

Section 300(1) (29 U.S.C. 770(1)) is amended by striking "construction" and all that follows and inserting "development and improvement of community rehabilitation programs;".

SEC. 402. GRANTS FOR CONSTRUCTION OF REHABILITATION FACILITIES.

Section 301 (29 U.S.C. 771) is repealed.

SEC. 403. TRAINING.

(a) TRANSFER OF PROVISION.—Title III, as amended by section 402 of this Act, is amended—

(1) by redesignating section 304 as section 301; and

(2) by inserting such redesignated section after section 300.

(b) AMENDMENTS.—

(1) SUBSECTION (a).—Section 301(a), as redesignated by subsection (a) of this section, is amended—

(A) in the first sentence—

(i) in the matter preceding paragraph (1), by inserting after "traineeships, and related activities" the following: ", including the provision of technical assistance,";

(ii) in paragraph (2), by inserting before the comma at the end the following: ", including personnel specifically trained to provide rehabilitation technology services, including assistive technology devices and services";

(iii) by striking "and (4)" and inserting "and (6)"; and

(iv) by inserting after paragraph (3) the following paragraphs: "(4) personnel specifically trained to deliver services to individuals with the most severe disabilities in supported employment programs, (5) personnel specifically trained to be impartial hearing officers,";

(B) by inserting after the first sentence the following sentence: "Such grants and contracts may be expended for scholarships, with necessary stipends and allowances.";

(C) in the third sentence (as placed pursuant to subparagraph (B) of this paragraph), by amending the sentence to read as follows: "Applicants for grants or contracts under this section shall include on their applications a detailed description of strategies that will be utilized to recruit and train persons to reflect the diverse populations of the State as part of the effort to increase the number of individuals with a disability and persons who are underrepresented among qualified personnel in the State to provide rehabilitation services.";

(D) in the fourth sentence (as placed pursuant to subparagraph (B) of this paragraph), by striking "section 504." and inserting the following: "section 504 of this Act, the Americans with Disabilities Act of 1990, and the provisions of titles II and XVI of the Social Security Act related to work incentives for individuals with a disability."; and

(E) by adding at the end the following sentence: "The Commissioner, in carrying out this subsection, shall make grants to Historically Black Colleges and Universities and other institutions of higher education whose minority student enrollment is at least 50 percent.".

(2) SUBSECTION (b).—Section 301(b), as redesignated by subsection (a) of this section, is amended—

(A) in paragraph (1)—

(i) by striking "and" before "other fields contributing"; and

(ii) by inserting before the period the following: ", the provision of services to individuals with a specific disability or a specific impediment to rehabilitation, including services to such individuals who are unserved or underserved";

(B) in paragraph (3)(A), by amending clause (i) to read as follows:

"(i) within a period of not more than the number of years of service required in this clause plus two additional years after completing the training for which the scholarship was awarded, maintain employment in a nonprofit rehabilitation or related agency or in a State rehabilitation agency or related agency, including a professional corporation or professional practice group through which the individual has a service arrangement with the State rehabilitation agency, on a full or part-time basis, for a period of not less than the full time equivalent of two years for each year for which assistance under this section was received; and"; and

(C) by adding at the end the following paragraphs:

"(4) The Commissioner shall award 2 grants to States, public or nonprofit private agencies and organizations, and institutions of higher education to support the development of rehabilitation technician programs designed to train local workers who are recruited from and/or reside in communities historically underrepresented in the receipt of vocational rehabilitation services under this Act to be liaisons between the community and the vocational rehabilitation counselor. The rehabilitation technician program will provide an avenue through which individuals with a disability residing in remote, isolated settings can successfully access vocational rehabilitation services.

"(5)(A) The Commissioner shall award 2 grants to States, public or nonprofit private agencies and organizations, and institutions of higher education to support the formation of consortia or partnerships of public and nonprofit private entities for the purpose of providing opportunities for career advancement and/or competency-based training, including but not limited to, certificate or degree granting programs in vocational rehabilitation and related services for current workers at public and nonprofit private agencies that provide services to individuals with a disability.

"(B) The purposes for which a grant under subparagraph (A) may be expended include, but are not limited to, the following:

"(i) Establishing a program with colleges and universities to develop creative new programs and coursework options and/or to expand existing programs in the field of vocational rehabilitation and related services. Funds may be used to provide release time for faculty and staff for curriculum development, instructional costs, and start-up and other program development costs.

"(ii) Establishing a career development mentoring program using faculty and professional staff members of participating agencies as role models, career sponsors, and academic advisors for experienced State, city, county, and voluntary sector workers who have demonstrated a commitment to working in the above fields and who are enrolled in higher education institution programs relating to these fields.

"(iii) Supporting a wide range of programmatic and research activities aimed at increasing opportunities for career advancement and competency-based training in the above fields.

"(iv) Identifying existing public and private agency and labor union personnel policies and benefit programs that may facilitate the ability of workers to take advantage of higher education opportunities such as leave time and tuition reimbursement.

"(C) Projects authorized under subparagraph (A) shall be geographically dispersed throughout the Nation in urban and rural areas.

"(D) The Secretary shall award, for the purpose of providing technical assistance to States or entities receiving grants under subparagraph (A), a cooperative agreement through a separate competition to an entity that has successfully demonstrated the capacity and expertise in the education, training, and retention of workers to serve individuals with a disability through the use of consortia or partnerships established for the purpose of retraining the existing workforce and providing opportunities for career enhancement.

"(E) The Secretary may conduct an evaluation of projects funded under this paragraph.

"(F) During the period in which an entity is receiving financial assistance under subparagraph (A), the entity may not receive financial assistance under subparagraph (D).".

(3) SUBSECTION (d).—Section 301(d)(1), as redesignated by subsection (a) of this section, is amended—

(A) in the first sentence, by striking "Office of Information and Resources for Individuals With Disabilities" and inserting "Office of Deafness and Communicative Disorders"; and

(B) by striking the second sentence.

(4) ADDITIONAL SUBSECTION.—Section 301, as redesignated by subsection (a) of this section, is amended—

(A) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(B) by inserting after subsection (d) the following subsection:

"(e)(1) The Commissioner is authorized to make grants through a separate competition to private nonprofit organizations for the purpose of providing training and information to individuals with a disability, their parents, family members, guardians, or other authorized representatives to enable such individuals to participate more effectively with professionals in meeting the vocational and rehabilitation needs of individuals with a disability. Such training grants shall be designed to meet the unique training and information needs of individuals with a disability, their parents, family members, guardians, or other authorized representatives who live in the area to be served, particularly those who are members of groups that have been traditionally underserved.

"(2) In order to receive a grant under this subsection, a private nonprofit organization shall—

"(A) coordinate and work closely with Parent Training Centers established under the Individuals with Disabilities Education Act;

"(B) be governed by a board of directors of which a majority of the members are individuals with a disability, their parents, family members, guardians or authorized representatives and professionals who serve individuals with a disability or if the nonprofit does not have such a board, such an organization shall have a membership which represents the interests of individuals with disabling conditions, and shall establish a special governing committee of which a majority of the members are individuals with a disability, their parents, family members, guardians or authorized representatives, and professionals in the field of rehabilitation and related services to operate the training and information program under this subsection;

"(C) serve individuals with a full range of disabilities, their parents, family members, guardians or authorized representatives; and

"(D) demonstrate the capacity and expertise to conduct effectively the training and information activities authorized under this section.

"(3) The Commissioner shall ensure that grants under this subsection shall—

"(A) be distributed geographically to the greatest extent possible throughout all States; and

"(B) be targeted to individuals with a disability, their parents, family members, guardians, or authorized representatives in both urban and rural areas or on a State or regional basis.

"(4) Parent training and information programs assisted under this subsection shall assist individuals with a disability, their parents, family members, guardians, or authorized representatives to—

"(A) better understand vocational rehabilitation and independent living programs and services;

"(B) provide follow-up support for transition and employment programs;

"(C) communicate more effectively with transition and rehabilitation personnel and other relevant professionals;

"(D) provide support in the development of the individualized written rehabilitation program;

"(E) provide support and expertise in obtaining information about rehabilitation and independent living programs, services, and resources that are appropriate; and

"(F) understand the provisions of this Act, particularly for employment, supported employment, and independent living.

"(5) Each private nonprofit organization operating a program receiving assistance under this subsection shall consult with appropriate agencies which serve or assist individuals with a disability, their parents, family members, guardians, or authorized representatives located in the jurisdiction served by the program.

"(6) The Commissioner shall provide coordination and technical assistance by grant or cooperative agreement for establishing, developing, and coordinating parent training and information programs. To the extent practicable, such assistance shall be provided by the parent training centers authorized by the Individuals with Disabilities Education Act.".

(5) FORMER SUBSECTION (f).—Section 301(g), as redesignated by subsection (a) of this section and paragraph (4) of this subsection, is amended in the first sentence—

(A) by striking "and" after "1991,"; and

(B) by inserting before the period the following: ", $37,862,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997".

(c) ADDITIONAL AMENDMENT.—

(1) IN GENERAL.—Section 301(d)(2), as redesignated by subsection (a) of this section, is amended

(A) in subparagraph (C), by adding "and" after the semicolon at the end:

(B) in striking subparagraph (D); and

(C) by redesignating subparagraph (E) as subparagraph (D).

(2) RELATED AMENDMENT TO INDIVIDUALS WITH DISABILITIES EDUCATION ACT.—Section 631(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1431(a)) is amended by adding at the end the following paragraph:

"(8) In making grants under paragraph (1), the Secretary may provide for the training or retraining of regular education teachers who are involved in providing instruction to individuals who are deaf, but who are not certified as teachers of such individuals, to meet the communications needs of such individuals.".

(d) TECHNICAL AMENDMENT.—The Act, as amended by subsection (a) of this section, is amended in the table of contents in the first section—

(1) by striking the item relating to section 304; and

(2) by striking the item relating to section 301 and inserting the following item:

"Sec. 301. Training.".

SEC. 404. COMMUNITY REHABILITATION PROGRAMS FOR INDIVIDUALS WITH A DISABILITY.

(a) SUBSECTION (a).—Section 302(a) (29 U.S.C. 772(a)) is amended by striking "1987," and all that follows and inserting "1993 through 1997.".

(b) SUBSECTION (b).—Section 302(b) (29 U.S.C. 772(a)) is amended—

(1) in paragraph (1)—

(A) by striking "training" and inserting "rehabilitation services or employment support services"; and

(B) by striking "rehabilitation facilities" and inserting "community rehabilitation programs";

(2) in paragraph (2)—

(A) by striking subparagraph (A) and inserting the following: "(A) For purposes of this section, vocational rehabilitation services shall include—

"(i) training with a view toward career advancement;

"(ii) training (including on-the-job training) in occupational skills; and

"(iii) services, including rehabilitation technology services (including assistive technology devices and assistive technology services), personal assistance services, and supported employment services and extended services, that—

"(I) are related to training described in clause (i) or (ii); and

"(II) are required by the individual to engage in such training."; and

(B) in subparagraph (B)—

(i) by inserting after "(B)" the following sentence: "Pursuant to regulations, payment of weekly allowances may be made to individuals receiving vocational rehabilitation services and related services under this section.";

(ii) in the second sentence (as placed pursuant to clause (i) of this subparagraph), by striking ", and such allowances" and all that follows and inserting a period; and

(iii) in the last sentence—

(I) by striking "training services" and inserting "vocational rehabilitation services"; and

(II) by striking "gainful and suitable" and inserting "competitive"; and

(3) in paragraph (3)—

(A) in subparagraph (A), by striking "gainful and suitable employment" and inserting "competitive employment, or to place or retain such individual in competitive employment";

(B) in subparagraph (B)—

(i) by striking "suitable for and";

(ii) by striking "training" each place the term appears and inserting "vocational rehabilitation"; and

(iii) by striking "rehabilitation facility" and inserting "community rehabilitation program";

(C) in subparagraph (C), by striking "training" and inserting "vocational rehabilitation"; and

(D) in subparagraph (D), by striking "rehabilitation facility and the training" and inserting "community rehabilitation program and the vocational rehabilitation".

(c) ADDITIONAL SUBSECTION.—Section 302 (29 U.S.C. 772) is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by inserting after subsection (b) the following:

"(c) The Commissioner is also authorized to make grants upon application approved by the State agency designated under section 101(a)(1) to administer the State plan, to public or nonprofit agencies, institutions, or organizations to assist them in meeting the cost of planning community rehabilitation programs, the cost of the services to be provided by such programs, and initial staffing costs of such programs."; and

(3) in subsection (d)(1) (as so redesignated by paragraph (1))—

(A) by striking "rehabilitation facilities" and inserting "community rehabilitation programs"; and

(B) by striking "such facilities" and inserting "such programs".

SEC. 405. LOAN GUARANTEES.

(a) IN GENERAL.—Section 303 (29 U.S.C. 773) is amended—

(1) in the heading for the section, by striking "REHABILITATION FACILITIES" and inserting "COMMUNITY REHABILITATION PROGRAMS";

(2) in subsection (a), by striking "facilities for" and inserting "community rehabilitation"; and

(3) in subsection (b)—

(A) by inserting "under special circumstances and" after "may,"; and

(B) by striking "rehabilitation facilities" and inserting "facilities for community rehabilitation programs".

(b) TECHNICAL AMENDMENT.—The Act (29 U.S.C. 701 et seq.) is amended in the table of contents in the first section, in the item relating to section 303, by striking "REHABILITATION FACILITIES" and inserting "COMMUNITY REHABILITATION PROGRAMS".

SEC. 406. COMPREHENSIVE REHABILITATION CENTERS.

Section 305(g) (29 U.S.C. 775(g)) is amended—

(1) by striking "and" after "1991,"; and

(2) by inserting before the period the following: ", and such sums as may be necessary for each of the fiscal years 1993 through 1997".

SEC. 407. GENERAL GRANT AND CONTRACT REQUIREMENTS.

Section 306 (29 U.S.C. 776) is amended—

(1) in subsection (a), by striking "section 302" and inserting "section 303";

(2) in subsection (b)(4), by striking "rehabilitation facilities" and inserting "facilities for community rehabilitation programs";

(3) in subsection (f), by striking "rehabilitation facility" and inserting "facility for a community rehabilitation program"; and

(4) in subsection (h), by striking "establishing facilities" and inserting "developing or improving community rehabilitation programs".

SEC. 408. FUNDING FOR SPECIAL PROJECTS AND SUPPLEMENTARY SERVICES.

Section 310(a) (29 U.S.C. 795g(a)) is amended by striking "there are authorized" and all that follows and inserting the following: "there are authorized to be appropriated $32,098,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997.".

SEC. 409. SPECIAL DEMONSTRATION PROGRAMS.

(a) SUBSECTION (a).—Section 311(a) (29 U.S.C. 777a(a)) is amended—

(1) in paragraph (1), by striking "blind or deaf individuals," and all that follows and inserting the following: "blind or deaf individuals and individuals who are unserved or underserved by the vocational rehabilitation system;";

(2) in paragraph (2), by striking "new careers);" and inserting "new careers and career advancement);"; and

(3) by striking the matter after and below paragraph (4).

(b) SUBSECTION (b).—Section 311 (29 U.S.C. 777a) is amended by striking subsection (b) and inserting the following subsection:

"(b)(1) The Commissioner may make grants to States and public and nonprofit agencies and organizations to pay all or part of the costs of projects to demonstrate ways to increase client control in the rehabilitation process, including the selection of providers of vocational rehabilitation services.

"(2) Funds awarded under this subsection shall be used only—

"(A) for activities that are directly related to planning, operating, and evaluating these demonstrations; and

"(B) to supplement, and in no case to supplant, funds made available from Federal and non-Federal sources for such projects;

"(3) Any eligible entity that desires to receive a grant under this subsection shall submit an application at such time, in such manner, and containing such information and assurances as the Commissioner may reasonably require, including—

"(A) a description of—

"(i) how the applicant intends to promote increased consumer control, including a description, if appropriate, of how an applicant will determine the cost of any service or product offered to an eligible client;

"(ii) how the applicant intends to ensure that any vocational rehabilitation or related service is provided by a qualified provider who is accredited and/or meets such other quality assurance and cost-control criteria as the State may establish; and

"(iii) the outreach activities to be conducted by the applicant to obtain eligible clients; and

"(B) assurances that a written plan will be established with the full participation of the client, which shall, at a minimum, include—

"(i) a statement of the vocational rehabilitation goals;

"(ii) a statement of the specific vocational rehabilitation services to be provided, the projected dates for their initiation, and the anticipated duration of each such service; and

"(iii) objective criteria, an evaluation procedure, and a schedule for determining whether such goals are being achieved.

"(4) In selecting applications for funding, the Commissioner shall take into consideration the—

"(A) diversity of strategies used to increase client control, including selection among qualified service providers;

"(B) geographic distribution of projects; and

"(C) diversity of clients to be served.

"(5) Grantees shall maintain such records as the Commissioner may require and comply with any request from the Commissioner for such information.

"(6) At least 80 percent of the funds awarded for any project under this subsection must be used for direct services, as specifically chosen by eligible clients.

"(7) For the purposes of this subsection, the term—

"(A) 'direct services' means vocational rehabilitation services as authorized in section 103(a) of this Act; and

"(B) 'eligible client' means an individual with a disability who is not currently receiving services under an individualized written rehabilitation program established through a State vocational rehabilitation agency.

"(8) The Commissioner shall evaluate the projects, the services provided, the clients served, client outcomes, implementation issues, and the effects of increased control on clients and service providers. From the amounts appropriated to carry out projects under this subsection in any fiscal year, the Commissioner may reserve funds for the evaluation.".

(c) ADDITIONAL SUBSECTION.—Section 311 (29 U.S.C. 777a) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e) and (g), respectively;

(2) by inserting after subsection (b) the following subsection:

"(c)(1) The Commissioner shall make grants to States and to public and nonprofit organizations (including Indian tribes) for the purpose of providing transportation services to individuals with a disability who—

"(A)(i) are employed or seeking employment; or

"(ii) are receiving vocational rehabilitation services from public or private organizations; and

"(B) reside in geographic areas in which fixed route public transportation or comparable paratransit service is not available.

"(2) The Commissioner may make a grant under this section only if the applicant involved agrees that transportation services under paragraph (1) will be provided on a regular and continuing basis between the home of the individual and the place of employment of the individual, the place where the individual is seeking employment, or the place where the individual is receiving vocational rehabilitation services.

"(3) The Commissioner may make a grant under paragraph (1) only if the applicant involved agrees that, in providing transportation services under such paragraph—

"(A) a charge for the transportation will be imposed on each employed eligible individual who uses the transportation; and

"(B) the amount of the charge for an instance of use of the transportation for the distance involved will be in a fair and reasonable amount that is consistent with fees for comparable services in comparable geographic areas.

"(4) The Commissioner may make a grant under this section only if the applicant involved agrees to submit to the Commissioner, not later than December 31 of the fiscal year following the fiscal year for which the grant is made, a report containing—

"(A) a description of the goals of the program carried out with the grant;

"(B) a description of the activities and services provided under the program;

"(C) a description of the number of eligible individuals served under the program;

"(D) a description of methods used to ensure that the program served those eligible individuals most in need of the transportation services provided under the program; and

"(E) such additional information as the Commissioner may require.

"(5) Nothing is this subsection may be construed as limiting the rights or responsibilities of any individual under any other provision of this Act, under the Americans With Disabilities Act of 1990, or under any other provision of law.".

(d) FORMER SUBSECTION (c).—Section 311(d)(3), as redesignated by subsection (c) of this section, is amended by striking "Education of the Handicapped Act" and inserting "Individuals with Disabilities Education Act".

(e) FORMER SUBSECTION (d).—Section 311(e), as redesignated by subsection (c) of this section, is amended—

(1) in paragraph (1)—

(A) in subparagraph (B)—

(i) by striking "and" before "(iii)"; and

(ii) by inserting before the period the following: ", and (iv) demonstrate the effectiveness of natural supports or other alternatives to providing extended employment services"; and

(B) by adding at the end the following subparagraph:

"(C) Not less than two such grants shall serve low-functioning deaf and hard-of-hearing individuals."; and

(2) in paragraph (4)—

(A) by striking "and" after "1991,"; and

(B) by inserting before the period the following: ", $10,756,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997".

(f) ADDITIONAL SUBSECTION.—Section 311 (29 U.S.C. 777a) is amended by inserting after subsection (e) (as redesignated by subsection (c) of this section) the following subsection:

"(f)(1) The Commissioner may make grants to public or private institutions for the cost of developing special projects and demonstrations to address the general education, counseling, vocational training, work transition, supported employment, job placement, follow-up and community outreach needs of low functioning adults who are deaf. Such projects must provide educational and vocational rehabilitation services which are not otherwise available in the region and maximize the potential of low functioning adults who are deaf, including individuals who are deaf and have additional severe disabilities.

"(2) The Commissioner shall monitor the activities of the grantees to ensure that the purposes of this project are carried out, that projects are coordinated and that innovative methods of service delivery developed by such projects are disseminated.

"(3) The Commissioner shall submit an annual report to Congress which includes an assessment of how these projects coordinate with other public and nonprofit agencies serving individuals who are deaf to expand or improve services for such individuals.".

(g) FORMER SUBSECTION (e).—Section 311(g), as redesignated by subsection (c) of this section, is amended—

(1) by striking paragraph (3);

(2) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(3) in paragraph (3)(A) (as redesignated by paragraph (2) of this subsection)—

(A) by striking clause (ii); and

(B) by striking the clause designation; and

(4) in paragraph (4) (as redesignated by paragraph (2) of this of this subsection), by inserting after "1992" the following: "and for each of the fiscal years 1993 through 1997".

(h) ADDITIONAL SUBSECTIONS.—Section 311, as amended by the preceding provisions of this section, is amended by adding at the end the following subsections:

"(h) The Commissioner shall make grants to demonstrate the utility of early intervention in furnishing vocational evaluation, training, and counseling services to working adults recently determined to have chronic and progressive diseases which may be severely disabling, such as multiple sclerosis. Each grant shall include a research and evaluation program intended to demonstrate the effectiveness of such early intervention in enabling job retention or facilitating entry to new careers and employment. The demonstration program shall test a number of alternative service systems including an employer assistance program, early intervention by State vocational rehabilitation agencies and a private nonprofit agency joint venture with an employer or State vocational rehabilitation agency.

"(i)(1) The Commissioner shall make at least 3 grants to eligible institutions of higher education, to support the formation of regional partnerships with other public or private entities for the purpose of developing and implementing in-service training programs, including but not limited to, certificate or degree granting programs in vocational rehabilitation and related services for vocational rehabilitation professionals through the use of telecommunications.

"(2) Any eligible entity that desires to receive a grant under this subsection shall submit an application at such time, in such manner, and containing such information and assurances as the Commissioner may reasonably require, including—

"(A) a detailed explanation of how the applicant will utilize interactive audio, video, and computer technologies between distant locations to provide in-service training programs to the region;

"(B) a description of how the applicant intends to utilize and build upon existing telecommunications networks within the region to be served;

"(C) a copy of all agreements governing the division of functions within the partnership, including an assurance that all States within the region will be served;

"(D) a copy of a binding commitment entered into between the partnership and each entity which is legally permitted to provide, and from which the partnership is to obtain, the telecommunications services and facilities required for the project, which stipulates that if the partnership receives the grant the entity will provide such telecommunications services and facilities in the area to be served within a reasonable time and at a charge which is in accordance with State law;

"(E) a description of the curriculum to be provided, frequency, and sites of service;

"(F) a description of the need to purchase or lease computer hardware and software; audio and video equipment; telecommunications terminal equipment; or interactive video equipment;

"(G) an assurance that the partnership will use not less than 75 percent of the amount of the grant for instructional curriculum development and programming;

"(H) a description of how the project will be evaluated.

"(2) In selecting applications for funding the Commissioner shall take into consideration the sparsity of State populations in the region to be served.

"(3) For the purposes of this subsection:

"(A) The term 'eligible entity' means any institution of higher education with demonstrated experience in the area of continuing education for vocational rehabilitation personnel.

"(B) The term 'interactive video equipment' means equipment used to produce and prepare video and audio signals for transmission between distant locations so that individuals at such locations can see and hear each other, and related equipment.

"(C) The term 'region' means one of the ten regions served by the Rehabilitation Services Administration.

"(D) The term 'rehabilitation professionals' means personnel described in section 301(a)(1) of this Act.".

"(j) The Commissioner may make grants to public and nonprofit community rehabilitation programs, designated State units, and other public and private agencies and organizations for the cost of developing special projects and demonstrations providing alternatives to traditional case closure practice. Each such grant shall—

"(1) identify, develop, and test exemplary models that can be replicated; and

"(2) identify, develop, and test innovative methods to evaluate the performance of vocational rehabilitation counselors without impeding the successful provision of services to consumers, especially those with the most severe disabilities.

"(k)(1) There is hereby established a National Commission on Rehabilitation Services (hereinafter referred to as the 'National Commission') for the purpose of studying the nature, quality, and adequacy of vocational rehabilitation, independent living, supported employment, research, training, and other programs authorized under this Act, and to submit to the President and to the Congress recommendations which will further the successful employment outcomes, independence, and integration of individuals with a disability into the workplace and community.

"(2)(A) The National Commission shall consist of eighteen members who are recognized by knowledge, experience, and education as experts in the field of rehabilitation. At least a majority of the members of the National Commission shall be individuals with a disability representing a cross-section of different types of disabilities.

"(B) Members of the National Commission shall be appointed as follows:

"(i) Six members shall be appointed by the President, or with his delegation of authority, by the Secretary of Education.

"(ii) Six members shall be appointed by the President Pro Tempore of the Senate, with the advice and approval of the Majority Leader and Minority Leader of the Senate.

"(iii) Six members shall be appointed by the Speaker of the House of Representatives with the advice and approval of the Majority Leader and Minority Leader of the House of Representatives.

"(C) The Chair of the National Commission shall be appointed by the members of the National Commission.

"(D) Appointments to the National Commission shall be made in accordance with subparagraph (B), and any vacancies in membership shall be filled in the same manner as the original appointment.

"(E) The National Commission shall meet at the call of the Chair, but not less often than four times each year.

"(F) Ten members of the National Commission shall constitute a quorum and any vacancy in the National Commission shall not affect its power to function. The Chair, upon approval by the National Commission, may form such committees as deemed necessary to fulfill the duties of the National Commission.

"(3)(A) The National Commission, directly, or through Federal agency staff and/or consultants, shall conduct studies and analyses, hold such hearings and meetings as it deems appropriate, develop policy papers and issue a comprehensive report which includes specific recommendations, with respect to the following issues, and such other issues as the Commission may identify as relevant to promoting the employment, independence, and integration of individuals with a disability:

"(i) Effectiveness of rehabilitation and independent living services in enhancing the successful employment outcome of individuals with a disability;

"(ii) Adequacy of research and training activities in fostering innovative approaches which further the employment of individuals with a disability;

"(iii) Capacity of supported employment and independent living services in promoting the integration of individuals with a disability into the workplace and community;

"(iv) Methods for enhancing access to services authorized under this Act by minorities with a disability and individuals with a disability who have been traditionally unserved or underserved by such rehabilitation and independent living services;

"(v) Means for enhancing interagency coordination among Federal and State agencies to promote the maximization of employment-related programs, services, and benefits on behalf of individuals with a disability;

"(vi) Conduct policy analyses to—

"(I) develop options for improving fiscal equity in the allotment of grants under section 110;

"(II) provide guidance on implementing the order of selection;

"(III) address the shortage of rehabilitation professionals.

"(vii) Recommendations for amendments to the Act needed to promote the provision of comprehensive rehabilitation and independent living services on behalf of individuals with a disability.

"(B) The National Commission, with respect to the requirements and issues described in paragraph (3)(A), shall issue an interim report to the President, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and Labor of the House of Representatives not later than January 30, 1995, and a final report with recommendations for the next reauthorization of the Act to the President, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and Labor of the House of Representatives by no later than January 30, 1997.

"(C) The National Commission shall be terminated not later than 90 days following the submission of the final report as described in paragraph (3)(B). Any funds not obligated shall be returned to the Treasury as miscellaneous receipts. Any supplies or equipment purchased for use by the National Commission shall be turned over to the General Services Administration for disposition. Any reports of the National Commission not distributed shall be turned over to the Department of Education for release upon request.

"(4)(A)(i) The National Commission may appoint a staff director to assist it in carrying out its duties. The staff director shall be appointed from among individuals who are experienced in the planning, administration, or operation of rehabilitation and independent living services or programs.

"(ii) The staff director is authorized to hire no more than ten full-time equivalent positions to assist the National Commission.

"(iii) The staff director and other personnel appointed to assist the National Commission may be appointed, without regard to the provisions of title 5, United States Code, governing appointments on the competitive service, or the provisions of Chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates; *Provided, however*, no such person so appointed shall be paid in excess of the rate authorized for SES-4 of the Senior Executive Schedule.

"(iv) The National Commission, in accordance with section 3109 of title 5, United States Code, may obtain the services of experts or consultants.

"(B) The National Commission is authorized to consult with any organization representing individuals with a disability; public and private service providers; Federal, State, and local agencies; individual experts; colleges and universities involved in the preparation of rehabilitation services personnel; and such other entities and persons as will aid the National Commission in carrying out its duties.

"(C)(i) The National Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality (including the General Accounting Office) of the United States, information and statistics to carry out the provisions of this subsection. Each such department, bureau, agency, board, commission, office, independent establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such in-

formation directly to the National Commission, upon request by its Chair.

"(ii) The National Commission is authorized to procure, directly by contract or other means, such additional information as it deems necessary from universities, research institutions, foundations, State and local agencies, and other public or private agencies.

"(D) The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the National Commission in carrying out its duties. The National Commission may utilize the services, personnel, information and facilities of other Federal, State, local and private agencies with or without reimbursement, upon the consent of the heads of such agencies.

"(5)(A) Members of the National Commission shall be entitled to receive compensation, at a rate equal to the rate of basic pay, payable for SES-4 of the Executive Schedule under section 5332 of title 5, United States Code, for each day (including travel time) during which such members are engaged in the actual performance of duties vested in the National Commission. In addition, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

"(B) Members of the National Commission who are full-time officers or employees of the United States shall receive no additional pay or account of their service on the National Commissions, except for compensation for travel expenses as provided for by subparagraph (A) of this paragraph.".

SEC. 410. SPECIAL RECREATIONAL PROGRAMS.

Section 316 (29 U.S.C. 777f) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in the first sentence—

(I) by striking "or all";

(II) by striking "handicapped individuals" and inserting "individuals with a disability"; and

(III) by inserting "employment," before "mobility,"; and

(ii) in the second sentence, by inserting "vocational skills development," before "leisure education,";

(B) in paragraph (2), by amending the paragraph to read as follows:

"(2)(A) Each such grant shall be no longer than 3 years and shall not be renewable.

"(B) The Commissioner shall, not later than 180 days after enactment, develop a means to objectively evaluate and encourage the replication of activities assisted by this section.

"(C) The Commissioner shall require each grantee to report annually on the results of the activities assisted by this project. The continuation of such project shall not be further approved until such a report is received and evaluated.";

(C) in paragraph (3), by striking "to be made, and that" and all that follows and inserting "to be made."; and

(D) by adding at the end the following paragraphs:

"(4) Each applicant for a grant under this section shall include in its application a description of how it will continue the service program after Federal assistance ends.

"(5) The Commissioner shall annually issue and provide for the dissemination of a report describing the findings and results of projects funded by this section.";

(2) by redesignating subsection (b) as subsection (d);

(3) by inserting after subsection (a) the following subsections:

"(b) Recreation programs funded under this section shall maintain, at a minimum, the same level of services during the second and third year of the project as are provided in the initial year in which services are provided.

"(c) The Federal share of the program costs shall be 100 percent for the first year of the grant, 75 percent for the second year and 50 percent for the third year."; and

(4) in subsection (d) (as redesignated by paragraph (2) of this section)—

(A) by striking "and" after "1991,"; and

(B) by inserting after "1992" the following: ", $2,701,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997".

TITLE V—NATIONAL COUNCIL ON DISABILITY

SEC. 501. ESTABLISHMENT OF NATIONAL COUNCIL ON DISABILITY.

Section 400 (29 U.S.C. 780) is amended—

(1) in subsection (a)(1)—

(A) by inserting after the first sentence the following sentence: "The President shall select members of the Council after soliciting recommendations from representatives of organizations representing a broad range of individuals with a disability and organizations interested in individuals with a disability.";

(B) in the third sentence (as placed pursuant to subparagraph (A) of this paragraph), by inserting after "Council shall be" the following: "individuals with a disability or have substantial knowledge or experience relating to disability policy or programs, and shall be";

(C) in the fourth sentence (as placed pursuant to subparagraph (A) of this paragraph), by striking "At least five members" and inserting "A majority of the members"; and

(D) by adding at the end the following sentence: "The members of the Council shall be broadly representative of minority and other individuals and groups, as stipulated in this paragraph."; and

(2) in paragraph (2) of subsection (b), by amending the paragraph to read as follows:

"(2) Members of the National Council who are appointed after the date of the enactment of the Rehabilitation Act Amendments of 1992 may serve for two consecutive terms and may serve after the expiration of their terms until their successors have taken office. Members serving on such date may be reappointed for an additional term.".

SEC. 502. DUTIES OF NATIONAL COUNCIL.

(a) SUBSECTION (a).—Section 401(a) (29 U.S.C. 781(a)) is amended—

(1) in paragraph (1), by amending the paragraph to read as follows:

"(1) provide advice to the Director with respect to the policies and conduct of the National Institute on Disability and Rehabilitation Research, including ways to improve research concerning individuals with a disability and the methods of collecting and disseminating findings of such research;";

(2) by redesignating paragraphs (4), (5), (6), (7), and (8) as paragraphs (5), (6), (8), (9), and (10);

(3) by inserting after paragraph (3) the following paragraph:

"(4) identify priorities for the activities of the Interagency Disability Coordinating Council and review the recommendations of such Council for legislative and administrative changes to ensure that such recommendations are consistent with the purposes of the Council to promote the full integration, independence and productivity of individuals with a disability;";

(4) in paragraph (5)(B) (as redesignated by paragraph (2) of this subsection), by inserting "and regulations" after "statutes";

(5) by inserting after paragraph (6) (as redesignated by paragraph (2) of this subsection) the following paragraph:

"(7) establish and operate Americans with Disabilities Act Watch Centers to gather information about the implementation, effectiveness and impact of the Americans with Disabilities Act of 1990;";

(6) in paragraph (8) (as redesignated by paragraph (2) of this subsection), by amending the paragraph to read as follows:

"(8) make recommendations to the President, the Congress, the Secretary, the Director of the National Institute on Disability and Rehabilitation Research, and other officials of Federal agencies, respecting ways to better promote the policies set forth in section 400(a)(2);";

(7) in paragraph (9) (as redesignated by paragraph (2) of this paragraph), by amending the paragraph to read as follows:

"(9) not later than March 31 of each year, submit to the Congress and the President a report containing a summary of the activities and accomplishments of the Council with respect to the duties described in paragraphs (1) through (8) of this subsection;";

(8) in paragraph (10) (as redesignated by paragraph (2) of this subsection), by striking the period and inserting "; and"; and

(9) by adding at the end the following paragraph:

"(11) review and evaluate on a continuing basis new and emerging disability policy issues affecting individuals with a disability at the Federal, State, and local levels and in the private sector, including the need for and coordination of adult services, access to personal assistance services, school reform efforts (and the impact of such efforts on individuals with a disability), access to health care, and policies that operate as disincentives to seek and retain employment.".

(b) SUBSECTION (b).—Section 401(b) (29 U.S.C. 781(b)) is amended to read as follows:

"(b)(1) Not later than October 31, 1993, and annually thereafter, the National Council shall issue a report to the President and the Congress assessing the Nation's status in achieving the policies set forth in section 400(a)(1), with particular focus on the new and emerging issues impacting on the lives of individuals with a disability. The report shall present, as appropriate, available data on health, housing, employment, insurance, transportation, recreation, and education. The report shall include recommendations for policy change.

"(2) In determining what issues to focus on and what findings, conclusions, and recommendations to include in the report, the Council shall seek input from the public, particularly individuals with a disability, representatives of organizations representing a broad range of individuals with a disability, and organizations and agencies interested in individuals with a disability.".

SEC. 503. COMPENSATION OF NATIONAL COUNCIL MEMBERS.

Section 402(a) (29 U.S.C. 782(a)) is amended by striking "GS-18 of the General Schedule" and inserting "SES-4 of the Senior Executive Schedule".

SEC. 504. STAFF OF NATIONAL COUNCIL.

Section 403(b)(1) (29 U.S.C. 783(b)(1)) is amended by striking "GS-18 of the General Schedule" and inserting "SES-4 of the Senior Executive Schedule".

SEC. 505. ADMINISTRATIVE POWERS OF NATIONAL COUNCIL.

Section 404 (29 U.S.C. 784) is amended by adding at the end the following subsection:

"(e) The National Council may use, with the consent from those agencies comprising

the Interagency Disability Coordinating Council, and as authorized in title V of this Act, such services, personnel, information and facilities as may be needed to carry out its duties under this title, with or without reimbursement to such agencies.".

SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

Section 405 (29 U.S.C. 785) is amended by inserting before the period the following: "and for each of the fiscal years 1993 through 1997".

TITLE VI—RIGHTS AND ADVOCACY

SEC. 601. PROTECTION AND ADVOCACY OF INDIVIDUALS RIGHTS.

(a) IN GENERAL.—Title V, as amended by section 214 of this Act, is amended by inserting after section 500 the following section:

"PROTECTION AND ADVOCACY OF INDIVIDUALS RIGHTS

"SEC. 500A. (a) The purpose of this section is to support a system in each State to protect the legal and human rights of individuals with a disability who are ineligible for client assistance programs under section 500 of this title and who are ineligible for protection and advocacy programs under part C of the Developmental Disabilities Assistance and Bill of Rights Act and the Protection and Advocacy for Mentally Ill Individuals Act of 1986.

"(b) In order to receive assistance under this section, an eligible system must submit an application to the Secretawry in such form and manner containing such information and assurances as the Commissioner determines necessary to meet the requirements of this section when the grant is discretionary, including assurances that the eligible system will—

"(1) have in effect a system to protect and advocate the rights of individuals with a disability;

"(2) have the authority to pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of such individuals within the State who are ineligible for protection and advocacy programs under part C of the Developmental Disabilities Assistance and Bill of Rights Act and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 or client assistance programs under section 500;

"(3) provide information on and make referrals to programs and services addressing the needs of individuals with a disability in the State;

"(4) develop a statement of objectives and priorities on an annual basis and provide to the public, including individuals with a disability, and, as appropriate, their representatives, an opportunity to comment on the objectives and priorities established by, and activities of, the system, including—

"(A) the objectives and priorities for the system's activities for each year, and the rationale for the establishment of such objectives; and

"(B) the coordination with the advocacy programs set out in the client assistance program under section 500, the ombudsman program established under the Older Americans Act of 1965, the Developmental Disabilities Assistance and Bill of Rights Act, and the Protection and Advocacy for Mentally Ill Individuals Act of 1986; and

"(5) establish a grievance procedure for clients or prospective clients of the system to assure that individuals with a disability are afforded equal opportunity to access the services of the system.

"(c) For purposes of such report or for any other periodic audit, report, or evaluation of the performance of the program established under this section, the Commisioner shall not require such a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.

"(d) The eligible system must provide assurances to the Secretary that funds made available under this section will be used to supplement and increase the level of funds that would otherwise be made available for the purpose for which federal funds are provided and not to supplant such non-federal funds.

"(e) For purposes of this section, the term 'eligible system' means the system established in a State to protect and advocate the rights of persons with developmental disabilities under part C of the Developmental Disabilities Assistance and Bill of Rights Act. The assurances provided by the Governor for part C of the Developmental Disabilities Assistance and Bill of Rights Act shall be the same for this section.

"(f)(1)(A) In any fiscal year in which the appropriation for this section is less than $10 million, the Commissioner is authorized to make grants to eligible systems within States to develop outreach strategies and plan for and implement protection and advocacy programs authorized under this section.

"(B) For the purposes of subparagraph (A), Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Palau shall not be considered as States.

"(2)(A) In any fiscal year in which the appropriation for this section equals or exceeds $10 million, the Commisioner shall allot to each eligible system within a State an amount bearing the same ratio to such sums as the population of that State bears to the population of all States. Except as provided in subparagraph (C), the allotment to any eligible system under the preceding sentence shall not be less than $100,000 or one-third of 1 percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any eligible system under this section for any fiscal year which is less than $100,000 or one-third of 1 percent of such sums shall be increased to the greater of the two amounts.

"(B) For the purposes of this paragraph, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Palau shall not be considered as States and shall each be allotted not less than $50,000 for the fiscal year for which the allotment is made (except that Palau may not receive any allotment under this section after the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658).

"(C) The Commissioner is authorized to increase the minimum allotments under this section pursuant to the same conditions as are authorized in section 142(b)(2) of the Developmental Disabilities Assistance and Bill of Rights Act.

"(g)(1) Notwithstanding any other provision of law, the Commisioner shall pay directly to any system which complies with the provisions of this section, the amount of a State's allotment under this section, unless the State provides otherwise.

"(2) Any amount paid to a State for a fiscal year that remains unobligated at the end of such year shall remain available to such State for obligation during the next fiscal year for the purposes for which such amount was paid.

"(h) Of the amount appropriated under this section, a State may not use more than 5 percent of any allotment under subsection (f)(2) for the cost of monitoring the administration of the system required by this section.

"(i) The Secretary shall annually submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate describing the types of services and activities being undertaken by programs funded under this section, the total number of individuals served under this section, the types of disabilities represented by such individuals and the types of issues being addressed on behalf of such individuals.

"(j)(1) For the purpose of carrying out this section, there are authorized to be appropriated $1,109,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997.

"(2) Of the amount appropriated under this section, the Secretary shall make available 2 percent to provide training and technical assistance to the systems established under subsection (f)(2).".

(b) TECHNICAL AMENDMENT.—The Act, as amended by section 214(c)(3) of this Act, is amended in the table of contents in the first section by inserting after the item relating to section 500 the following:

"Sec. 500A. Protection and advocacy of individuals rights.".

SEC. 602. EMPLOYMENT OF INDIVIDUALS WITH DISABLITIES.

Section 501(a) (29 U.S.C. 791) is amended—

(1) in the first sentence, by striking "the Secretary of Veterans' Affairs, and" and inserting the following: "the Director of the Office of Personnel Management, the Secretary of Veterans Affairs,"; and

(2) by amending the second sentence to read as follows: "The Director of the Office of Personnel Management and the Chairman of the Commission shall either serve as co-chairpersons or as a sole chairperson, as they jointly determine appropriate from time to time.".

SEC. 603. ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD.

(a) SUBSECTION (a).—Section 502(a) (29 U.S.C. 792(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking "Twelve" and inserting "Thirteen"; and

(ii) by striking "six" and inserting "at least a majority"; and

(B) in subparagraph (B), by inserting after clause (xi) the following clause:

"(xii) Department of Commerce."; and

(2) in paragraph (2)(A)—

(A) in the first sentence, by striking "three" and inserting "four"; and

(B) in the second sentence—

(i) by striking "four" and inserting "three"; and

(ii) by inserting before the period the following: ", except that initially (i) one member appointed for a term beginning December 4, 1992, shall serve for a term of three years, (ii) one member appointed for a term beginning December 4, 1993, shall serve for a term of 2 years, and (iii) one member appointed for a term beginning December 4, 1994, shall serve for a term of one year".

(b) SUBSECTION (b).—Section 502(b) (29 U.S.C. 792(b)) is amended to read as follows:

"(b) It shall be the function of the Access Board to—

"(1) ensure compliance with the standards prescribed pursuant to the Act of August 12, 1968, commonly known as the Architectural

Barriers Act of 1968 (including the application of that Act to the United States Postal Service) including but not limited to enforcing all standards under that Act, and ensuring that all waivers and modifications to standards are based on findings of fact and are not inconsistent with the provisions of this section;

"(2) develop advisory guidelines and provide appropriate technical assistance to individuals or entities with rights or duties under regulations prescribed pursuant to this title or titles II and III of the Americans with Disabilities Act with respect to overcoming architectural, transportation, and communication barriers;

"(3) establish and maintain minimum guidelines and requirements for the standards issued pursuant to the Architectural Barriers Act of 1968 and titles II and III of the Americans With Disabilities Act;

"(4) promote accessibility throughout all segments of society;

"(5) investigate and examine alternative approaches to the architectural, transportation, communication, and attitudinal barriers confronting individuals with a disability, particularly with respect to telecommunications devices, public buildings and monuments, parks and parklands, public transportation (including air, water, and surface transportation, whether interstate foreign, intrastate, or local), and residential and institutional housing;

"(6) determine what measures are being taken by Federal, State, and local governments and by other public or nonprofit agencies to eliminate the barriers described in clause (5) of this subsection;

"(7) promote the use of the International Accessibility Symbol in all public facilities that are in compliance with the standards prescribed by the Administrator of General Services, the Secretary of Defense, and the Secretary of Housing and Urban Development pursuant to the Architectural Barriers Act of 1968;

"(8) make to the President and to the Congress reports which shall describe in detail the results of its investigations under clauses (5) and (6) of this subsection;

"(9) make to the President and to the Congress such recommendations for legislation and administration as it deems necessary or desirable to eliminate the barriers described in clause (5) of this subsection; and

"(10) ensure that public conveyances, including rolling stock, are readily accessible, and usable by, individuals with a physical disability.".

(c) SUBSECTION (d).—Section 502(d) (29 U.S.C. 792(d)) is amended—

(1) in paragraph (1), in the first sentence—

(A) by striking "In carrying out" and all that follows through "shall conduct" and inserting "The Access Board shall conduct"; and

(B) by striking "insure" and inserting "ensure"; and

(2) by striking paragraph (3).

(d) SUBSECTION (f).—

(1) ADDITIONAL PARAGRAPH.—

(A) Section 502(f) (29 U.S.C. 792(f)) is amended by striking "(f) The departments" and inserting the following:

"(f)(1) In carrying out its technical assistance responsibilities, the Access Board may enter into interagency agreements with other Federal departments or agencies. Any funds appropriated to such department or agency for the purpose of providing such assistance may be transferred to the Access Board. The Access Board may arrange to carry out its responsibilities under this paragraph through such other departments and agencies for such periods as the Access Board determines is appropriate. The Access Board shall establish a procedure to ensure separation of its compliance and technical assistance responsibilities under this section. The departments".

(B) Section 502(f), as amended by subparagraph (A) of this paragraph), by striking "The departments" and inserting the following:

"(2) The departments".

(2) ADDITIONAL AMENDMENTS.—Section 502(f)(2), as designated by paragraph (1)(B) of this subsection), is amended—

(A) by striking "pursuant to this subsection" and inserting "pursuant to this paragraph"; and

(B) by striking "the Secretary," and inserting "the Chairperson,".

(e) SUBSECTION (g).—Section 502(g) (29 U.S.C. 792(g)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) in paragraph (1) (as designated by subparagraph (A) of this paragraph)—

(A) in the second sentence, by striking "clauses (5) and (6) of subsection (b) of this section" and inserting "paragraphs (7) and (8) of such subsection"; and

(B) by striking the third sentence and all that follows; and

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

"(2) The Access Board shall, at the same time that the Access Board transmits the report required under section 7(b) of Public Law 90-480 (commonly known as the Architectural Barriers Act of 1968), transmit that report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives.".

(f) SUBSECTION (h).—Section 502(h) (29 U.S.C. 792(h)) is amended—

(1) by striking paragraph (1);

(2) by redesignating paragraph (2) as paragraph (1);

(3) in paragraph (1) (as redesignated by paragraph (2) of this subsection), by striking the second and third sentences; and

(4) by adding at the end the following paragraph:

"(2)(A) The Access Board may accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal, for the purpose of aiding and facilitating its functions under paragraphs (2) and (4) of subsection (b). Gifts and bequests of money and proceeds from sales of other property received as gifts, devises, or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Chairperson. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gifts, devises, or bequests. For purposes of Federal income, estate, or gift taxes, property accepted under this section shall be considered as a gift, devise, or bequest to the United States.

"(B) The Board shall publish regulations setting forth the criteria it will use in determining whether the acceptance of gifts, devises, and bequests of property, both real and personal, would reflect unfavorably upon the ability of the Board or any employee to carry out its responsibilities or official duties in a fair and objective manner, or would compromise the integrity of or the appearance of the integrity of a Government program or any official involved in that program.".

(g) SUBSECTION (i).—Section 502(i) (29 U.S.C. 792(i)) is amended by striking "1992," and inserting "1997,".

SEC. 604. INTERAGENCY COORDINATING COUNCIL.

(a) IN GENERAL.—Section 507 (29 U.S.C. 794C) is amended to read as follows:

"INTERAGENCY DISABILITY COORDINATING COUNCIL

"SEC. 507. (a) There is hereby established, under the direction of the National Council on Disability, an Interagency Disability Coordinating Council (hereafter in this section referred to as the 'Council') composed of the Secretary of Education, the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Assistant Secretary of the Interior for Indian Affairs, the Attorney General, the Director of the Office of Personnel Management, the Chairperson of the Equal Employment Opportunity Commission, the Chairperson of the Architectural and Transportation Barriers Compliance Board, and such other officials as may be designated by the President.

"(b) The Interagency Disability Coordinating Council shall—

"(1) have the responsibility for developing and implementing agreements, policies, and practices designed to maximize effort, promote efficiency, and eliminate conflict, competition, duplication, and inconsistencies among the operations, functions, and jurisdictions of the various departments, agencies, and branches of the Federal government responsible for the implementation and enforcement of the provisions of this title, and the regulations prescribed thereunder;

"(2) be responsible for developing and implementing agreements, policies, and practices designed to coordinate operations, functions, and jurisdictions of the various departments and agencies of the Federal government responsible for promoting the full integration, independence and productivity of individuals with a disability; and

"(3) carry out such studies and other activities, subject to the availability of resources, as directed by the National Council on Disability in order to identify methods for overcoming barriers to integration, independence and productivity of individuals with a disability.

"(c) On or before July 1 of each year, the Interagency Disability Council shall transmit to the President and to the Congress a report of its activities designed to promote and meet the employment needs of individuals with a disability, together with such recommendations for legislative and administrative changes as it concludes are desirable to further promote this section along with any comments submitted by the National Council on Disability as to the effectiveness of such activities and recommendations in meeting the needs of individuals with a disability. Nothing in this section shall impair any responsibilities assigned by any Executive Order to any Federal department, agency, or instrumentality to act as a lead Federal agency with respect to any provisions of this title.".

(b) TECHNICAL AMENDMENT.—The Act (29 U.S.C. 701 et seq.) is amended in the table of contents in the first section by striking the item relating to section 507 and inserting the following item:

"Sec. 507. Interagency Disability Coordinating Council.".

SEC. 605. ELECTRONIC EQUIPMENT ACCESSIBILITY.

Section 508 (29 U.S.C. 794d) is amended to read as follows:

"ELECTRONIC EQUIPMENT ACCESSIBILITY

"SEC. 508. (a) The Secretary, through the Director of the National Institute on Disabil-

ity and Rehabilitation Research, and the Administrator of the General Services Administration, in consultation with the electronics and information technology industry and the Interagency Council on Accessible Technology, shall develop and establish guidelines for Federal agencies for electronic and information technology accessibility designed to ensure, regardless of the type of medium, that individuals with a disability can produce and have comparable access to information and data as individuals without a disability. Such guidelines shall be revised, as necessary, to reflect technological advances or changes.

"(b) Each Federal agency shall comply with the guidelines established under this section.".

SEC. 606. CONFORMING AMENDMENT.

Title V (29 U.S.C. 790 et seq.) is amended in the heading for the title by striking "**MISCELLANEOUS**" and inserting "**RIGHTS AND ADVOCACY**".

TITLE VII—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH A DISABILITY

Subtitle A—Community Service Employment Pilot Program for Individuals With A Disability

SEC. 701. SHORT TITLE.

Section 601 (29 U.S.C. 701 note) is amended by striking "Handicaps" and inserting "Disabilities".

SEC. 702. DEFINITIONS.

Section 616(3) (29 U.S.C. 795e(3)) is amended by striking "to assist" and all that follows and inserting the following: "to assist other individuals with a severe disability to perform the essential duties of employment.".

SEC. 703. AUTHORIZATION OF APPROPRIATIONS.

Section 617 (29 U.S.C. 795f) is amended by inserting before the period the following: "and for each of the fiscal years 1994 through 1997".

Subtitle B—Projects With Industry

SEC. 711. PROJECTS WITH INDUSTRY.

(a) SUBSECTION (a).—Section 621(a) (29 U.S.C. 795g(a)) is amended—

(1) in paragraph (1), by striking "job opportunities" and inserting "career opportunities"; and

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by inserting after "employers," the following: "community rehabilitation programs, labor unions, trade associations,";

(B) in subparagraph (A)—

(i) by striking "job" the first place such term appears and inserting "career"; and

(ii) by inserting "and career advancement" after "job placement";

(C) in subparagraph (B), by inserting "and career advancement" after "employment";

(D) in subparagraph (D), by striking "expand job opportunities" and inserting "expand or advance career opportunities"; and

(E) in subparagraph (E), by inserting "career opportunities and" after "identify";

(b) SUBSECTION (d).—Section 621(d) (29 U.S.C. 795g(d)) is amended—

(1) in paragraph (1), by amending the paragraph to read as follows: "(1) Each recipient of an agreement under subsection (a) shall review and evaluate the operation of its project in accordance with the standards and indicators developed by the Commissioner consistent with the provisions in subsection (a)(4). The Commissioner shall revise the standards as necessary, subject to paragraph (2) of this subsection.";

(2) by striking paragraph (2);

(3) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(4) in paragraph (2) (as redesignated by paragraph (3) of this subsection), by amending the paragraph to read as follows:

"(2) If the standards and indicators under paragraph (1) are modified or revised, the Commissioner shall obtain and consider recommendations for such modifications or revisions from State vocational rehabilitation agencies, current recipients of agreements under subsection (a), individuals assisted by such recipients, professional organizations representing industry, organizations representing individuals with a disability, and labor organizations.".

(c) SUBSECTION (e).—Section 621(e)(1) (29 U.S.C. 795g(e)(1)) is amended to read as follows: "(1) Grants under subsection (a)(2) may be awarded for a period of up to 5 years, and awards shall be made on a competitive basis and shall include consideration of past performance, if applicable.".

(d) SUBSECTION (f).—Section 621(f) (29 U.S.C. 795g(f)) is amended—

(1) in paragraph (1), by amending the paragraph to read as follows: "(1) The Commissioner shall use compliance indicators that are consistent with program evaluation standards to assess minimum project performance for purposes of making continuation awards in the third, fourth, and fifth years. The Commissioner shall, to the extent practicable, assure an equitable distribution of payments made under this section among the States.";

(2) in paragraph (2), by striking "evaluation standards," and all that follows and inserting "evaluation standards under subsection (d)(1).";

(3) in paragraph (3)—

(A) by striking the first sentence; and

(B) in the first sentence (as placed pursuant to clause (i) of this subparagraph), by striking "in subsequent years"; and

(4) in paragraph (4), in the first sentence—

(A) by striking "Beginning" and all that follows through "the Commissioner" and inserting "Each fiscal year the Commissioner"; and

(B) by inserting before the period the following: "in the annual report to Congress";

(e) SUBSECTION (h).—Section 621 (29 U.S.C. 795g) is amended—

(1) by striking subsection (h); and

(2) by redesignating subsection (i) as subsection (h).

(f) ADDITIONAL SUBSECTION.—Section 621, as amended by subsection (e) of this section, is amended by adding at the end the following subsection:

"(i)(1) Consistent with the purpose of this section, the Commissioner may make grants to partnerships or consortia that include private business concerns or industries to develop model demonstration projects for workers with a disability who need new or upgraded skills to adapt to emerging technologies, work methods, and markets and to ensure that such individuals possess the knowledge and skills necessary to compete in the work place.

"(2) For the purposes of this subsection, the term 'workers with a disability' shall mean individuals with a disability who are working in competitive employment and who need new or upgraded skills to improve their employment opportunities.

"(3) Awards made under this subsection shall be for a three-year period.

"(4) Any partnership or consortia desiring an award under this subsection shall submit an application to the Commissioner at such time, in such manner, and containing such information and assurances as the Commissioner may reasonably require, including—

"(A) identifying at least one member of the partnership or consortium that is a private business concern or industry; and

"(B) providing assurances that—

"(i) each member of the eligible partnership or consortium will pay a portion of the non-Federal share of the cost of the project;

"(ii) the partnership or consortium will carry out all of the activities described in paragraphs (A) through (E) of subsection (a)(2);

"(iii) the partnership or consortium will disseminate information on the model program it conducts;

"(iv) the partnership or consortium will utilize, if available, job skill standards established jointly by management and labor to assist in evaluating an individual's job skills and assessing what skills are needed for the individual to compete in the work place;

"(v) an evaluation report containing data specified by the Commissioner will be submitted at the end of each project year; and

"(vi) the partnership or consortium will take such steps as are necessary to continue the activities of the project after the period for which Federal assistance is sought.

"(5) Federal payments under this subsection with respect to any project may not exceed 80 percent of the costs of the project.".

SEC. 712. BUSINESS OPPORTUNITIES FOR INDIVIDUALS WITH A DISABILITY.

(a) IN GENERAL.—Title VI (29 U.S.C. 795 et seq.) is amended—

(1) in the heading for part B, by striking "AND BUSINESS OPPORTUNITIES FOR INDIVIDUALS WITH HANDICAPS";

(2) by redesignating section 622 as section 641;

(3) by inserting section 641 (as so redesignated) after section 638;

(4) in the heading for section 641 (as so redesignated), by striking "HANDICAPS" and inserting "A DISABILITY"; and

(5) by inserting before such section 641 the following:

"PART D—BUSINESS OPPORTUNITIES FOR INDIVIDUALS WITH A DISABILITY".

(b) TECHNICAL AMENDMENT.—The Act (29 U.S.C. 701 et seq.) is amended in the table of contents in the first section—

(1) in the item relating to part B of title VI, by striking "AND BUSINESS OPPORTUNITIES FOR INDIVIDUALS WITH HANDICAPS";

(2) by striking the item relating to sections 622; and

(3) by inserting after the item relating to section 638 the following:

"PART D—BUSINESS OPPORTUNITIES FOR INDIVIDUALS WITH A DISABILITY".

"Sec. 641. Business opportunities for individuals with a disability.".

SEC. 713. AUTHORIZATION OF APPROPRIATIONS.

Title VI (29 U.S.C. 795 et seq.) is amended—

(1) in section 623, by striking "There are authorized" and all that follows and inserting the following: "For the purpose of carrying out this part, there are authorized to be appropriated $21,042,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1993 through 1997."; and

(2) in section 641 (as redesignated by section 712(a)(2) of this Act)—

(A) by inserting "(a)" after "641."; and

(B) by adding at the end the following subsection:

"(b) For the purpose of carrying out subsection (a), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 through 1997.".

SEC. 714. TECHNICAL ASSISTANCE.

(a) IN GENERAL.—Part B of title VI, as amended by section 712 of this Act, is amended by inserting after section 621 the following section:

"TECHNICAL ASSISTANCE

"SEC. 622. The Commissioner may enter into agreements with organizations representing individual employers, rehabilitation service providers, labor unions, and business or industry to provide technical assistance to—

"(1) assist employers in hiring individuals with a disability;

"(2) improve or develop relationships between current or prospective projects with industry and employers and/or organized labor; or

"(3) assist employers in understanding and meeting the requirements of the Americans with Disabilities Act of 1990 as it relates to employment of individuals with a disability.".

(b) TECHNICAL AMENDMENT.—The Act, as amended by section 712(b) of this Act, is amended in the table of contents in the first section by inserting after the item relating to section 621 the following:

"Sec. 622. Technical assistance.".

Subtitle C—Supported Employment Services for Individuals With A Disability

SEC. 721. PURPOSE.

Section 631 (29 U.S.C. 795j) is amended by striking "for training" and all that follows and inserting the following: "for the provision of services leading to supported employment for individuals with a severe disability in the most integrated settings.".

SEC. 722. ALLOTMENTS.

Section 633 (29 U.S.C. 795) is amended—

(1) in subsection (a)(2)(B), by striking "The jurisdictions" and inserting "Each jurisdiction"; and

(2) in subsection (c)—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

SEC. 723. STATE PLAN.

Section 634 (29 U.S.C. 795m) is amended—

(1) in subsection (a)—

(A) by striking "(a)(1)" and inserting "(a)";

(B) by striking paragraph (2); and

(C) in the first sentence, by striking "training" and all that follows through "services" and inserting "services authorized under this part";

(2) in subsection (b)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking "section 618(b)(3)" and all that follows and inserting the following: "section 618(b)(1)(c) of the Individuals with Disabilities Education Act; and"; and

(ii) in subparagraph (B), by striking "section 635" and inserting "section 633";

(B) in paragraph (3)—

(i) in subparagraph (A), by striking "training" and all that follows through "services" and inserting "services authorized under this part";

(ii) in subparagraph (D), by striking "Education of the Handicapped Act," and inserting "Individuals with Disabilities Education Act,";

(iii) in subparagraph (E), by striking "and" after the semicolon at the end; and

(iv) by adding at the end the following subparagraphs:

"(G) the State will use funds provided under this part only to supplement the funds provided under title I of this Act for the cost of providing services leading to supported employment; and

"(H) supported employment services will include placement in an integrated setting for the maximum number of hours possible based on the unique strengths, resources, interests, concerns, abilities, and capabilities of individuals with the most severe disabilities;"; and

(C) in paragraph (4)—

(i) by striking "demonstrate evidence of" and inserting the following: "each designated agency has entered into cooperative agreements which demonstrate the capacity of the State to ensure"; and

(ii) by striking "relevant" and inserting "other".

SEC. 724. SERVICES; AVAILABILITY AND COMPARABILITY.

Section 635 (29 U.S.C. 795n) is amended—

(1) subsection (a)—

(A) in paragraph (1)

(i) by striking "rehabilitation potential," and inserting "rehabilitation and career needs,"; and

(ii) by inserting "or advance" after "to support"; and

(B) in paragraph (2)—

(i) by striking "rehabilitation potential" the first place such term appears and inserting "rehabilitation and career needs"; and

(ii) by striking "rehabilitation potential" the second place such term appears and inserting "rehabilitation needs"; and

(2) by amending subsection (b) to read as follows:

"(b) The provision of on-going support services authorized under subsection (a) of this section by the designated State unit shall be limited in duration to a period of time prescribed by the Commissioner. Extended on-going support services shall be provided by other State agencies and private organizations as specified under section 634(b)(4) or any other available source, except that nothing in this subsection shall preclude an individual from again receiving post-employment services after the receipt of extended supported employment services deemed necessary to maintain the individual in employment.".

SEC. 725. SAVINGS PROVISION.

Section 637 (29 U.S.C. 795p) is amended—

(1) by striking "Act" and inserting "part"; and

(2) by striking "conducting" and all that follows through "services" and inserting "providing services".

SEC. 726. AUTHORIZATION OF APPROPRIATIONS.

Section 638 (29 U.S.C. 795q) is amended—

(1) by striking "and" after "1991,"; and

(2) by inserting before the period the following: ", $32,059,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997".

TITLE VIII—COMPREHENSIVE SERVICES FOR INDEPENDENT LIVING

SEC. 801. ESTABLISHMENT OF PROGRAMS.

Title VII (29 U.S.C. 796 et seq.) is amended to read as follows:

"TITLE VII—COMPREHENSIVE SERVICES FOR INDEPENDENT LIVING

"PART A—GENERAL PROVISIONS

"SEC. 701. PURPOSE.

"The purpose of this title is to promote the philosophy of independent living (including consumer control, peer support, self-help, self-determination, equal access, and individual and system advocacy) in order to maximize the leadership, empowerment, independence, productivity, and integration and full inclusion of individuals with a disability into American society through the following activities:

"(1) Providing financial assistance to States for providing, expanding, and improving the provision of independent living services.

"(2) Providing financial assistance for the development and support of statewide networks of centers for independent living.

"(3) Providing financial assistance to States for improving linkages between State independent living rehabilitation service programs, centers for independent living, statewide independent living councils, State vocational rehabilitation programs receiving assistance under title I of this Act, State programs of supported employment services receiving assistance under part C of title VI, client assistance programs under section 500, programs funded under other titles of this Act, programs funded under other Federal programs and programs funded under non-Federal sources.

"SEC. 702. DEFINITIONS.

"For purposes of this title:

"(1) The term "center for independent living" means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency that—

"(A) is designed and operated within a local community by individuals with a disability; and

"(B) provides an array of independent living services.

"(2) The term 'consumer control', with respect to an entity, means that the entity vests power and authority in individuals with a disability.

"(3) The term 'designated State unit' means the State unit designated under section 101(a)(2).

"(4)(A) The term 'independent living services', subject to subparagraph (B), means the following services:

"(i) Information and referral services.

"(ii) Independent living skills training.

"(iii) Peer counseling (including cross-disability peer counseling).

"(iv) Individual and system advocacy and training.

"(B) The term 'independent living services', in addition to the services described in subparagraph (A), may include, at the discretion of a grantee under this title, the following services:

"(i) Counseling services, including psychological, psychotherapeutic, and related services.

"(ii) Services related to securing housing or shelter supportive of the purposes of this title and adaptive housing services, including appropriate accommodations to, and modifications of, any space used to serve individuals with a disability and community group living.

"(iii) Rehabilitation technology, including assistive technology devices and services.

"(iv) Mobility training.

"(v) Services and training for individuals with cognitive and sensory disabilities, including interpreter and reader services.

"(vi) Personal assistance services, including attendent care and the training of personnel providing such services.

"(vii) Surveys, directories, and other activities to identify appropriate housing, recreation opportunities, and accessible transportation, and other support services.

"(viii) Consumer information programs on rehabilitation and independent living services available under this Act especially for minorities and other individuals with a disability who have been traditionally underserved.

"(ix) Education and training necessary for living in the community and participating in community activities.

"(x) Appropriate job placement.

"(xi) Transportation, including referral and assistance for such transportation.

"(xii) Physical rehabilitation.

"(xiii) Therapeutic treatment.

"(xiv) Needed prostheses and other appliances and devices.

"(xv) Individual and group social and recreational services.

"(xvi) Skills specifically designed for youths with a disability to promote self-awareness and esteem, develop advocacy and self-empowerment skills, and explore career options.

"(xvii) Services for children, including physical therapy, development of language and communications skills, and child development services.

"(xviii) Services under other Federal, State, or local programs designed to provide resources, training, counseling, or other assistance of substantial benefit in enhancing the independence, productivity, and quality of life of individuals with a disability.

"(xix) Appropriate preventive services to decrease the needs of individuals assisted under this title for similar services in the future.

"(xx) Community awareness programs to enhance the understanding and integration of individuals with a disability.

"(xxi) Such services as may be necessary and consistent with the provisions of this title.

"SEC. 703. ELIGIBILITY FOR RECEIPT OF SERVICES.

"Services may be provided under this title to any individual with a severe disability—

"(1)(A) whose ability to function independently in the family or community is substantially limited; or

"(B) whose ability to obtain, maintain, or advance in employment is substantially limited; and

"(2) for whom the delivery of independent living services will improve either—

"(A) the ability to function, to continue functioning, or to move toward functioning independently in the family or community; or

"(B) to continue in employment.

"SEC. 704. STATE PLAN.

"(a) IN GENERAL.—

"(1) REQUIREMENT.—To be eligible to receive financial assistance under this title, a State shall submit to the Commissioner, and obtain approval of, a State plan containing such provisions as the Commissioner may require, including, at a minimum, the provisions required in this section.

"(2) JOINT DEVELOPMENT.—The plan under paragraph (1) shall be jointly developed and signed by the director of the designated State unit and the chairperson of the Statewide Independent Living Council, on behalf of and at the direction of the Council.

"(3) PERIODIC REVIEW AND REVISION.—The plan under paragraph (1) shall provide for the review and revision of the plan, not less than once every three years, to ensure the existence of appropriate planning, financial support and coordination, and other assistance to appropriately address, on a statewide and comprehensive basis, needs in the State for—

"(A) the provision of State independent living services;

"(B) the development and support of a statewide network of centers for independent living; and

"(C) linkages between such services and centers and the vocational rehabilitation program established under title I of this Act and other programs providing services for individuals with a disability.

"(b) STATEWIDE COUNCIL.—The plan under subsection (a) shall provide for the establishment of a Statewide Independent Living Council in accordance with section 705 of this title.

"(c) DESIGNATED STATE UNIT.—The plan under subsection (a) shall require that the designated State unit of such State be the unit which, on behalf of the State, carries out the following:

"(1) Receive, account for, and disburse funds under this title based on such plan.

"(2) Provide administrative support services.

"(3) Keep such records, and afford such access to the records, as the Commissioner finds necessary.

"(4) Submit such additional information or provide such assurances as required by the Commissioner.

"(d) OBJECTIVES; TIMELINES.—The plan under subsection (a) shall—

"(1) establish the specific objectives to be achieved under the plan;

"(2) explain how such objectives are consistent with and further the purposes of this title; and

"(3) establish timelines for achieving the objectives.

"(e) ELIGIBILITY FOR SERVICES.—The plan under subsection (a) shall provide that—

"(1) independent living services are provided under this title to individuals with a severe disability; and

"(2) the services provided to such an individual are provided in accordance with an independent living plan mutually agreed upon by the State and/or service providers and the individual, unless the individual determines that the plan is unnecessary for the individual.

"(f) SCOPE OF SERVICES.—The plan under subsection (a) shall describe the extent and scope of independent living services under this title. If arrangements are made through grant or contract for providing such services, such arrangements shall be described in the plan.

"(g) STATEWIDE NETWORK OF CENTERS.—The plan under subsection (a) shall set out a design for the establishment of a statewide network of centers for independent living that satisfy the standards and assurances set out in section 723.

"(h) AWARD OF GRANTS TO CENTERS.—In the case of any State in which State funding for centers for independent living equals or exceeds the amount of funds allotted to the State under section 722 of this title, the plan under subsection (a) shall include policies, practices, and procedures governing the awarding of grants to centers for independent living and oversight with respect to such centers.

"(i) COOPERATION, COORDINATION, AND LINKAGES AMONG VARIOUS ENTITIES.—The plan under subsection (a) shall set forth the steps that will be taken to maximize the cooperation, coordination and linkages between the independent living rehabilitation service program, the Statewide independent Living Council, and centers for independent living with the designated State unit, other State agencies represented on such Council, other councils which address the needs of specific disability populations and issues, and other public and private entities deemed appropriate by the Council.

"(j) COORDINATION OF SERVICES.—The plan under subsection (a) shall describe how services funded under this title will be complementary and coordinated in order to avoid unnecessary duplication with other Federal, State, and local programs.

"(k) COORDINATION OF FUNDING.—The plan under subsection (a) shall describe efforts to coordinate Federal and state funding for centers for independent living and independent living services.

"(l) OUTREACH.—With respect to services and centers funded under this title, the plan under subsection (a) shall set forth steps to be taken regarding outreach to unserved and underserved populations, including minorities and urban and rural areas.

"(m) ASSURANCES.—The plan under subsection (a) shall contain assurances that all recipients of funds under this title will comply with the following:

"(1) Notify all individuals seeking or receiving services under this title about the availability of the client assistance program under section 500, the purposes of the services provided under such program, and how to contact such program.

"(2) Adopt such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of an accounting for funds paid to the State under this title.

"(3)(A) Maintain records which fully disclose—

"(i) the amount and disposition by such recipient of the proceeds of such financial assistance;

"(ii) the total cost of the project or undertaking in connection with which such financial assistance is given or used; and

"(iii) the amount of that portion of the cost of the project or undertaking supplied by other sources;

"(B) Maintain such other records as the Commissioner determines to be appropriate to facilitate an effective audit.

"(C) Afford such access to records maintained under subparagraphs (A) and (B) as the Commissioner determines to be appropriate.

"(D) Submit such reports with respect to such records as the Commissioner determines to be appropriate.

"(4) For the purpose of audit and examination, provide to the Commissioner and the Comptroller General of the United States (or any of their duly authorized representatives) access to any books, documents, papers, and records of the recipients that are pertinent to the financial assistance received under this part.

"(n) EVALUATIONS.—The plan under subsection (a) shall establish a method for the periodic evaluation of its effectiveness in meeting the objectives established in subsection (d), including the satisfaction of individuals with a disability.

"(o) PUBLIC HEARING.—Each State shall provide for public hearings regarding the contents of the plan of the State under subsection (a).

"(p) DATE CERTAIN FOR SUBMISSION.—The plan under subsection (a) shall be submitted to the Commissioner not later than 90 days in advance of the completion date of the plan currently in effect. If a plan meeting the requirements of this section is not submitted in a timely manner, funds under this title may be withheld until a plan is submitted that meets such requirements.

"SEC. 705. INDEPENDENT LIVING COUNCIL.

"(a) IN GENERAL.—Each State which receives assistance under this title shall establish a Statewide Independent Living Council (in this section referred to as the 'Council') which shall be independent of all State agencies. The State shall use funds received

under this title to pay for the budget of such Council.

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of the Rehabilitation Act Amendments of 1992, the Governor, or the appropriate entity within the State, shall make appointments to the Council from organizations representing a broad range of individuals with a disability and organizations interested in individuals with a disability.

"(2) CERTAIN REQUIREMENTS.—

"(A) The Council shall have statewide representation and be knowledgeable about independent living centers and services. The Council membership shall represent a broad range of individuals with a disability, and shall include at least one director of an independent living center, selected by the Independent Living Center Directors in the State.

"(B) The Council shall include a representative from the designated State unit, and representatives from other State agencies that provide services to individuals with a disability. Such representatives shall serve as ex officio, nonvoting members of the Council.

"(C) Members may include other representatives from centers; parents, guardians and advocates of and for individuals with a disability; representatives from private businesses, representatives from organizations that provide services to individuals with a disability, and other appropriate individuals.

"(3) LIMITATION REGARDING STATE EMPLOYEES.—A majority of council members shall be individuals with a disability not employed by any State agency or independent living center.

"(c) CHAIR.—The Council chairperson shall be selected from among the membership except in cases where the Governor has no veto power and in such cases the Governor shall designate a member of the Council to serve as the chairperson of the Council or shall require the Council to so designate such a member.

"(d) TERMS.—

"(1) IN GENERAL.—Each member of the Council shall serve for a term of 3 years, except that—

"(A) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term;

"(B) the terms of service of the members initially appointed shall be (as specified by the appointing authority) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

"(2) VACANCIES.—Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment.

"(e) DUTIES.—The Council shall—

"(1) jointly develop and submit (in conjunction with the designated State unit) the State plan required in section 704;

"(2) monitor, review, and evaluate the implementation of the State plan;

"(3) coordinate activities with the State Rehabilitation Consumer and Business Advisory Council established under section 105 and councils that address the needs of specific disability populations and issues under other Federal law;

"(4) ensure that all regularly scheduled meetings of the Council are open to the public and sufficient advance notice is provided; and

"(5) submit to the Commissioner, such periodic reports as the Commissioner may reasonably request, and keep such records and afford such access thereto as the Commissioner finds necessary to verify such reports.

"(f) PREPARATION OF BUDGET.—Each Council shall prepare, in conjunction with the designated State unit, a budget, using amounts paid under this title and from other public and private sources, to fund all activities under this section and to hire such staff and obtain the services of such professional, technical, and clerical personnel consistent with State law as the Council determines to be necessary to carry out its functions.

"(g) STAFF.—The staff and other personnel of a Council, while working for the Council, shall be responsible solely for assisting the Council in carrying out its duties under this title and shall not be assigned duties by the designated State unit or any other agency of the State.

"(h) USE OF FUNDS.—Funds under this section may be used to conduct hearings and forums, to reimburse members of the Council for reasonable and necessary expenses for attending Council meetings and performing Council duties (including child care for consumer and parent representatives and personal assistance services), and to pay compensation to a member of the Council if such member is not employed or must forfeit wages from other employment when performing official Council business.

"(i) USE OF EXISTING COUNCILS.—To the extent that a State has established a Council before September 30, 1992, that is comparable to the Council described in this section, such Council shall be considered to be in compliance with this section. Within 1 year after the date of enactment of the Rehabilitation Act Amendments of 1992, such State shall establish a Council that complies in full with this section.

"PART B—INDEPENDENT LIVING SERVICES

"SEC. 711. ALLOTMENTS.

"(a) IN GENERAL.—

"(1) POPULATION BASIS.—From sums made available for each fiscal year for the purposes of allotments under this part, each State whose State plan has been approved under section 704 shall be entitled to an allotment of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States.

"(2) MINIMUM ALLOTMENT.—

"(A) Except as provided in subparagraph (B) and paragraphs (3) and (4), the allotment to any State under the preceding sentence shall be not less than $225,000 or one-third of 1 percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year which is less than $225,000 or one-third of 1 percent of such sums shall be increased to the greater of the two amounts.

"(B) For purposes of determining the minimum amount of allotments under subparagraph (A), the amount $225,000 shall, in the case of such allotments for fiscal year 1994 and subsequent fiscal years, be increased to the extent necessary to offset the effects of inflation occurring since October 1992, as measured by the percentage increase in the consumer price index for all urban consumers (U.S. city average) during the period ending upon April 1 of the fiscal year preceding the fiscal year for which the grant is to be made.

"(3) MAINTENANCE OF 1992 AMOUNTS.—Subject to the availability of appropriations to carry out this part, the amount of any allotment made under paragraph (1) to a State for a fiscal year shall not be less than the amount of an allotment made to the State for fiscal year 1992 under part A of this title, as in effect on the day before the date of the enactment of the Rehabilitation Act Amendments of 1992.

"(4) CERTAIN TERRITORIES.—For the purposes of this subsection, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and Palau shall not be considered as States and shall each be allotted not less than one-eighth of 1 percent of the amounts made available for purposes of this part for the fiscal year for which the allotment is made (except that Palau may not receive any allotment under this section after the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658).

"(b) ADJUSTMENTS.—Amounts necessary to increase the allotments of States under paragraph (1) of subsection (a) or to provide allotments under paragraph (4) of such subsection shall be derived by proportionately reducing the allotments of the remaining States under paragraph (1), but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than the greater of $225,000 or one-third of 1 percent of the sums made available for purposes of this part for the fiscal year for which the allotment is made.

"(c) DISPOSITION OF CERTAIN AMOUNTS.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purposes of this title, the Commissioner shall make such amount available for carrying out the purposes of this section to one or more of the States which the Commissioner determines will be able to use additional amounts during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the State's allotment (as determined under the preceding provisions of this section) for such year.

"SEC. 712. PAYMENTS TO STATES.

"(a) IN GENERAL.—From each State's allotment for a fiscal year under section 711, the State shall be paid the Federal share of the expenditures incurred during such year under its State plan approved under section 704. Such payments may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions as the Commissioner may determine.

"(b) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share with respect to any State for any fiscal year shall be 90 percent of the expenditures incurred by the State during such year under its State plan approved under section 704.

"(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of any project assisted by an allotment under this part may be provided in kind.

"(3) DETERMINATION OF AMOUNT.—For the purpose of determining the Federal share with respect to any State, expenditures by a political subdivision of such State shall, subject to regulations prescribed by the Commissioner, be regarded as expenditures by such State.

"SEC. 713. AUTHORIZED USES OF GRANT.

"The State may use funds received under this part for any of the authorized uses described below:

"(1) to provide independent living services as defined by this title to individuals with a severe disability;

"(2) to demonstrate ways to expand and improve independent living services;

"(3) to support the operation of centers for independent living;

"(4) to support activities to increase the capacities of public agencies and private nonprofit entities and others to develop comprehensive approaches or systems for providing independent living services;

"(5) to conduct studies and analyses, gather information, develop model policies and procedures, present information, approaches, strategies, findings, conclusions, and recommendations to Federal, State, and local policy makers in order to enhance independent living services for individuals with a disability;

"(6) to train individuals with a disability and individuals providing services to individuals with a disability and others regarding the independent living philosophy; and

"(7) to provide outreach to unserved and underserved populations, including minorities and urban and rural populations.

"SEC. 714. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated $14,654,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997.

"PART C—CENTERS FOR INDEPENDENT LIVING

"SEC. 721. DEFINITION.

"For purposes of this part, the term 'eligible organization' means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency.

"SEC. 722. ALLOTMENTS.

"(a) IN GENERAL.—

"(1) POPULATION BASIS.—Subject to subsection (d), from sums made available for each fiscal year for the purposes of allotments under this part, each State whose State plan has been approved under section 704 shall be entitled to an allotment of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States.

"(2) MINIMUMS.—Subject to the availability of appropriations to carry out this part and except as provided in paragraphs (3) and (4), for a fiscal year in which the amounts appropriated to carry out this part exceed the amounts appropriated for fiscal year 1992 to carry out part B of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992—

"(A) if such excess is equal to or greater than $3,500,000, the allotment to any State under paragraph (1) shall be not less than $275,000 or one-third of 1 percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $275,000 or one-third of 1 percent of such sums shall be increased to the greater of the two amounts; and

"(B) if such excess is less than $3,500,000, the allotment to any State under subparagraph (A) shall approach, as nearly as possible, the greater of the two amounts.

"(3) MAINTENANCE OF 1993 AMOUNTS.—Subject to the availability of appropriations to carry out this part, the amount of any allotment made under paragraph (1) to a State for a fiscal year shall not be less than the amount of financial assistance received by independent living centers in the State for fiscal year 1993 under this part.

"(4) CERTAIN TERRITORIES.—For the purposes of this subsection, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and Palau shall not be considered as States and shall each be allotted not less than one-eighth of 1 percent of the amounts made available for purposes of this part for the fiscal year for which the allotment is made (except that Palau may not receive any allotment under this section after the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658).

"(b) ADJUSTMENTS.—Amounts necessary to increase the allotments of States under paragraph (1) of subsection (a) or to provide allotments under paragraph (4) of such subsection shall be derived by proportionately reducing the allotments of the remaining States under such paragraph (1), but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than the greater of $200,000 or one-third of 1 percent of the sums made available for purposes of this part for the fiscal year for which the allotment is made.

"(c) DISPOSITION OF CERTAIN AMOUNTS.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purposes of this title, the Commissioner shall make such amount available for carrying out the purposes of this section to one or more of the States which the Commissioner determines will be able to use additional amounts during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the State's allotment (as determined under the preceding provisions of this section) for such year.

"(d) TRAINING.—

"(1) ALLOCATION.—Of the amounts appropriated for a fiscal year to carry out this part, the Commissioner shall reserve 2 percent for the purpose of making grants to, and entering into contracts and other arrangements with, entities who have experience in the operation of centers for independent living to provide such training and technical assistance with respect to planning, developing, conducting, administering, and evaluating centers for independent living.

"(2) FUNDING PRIORITIES.—The Commissioner shall conduct a survey of statewide independent living councils and centers for independent living regarding training and technical assistance needs in order to determine funding priorities for such grants, contracts, and other arrangements.

"(3) REVIEW.—To be eligible to receive a grant or enter into a contract or other arrangement under this subsection, such an entity shall submit an application to the Commissioner at such time, in such manner, and containing a proposal to provide such training and technical assistance, and containing such additional information as the Commissioner may require. The Commissioner shall provide for peer review of such proposals by panels that include persons who are not government employees and who have experience and knowledge in independent living programs.

"(e) PROHIBITION ON COMBINED FUNDS.—The Commissioner may not combine amounts appropriated under this part with amounts appropriated under any other Act or part of this Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this part are separately identified in such grant or payment and are used for the purposes of this part.

"SEC. 723. STANDARDS AND ASSURANCES FOR CENTERS.

"(a) IN GENERAL.—Each center for independent living that receives assistance under this part shall comply with the standards set out in subsection (b) and provide and comply with the assurances set out in subsection (c) in order to ensure that all programs and activities under this part are planned, conducted, administered, and evaluated in a manner consistent with the purposes of this title and the objective of providing assistance effectively and efficiently.

"(b) STANDARDS.—

"(1) PHILOSOPHY.—The center shall promote and practice the independent living philosophy of—

"(A) consumer control of the center regarding decisionmaking, service delivery, management, and establishment of the policy and direction of the center;

"(B) self-help and self-advocacy;

"(C) development of peer relationships and peer role models; and

"(D) equal access of individuals with a severe disability to society and to all services, programs, activities, resources, and facilities, whether public or private and regardless of the funding source.

"(2) PROVISION OF SERVICES.—The center shall provide services to individuals with a range of severe disabilities. The center shall provide services on a cross-disability basis (for individuals with all different types of severe disabilities, including those who are unserved or underserved). Eligibility for services at any center for independent living shall not be based on the presence of any one or more specific severe disabilities.

"(3) INDEPENDENT LIVING GOALS.—The center shall facilitate the development and achievement of independent living goals selected by individuals with a severe disability who seek such assistance by the center.

"(4) COMMUNITY OPTIONS.—The center shall work to increase the availability and improve the quality of community options for independent living in order to facilitate the development and achievement of independent living goals by individuals with a severe disability.

"(5) INDEPENDENT LIVING SERVICES.—The center shall provide independent living services.

"(6) ACTIVITIES TO INCREASE COMMUNITY CAPACITY.—The center shall conduct activities to increase the capacity of communities within the service area of the center to meet the needs of individuals with a severe disability.

"(c) ASSURANCES.—The eligible agency shall provide at such time and in such manner as the Commissioner may reasonably require, such satisfactory assurances as the Commissioner may require, including satisfactory assurances that—

"(1) the applicant is an eligible agency;

"(2) the center will be designed and operated within local communities by individuals with a disability, including an assurance that the center will have a Board that is the principal governing body of the center and a majority of which shall be composed of individuals with a severe disability;

"(3) the applicant will comply with the standards set forth in subsection (b);

"(4) the applicant will establish clear priorities through annual and 3-year program and financial planning objectives for the center, including overall goals or a mission for

the center, a work plan for achieving the goals or mission, specific objectives, service priorities, and types of services to be provided, and a description that shall demonstrate how the proposed activities of the applicant are consistent with the most recent 3-year State plan under section 703;

"(5) the applicant will use sound organizational and personnel assignment practices, including taking affirmative action to employ and advance in employment qualified individuals with a severe disability on the same terms and conditions required with respect to the employment of an individual with a severe disability under sections 503 and 504 of this Act;

"(6) the applicant will ensure that the majority of the staff, and individuals in decisionmaking positions, of the applicant are individuals with a disability;

"(7) the applicant will practice sound fiscal management, including making arrangements for an annual independent fiscal audit;

"(8) the applicant will conduct annual self-evaluations, prepare an annual report, and maintain records adequate to measure performance with respect to the standards, containing information regarding, at a minimum—

"(A) the extent to which the center is in compliance with the standards;

"(B) the number and types of individuals with a severe disability receiving services through the center;

"(C) the types of services provided through the center and the number of individuals with a severe disability receiving each type of service;

"(D) the sources and amounts of funding for the operation of the center;

"(E) the number of individuals with a severe disability who are employed by, and the number who are in management and decisionmaking positions in, the center; and

"(F) a comparison, when appropriate, of the activities of the center in prior years with the activities of the center in the most recent year;

"(9) individuals with a severe disability who are seeking or receiving services at the center will be notified by the center of the existence of, the availability of, and how to contact, the client assistance program under section 500;

"(10) aggressive outreach regarding services provided through the center will be conducted in an effort to reach unserved and underserved populations of individuals with a severe disability, especially to minorities and to urban and rural populations;

"(11) staff at centers for independent living will receive training on how to serve such unserved and underserved populations, including minorities and urban and rural populations;

"(12) the center will submit to the Statewide Independent Living Council a copy of its approved grant application and the annual report required under paragraph (7);

"(13) the center will prepare and submit a report to the designated State unit or the Commissioner, as the case may be, at the end of each fiscal year that contains the information described in paragraph (7) and information regarding the extent to which the center is in compliance with the standards set forth in subsection (b); and

"(14) an independent living plan described in section 704(e) will be developed unless the individual who would receive services under the plan determines the plan to be unnecessary.

"(d) REQUIREMENT.—No funds may be allotted under this title for a Center for Independent Living unless the Center is in compliance with the standards and assurances set forth in section 723.

"SEC. 724. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH FEDERAL FUNDING EXCEEDS STATE FUNDING.

"(a) ESTABLISHMENT.—For any fiscal year in which the amount of State funds that are earmarked by a State to support the general operation of centers for independent living meeting the requirements of this part is less than the amount allotted to the State under section 722, the Commissioner shall make grants from such amount to eligible organizations in the State for the planning, conduct, administration, and evaluation of centers for independent living that comply with the standards and assurances set forth in section 723.

"(b) ELIGIBLE ORGANIZATIONS.—In any State in which the Commissioner has approved the State plan required by section 704, the Commissioner may make a grant under this section to any eligible organization that—

"(1) has the power and authority to carry out the purpose of this part and perform the functions set forth in section 723 within a community and to receive and administer funds under this part, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

"(2) is determined by the Commissioner to be able to plan, conduct, administer, and evaluate a center for independent living consistent with the standards and assurances set forth in section 723; and

"(3) submits an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(c) EXISTING ELIGIBLE ORGANIZATIONS.—In the administration of the provisions of this section, the Commissioner shall award grants to any eligible organization that is receiving funds under this part on September 30, 1993, unless the Commissioner makes a finding that the organization involved fails to meet program and fiscal standards and assurances set forth in section 723.

"(d) NEW CENTERS FOR INDEPENDENT LIVING.—

"(1) IN GENERAL.—If there is no center for independent living serving a region of the State or a region is underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the Commissioner may award a grant under this section to the most qualified applicant, consistent with the provisions in the State plan setting forth the design of the State for establishing a statewide network of centers for independent living.

"(2) SELECTION.—In selecting from among applicants for a grant under this section for a new center for independent living, the Commissioner—

"(A) shall consider comments regarding the application, if any, by the Statewide Independent Living Council in the State in which the applicant is located; and

"(B) shall consider the ability of each such applicant to operate a center for independent living based on—

"(i) evidence of the need for such a center;

"(ii) any past performance of such applicant in providing services comparable to independent living services;

"(iii) the plan for satisfying or demonstrated success in satisfying the standards and the assurances set forth in section 723;

"(iv) the quality of key personnel and the involvement of individuals with a severe disability;

"(v) budgets and cost-effectiveness;

"(vi) evaluation plan; and

"(vii) the ability of such applicant to carry out the plans.

"(e) ORDER OF PRIORITIES.—The Commissioner shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

"(1) The Commissioner shall support existing centers for independent living that comply with the standards and assurances set forth in section 723, at the level of funding for the previous year.

"(2) The Commissioner shall provide for a cost-of-living increase for existing centers for independent living.

"(3) The Commissioner shall fund new centers for independent living that comply with the standards and assurances set forth in section 723.

"(f) REVIEW.—

"(1) IN GENERAL.—The Commissioner shall annually review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 723. If the Commissioner determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 723, the Commissioner shall immediately notify such center that it is out of compliance.

"(2) ENFORCEMENT.—The Commissioner shall terminate all funds under this section to such center 90 days after the date of such notification unless the center submits a plan to reach compliance with the standards and assurances within 90 days and such plan is approved by the Commissioner.

"SEC. 725. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH STATE FUNDING EQUALS OR EXCEEDS FEDERAL FUNDING.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—For any fiscal year in which the amount of State funds that are earmarked by a State to support the general operation of centers for independent living meeting the requirements of this part equals or exceeds the amount of funds allotted to the State under section 722, and for any subsequent fiscal year, the director of the designated State unit, as provided in paragraph (2), or the Commissioner, as provided in paragraph (3), shall award grants to eligible organizations in the State from such amount for the planning, conduct, administration, and evaluation of centers for independent living that comply with the standards and assurances set forth in section 723. In subsequent fiscal years, the State shall retain the authority to award grants if it maintains the level of expenditures required in this paragraph. If the Commissioner determines that the State has not continued to meet such requirements, funds for the State shall be awarded in the subsequent fiscal year in accordance with section 724.

"(2) GRANTS BY DESIGNATED STATE UNITS.—In order for the designated State unit to be eligible to award the grants described in paragraph (1) and carry out this section for a fiscal year with respect to a State, the designated State unit shall submit an application to the Commissioner at such time, and in such manner as the Commissioner may require, including information about the amount of State funds described in paragraph (1). If the Commissioner finds that such amount equals or exceeds the amount of funds allotted to the State under section

722, the Commissioner shall approve the application and designate the director of the designated State unit to award the grant and carry out this section.

"(3) GRANTS BY COMMISSIONER.—If the designated State unit of a State described in paragraph (1) does not submit and obtain approval of an application under paragraph (2), the Commissioner shall award the grant described in paragraph (1) to the State in accordance with section 724.

"(b) ELIGIBLE ORGANIZATIONS.—In any State in which the Commissioner has approved the State plan required by section 704, the director of the designated State unit may award a grant under this section to any eligible organization that—

"(1) has the power and authority to carry out the purpose of this part and perform the functions set forth in section 723 within a community and to receive and administer funds under this part, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

"(2) is determined by the director to be able to plan, conduct, administer, and evaluate a center for independent living, consistent with the standards and assurances set forth in section 723;

"(3) submits an application to the director at such time, in such manner, and containing such information as the head of the designated State unit may require.

"(c) EXISTING ELIGIBLE ORGANIZATIONS.—In the administration of the provisions of this section, the director of the designated State unit shall award grants under this section to any eligible organization that is receiving funds under this part on September 30, 1993, unless the director makes a finding that the agency involved fails to comply with the standards and assurances set forth in section 723.

"(d) NEW CENTERS FOR INDEPENDENT LIVING.—

"(1) IN GENERAL.—If there is no center for independent living serving a region of the State or the region is underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the director of the designated State unit may award a grant under this section from among eligible organizations, consistent with the provisions of the State plan under section 704 setting forth the design of the State for establishing a statewide network of centers for independent living.

"(2) SELECTION.—In selecting from among eligible organizations in awarding a grant under this part for a new center for independent living—

"(A) the director of the designated State unit and the chairperson of, or other individual designated by, the Statewide Independent Living Council acting on behalf of and at the direction of the Council shall jointly appoint a peer review committee that shall rank applications in accordance with the standards and assurances set forth in section 723 and criteria jointly established by such director and such chairperson or individual;

"(B) the peer review committee shall consider the ability of each such applicant to operate a center for independent living, and shall recommend an applicant to receive a grant under this section, based on—

"(i) evidence of the need for a center for independent living, consistent with the State plan;

"(ii) any past performance of such applicant in providing services comparable to independent living services;

"(iii) the plan for complying with, or demonstrated success in complying with, the standards and the assurances set forth in section 723;

"(iv) the quality of key personnel of the applicant and the involvement of individuals with a severe disability by the applicant;

"(v) the budgets and cost-effectiveness of the applicant;

"(vi) the evaluation plan of the applicant; and

"(vii) the ability of such applicant to carry out the plans; and

"(C) the director of the designated State unit shall award the grant on the basis of the recommendations of the peer review committee if the actions of the committee are consistent with Federal and State law.

"(e) ORDER OF PRIORITIES.—Unless the director of the designated State unit and the chairperson of the Council or other individual designated by the Council acting on behalf of and at the direction of the Council jointly agree on another order of priority, the director shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

"(1) The director of the designated State unit shall support existing centers for independent living that comply with the standards and assurances set forth in section 723, at the level of funding for the previous year.

"(2) The director of the designated State unit shall provide for a cost-of-living increase for existing centers for independent living.

"(3) The director of the designated State unit shall fund new centers for independent living that comply with the standards and assurances set forth in section 723.

"(f) REVIEW.—

"(1) IN GENERAL.—The director of the designated State unit shall annually review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 723. If the director of the designated State unit determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 723, the director of the designated State unit shall immediately notify such center that it is out of compliance.

"(2) ENFORCEMENT.—The Director of the designated State unit shall terminate all funds under this section to such center 90 days after—

"(A) the date of such notification; or

"(B) in the case of a center that requests an appeal under subsection (h), the date of any final decision under subsection (h), unless the center sooner complies with the standards and assurances.

"(g) ON-SITE COMPLIANCE REVIEW.—The director of the designated State unit shall conduct on-site compliance review of centers for independent living. Each team that conducts on-site compliance review of centers for independent living shall include at least one person who is not an employee of the State Vocational Rehabilitation Agency, who has experience in the operation of centers for independent living, and who is jointly selected by the director of the designated State unit and the chairperson of or other individual designated by the Council acting on behalf of and at the direction of the Council. A copy of this review shall be provided to the Commissioner.

"(h) ADVERSE ACTIONS.—If the director of the designated State unit proposes to take a significant adverse action against a center for independent living, the center may seek mediation and conciliation to be provided by an individual or individuals who are free of conflicts of interest identified by the chairperson of or other individual designated by the Council. If the issue is not resolved through the mediation and conciliation, the center may appeal the proposed adverse action to the Commissioner for a final decision.

"SEC. 726. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated $29,928,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997.

"SEC. 727. TRANSITION RULES FOR FISCAL YEAR 1993.

"In the case of grants under this part for fiscal year 1993 for centers for independent living, the provisions of this part (including with respect to definitions regarding centers and organizations and with respect to allotments and allocations for training) apply except as follows:

"(1) An eligible organization may receive such a grant if—

"(A) the organization is in compliance with section 723 (relating to standards and assurance for centers); or

"(B) the organization submits to the Commissioner or the designated State unit (as the case may be under sections 724 and 725) a plan for meeting the requirements of section 723 by October 1, 1993, and the Commissioner or the agency approves the plan.

"(2) With respect to eligible organizations meeting the requirement of paragraph (1), the Commissioner and the designated State units—

"(A) shall, in making such grants, give priority to such organizations that received grants under part B of this title for fiscal year 1992 (as such part B was in effect for such fiscal year); and

"(B) may make such grants to other such organizations if each of the organizations described in subparagraph (A) has received such a grant.

"PART D—INDEPENDENT LIVING SERVICES FOR OLDER BLIND INDIVIDUALS

"SEC. 731. PROGRAM OF GRANTS.

"(a) IN GENERAL.—

"(1) AUTHORITY FOR GRANTS.—Subject to subsections (b) and (c), the Commissioner may make grants to States for the purpose of providing the services described in subsection (d) to older blind individuals.

"(2) OLDER BLIND INDIVIDUAL.—For purposes of this section, the term 'older blind individual' means an individual—

"(A) who is not less than 55 years of age; and

"(B) who has a severe visual impairment that makes gainful employment extremely difficult, but for whom independent living goals are feasible.

"(3) DESIGNATED STATE UNIT.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that the grant will be administered solely by the designated State unit that is authorized to provide vocational rehabilitation services to the adult blind.

"(b) CONTINGENT COMPETITIVE GRANTS.—In the case of any fiscal year for which the amount appropriated under section 732 is less than $13,000,000, grants under subsection (a) shall be discretionary grants made on a competitive basis to States.

"(c) CONTINGENT FORMULA GRANTS.—

"(1) IN GENERAL.—In the case of any fiscal year for which the amount appropriated

under section 732 is equal to or greater than $13,000,000, grants under subsection (a) shall be made only to States and shall be made only from allotments under paragraph (2).

"(2) ALLOTMENTS.—For grants under subsection (a) for a fiscal year described in paragraph (1), the Commissioner shall make an allotment for each State in an amount determined in accordance with subsection (j), and shall make a grant to the State of the allotment made for the State if the State submits to the Commissioner an application in accordance with subsection (i).

"(d) SERVICES GENERALLY.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that the grant will be expended only for purposes of—

"(1) providing independent living services to older blind individuals;

"(2) conducting activities that will improve or expand services for such individuals; and

"(3) conducting activities to help improve public understanding of the problems of such individuals.

"(e) INDEPENDENT LIVING SERVICES.—Independent living services for purposes of subsection (d)(1) include—

"(1) services to help correct blindness, such as—

"(A) outreach services;

"(B) visual screening;

"(C) surgical or therapeutic treatment to prevent, correct, or modify disabling eye conditions; and

"(D) hospitalization related to such services;

"(2) the provision of eyeglasses and other visual aids;

"(3) the provision of services and equipment to assist an older blind individual to become more mobile and more self-sufficient;

"(4) mobility training, Braille instruction, and other services and equipment to help an older blind individual adjust to blindness;

"(5) guide services, reader services, and transportation; and

"(6) any other appropriate service designed to assist a blind individual in coping with daily living activities, including supportive services and rehabilitation teaching services.

"(f) MATCHING FUNDS.—

"(1) IN GENERAL.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees, with respect to the costs of the program to be carried out by the State pursuant to such subsection, to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than $1 for each $9 of Federal funds provided in the grant.

"(2) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(g) CERTAIN EXPENDITURES OF GRANTS.—A State may expend a grant under subsection (a) to carry out the purposes specified in subsection (d) through grants to public and nonprofit private agencies or organizations.

"(h) REQUIREMENT REGARDING STATE PLAN.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that, in carrying out subsection (d)(1), the State will seek to incorporate into the State plan under section 704 any new methods and approaches relating to independent living services for older blind individuals.

"(i) APPLICATION FOR GRANT.—The Commissioner may not make a grant under subsection (a) unless an application for the grant is submitted to the Commissioner and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Commissioner determines to be necessary to carry out this section (including with respect to any grants under subsection (j)(4)).

"(j) AMOUNT OF FORMULA GRANT.—

"(1) IN GENERAL.—Subject to the extent of amounts made available in appropriations Acts, the amount of an allotment under subsection (a) for a State for a fiscal year shall be the greater of—

"(A) the amount determined under paragraph (2); and

"(B) the amount determined under paragraph (3).

"(2) MINIMUM ALLOTMENT.—

"(A) In the case of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, the amount referred to in subparagraph (A) of paragraph (1) for a fiscal year is the greater of—

"(i) $225,000; and

"(ii) an amount equal to 1/3 of 1 percent of the amount appropriated under section 741(c) for the fiscal year and available for allotments under subsection (a).

"(B) In the case of the territories of the United States other than the Commonwealth of Puerto Rico, the amount referred to in subparagraph (A) of paragraph (1) for a fiscal year is $40,000.

"(3) FORMULA.—The amount referred to in subparagraph (B) of paragraph (1) for a State for a fiscal year is the product of—

"(A) the amount appropriated under section 732 and available for allotments under subsection (a); and

"(B) a percentage equal to the quotient of—

"(i) an amount equal to the number of individuals residing in the State who are not less than 55 years of age; divided by

"(ii) an amount equal to the number of individuals residing in the United States who are not less than 55 years of age.

"(4) DISPOSITION OF CERTAIN AMOUNTS.—

"(A) From the amounts specified in subparagraph (B), the Commissioner may make grants to States whose population of older blind individuals has a substantial need for the services specified in subsection (d) relative to the populations of older blind individuals of other States.

"(B) The amounts referred to in subparagraph (A) are any amounts that are not paid to States under subsection (a) as a result of—

"(i) the failure of any State to submit an application under subsection (i);

"(ii) the failure of any State to prepare within a reasonable period of time such application in compliance with such subsection; or

"(iii) any State informing the Commissioner that the State does not intend to expend the full amount of the allotment made for the State under subsection (a).

"(C) The Commissioner may not make a grant under subparagraph (A) unless the State involved agrees that the grant is subject to the same conditions as grants made under subsection (a).

"SEC. 732. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated $6,713,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997.".

SEC. 802. CONFORMING AMENDMENTS.

The Act (29 U.S.C. 701 et seq.) is amended in the table of contents in the first section by striking "TITLE VII—COMPREHENSIVE SERVICES" and all that follows and inserting the following:

"TITLE VII—COMPREHENSIVE SERVICES FOR INDEPENDENT LIVING

"PART A—GENERAL PROVISIONS

"Sec. 701. Purpose.
"Sec. 702. Definitions.
"Sec. 703. Eligibility for receipt of services.
"Sec. 704. State plan.
"Sec. 705. Independent Living Council.

"PART B—INDEPENDENT LIVING SERVICES

"Sec. 711. Allotments.
"Sec. 712. Payments to States.
"Sec. 713. Authorized uses of grant.
"Sec. 714. Authorization of appropriations.

"PART C—CENTERS FOR INDEPENDENT LIVING

"Sec. 721. Definition.
"Sec. 722. Allotments.
"Sec. 723. Standards and assurances for centers.
"Sec. 724. Grants to centers for independent living in States in which Federal funding exceeds State funding.
"Sec. 725. Grants to centers for independent living in States in which State funding equals or exceeds Federal funding.
"Sec. 726. Authorization of appropriations.
"Sec. 727. Transition rules for fiscal year 1993.

"PART D—INDEPENDENT LIVING SERVICES FOR OLDER BLIND INDIVIDUALS

"Sec. 731. Program of grants.
"Sec. 732. Authorization of appropriations.".

TITLE IX—HELEN KELLER NATIONAL CENTER ACT

SEC. 901. CONGRESSIONAL FINDINGS.

Section 202 of the Helen Keller National Center Act (29 U.S.C. 1901) is amended—

(1) in paragraph (2), by striking "the 1960's and" and inserting the following: "the 1960s, the rapidly increasing number of older individuals (many of whom are experiencing significant losses of both vision and hearing), and"; and

(2) in paragraph (5), by striking "approximately $10,000,000" and inserting "substantial resources".

SEC. 902. AUTHORIZATION FOR CONTINUED OPERATION OF THE HELEN KELLER NATIONAL CENTER.

Section 203 of the Helen Keller National Center Act (29 U.S.C. 1902) is amended—

(1) in subsection (b), by striking "was administered" and all that follows through "1973," and inserting the following: "was administered prior to the date of the enactment of the Rehabilitation Act Amendments of 1992,"; and

(2) in subsection (c)—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(B) by inserting after paragraph (1) the following paragraph:

"(2) train family members of individuals who are deaf-blind, at the Center or anywhere else in the United States, in order to assist family members in providing and obtaining appropriate services for the individual who is deaf-blind;".

SEC. 903. AUDIT; MONITORING AND EVALUATION.

Section 204(a) of the Helen Keller National Center Act (29 U.S.C. 1903(a)) is amended by

striking "at such time" and all that follows and inserting the following: "within 15 days following completion of the audit and acceptance of the audit by the Center.".

SEC. 904. ESTABLISHMENT OF FEDERAL ENDOWMENT PROGRAM.

The Helen Keller National Center Act (29 U.S.C. 1901 et seq.) is amended—

(1) by redesignating sections 205 through 207 as sections 206 through 208, respectively; and

(2) by inserting after section 204 the following section:

"FEDERAL ENDOWMENT PROGRAM

"SEC. 205. (a) The Secretary and the Board of Directors of the Helen Keller National Center are authorized to establish the Helen Keller National Center Federal Endowment Fund (in this section referred to as the 'endowment fund') in accordance with the provisions of this section, to promote the financial independence of the Helen Keller National Center. The Secretary and the Board may enter into such agreements as may be necessary to carry out the purposes of this section.

"(b)(1) The Secretary shall make payments to the endowment fund from amounts appropriated pursuant to subsection (g), consistent with the provisions of this section.

"(2) Subject to the availability of appropriations, the Secretary shall make payments to the endowment fund in amounts equal to sums contributed to the fund from non-Federal sources (excluding transfers from other endowment funds of the Center).

"(c)(1) The Center, in investing the endowment fund corpus and income, shall exercise the judgment and care, under the prevailing circumstances, which a person of prudence, discretion, and intelligence would exercise in the management of that person's own business affairs.

"(2) The endowment fund corpus and income shall be invested in federally insured bank savings accounts or comparable interest bearing accounts, certificates of deposit, money market funds, mutual funds, obligations of the United States, or other low-risk instruments and securities in which a regulated insurance company may invest under the laws of the State of New York. The endowment fund corpus and income may not be invested in real estate.

"(d)(1) For a twenty-year period following receipt of a payment under this section, the Center may not make a withdrawal or expenditure from the endowment fund corpus.

"(2)(A) The Helen Keller National Center may withdraw or expend endowment fund income for any expenses necessary to the operation of the Center, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, technical assistance, and research.

"(B) The Center may not withdraw or expend endowment fund income for any commercial purpose.

"(3)(A) Except as provided in subparagraph (B), the Center may not withdraw or expend more than 50 percent of the total accumulated endowment fund income.

"(B) The Secretary may waive the limitation under subparagraph (A), if the Secretary determines that an expenditure or withdrawal is a necessary response to exceptional or uncontrollable circumstance affecting the Center.

"(e) After notice and an opportunity for a hearing, the Secretary is authorized to recover any Federal payments under this section if the Helen Keller National Center—

"(1) makes a withdrawal or expenditure of endowment fund corpus or income which is not consistent with the provisions of this section;

"(2) fails to comply with the investment standards and limitations under this section; or

"(3) fails to account properly to the Secretary concerning the investment of or expenditures from the endowment fund corpus or income.

"(f) For purposes of this section:

"(1) The term 'endowment fund' means a fund, or a tax-exempt foundation, established and maintained by the Helen Keller National Center for the purpose of generating income for the support of the Center.

"(2) The term 'endowment fund corpus' means an amount equal to the Federal payments to the endowment fund and amounts contributed to the fund from non-Federal sources.

"(3) The term 'endowment fund income' means an amount equal to the total market value of the endowment fund minus the endowment fund corpus.".

SEC. 905. AUTHORIZATION OF APPROPRIATIONS.

Section 206(a) of the Helen Keller National Center Act, as redesignated by section 904 of this Act, is amended in the first sentence by striking "There are" and all that follows and inserting the following: "There are authorized to be appropriated to carry out this title $6,055,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997.".

SEC. 906. DEFINITIONS.

Section 207(2) of the Helen Keller National Center Act, as redesignated by section 904 of this Act, is amended to read as follows:

"(2) the term 'individual who is deaf-blind'—

"(A) means any individual—

"(i)(I) who has a central visual acuity of 20/200 or less in the better eye with corrective lenses, or if there is a field of defect such that the peripheral diameter of visual field subtends an angular distance no greater than 20 degrees, or a progressive visual loss having a prognosis leading to one or both conditions; and

"(II) who has a chronic hearing impairment so severe that most speech cannot be understood with optimum amplification, or a progressive hearing loss leading to this condition; or

"(ii)(I) who, despite the inability to measure hearing and vision due to cognitive and/or behavorial constraints, is functioning as an individual who is deaf-blind; and

"(II) who, despite the inability to be measured accurately for hearing and vision loss due to cognitive or behavorial constraints or both, can be determined to have severe hearing and visual disabilities that cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining vocational objectives; and

"(B) includes any other meaning the Secretary may prescribe by regulation; and".

SEC. 907. CONSTRUCTION OF ACT; EFFECT ON AGREEMENTS.

Section 208 of the Helen Keller National Center Act, as redesignated by section 904 of this Act, is amended by striking "Industrial Home for the Blind, Incorporated," and inserting "Helen Keller Services for the Blind, Incorporated,".

TITLE X—TERMINOLOGY

SEC. 1001. REFERENCES TO INDIVIDUALS WITH A DISABILITY.

(a) VOCATIONAL REHABILITATION, EMPLOYMENT, AND INDEPENDENT LIVING ACT OF 1992.—

(1) TABLE OF CONTENTS.—The Act (29 U.S.C. 701 et seq.) is amended in the table of contents in the first section—

(A) in the item relating to section 302, by striking "individuals with handicaps" and inserting "individuals with a disability";

(B) in the item relating to section 314, by striking "the blind" and inserting "individuals who are blind";

(C) in the item relating to section 315, by striking "the deaf" and inserting "individuals who are deaf";

(D) in the item relating to section 501, by striking "individuals with handicaps" and inserting "individuals with a disability";

(E) in the item relating to title VI, by striking "INDIVIDUALS WITH HANDICAPS" and inserting "INDIVIDUALS WITH A DISABILITY";

(F) in the item relating to part A of title VI, by striking "INDIVIDUALS WITH HANDICAPS" and inserting "INDIVIDUALS WITH A DISABILITY"; and

(G) in the item relating to part C of title VI, by striking "INDIVIDUALS WITH SEVERE HANDICAPS" and inserting "INDIVIDUALS WITH A SEVERE DISABILITY".

(2) SECTION 7.—Section 7 (29 U.S.C. 706) is amended—

(A) in paragraph (5)—

(i) in subparagraph (H)(i), as redesignated by section 103(a)(3)(A) of this Act, by striking "handicaps" each place such term appears and inserting "a disability"; and

(ii) in subparagraph (I), as redesignated by section 103(a)(3)(A) of this Act, by striking "handicap" and inserting "disability";

(B) in paragraph (8)(C)(v), by striking "handicaps" and inserting "with a disability";

(C) in paragraph (12), by striking "individuals with handicaps" and inserting "individuals with disabilities"; and

(D) in paragraph (17), by striking "individuals with handicaps" and inserting "individuals with a disability".

(3) SECTION 14.—Section 14(a) (29 U.S.C. 713(a)) is amended by striking "handicaps" in the penultimate sentence and inserting "disabilities".

(4) SECTION 15.—Section 15 (29 U.S.C. 714) is amended—

(A) in subsection (a)—

(i) by striking "handicaps" each place such term appears and inserting "a disability"; and

(ii) by striking "handicapping" and inserting "disabling";

(B) in subsection (b), by striking "handicaps" and inserting "a disability"; and

(C) in subsection (c), by striking "the Handicapped" and inserting "Individuals with Disabilities".

(5) TITLE I.—Title I, as amended by title II of this Act, is amended—

(A) by striking "individual with handicaps" each place such term appears and inserting "individual with a disability";

(B) by striking "individuals with handicaps" each place such term appears, other than in section 101(a)(6)(A), and inserting "individuals with a disability";

(C) by striking "individual with severe handicaps" each place such term appears and inserting "individual with a severe disability";

(D) by striking "individuals with severe handicaps" each place such term appears and inserting "individuals with a severe disability";

(E) by striking "individuals with the most severe handicaps" each place such term appears and inserting "individuals with the most severe disabilities";

(F) by striking "handicapping conditions" each place such term appears and inserting "disabling conditions";

(G) by striking "Indians with handicaps" each place such term appears and inserting "Indians with disabilities";

(H) by striking "the blind" each place such term appears and inserting "individuals who are blind";

(I) by striking "the deaf" each place such term appears and inserting "individuals who are deaf"; and

(J) in section 101(a)—

(i) in paragraph (1)(A)(i), by striking "the adult blind" and inserting "adults who are blind";

(ii) in paragraph (6)(A), notwithstanding the change made by paragraph (5)(B) of this subsection, by striking "qualified individuals with handicaps" and inserting "qualified individuals with disabilities"; and

(iii) in paragraph (13)(B), by striking "handicapping condition" and inserting "disabling condition".

(6) TITLE II.—Title II, as amended by title III of this Act, is amended—

(A) by striking "individuals with handicaps" each place such term appears and inserting "individuals with a disability";

(B) by striking "individuals with severe handicaps" each place such term appears and inserting "individuals with a severe disability";

(C) by striking "with the most severe handicaps" each place such term appears and inserting "with the most severe disabilities";

(D) by striking "children with handicaps" each place such term appears and inserting "children with disabilities";

(E) by striking "children with severe handicaps" each place such term appears and inserting "children with severe disabilities"; and

(F) in section 204(b)(8), by striking "Indians with handicaps" and inserting "Indians with disabilities".

(7) TITLE III.—Title III, as amended by title IV of this Act, is amended—

(A) by striking "individuals with handicaps" each place such term appears and inserting "individuals with a disability";

(B) by striking "with severe handicaps" each place such term appears and inserting "with a severe disability";

(C) by striking "with the most severe handicaps" each place such term appears and inserting "with the most severe disabilities";

(D) by striking "the deaf" each place such term appears and inserting "individuals who are deaf";

(E) by striking "blind individuals" each place such term appears and inserting "individuals who are blind";

(F) by striking "blind persons" each place such term appears and inserting "individuals who are blind";

(G) by striking "blind and deaf individuals" each place such term appears and inserting "individuals who are deaf and blind";

(H) by striking "deaf individuals" each place such term appears and inserting "individuals who are deaf";

(I) by striking "deaf and hard-of-hearing individuals" each place such term appears and inserting "individuals who are deaf or hard of hearing";

(J) in section 300(3)—

(i) by striking "migratory agricultural workers with handicaps" and inserting "migratory agricultural workers with a disability"; and

(ii) by striking "farmworkers with handicaps" and inserting "farmworkers with a disability";

(K) in section 301(b)(2)(B) (as redesignated by section 403(a)(1) of this Act), by striking "handicap" and inserting "disability";

(L) in the heading for section 302, by striking "HANDICAPS" AND INSERTING "A DISABILITY";

(M) in section 311—

(i) in subsection (d)(1) (as redesignated by section 409(c)(1) of this Act), by striking "youths with handicaps" and inserting "youths with a disability"; and

(ii) in subsection (g) (as so redesignated)—

(I) in paragraph (1), by striking "youths with severe handicaps" and inserting "youths with a severe disability";

(II) in paragraph (4)(B), by striking "youths with severe handicaps" and inserting "youths with a severe disability"; and

(III) in paragraph (4)(B), by striking "youths with mild handicaps" and inserting "youths with a mild disability";

(N) in the heading for section 314, by striking "THE BLIND" and inserting "INDIVIDUALS WHO ARE BLIND";

(O) in the heading for section 315, by striking "THE DEAF" and inserting "INDIVIDUALS WHO ARE DEAF"; and

(P) in section 316(a)(1), by striking "peers without handicaps" and inserting "peers without a disability".

(8) TITLE IV.—Title IV, as amended by title V of this Act, is amended by striking "individuals with handicaps" each place such term appears and inserting "individuals with a disability".

(9) TITLE V.—Title V, as amended by title VI of this Act, is amended—

(A) by striking "Handicapped Employees" each place such term appears and inserting "Employment of People with Disabilities";

(B) by striking "individual with handicaps" each place such term appears and inserting "individual with a disability";

(C) by striking "individuals with handicaps" each place such term appears and inserting "individuals with a disability";

(D) in section 501—

(i) in the heading for the section, by striking "HANDICAPS" and inserting "A DISABILITY";

(ii) in subsection (b), by striking "employees with handicaps" and inserting "employees with a disability"; and

(E) in section 504(a)—

(i) by striking "qualified individual with handicaps" and inserting "qualified individual with a disability"; and

(ii) by striking "handicap" and inserting "disability".

(10) TITLE VI.—Title VI, as amended by title VII of this Act, is amended—

(A) by striking "individuals with handicaps" each place such term appears and inserting "individuals with a disability";

(B) by striking "with severe handicaps" each place such term appears and inserting "with a severe disability";

(C) in the heading for the title, by striking "HANDICAPS" and inserting "A DISABILITY";

(D) in the heading for part A, by striking "HANDICAPS" and inserting "A DISABILITY";

(E) in section 616(3)—

(i) by striking "the deaf" and inserting "individuals who are deaf"; and

(ii) by striking "the blind" and inserting "individuals who are blind";

(F) in section 621(b), by striking "individual with handicaps" each place such term appears and inserting "individual with a disability"; and

(G) in the heading for part C, by striking "SEVERE HANDICAPS" and inserting "A SEVERE DISABILITY".

(b) HELEN KELLER NATIONAL CENTER ACT.—The Helen Keller National Center Act (29 U.S.C. 1901 et seq.) is amended—

(1) by striking "deaf-blind individuals" each place such term appears and inserting "individuals who are deaf-blind";

(2) by striking "deaf-blind individual" each place such term appears and inserting "individual who is deaf-blind";

(3) by striking "deaf-blind youths and adults" each place such term appears and inserting "youths and adults who are deaf-blind";

(3) by striking "Center for Deaf-Blind Youths and Adults" each place such term appears and inserting "Center for Persons Who Are Deaf-Blind"; and

(4) in the heading for section 203, by striking "DEAF-BLIND YOUTH AND ADULTS" and inserting "PERSONS WHO ARE DEAF-BLIND".

TITLE XI—COMPLIANCE WITH BUDGET ENFORCEMENT ACT OF 1990

SEC. 1101. LIMITATION ON TOTAL COSTS.

(a) FISCAL YEAR 1993.—Notwithstanding any other provision of law, the total amount authorized to be appropriated or obligated for the Rehabilitation Services and Disability Research account for fiscal year 1993 shall not exceed $2,138,263,000.

(a) FISCAL YEARS 1994 THROUGH 1997.—Notwithstanding any other provision of law, the total amount authorized to be appropriated or obligated for the Rehabilitation Services and Disability Research account for fiscal year 1994 or any subsequent fiscal year through 1997 shall not exceed—

(1) the total amount authorized by this section for the preceding fiscal year minus the minimum amount required under section 100(b) of the Vocational Rehabilitation, Employment, and Independent Living Act of 1992 (as designated pursuant to section 3 of this Act), as adjusted by the percent by which the average of the estimated gross domestic product fixed-weight price index for that fiscal year differs from the average of that estimated index for the preceding fiscal year; plus

(2) the minimum amount required under such section 100(b) for Vocational Rehabilitation State grants for that fiscal year.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. OWENS] will be recognized for 20 minutes, and the gentleman from North Carolina [Mr. BALLENGER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. OWENS].

GENERAL LEAVE

Mr. OWENS of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on H.R. 5482.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. OWENS of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to urge approval of H.R. 5482 which reauthorizes the Rehabilitation Act of 1973.

With the advent of the Americans With Disabilities Act of 1990, we are in a pivotal position to advance the cause of consumer empowerment and to facilitate and maximize opportunities for individuals with disabilities to have control and authority over their lives. Our society must fully accept the fact that divisions and inequities inhibit the fulfillment of human potential and damage our economy. It is in the spirit of ADA, with a powerful commitment to building a society which encourages and supports the efforts of each individual to live productively that we reauthorize the Rehabilitation Act.

This legislation enables us to make significant inroads in what has been a legacy of employment discrimination, providing us with a centerpiece for a new vision, a new relationship based on full inclusion in every aspect of American life, assuring a new collective power to build upon and advance the Nation's integrity as it moves to provide new opportunities for individuals with disabilities.

The Rehabilitation Act of 1973, as amended, is the primary legislation providing services to assist individuals with disabilities in preparing for, and engaging in, gainful employment and independent living. Although this act has provided many individuals with the opportunity to become independent and self-sufficient taxpayers, we must face the painful reality that even with the act in place, the unemployment rate among individuals with disabilities is staggering; Only 33 percent of working-age Americans with disabilities work; only 1 out of 5 women with disabilities and 4 out of 10 men with disabilities have jobs. A Harris poll, commissioned by the National Council on Disabilities in 1986, found that individuals with disabilities are the poorest, least educated, and least employed group in our Nation. I believe that the solution to these problems lies in the commitment for better education and training which leads to employment, coupled with a strong support system for all individuals with disabilities.

The current rehabilitation program has much room for improvement. A recent General Accounting Office [GAO] study commissioned by my subcommittee revealed data which indicated a dangerous trend in vocational rehabilitation toward serving less people, with less challenging disabilities, with less success. For example, while rehabilitation services are designed to serve the most severely disabled clients first, the percentage of these clients served dropped in 22 percent of the States; an overwhelming 60 percent of the States showed a decline in the percentage of successfully rehabilitated cases. Another GAO study shows that less money is spent on services to African-Americans, American Indians, and other minorities. These and other patterns of inequity must be addressed to bring about a world class system of rehabilitation.

Therefore, the legislation before the House represents a long overdue shift in public policy. It creates partnerships between providers and consumers to ensure a more consumer-driven system; it rigorously changes language and references that inadvertently impose stigma and stereotype; it increases the range of eligible services; and it bridges the critical transition from school to employment and independent community life.

The bill before you strikes a blow for integration, independence, and opportunity by promoting:

Greater independence by strengthening the rights of individuals with disabilities to engage in productive work and living through specific modifications to the Individualized Written Rehabilitation Program; expanding the scope of vocational rehabilitation services; promoting the statewide development of centers for independent living; and supporting a system in each State for the protection and advocacy of persons with disabilities who are ineligible for services under current programs.

A wider range of training opportunities by emphasizing projects with industry focus on career opportunities and career advancements, authorizing model demonstration projects for workers with disabilities who need new or upgraded skills to ensure that these individuals are able to compete in the work place.

Greater participation of minorities by preparing them for careers in vocational rehabilitation, independent living, and related services.

Research and training in two major areas: Promoting the development and use of assistive technologies and expanding the purpose of the rehabilitation research and training centers to include the provision of information and technical assistance to providers and consumers of services and to public and private agencies.

This bill has been carefully crafted to propel us toward a responsive, interactive vocational rehabilitation system that works. It is the product of significant and highly productive bipartisan negotiations. I commend Mr. BALLENGER and Mr. GOODLING for their efforts, as well as the herculean work of our respective staffs.

I urge my colleagues to vote favorably for this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. BALLENGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker today we are considering H.R. 5482, the Vocational Rehabilitation Act Amendments of 1992 which reauthorizes programs under the Rehabilitation Act Amendments of 1973 to provide employment opportunities to individuals with disabilities. Such programs have been very successful in returning individuals with disabilities to the work force and making them independent. The administration supports H.R. 5482 and is pleased that the bill contains many of their proposals and initiatives.

First, I want to commend Chairman OWENS for bringing such a comprehensive bill to the floor which is bipartisan. Both Mr. OWENS, Mr. GOODLING, and myself have worked for over a year to draft a bill that represents testimony from four Select Education Subcommittee hearings, numerous recommendations from disability advocates in the field, and long hours of staff devotion to ensure that individuals with disabilities have the best opportunity possible to live independently and achieve full employment.

This bill makes significant changes to the current law by improving accountability in the State Grant Program, the largest program under the act, improving eligibility requirements, reducing the time between when an individual enters the rehabilitation process and when he finds a job, increasing consumer control and choice both in determining what job or career they pursue and what services are provided to reach their goal, providing better coordination between special education and vocational rehabilitation, and providing incentives for business to participate in the rehabilitation process.

First, H.R. 5482 improves accountability by requiring that evaluation standards and performance indicators for the title I, Vocational Rehabilitation State Grant Program be developed and implemented. The standards and indicators would include outcome and other related measures of program performance and would be developed with input from State vocational rehabilitation agencies, related professionals and consumer organizations, and recipients of vocational rehabilitation services. This provision was recommended by the administration and I believe such standards will result in improved services for individuals with disabilities.

Second, the bill makes several changes to the act in the eligibility process to reduce the time between when a person enters the system and the time he becomes employed. In addition, the eligibility process has been streamlined to allow the State vocational rehabilitation agency to use disability determinations made by other agencies, such as Social Security. While the State vocational rehabilitation agency will still determine whether such a disability is an impediment to employment and therefore vocational rehabilitation services are required, using other agency disability determinations will reduce cost and save time in determining whether an individual has a disability.

Third, the bill allows for greater consumer choice in the provision of rehabilitation services. One of the most common themes discussed at our subcommittee hearings and throughout the recommendations we received, is that consumers want more choice in determining what job or career they want to pursue and in determining who should provide the vocational rehabilitation services necessary to reach their career goal. H.R. 5482 emphasizes the consumer's role in the rehabilitation process and ensures full consumer participation in the Individualized Written Rehabilitation Program [IWRP], particularly in regard to the selection of the vocational objective to be attained and the services to be provided. The bill authorizes a consumer choice demonstration project which will allow other models to be tested that increase consumer choice in the rehabilitation process. The bill creates a rehabilitation consumer and business advisory council to advise the State vocational rehabilitation agency on eligibility criteria, consumer satisfaction, order of selection, business needs in the community and other issues that are important to ensuring that individuals with disabilities are receiving services and becoming employed. Finally, in this area, the bill strengthens the current Innovation and Expansion Grant Program so that States can improve services to individuals with the most severe disabilities, maximize the use of technology, assist employers in accommodating, evaluating, training, or placing individuals with disabilities in the workplace, and expanding and improving consumer involvement in the review and selection of their employment goals. I believe all of these provisions will increase consumer control in determining their career goals.

Fourth, H.R. 5482 parallels provisions in the Individuals with Disabilities Education Act [IDEA] to improve coordination between special education and vocational rehabilitation programs so that students in special education can receive vocational rehabilitation services in order to better transition from school to work.

Fifth, the bill provides incentives to private business by authorizing a demonstration program to give grants to business and industry in order to upgrade the skills of underemployed workers with disabilities so that they have the knowledge and skills necessary to adapt to emerging new technologies and work methods in order to successfully compete and advance in employment. In addition, H.R. 5482 allows State vocational rehabilitation agencies to use funds from the State Grant Program to provide training to employers regarding compliance with the Employment title of the Americans With Disabilities Act and to inform employers about the vocational rehabilitation program and its services.

I believe this bill makes some very constructive and innovative changes to the Rehabilitation Act which will improve rehabilitation services to individuals with disabilities and provide incentives to business to hire individuals with disabilities. I support this bill and urge my colleagues to support it as well.

□ 1300

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. OWENS of New York. Mr. Speaker, I yield such time as he may consume to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I am pleased to see such an extensive reauthorization of the Rehabilitation Act before us today, and I appreciate all of the hard work by the chairman, the gentleman from New York [Mr. OWENS] and his staff.

I wanted to visit for just a moment about a provision in this bill that I authored to establish a demonstration grant program for rural training through telecommunications.

Rural America has special needs in the area of rehabilitation. Folks who live in lightly populated areas account for a greater proportion of chronic disease and disability than do their urban counterparts, but actually have access to fewer services and other resources. Between 11 and 15 million rural residents have one or more chronic impairments, yet the vast majority, 88 percent, of rehabilitation hospital units and their skilled staffs are located not in rural areas but in metropolitan areas. Folks living in rural places face numerous obstacles in attracting and retaining qualified rehabilitation professionals because of low salaries, geographic isolation, and the lack of educational opportunities to provide additional in-service training.

The distances that rehabilitation professionals cover in the State I come from, Montana, are really astounding. Just driving from one corner of Montana to the other takes as long as it does to drive from here, in Washington, DC, to Chicago.

Because of the difficulties the geographic isolation causes for many vocational rehabilitation personnel in rural areas, I authored a provision in this bill that establishes a demonstration grant program to develop and implement in-service training programs through the use of telecommunications. This demonstration program is intended to encourage regions to explore creative ways of training their rural rehabilitation professionals who are simply not able to travel to faraway college campuses.

This provision authorizes the three grants to be made to institutions of higher education with demonstrated experience in the area of continuing education for vocational rehabilitation personnel, to establish partnerships with other entities in the region, and implement a distance learning curriculum to train vocational rehabilitation personnel.

In order to receive a grant, each applicant must provide, first, a description of the curriculum, frequency and sites of service; second, how they intend to utilize and build upon existing telecommunications networks; next, an assurance that all States within the region will be served and that the partnership will use not less than 75 percent of the funds for instructional curriculum development and programming; binding commitments entered into by the partnership with other entities that will be providing telecommunications services and facilities; and, finally, a description of needed equipment.

Those are the details of how these partnerships will be established and how these grants will generally be written.

I again want to thank the gentleman from New York [Mr. OWENS], the chairman of the subcommittee, and his staff for the hard work they have done, and I particularly appreciated working with them on this amendment which is in this final bill.

Mr. OWENS of New York. Mr. Speaker, I yield myself such time as I may consume.

I want to again thank all of the members of the subcommittee, particularly the gentleman from Montana [Mr. WILLIAMS], whose amendment, which is included in the bill, is a very innovative and forward-looking measure.

Mr. GOODLING. Mr. Speaker, I rise in support of H.R. 5482, the Vocational Rehabilitation Act Amendments of 1992. This is a bipartisan bill which will improve vocational rehabilitation services to individuals with disabilities and ensure that such services will be provided with increased consumer control and provide better accountability to the programs being funded.

The Vocational Rehabilitation Act is the only program that provides comprehensive rehabilitation services to individuals with disabilities that enable them to seek employment and find a job. It is a program that has been highly successful in providing job opportunities to individuals with disabilities by making them more independent and productive taxpaying citizens.

To build upon this investment and its return and to move toward implementing many of the provisions required by the Americans With Disabilities Act, H.R. 5482 makes several changes which will increase access to this program through improved eligibility requirements, increased consumer control and choices, and improved rehabilitation services for individuals with the most severe disabilities so that employment will become a reality for individuals with disabilities who need vocational rehabilitation services to become employed.

H.R. 5482 makes several changes in the eligibility process in order to reduce the amount of time between when a person enters the system and the time he is employed. First, the State vocational rehabilitation agency must determine an individual eligible for services within 60 days unless there are exceptional and unforeseen circumstances beyond the control of the State agency which would delay such determination beyond that timeframe. Second, if an individual has been determined by Social Security or another agency to be disabled, the vocational rehabilitation agency may accept that disability determination. However, the State vocational rehabilitation agency must still assess whether vocational rehabilitation services are needed in order for the individuals to become employed. Finally, the individual is presumed to be able to benefit in terms of employment unless the State vocational rehabilitation agency can demonstrate with clear and convincing evidence that the individual is incapable of benefiting from vocational rehabilitation services to become successfully employed. These are significant changes to the current act which will enhance employment opportunities for individuals with disabilities, especially those with the most severe disabilities.

H.R. 5482 makes several changes to the act to allow for greater consumer choice in the provision of rehabilitation services. The bill emphasizes the consumer's role in the rehabilitation process and ensures full consumer participation in the Individualized Written Rehabilitation Program [IWRP], particularly in regard to the selection of the vocational objective to be attained and the services to be provided. In addition, the bill authorizes a consumer choice demonstration project which will allow other models to be tested that increase consumer choice in the rehabilitation process. I support these provisions and I am glad that language was included to ensure that strong quality controls are contained in this demonstration program to ensure that individuals with disabilities receive rehabilitation services from qualified providers.

I am particularly pleased to see that provisions of my bill, H.R. 4493, the Individuals with Disabilities Transportation Act, were included in H.R. 5482 as a demonstration program so that individuals with disabilities who have jobs, are seeking jobs, or who need vocational rehabilitation services, will have affordable, accessible transportation in order to keep and maintain employment. Workers who are disabled and choose to compete in the marketplace are often at a disadvantage when it comes to locating affordable transportation to their jobs. For these individuals, the cost of transportation consumes a large portion of their paycheck and creates a disincentive for them to seek employment. While the Americans With Disabilities Act requires that accessible transportation be provided to people with disabilities where there is fixed route transportation or comparable paratransit, there is no such requirement if there is no established public transportation. These demonstration grants will go a long way toward filling that gap.

H.R. 5482 also improves programs that provide opportunities to individuals with the most severe disabilities, specifically in supported employment programs. Supported employment has been quite successful in employing individuals with severe disabilities who had never had the opportunity for employment. This bill ensures that supported employment will be a vocational outcome when vocational rehabilitation counselors are assessing whether there is a reasonable expectation that their client will become employed in order to determine his eligibility for the program. In addition, the bill defines the term "supported employment" and ensures that supported employment include placement in integrated work settings for the maximum number of hours possible based on the strengths and capabilities of the individual.

While there are many other significant changes made to this act which I will not elaborate on, I am very pleased that such a large and important reauthorization was accomplished in a bipartisan manner. Mr. OWENS and Mr. BALLENGER should be commended for their efforts to work out any differences and bring a solid, substantive bill to this House which will provide employment and independent living opportunities to individuals with disabilities.

I support this legislation and urge my colleagues to support its passage.

Mr. OWENS of New York. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore [Mr. HUBBARD]. The question is on the motion offered by the gentleman from New York [Mr. OWENS] that the House suspend the rules and pass the bill, H.R. 5482, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

EDUCATION OF THE DEAF ACT AMENDMENTS OF 1992

Mr. OWENS of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5483) to modify the provisions of the Education of the Deaf Act of 1986, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5483

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 "Education of the Deaf Act Amendments of 1992".

SEC. 2. ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS FOR CERTAIN PROGRAMS RELATING TO EDUCATION OF INDIVIDUALS WITH HEARING IMPAIRMENTS.

(a) GALLAUDET UNIVERSITY.—Section 411(a) of the Education of the Deaf Act of 1986 (29 U.S.C. 4360(a)) is amended in the matter preceding subparagraph (A) by striking "1987" and all that follows through "1991" and inserting "1993 through 1997".

(b) NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.—Section 411(b) of the Education of the Deaf Act of 1986 (29 U.S.C. 4360(b)) is amended by striking "1987" and all that follows through "1991" and inserting "1993 through 1997".

(c) ENDOWMENT PROGRAMS.—

(1) GALLAUDET UNIVERSITY.—Section 407(g) of the Education of the Deaf Act of 1986 (29 U.S.C. 4357(g)) is amended in the first sentence by striking "1987" and all that follows through "1991" and inserting "1993 through 1997".

(2) NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.—Section 408(g) of the Education of the Deaf Act of 1986 (29 U.S.C. 4358(g)) is amended in the first sentence by striking "1987" and all that follows through "1991 and inserting "1993 through 1997".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. OWENS] will be recognized for 20 minutes, and the gentleman from North Carolina [Mr. BALLENGER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. OWENS].

□ 1310

GENERAL LEAVE

Mr. OWENS of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 5483, the bill now under consideration.

The SPEAKER pro tempore (Mr. HUBBARD). Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. OWENS of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to urge approval of H.R. 5483 which reauthorizes the Education of the Deaf Act.

Almost 30 years ago, an advisory committee was established by the Secretary of Health, Education, and Welfare to study the status of deaf education in this country. This was the first time the Federal Government directed an effort in this specialized field. The Babbidge Committee, as it came to be known, can be credited for the creation of the National Technical Institute for the Deaf, the model demonstration schools at Gallaudet University, and the regional postsecondary education programs for individuals who are deaf. It was not until 1986, with the passage of the Education of the Deaf Act [EDA] that deaf education would be examined again.

Under the 1986 act, the Commission on Education of the Deaf was established to study the quality of education of individuals who are deaf, from early intervention to postsecondary education. It should be noted that not only was this the first time in history that a commission had been established by Congress for such a purpose, but that a majority of its members were themselves individuals who are deaf.

In its 1988 report, "Toward Equality: Education of the Deaf," the Commis-

sion concluded that the "present status of education for persons who are deaf in the United States is unacceptably unsatisfactory." The report, containing 52 recommendations, represents the culmination of very tedious and thorough deliberations and has served as an invaluable guide for the subcommittee during this reauthorization process. Our substitute bill reflects many of the issues identified in the Commission's report, including:

ACCOUNTABILITY FOR THE EXPENDITURE OF FEDERAL APPROPRIATIONS BY GALLAUDET UNIVERSITY AND THE NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

Concern over the operation and cost of the two model demonstration schools at Gallaudet University prompted an audit by the General Accounting Office in 1987. It was determined that costs related to national mission activities and research projects were not documented. For fiscal year 1992, the Federal appropriation provided approximately 73 percent of the total income for Gallaudet University and 83 percent of the total income for NTID. This represents a significant interest to Congress to ensure that these institutions be efficiently and effectively operated.

Several provisions have been added to address this issue: specific language focusing the model demonstration schools on serving students with a broad spectrum of needs; new reporting requirements regarding student outcomes, minority deaf individuals, financial and endowment data; prohibition on the use of Federal funds for certain expenditures, and a requirement to develop and implement policies on allowability and reasonableness of expenditures.

EDUCATIONAL PROGRAMS FOR STUDENTS WHO ARE DEAF AND FROM MINORITY BACKGROUNDS

During our hearings, concern was expressed regarding culturally biased curricula, inappropriate school placement and/or tracking, and the lack of understanding of learning style differences which have contributed to educational practices that have poorly served minority deaf children and youth. The achievement levels of deaf minority students are below those of deaf white students in three age groups: 8-, 12-, and 16-year-olds. While approximately one-third of deaf students are minorities, less than a tenth of the teachers in deaf education are members of minority groups. The bill includes several changes that would enhance the educational and employment opportunities of deaf individuals from underrepresented populations, including the expansion of activities at the research and training center on deafness to include research and development of effective strategies for educating deaf students from minority backgrounds; a scholarship program initiative to recruit minority deaf individuals for careers in deaf education or special education, thereby increasing the number of minority teachers and role models.

PERSONNEL TRAINING

According to the annual survey of hearing impaired children and youth, approximately 30 percent of all deaf students have additional disabling conditions. Many of these students are inappropriately placed in regular classrooms for deaf students rather than in highly specialized programs for students with multiple disabilities. Many of the teachers in these classrooms have had little or no training to work with deaf students with secondary disabling conditions. This situation is compounded by supervising teachers, principals, and administrators who do not understand the needs of these students. To address this problem, the bill contains authority for funding regional model demonstration training projects on deafness and secondary disabilities to provide preservice and inservice training to teachers, school administrators and other leadership personnel, and related services personnel involved in the education of students who are deaf.

The supply of qualified educational interpreters continues to be a problem in the area of deaf education. Data from a 1989 national task force report on this topic estimated that up to 26,000 students could be possible candidates for interpreting services. Yet only 2,200 interpreters working full or part time provided these services to approximately 10,000 elementary/secondary level students. Specific authority for funding educational interpreter training programs has been provided in the bill. This authority also includes training of educational interpreters for students who are deaf-blind.

The provisions of the bill related to these and other issues will move us closer to providing an appropriate quality education for students who are deaf or hard of hearing. I hope that my colleagues will agree by voting favorably for H.R. 5483.

I wish to thank the gentleman from North Carolina [Mr. BALLENGER] and his staff for their efforts in developing this bipartisan legislation.

Mr. BALLENGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this bill to extend and amend the authorizations for Gallaudet University and the National Technical Institute for the Deaf. The Federal appropriation for fiscal year 1992 is $76.5 million for Gallaudet University, representing approximately 73 percent of their total income. The Federal appropriation for NTID is $39.4 million, which is approximately 83 percent of their total income. Clearly, the Federal Government has an interest in the efficiency and effectiveness of these educational programs for individuals who are deaf. In addition, the Federal Government should have access to whatever information is needed to ensure that funds are being used appropriately.

Overall, this bill seeks to increase accountability for funds provided to both Gallaudet University and NTID and to improve the administration of their programs. Neither the university nor the institute will be permitted to use Federal funds for certain expenditures, such as; alcoholic beverages, goods or services for personal use, housing and personal living expenses, and lobbying. The two schools would also be required to develop internal policies regarding the allowability and reasonableness of all expenditures. This will not only increase the accountability for both schools, but it will provide the Congress with more information about how funds are being used.

This bill places a limit of 10 percent on the enrollment of international students at Gallaudet University and NTID. There is presently no limit on the number of international students allowed to enroll at the schools.

International students are currently charged 50 percent more in tuition than U.S. students. This bill would require international students to pay a tuition surcharge of 135 percent, to be phased-in over several years. While I recognize that the presence of international students at the schools is beneficial in many ways, I do not think that the taxpayers should be subsidizing the cost of educating international students. Currently, the tuition charged to international students is a small to moderate proportion of the estimated cost to educate them. The increased tuition surcharge will reduce the Federal subsidy to these students and provide that international students and their countries of origin pay a more equitable share of the cost for their education.

At a subcommittee hearing this past March in my district, we heard testimony from professionals and students at Lenoir Rhyne College in Hickory, NC, demonstrating the need for teacher training programs and educational interpreters. Many interpreters do not have the necessary training to appropriately work with students in elementary and secondary educational programs. This bill would permit the Secretary of Education to make grants under the Individuals with Disabilities Education Act to institutions of higher education and other organizations for the establishment or continuation of educational interpreter training programs.

In closing, I would like to commend Mr. OWENS and the staff on both sides of the aisle, for the hard work in developing this bipartisan bill. I would also like to thank the gentleman from Pennsylvania [Mr. GOODLING] for his input throughout this process, and the gentleman from Wisconsin [Mr. GUN-

DERSON], who has a special interest in this legislation.

Mr. Speaker, I urge my colleagues to support this bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, I would like to take this opportunity to commend the chairman of the Education and Labor Committee's Subcommittee on Select Education, the gentleman from New York [Mr. OWENS], the gentleman from North Carolina [Mr. BALLENGER], and the subcommittee staff, Pat Laird, Maria Cuprill, Molly Salmi, and Sally Lovejoy for producing a bill, Education of the Deaf Act [EDA], that will enhance educational opportunities for individuals who are deaf.

Congress passed the first Education of the Deaf Act in 1986. Since its enactment, three major events have occurred that have dramatically transformed both education and civil rights for the deaf. First, in 1988, Gallaudet University appointed the first deaf president. Second, the Commission on Education of the Deaf published their report. Many of their recommendations are contained in the 1992 Education of the Deaf Act. Third, the enactment of the Americans with Disabilities Act, which guarantees civil rights for every disabled American.

The 1992 Education of the Deaf Act makes several changes in Gallaudet's authority. One of the more significant modifications combines the authority for the Kendall Demonstration Elementary School and the Model Secondary School for the Deaf. This change will allow Gallaudet greater flexibility in the use of resources, alleviate some administrative burdens, and create an easier transition for students as they graduate from elementary to secondary school. Another provision calls for greater dissemination of education materials and learning techniques to be used in various institutions throughout the United States. Special attention will be given to the development of educational materials for students that have secondary disabilities, minority students, and those who live in rural communities. A third component of the bill requires Gallaudet's Model Secondary School for the Deaf [MSSD] to not only prepare students for college life, but also to offer instruction that will help students who pursue vocational options and enable students to become part of America's work force.

For the past 7 years, I have had the honor of serving on Gallaudet's board of trustees. It has been a very inspiring experience. This past May, I had the privilege of attending Gallaudet University's 1992 graduation. The highlight of the afternoon was the presentation by one of its 1992 graduates, Wilma Newhoudt. Ms. Newhoudt is a black student from Cape Town, South Africa. Ms. Newhoudt is an individual who had lived her entire life under apartheid until she arrived at Gallaudet in 1988. She spoke about the pride of the Cape Town deaf community upon learning of her acceptance to Gallaudet. The deaf community in South Africa raised funds for Wilma so she would be able to attend Gallaudet University. Prior to her departure from Cape Town to Gallaudet, her friends and neighbors presented her with a suitcase. Ms. Newhoudt concluded her graduation remarks by discussing the contents of that suitcase: "I plan to go back home with that same suitcase filled with new knowledge, memories of new and wonderful people, and skills as a social worker to work and advocate for change." Ms. Wilma Newhoudt so poignantly symbolizes the mission of Gallaudet University, which we have defined in this 1992 reauthorization bill, to serve as a comprehensive, multipurpose institution of higher education for deaf and hard-of-hearing citizens of the United States and the world.

The partnership between Gallaudet University and the Federal Government has endured 118 years. It was 1864, at the height of the Civil War, when Edward Miner Gallaudet first came to this institution and requested funding for a college that would serve deaf students. He had a great deal of courage to solicit Federal funds during a time when the United States was preoccupied with its very own existence and the future of this Nation. I believe Dr. Gallaudet would be very pleased to see how this partnership has flourished over the last century. The 1992 Education of the Deaf Act marks another milestone in the joint venture between Gallaudet University and the Federal Government.

Mr. GOODLING. Mr. Speaker, I am pleased to support H.R. 5483, a bill to reauthorize the Education of the Deaf Act of 1986. This act provides for the education of individuals who are deaf through Gallaudet University and the National Technical Institute for the Deaf. In addition, Gallaudet University provides for the education of children and youth through the Kendall Demonstration Elementary School and the Model Secondary School for the Deaf.

For fiscal year 1992, the Federal appropriation will provide a significant amount of the funding for Gallaudet University and the National Technical Institute for the Deaf. The two elementary and secondary demonstration schools receive 100 percent of their funding from the Federal Government. The Committee on Education and Labor has worked closely with the Department of Education, Gallaudet University, and the National Technical Institute for the Deaf to develop language which would provide for accountability from the two schools yet allow them to continue to function independently.

This bill would extend the specific due process provisions under part B of the Individuals with Disabilities Education Act to children placed by their parents in the elementary and secondary programs. These protections, which are currently afforded to children placed by local education agencies, will now apply to all children at the elementary and secondary education programs.

During the reauthorization hearings, testimony was heard from several witnesses about the need for minority deaf teachers and role models for minority children who are deaf. I am pleased that my proposal for a scholarship program for individuals who are deaf and pursuing careers in deaf education or special education has been included in this bill. The Secretary of Education could provide grants to institutions of higher education which have teacher training programs in deaf education or special education. Priority consideration for these scholarships would then be given to individuals who are deaf and from underrepresented backgrounds.

I hope that my colleagues will support this legislation.

□ 1320

Mr. OWENS of New York. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BALLENGER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUBBARD). The question is on the motion offered by the gentleman from New York [Mr. OWENS] that the House suspend the rules and pass the bill, H.R. 5483, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

SCIENTIFIC AND TECHNICAL EDUCATION ACT OF 1992

Mr. BOUCHER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2936) to establish programs at the National Science Foundation for the advancement of technical education and training in advanced-technology occupations, and for other purposes as amended.

The Clerk read as follows:

H.R. 2936

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 "Scientific and Technical Education Act of 1992".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the position of the United States in the world economy faces great challenges from highly trained foreign competition;

(2) the workforce of the United States must be better prepared for the technologically advanced, competitive, global economy;

(3) the improvement of our work force's productivity and our international economic position depend upon the strengthening of our educational efforts in science, mathe-

matics, and technology, especially at the associate-degree level;

(4) shortages of scientifically and technically trained workers in a wide variety of fields will best be addressed by collaboration among the Nation's associate-degree granting colleges and private industry to produce skilled, advanced technicians; and

(5) the Foundation's traditional role in developing model curricula, disseminating instructional materials, enhancing faculty development, and stimulating partnerships between educational institutions and industry, makes an enlarged role for the Foundation in scientific and technical education and training particularly appropriate.

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

(1) improve science and technical education at associate-degree-granting colleges;

(2) improve secondary school and postsecondary curricula in mathematics and science;

(3) improve the educational opportunities of postsecondary students by creating comprehensive articulation agreements and planning between 2-year and 4-year institutions; and

(4) promote outreach to secondary schools to improve mathematics and science instruction.

SEC. 3. SCIENTIFIC AND TECHNICAL EDUCATION.

(a) NATIONAL ADVANCED SCIENTIFIC AND TECHNICAL EDUCATION PROGRAM.—(1) The Director shall carry out a program to assist accredited associate-degree-granting colleges, and consortia thereof, to provide education in advanced-technology fields. The program shall place emphasis on the needs of students who have been in the workforce (including work in the home). It shall be designed to strengthen and expand the scientific and technical education and training capabilities of associate-degree-granting colleges through such methods as—

(A) the development of model instructional programs in advanced-technology fields;

(B) the professional development of faculty and instructors, both full- and part-time, in advanced-technology fields;

(C) the establishment of innovative partnership arrangements among associate-degree-granting colleges, the private sector, and State and local governments (and, where appropriate, Federal laboratories) including programs providing private sector donations, faculty opportunities to have short-term assignments with industry, sharing of program costs, equipment loans, and the cooperative use of laboratories, plants, and other facilities, and provision for relevant state-of-the-art work experience opportunities for students enrolled in such programs;

(D) the purchase or lease of state-of-the-art instrumentation essential to programs designed to prepare and upgrade students in scientific and advanced-technology fields; and

(E) the development and dissemination of instructional materials in support of improving the advanced scientific and technical education and training capabilities of associate-degree-granting colleges, including programs for students who are not pursuing a science degree.

(2) In carrying out this subsection, the Director shall—

(A) award grants on a competitive, merit basis to associate-degree-granting colleges that will make contributions, in cash or in kind, in an amount equal to at least 25 percent of the cost of the program; and

(B) establish and maintain a readily accessible inventory of programs which are funded under this subsection.

(b) NATIONAL CENTERS OF SCIENTIFIC AND TECHNICAL EDUCATION.—The Director shall establish centers of excellence, not to exceed 10 in number, among associate-degree-granting colleges. Centers shall meet one or both of the following criteria:

(1) Exceptional programs of advanced technical education.

(2) Excellence in undergraduate education in mathematics and science.

The centers shall serve as national and regional clearinghouses and models for the benefit of both colleges and secondary schools, and shall provide seminars and programs to disseminate model curricula and model teaching methods and instructional materials to other associate-degree granting colleges in the geographic region served by the center. Centers designated under this subsection shall be geographically distributed and chosen by a competitive, merit-based application process from among colleges that will make contributions, in cash or in kind, toward the cost of programs funded by grants made under this subsection.

(c) ARTICULATION PARTNERSHIPS.—

(1) PARTNERSHIP GRANTS.—(A) The Director shall make grants to eligible partnerships to encourage students to pursue bachelor degrees in mathematics, science, engineering, or technology, and to assist students pursuing bachelor degrees in mathematics, science, engineering, or technology to make the transition from associate-degree-granting colleges to bachelor-degree-granting institutions, through such means as—

(i) examining curricula to ensure that academic credit earned at the associate-degree-granting college is transferable to bachelor-degree-granting institutions;

(ii) informing teachers from the associate-degree-granting college on the specific requirements of courses at the bachelor-degree-granting institution; and

(iii) providing summer programs for students from the associate-degree-granting college to encourage such students' subsequent matriculation at bachelor-degree-granting institutions.

(B) Grants made under this paragraph shall be awarded on a competitive, merit basis to eligible partnerships that demonstrate an ability to maintain the partnership after the expiration of the grant. In awarding grants under this paragraph, the Director shall give priority to eligible partnerships offering contributions, in cash or in kind, toward the cost of the program.

(C) Each eligible partnership receiving a grant under this paragraph shall—

(i) counsel students, including students who have been in the workforce (including work in the home), about the requirements and course offerings of the bachelor-degree-granting institution; and

(ii) conduct workshops at the associate-degree-granting college, and conduct special tours and orientation sessions at the bachelor-degree-granting institution to ensure that students are familiar with programs, including laboratories and financial aid programs, at the bachelor-degree-granting institution.

(D) Any institution participating in a partnership that receives a grant under this paragraph shall be ineligible to receive assistance under part B of title I of the Higher Education Act of 1965 for the duration of the grant received under this paragraph.

(2) OUTREACH GRANTS.—The Director shall make grants to associate-degree-granting colleges with outstanding mathematics and science programs to strengthen relationships with secondary schools in the community served by the college by improving mathematics and science education and encouraging the interest and aptitude of secondary school students for careers in science and advanced-technology fields through such means as developing agreements with local educational agencies to enable students to satisfy entrance and course requirements at the associate-degree-granting college. These grants shall be made through a competitive application process from among colleges that will make contributions, in cash or in kind, in an amount at least equal to the amount of the grant.

(3) GEOGRAPHIC DISTRIBUTION.—In awarding grants under this subsection, the Director shall ensure an equitable geographic distribution of such grants.

(d) COORDINATION WITH OTHER FEDERAL DEPARTMENTS.—In carrying out this section, the Director shall consult, cooperate, and coordinate, to enhance program effectiveness and to avoid duplication, with the programs and policies of other relevant Federal agencies. In carrying out subsection (c), the Director shall coordinate activities with programs receiving assistance under part B of title I of the Higher Education Act of 1965.

(e) LIMITATION ON FUNDING.—To qualify for a grant under this section, an associate-degree-granting college, or consortium thereof, shall provide assurances adequate to the Director that it will not decrease its level of spending of funds from non-Federal sources on advanced scientific and technical education and training programs.

(f) DEFINITIONS.—As used in this section—

(1) the term "advanced-technology" includes advanced technical activities such as the modernization, miniaturization, integration, and computerization of electronic, hydraulic, pneumatic, laser, nuclear, chemical, telecommunication, fiber optic, robotic, and other technological applications to enhance productivity improvements in manufacturing, communication, transportation, commercial, and similar economic and national security activities;

(2) the term "associate-degree-granting college" means an institution of higher education (as determined under section 481(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a))) that—

(A) is a nonprofit institution that offers a 2-year associate-degree program or a 2-year certificate program; or

(B) is a proprietary institution that offers a 2-year associate-degree program;

(3) the term "bachelor-degree-granting institution" means an institution of higher education (as determined under section 481(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a))) that offers a baccalaureate degree program;

(4) the term "eligible partnership" means one or more associate-degree-granting colleges in partnership with one or more separate bachelor-degree-granting institutions; and

(5) the term "local educational agency" has the meaning given such term in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)).

SEC. 4. ADMINISTRATIVE AMENDMENT.

Section 3 of the National Science Foundation Act of 1950 (42 U.S.C. 1862) is amended by adding at the end the following new subsection:

"(g) In carrying out subsection (a)(4), the Foundation is authorized to foster and support the development and use of computer networks which may be used substantially for purposes in addition to research and education in the sciences and engineering, if the

additional uses will tend to increase the overall capabilities of the networks to support such research and education activities.".

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated, from sums otherwise authorized to be appropriated, to the Director for carrying out this Act—

(1) $35,000,000 for fiscal year 1992; and

(2) $35,000,000 for fiscal year 1993.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia [Mr. BOUCHER] will be recognized for 20 minutes, and the gentleman from New Mexico [Mr. SCHIFF] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Virginia [Mr. BOUCHER.]

Mr. BOUCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2936 is designed to strengthen the scientific and technical education capabilities of our Nation's community colleges. Two-year colleges are a major contributor to higher education and have become the largest pipeline to postsecondary education in the United States. The purpose of this bill is to authorize the National Science Foundation to make grants to community colleges for improving education programs in scientific and advanced technology fields.

Over the years, the NSF has played an important role in strengthening the science and mathematics curricula at bachelor degree-granting institutions. Although the NSF has supported programs at 2-year colleges, the level of effort has been small relative to the size of the NSF's undergraduate programs. The NSF is currently spending only about $3.35 million on grants to 2-year colleges, with more than one-half of the funding allocated to instrumentation and laboratory improvements.

While 2-year colleges play an important role in preparing students for careers in advanced technology fields, these institutions face unique problems in delivering quality education in scientific and technical fields. Faculty members have heavy teaching loads and are frequently unable to keep up to date with the latest developments in their field. Laboratory facilities and equipment are outmoded and expensive to upgrade in an age of stringent State and local budgets.

H.R. 2936 employs several approaches to upgrade science and mathematics education at associate-degree-granting colleges. These approaches which are based on competitive grants include:

First, development of model curricula and instructional programs in advanced technology fields;

Second, the professional development of faculty and instructors in advanced technology fields;

Third, the development of partnerships among 2-year colleges, the private sector, and State and local governments, including programs providing short-term opportunities for faculty to work with industry and for students to gain experience in industry;

Fourth, the purchase or lease of state-of-the-art instrumentation to enhance student understanding of scientific and advanced technology fields; and

Fifth, the development and dissemination of instructional materials in support of the technical education and training capabilities of 2-year colleges, including programs for students who are not pursuing a science degree.

The establishment of a grants program for 2-year colleges will improve the skills of students graduating from community colleges to work in technical fields and of those students transferring to 4-year colleges to pursue bachelor degrees in science and mathematics.

Other provisions of H.R. 2936 will establish up to 10 National Centers of Technical Education and Training. These centers will be located at 2-year colleges with exceptional programs in advanced technical training. The centers of excellence will be regionally distributed and serve as clearinghouses for other community colleges seeking to upgrade their technical programs.

H.R. 2936 will also establish a program of partnership grants between 2-year colleges and 4-year institutions to increase the number of students transferring from community colleges to bachelor-degree-granting programs in mathematics, science, and engineering. Since community colleges are increasingly the gateway to higher education for women and minorities in our country, these partnerships will help the most talented students to move on to science and engineering bachelor degrees.

To sustain our Nation's leadership in science and engineering, we need the best trained technical work force in the world. The workplace of the future will be dependent upon technical literacy and competence. Enactment of H.R. 2936 will be a significant step toward preparing our technical work force for the challenges of the 21st century.

I would like to commend Mr. PRICE for his leadership in this area. Mr. PRICE introduced H.R. 2936 1 year ago, and has been a steadfast and effective advocate of the contribution community colleges could make to technical education. I would also like to recognize the work in this area of Mr. HOAGLAND, who introduced similar legislation which has been largely incorporated into the bill we are considering today. Within the Committee on Science, Space, and Technology, I would like to express my gratitude to Chairman BROWN for his assistance and support, to the ranking Republican, Mr. WALKER, and to the ranking Republican on the Science Subcommittee, Mr. PACKARD, who were most helpful in securing the agreement before us today. Mr. VALENTINE also provided assistance in fostering a consensus between the bill as reported by the Subcommittee on Technology and Competitiveness, which he chairs, and the version reported by the Subcommittee on Science.

H.R. 2936 was also referred to the Committee on Education and Labor. The amendment in the nature of a substitute under consideration reflects the contributions of that committee. I wish to insert in the CONGRESSIONAL RECORD at this point an exchange of letters between Chairman BROWN and Chairman FORD regarding the agreement reached by the two Committees. I express my appreciation to Chairman FORD and the ranking Republican on the committee, Mr. GOODLING, for their contribution to this amendment.

Our national competitiveness depends in large measure upon the technical skills of the American work force. Higher education must provide a strong foundation in science and mathematics. Students must understand scientific concepts, learn new technical concepts, and adapt quickly to changes in the workplace. To meet this challenge, community colleges need increased support from the National Science Foundation. H.R. 2936 is an appropriate step in that direction, and I strongly urge my colleagues to support this amendment.

COMMITTEE ON EDUCATION AND LABOR,
Washington, DC, July 31, 1992.

Hon. GEORGE E. BROWN, Jr.,
Chairman, Committee on Science, Space, and Technology, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I am writing concerning H.R. 2936, the Scientific and Technical Education Act of 1992, which was jointly referred to the Committee on Science, Space, and Technology and the Committee on Education and Labor. Your Committee reported the bill on April 30, 1992 (H. Rpt. 102-508, Part 1).

I believe we have reached an agreement which will permit this bill to go forward without further action by this Committee. This agreement, however, should not be construed to affect in any way this Committee's jurisdiction over matters contained in H.R. 2936, nor to preclude the appointment of conferees from this Committee should that become necessary.

Under the agreement, H.R. 2936, as reported, will be amended to reflect the concerns of the Committee on Education and Labor. These concerns include modifications to the articulation agreements program so that program is more consistent with the Articulation Agreements program authorized under part B of title I of the Higher Education Act of 1965 and several technical amendments regarding the matching of funds, definition of terms, and other provisions. Copies of the amendments are enclosed.

If these amendments are acceptable to you, I will pose no objection to House consideration of H.R. 2936.

With best wishes,

Sincerely,

WILLIAM D. FORD,
Chairman.

COMMITTEE ON SCIENCE,
SPACE AND TECHNOLOGY,
Washington, DC, August 4, 1992.

Hon. WILLIAM D. FORD,
Chairman, Committee on Education and Labor, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: As you know, for several months the staffs of our respective committees have been discussing H.R. 2936, the "Scientific and Technical Education Act of 1992". As stated in your letter dated July 31, 1992, we have reached an agreement which will enable the Science Committee to bring the bill to the House under suspension of the Rules during the week of August 10, 1992. We will bring H.R. 2936 to the House together with the amendment attached to your letter.

Thank you for your assistance in regard to this legislation. If you have no objection, I will insert your letter of July 31 and this response in the appropriate place in the CONGRESSIONAL RECORD during consideration of H.R. 2936.

Sincerely,

GEORGE E. BROWN, Jr.,
Chairman.

Mr. Speaker, I reserve the balance of my time.

Mr. SCHIFF. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I state for the record first that the gentleman from California. Mr. RON PACKARD, is unable to attend the House at this time due to illness, and I am taking his place as a member of the subcommittee.

Mr. Speaker, as a cosponsor, I am pleased to rise in support of H.R. 2936, the Scientific and Technical Education Act of 1992. This bill, as it has been reported to the House, recognizes the importance of community colleges in providing further training for the existing workforce; preparing students for technological jobs; and preparing students for the transition to 4-year institutions.

The committee report addresses an issue that was a concern of Mr. WALKER, Mr. BOUCHER, and Mr. PACKARD—specifically that funding for the programs under H.R. 2936 will not come at the expense of other undergraduate efforts. Furthermore, the bill is fiscally responsible since no new money is being authorized.

While community colleges make an excellent contribution to the educational system in this country, there is still room for improvement. H.R. 2936 addresses some of the most pressing issues for community colleges which include faculty enhancement and curricula development. Furthermore, the programs outlined in the bill fit well within the mission of the National Science foundation. The Science and Technical Education Program as well as the Centers of Excellence contained in H.R. 2936 will serve to enhance NSF's increasing focus on 2-year and community colleges.

These colleges play an intricate role in the education of this Nation's undergraduates. This is especially true since 2-year colleges often serve as institutions of choice for minority and other underrepresented student groups.

Two-year colleges are typically tightly interwoven into the fabric of local communities. It is due to this unique position that these institutions are able to contribute to precollege education through scientific literacy programs, teacher enhancement initiatives, and cooperative ventures with State and community agencies.

Undoubtedly, 2-year colleges will play a pivotal role in the Nation's future economic well-being. They are uniquely positioned to prepare students for a competitive global marketplace.

Furthermore, they represent the place that nearly one-half of all college students will take their introductory college math and science classes.

Through the active involvement of diverse forces at the Federal State, and local level, I have no doubt that 2-year colleges will be able to meet the challenge of preparing scientifically and technologically literate citizens with the ultimate goals of improving productivity in the workplace and enhancing the quality of life within a community.

I would like to note for the record the administration position that the bill is unnecessary due to the fact that NSF already has existing authority to carry out the provisions of this bill. However, the minority on the Science, space, and Technology Committee do not view this legislation as limiting the executive branch's discretion in any way.

□ 1330

Mr. Speaker, I reserve the balance of my time.

Mr. BOUCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [MR. PRICE].

Mr. PRICE. Mr. Speaker, I rise today in support of H.R. 2936, the Scientific and Technical Education Act, a bill I introduced, along with 17 colleagues, to help ensure that our Nation has the skilled technicians to run the factories, offices, and laboratories of the future.

I want to begin by thanking all those who have worked so hard on this measure: Chairman GEORGE BROWN, RICK BOUCHER, TIM VALENTINE, RON PACKARD, TOM LEWIS, SHERRY BOEHLERT, STEVE SCHIFF, BOB WALKER of the Science, Space, and Technology Committee and their staffs have spent considerable time in refining and perfecting this legislation and I appreciate their contributions. I also want to make special note of the contributions of our former colleague Doug Walgren, who championed this effort for a number of years, and Paul Feldman of my own staff.

I also want to thank Chairman FORD and ranking Republican member BILL GOODLING of the House Education and Labor and their staffs for turning almost immediately from the herculean effort of the Higher Education reauthorization to work on this legislation, improving it significantly in the process.

H.R. 2936, the Scientific and Technical Education Act of 1992, would extend to new areas the approach which the National Science Foundation has already successfully utilized in science, mathematics, and engineering education: developing model programs and disseminating results across the country. The competitive grants program in H.R. 2936 would enable associate-degree granting colleges to develop model curricula and instructional programs, provide faculty enrichment, obtain state-of-the-art instrumentation, and develop exemplary private sector partnerships in advanced technology fields.

The NSF, with its admirable track record in fostering educational improvements in scientific and advanced technology fields, is well-positioned to participate in these efforts. Unfortunately, the agency's commitment thus far has been minimal: Out of a 1992 budget of $3.03 billion, NSF is spending only $3.35 million on this type of support for associate-degree-granting colleges. Our bill proposes to increase this effort to $35 million.

Using some of these funds, H.R. 2936 would also create up to 10 National Centers of Scientific and Technical Education. These would be associate-degree-granting colleges with exceptional programs in advanced technical training and science and math education. The idea would be not only to take these 10 institutions to new levels of excellence, but to use them as clearinghouses for community colleges and technical schools across the country that are trying to upgrade their programs.

H.R. 2936 would also promote partnerships between associate-degree-colleges and 4-year academic institutions to increase the number of students achieving bachelor degrees in mathematics, science, engineering, and technology. And it seeks to utilize the resources of associate-degree-granting colleges to improve the teaching to math and science at secondary schools by supporting outreach efforts.

The bill focuses on associate-degree-granting colleges because they are central to our Nation's effort to educate and train workers to meet the demands of the everchallenging world economy. These colleges already serve as the main educational resource for persons in the work force who desire to upgrade their technical skills. And it is now projected that 70 percent of American jobs by the year 2000 will require more than a high school diploma but will not require the traditional 4 years of higher education, thus increasing the demand on these colleges and their importance to our Nation's educational system.

In hearings held over the past 6 years, it became clear that these col-

leges, to fulfill their promise and upgrade their offerings, need targeted Federal assistance. George Autry, a work force development and training expert, summed up the views of those in his field in testimony before the Science Committee: These colleges must be retooled to meet the challenges of a new economic day. Business leaders generally echoed the sentiments of Sherwood Smith, president of the Carolina Power & Light Co., concerning associate-degree-granting colleges: "We have a good engine. We just need to put the fuel in it."

The efforts already underway in the best of our community colleges give an indication of what we might accomplish. For instance, Wake Tech, in my district, has established a Back to Industry Program in which faculty spend an 11-week quarter at a nearby company and then bring knowledge of the latest industrial processes back into the classroom. House Science, Space, and Technology Committee hearings documented similiar stories of success throughout this country.

Such innovative programs have often been established despite funding shortages, heavy teaching loads, and outmoded equipment. Community colleges have found creative ways to stretch resources and to join with private businesses to educate and train workers. As impressive as these efforts are, they fall alarmingly short of what it will take to equip our young people, and midcareer workers as well, for the workplace of tomorrow. Meaningful Federal participation in these efforts, as outlined in the Scientific and Technical Education Act, will build on current efforts and expand their efficiency and scope.

I urge my colleagues to join me in supporting H.R. 2936. It is a practical, constructive bill for preparing our technical work force for the challenges of the 21st century. It goes beyond mere sloganeering about jobs and actually tries to improve the prospects for those unemployed and those fearing loss of their jobs. It does this through partnerships, building on local efforts to create opportunity, in a cost-effective way. It makes the kind of investment we must make now to enhance our Nation's economic future.

□ 1340

Mr. SCHIFF. Mr. Speaker, I have no requests for time, and I, therefore, reserve the balance of my time.

Mr. BOUCHER. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from California [Mr. BROWN], chairman of the Committee on Science, Space, and Technology.

Mr. BROWN. Mr. Speaker, I rise in strong support of H.R. 2936, the Scientific and Technical Education Act of 1992. This legislation will result in the improvement of the science and mathematics curriculum at our Nation's community colleges, which are a major source of America's future work force in engineering and advanced technology fields. In 1990, 2-year colleges enrolled 43 percent of all undergraduate students in the United States. It is essential that students enrolled in community colleges have the background in science and advanced technology to prepare them for tomorrow's workplace.

This legislation will establish National Science Foundation [NSF] programs in three areas to help upgrade the curriculum at associate-degree-granting colleges. The major component of the bill will establish a competitive grants program at the NSF which will improve undergraduate science and mathematics at 4-year colleges. The competitive grants awarded to community colleges under this provision will help to develop model curricula and instructional programs, provide professional development for faculty, fund the purchase or lease of state-of-the-art instrumentation, and stimulate partnerships between community colleges and the private sector.

The bill will also establish up to 10 regional clearinghouses around the country at community colleges with exceptional programs of advanced technical education. These centers will serve as both national and regional clearinghouses and provide seminars and programs to disseminate model curricula and model teaching methods to other community colleges in the region.

Another provision in the bill will establish partnerships between associate-degree-granting colleges and 4-year institutions to assist the transition of students transferring from community colleges to pursue bachelor's degrees in science and engineering. Approximately 30 percent of students enrolled in 2-year colleges transfer to 4-year colleges and universities. It is particularly important that we strengthen programs which will facilitate the transfer of community college students aspiring to bachelor degrees in route to careers as scientists and engineers.

Within the Science Committee, I would like to commend the excellent work on this legislation by Mr. BOUCHER, the chairman of the Subcommittee on Science, and by Mr. VALENTINE, the chairman of the Subcommittee on Technology and Competitiveness. I would also like to acknowledge the assistance and support of our ranking Republican member, Mr. WALKER, and of the ranking Republicans on the two subcommittees, Mr. PACKARD and Mr. LEWIS.

I would also like to express my gratitude to Chairman FORD and the members of the Education and Labor Committee for their contribution to the amendment we are bringing to the House today. I also congratulate the primary sponsor of H.R. 2936, Mr. PRICE, a former member of our committee, who has worked very closely with us in developing the amendment we are considering today.

The important role played by community colleges in preparing the advanced technology work force has long been recognized by American business and industry, which spends about $1.3 billion annually on training programs at associate-degree-granting institutions. It is time that the Federal Government provide assistance to community colleges which will upgrade the study of scientific and advanced technology fields and, in turn, prepare graduates of associate-degree-granting colleges for the increasingly technical demands of the workplace. I urge my colleagues to support this legislation.

Mr. HOAGLAND. Mr. Speaker, I would like to express my support for H.R. 2936, the Scientific and Technical Education Act, to promote technology education in our community colleges. This much-needed legislation addresses the need to train and retrain our workers for the jobs of the future with the technology of the future. I would like to thank Congressmen BROWN, BOUCHER, and FORD for their help in moving this legislation.

This is an issue that is of great interest to me. Last year, I introduced a similar bill which has been incorporated into H.R. 2936. We can no longer ignore the need for a system of lifetime training and retraining. A competent work force is one of the most important factors for American economic growth and productivity. The Omaha World Herald states that "75 percent of the 350 people who receive county assistance to survive would be employable if they could get training." Education, literacy, and science and technology are the ingredients for producing more and better jobs, a more competitive economy, and higher standards of living.

Technology is today a big part of the world we live in from the automated dishwashers in our homes to computers that do our banking. This technology makes our lives easier but it also demands that our workforce have a higher level of skills. By the year 2000, 75 percent of all workers currently employed will need retraining because of changes in the nature of existing jobs and creation of new jobs which will require higher levels of skills. H.R. 2936 develops a system for providing education and skills training to adults and students.

H.R. 2936 establishes a program at the National Science Foundation making grants available to community colleges to provide training in skills needed for high-technology jobs. I would also designate as many as 10 centers of excellence among 2-year colleges to demonstrate exceptional technology education programs and/or science and math programs.

Many studies in recent years have pointed to the need for our country to educate more scientists and engineers, but we will never meet the competitiveness challenges posed by other countries with Ph.D. scientists and engineers alone. As the workplace becomes increasingly technological, many people will need technology knowledge and skills.

In the end, a competitive advantage does not solely come from technology, but from the

people who invent and use it. I hope that H.R. 2936 will be a catalyst for change, for updating our curriculum and bringing to our community colleges the incentives and resources they need to provide students with the knowledge and skills they need in today's and tomorrow's workplace.

Mr. GOODLING. Mr. Speaker, I rise in support of H.R. 2936, the Scientific and Technical Education Act of 1992. This bill was reported by the Committee on Science, Space, and Technology. The Education and Labor Committee has joint jurisdiction with the Science Committee over this bill. Through a series of negotiations we have reached an agreement on changes to the Science Committee bill which, I hope, will permit this bill to pass swiftly today.

The bill authorizes $35 million for fiscal year 1992 and 1993, respectively, for three programs to be conducted by the National Science Foundation. First, the bill authorizes a National Advanced Scientific and Technical Education Program, a program to assist colleges with associate degree programs in strengthening and expanding their scientific and technical education capabilities through such methods as, first, developing model programs in advanced technology fields, second, developing faculty at the college, third, establishing partnerships among associate degree colleges, the private sector, and the government for facilitating work experience opportunities for students enrolled in these programs, fourth, acquiring state-of-the-art instrumentation, and fifth, developing and disseminating instructional materials.

The bill authorizes National Centers for Scientific and Technical Education which will require the Director of the National Science Foundation to establish no more than 10 centers at associate-degree-granting colleges which will serve as national and regional clearinghouses and models for the benefit of both colleges and secondary schools and will provide seminars and programs to disseminate model curricula and model teaching methods and instructional materials to other associate degree granting colleges.

Finally, the bill authorizes articulation partnerships which will require the Director of National Science Foundation to make grants to assist students to pursue a bachelors degree in mathematics, science, and engineering or technology to make the transition from associate-degree-granting colleges to bachelor-degree-granting institutions. The program places a strong emphasis on curriculum development and coordination. As this program is similar to one I wrote that was included in title I of the Higher Education Act reauthorization, the articulation agreements program; we have included amendments to this bill that will require the Director of NSF to coordinate activities with the Secretary of Education in the Higher Education Act program. For all of these programs, the grantees must make contributions toward the cost of the program and the Director of National Science Foundation shall award the grants on a competitive basis.

Given the strong need for assisting students in bridging the gap between 2-year and 4-year institutions of higher education, I rise in support of this legislation and ask my colleagues to join me in its swift passage.

Mr. BOUCHER. Mr. Speaker, I yield back the balance of my time.

Mr. SCHIFF. Mr. Speaker, I also yield back the balance of my time, and I urge the adoption of this bill.

The SPEAKER pro tempore (Mr. HUBBARD). The question is on the motion offered by the gentleman from Virginia [Mr. BOUCHER] that the House suspend the rules and pass the bill, H.R. 2936, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to establish programs at the National Science Foundation to strengthen and improve the scientific and technical education capabilities of associate-degree-granting colleges, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BOUCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

INTER-AMERICAN SCIENTIFIC COOPERATION ACT OF 1992

Mr. BOUCHER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3215) to reinvigorate cooperation between the United States and Latin America in science and technology, as amended.

The Clerk read as follows:

H.R. 3215

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 "Inter-American Scientific Cooperation Act of 1992".

SEC. 2. FINDINGS AND DEFINITIONS.

(a) FINDINGS.—The Congress finds the following:

(1) Latin America shares a wide range of scientific and technological concerns with the United States, and the diversity of Latin American countries and their needs in science and technology are significant.

(2) The need for science and technology cooperation with Latin America has increased significantly since the 1970's, but mechanisms for cooperation have decreased since many countries in Latin America graduated from programs sponsored by the Agency for International Development.

(3) Latin American scientists and engineers have increasingly looked to Europe and Japan for advanced training and research. This trend, in conjunction with the emphasis on science and technology in Latin American national development plans and the increase in science and technology cooperation among Latin American nations, may result in a loss of mutually beneficial commerce and scientific cooperation between Latin America and the United States.

(4) Investment by the United States in the Latin American science and technology infrastructure and participation of United States scientists and engineers in short-term and long-term assignments in Latin America can further improve relations between the United States and Latin America, and bring many benefits to the United States, including scientific access, enhanced trade and investment relations, and the opportunity to contribute to economic growth and democratization in the hemisphere.

(5) Science and technology cooperation with the United States, and advanced training and research in the United States, can bring many benefits to Latin America. In developing countries, cooperation can contribute to the strengthening of basic science and technology infrastructure. In industrially advanced Latin American countries, cooperation can increase opportunities in many scientific disciplines and in the frontier scientific fields.

(6) Considerable progress in science and technology cooperation can be made with relatively modest investments.

(7) A Free Trade Agreement with Mexico should be accompanied by the creation of new opportunities and mechanisms for scientific cooperation and research on issues of mutual interest to the United States and Mexico.

(8) The return to democracy in a number of Latin American countries provides renewed vigor for freedom of scientific inquiry, cooperation, and progress, as well as a focus for the reversal of the decline in science and technology cooperation between the United States and Latin America.

(b) DEFINITIONS.—As used in this Act—

(1) the term "Binational Science Foundation" means an endowed, nongovernmental, nonprofit organization to encourage and fund collaborative research projects between 2 countries in science and technology;

(2) the term "debt-for-science exchange" means an agreement whereby a country's commercial external debt burden is exchanged by the holder for a contribution of local currencies or other assets to support scientific and technological research;

(3) the term "Director" means the Director of the National Science Foundation;

(4) the term "Latin America" means Mexico, the Caribbean basin, Central America, and South America; and

(5) the term "Program" means the Inter-American Scientific Cooperation Program established under section 3.

SEC. 3. ESTABLISHMENT OF THE PROGRAM.

The National Science Foundation shall establish an Inter-American Scientific Cooperation Program aimed at increasing the level of science and technology cooperation between the United States and Latin America. The National Science Foundation, in establishing this Program, shall identify and cooperate with private and governmental funding bodies, both in Latin America and in the United States. The Program shall include the following elements:

(1) Encouragement and funding of project development interchanges and joint research projects between United States and Latin American scientists and engineers. Joint projects and interchanges funded by the National Science Foundation shall, whenever possible, include cost sharing from sources within the Latin American countries whose citizens participate. The Director shall determine the amount of cost sharing which is required.

(2) Establishment in accordance with section 13 of the National Science Foundation Act of 1950 (42 U.S.C. 1872) of an Inter-American Scientific Exchange. The Exchange's activities shall include collection and dissemination of information to Latin Americans on avenues for advanced study in science and engineering in the United States; United States assistance to Latin American institutions, at the institutions' request, for development of courses, seminars, and curricula in science and engineering; and other forms of scientific and technological cooperation as may be mutually agreeable, such as research projects in furtherance of professional development. In carrying out this paragraph the Director shall coordinate with other Federal agencies offering programs for foreign nationals for advanced study and research in the sciences and in engineering.

(3) Exchanging information and technical assistance between United States and Latin American scientists and engineers interested in establishing data bases and computer linkages.

(4) Providing information to enable the routing of scientific equipment between the United States and Latin America, including information with respect to matching equipment with need, identifying technical maintenance requirements, and meeting customs regulations.

(5) Promotion of research programs which utilize unique natural environments or existing or potential centers of scientific research excellence in Latin America.

SEC. 4. DEBT-FOR-SCIENCE EXCHANGES.

(a) DEBT-FOR-SCIENCE EXCHANGE GRANTS.—The Director is authorized to make grants to nongovernmental organizations within the United States, including colleges and universities, for the purpose of debt-for-science exchanges. Before making any grant under this section, the Director shall ascertain that—

(1) funds resulting from the debt-for-science exchange will be expended only for cooperative research and development projects, including those described in section 3; or to fund endowments for the long-term support of cooperative research and development projects, including those established under section 5;

(2) the debt-for-science exchange will result in making funds available for such cooperative projects which otherwise would not be available;

(3) the amount of local currency provided as a result of the debt-for-science exchange will be substantially greater than the purchase price of the debt;

(4) the grantee certifies that the debtor government has accepted the terms of the exchange and that an agreement has been reached to cancel the commercial debt in an agreed upon fashion; and

(5) Federal grants made under this section will be equally matched by non-Federal contributions to purchase debt.

(b) INVESTMENT OF GOVERNMENT ASSISTANCE.—Grantees or subgrantees of funds provided under this section may retain 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-science exchange pending disbursements of such proceeds and interest for approved program purposes, which may include the establishment of an endowment, the income of which is used for such purposes.

(c) COORDINATION.—In carrying out subsection (a) the Director shall coordinate with Federal agencies, such as the Agency for International Development, that have expertise in debt exchanges.

SEC. 5. BINATIONAL SCIENCE FOUNDATIONS.

(a) ESTABLISHMENT.—The Director, in consultation with appropriate Latin American officials, shall encourage and facilitate the establishment of Binational Science Foundations, and shall, whenever possible, encourage each participating country in Latin America to make financial contributions to the establishment of such Foundations.

(b) BOARDS OF GOVERNORS.—Such Foundations shall be governed by Boards of Governors whose members shall be chosen to represent both participating countries. United States appointees shall possess expertise in United States-Latin American scientific cooperation. The structure and operation of such Foundations shall be determined exclusively by their Boards of Governors, consistent with subsection (c).

(c) CHARTERS.—Binational Science Foundations established under this section shall have charters which include provisions—

(1) to protect the endowment's principal from loss of value due to inflation;

(2) to define the range of scientific and educational activities to be funded;

(3) to define criteria for application, merit review, and awarding of funds which encompass, at a minimum, consideration of scientific merit, strength of collaborative arrangements, and potential benefit to participants;

(4) to limit administrative costs to those that are prudent and necessary; and

(5) to engage an independent auditor to perform an annual organization-wide audit of such Foundations, in accordance with generally accepted auditing standards, and to make the results of the audit immediately available to the Director and the Board of Governors.

(d) INVESTMENT OF GOVERNMENT ASSISTANCE.—Binational Science Foundations established under this section may invest any revenue provided to them through government assistance, and any interest earned on such investments may be used only for the purpose for which the assistance was provided.

(e) OVERSIGHT.—If the Director determines, with the concurrence of the Director of the Office of Science and Technology Policy, that the operations of any such Foundation are not consistent with subsection (c), the Director may, not less than 30 days after notification to the Congress, withdraw from the endowment of such Foundation that portion which represents the contribution of the United States Government.

SEC. 6. REPORT.

Each year at the time of submission to the Congress of the President's budget, the Director shall submit to the Congress a report which—

(1) details activities conducted pursuant to this Act during the preceding fiscal year;

(2) includes a description of how activities of the Program relate to other ongoing and prospective National Science Foundation activities in Latin America;

(3) describes plans for the current and upcoming fiscal years' activities;

(4) recommends priorities for cooperation in terms of scientific disciplines and geographic regions; and

(5) recommends necessary legislative or administrative changes in the Program.

Every two years, this report shall include a description, analysis, and compilation of funding data for all federally funded research and development activities carried out in, or in cooperation with, Latin American nations.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated, from sums otherwise authorized to be appropriated, to the Director for carrying out this Act—

(1) $10,000,000 for fiscal year 1992; and

(2) $10,000,000 for fiscal year 1993,

except that of the funds available for International Cooperative Scientific Activities, not more than 25 percent shall be made available for carrying out this Act for each such fiscal year. The Administrator of the Agency for International Development is authorized and encouraged to provide, from sums otherwise authorized to be appropriated, or in the absence of such authorization, from sums otherwise available, under part I of the Foreign Assistance Act of 1961, $5,000,000 during fiscal year 1992, and $5,000,000 during fiscal year 1993, for funding part of a United States contribution to endowments of Binational Science Foundations described in section 5, such as the United States—Mexico Foundation for Science, either directly or through debt-for-science exchanges described in section 4.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia [Mr. BOUCHER] will be recognized for 20 minutes, and the gentleman from New Mexico [Mr. SCHIFF] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Virginia [Mr. BOUCHER].

Mr. BOUCHER. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, I rise in support of H.R. 3215, a bill to reinvigorate cooperation between the United States and Latin America in science and technology. The bill was introduced by the chairman of the Science Committee, Mr. BROWN.

The Science Committee has worked cooperatively with the Committee on Foreign Affairs, to whom the bill was jointly referred, and in particular with the chairman of the Subcommittee on Western Hemisphere Affairs, Mr. TORRICELLI. I would like to commend Chairman BROWN for his leadership on this measure, and Mr. WALKER and Mr. PACKARD, the ranking Republican members of the committee and the Science Subcommittee respectively, for their assistance and cooperation in bringing this measure to the floor.

The bill under consideration is an amendment in the nature of a substitute. The amendment establishes an Inter-American Scientific Cooperation Program within the National Science Foundation to provide a focal point for science and technology cooperation with Latin America.

Mr. Speaker, in recent years scientific cooperation between the United States and Latin America has diminished, not because of any lack of potential Latin American scientific partners or mutually beneficial areas of research, but because of the financial hardships caused by heavy external debt burdens in many Latin American countries.

As these countries begin to solve their debt problems and are able to devote increased resources to scientific

research, opportunities for fruitful international scientific collaboration are again available.

International collaboration on scientific problems offers tremendous advantages to all parties involved. By bringing together scientists with different backgrounds and expertise, new and creative approaches to research often result. To achieve this goal, mechanisms to foster and maintain international connections between scientists working on similar research problems are essential, and the Inter-American Scientific Cooperation Act provides a framework and a mandate for the National Science Foundation to assist United States scientists in developing productive collaborations with Latin American colleagues.

The amendment encourages the National Science Foundation and the Agency for International Development, to take advantage of innovative methods, such as debt-for-service exchanges to finance cooperative scientific ventures. It also encourages both agencies to assist and contribute to the establishment of independent binational science foundations, whose purpose are to maximize opportunities for long-term collaborative research relationships between scientists in various countries, and to help set regional research priorities.

Mr. Speaker, the success of the European Community's effort to establish a unified market reminds us that our own economic future will increasingly depend on building scientific, technological, and economic linkages with countries in our own hemisphere. The Inter-American Scientific Cooperation Act represents an important component of this new strategy, and I urge my colleagues to support the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SCHIFF. Mr. Speaker, I yield myself such time as I may consume.

As a cosponsor, I am pleased to rise in support of H.R. 3215, the Inter-American Scientific Cooperation Act of 1992. I commend my distinguished colleague and good friend from California, Mr. BROWN who is the chairman of the Science, Space, and Technology Committee. He has taken an idea that was originally conceived by President Bush's current Secretary of the Interior, Manuel Lujan, and guided it through the committee process. More avenues for cooperative scientific research between the United States and Latin America have been an ongoing concern of the chairman's.

I share my chairman's desire for improved relations with the countries in Latin America. It is my hope that the programs provided for in H.R. 3215 will give us the opportunity to participate jointly on research projects while at the same time giving their economies a boost.

Improving the economic conditions in Latin America will open up new markets for United States goods and services. It will also serve to stabilize the region by creating jobs and opportunities which will result in more individuals choosing to stay in their countries instead of fleeing to the United States.

I would like to thank Mr. BROWN and Mr. BOUCHER of Virginia for working out compromises on this bill with Mr. WALKER, Mr. PACKARD, and myself. The specific concerns included: Ensuring that the authorizations come out of the existing budget; limiting the amount of funds that come out of the small budget of International Cooperative Scientific Activities; and setting specific parameters on the amount of the debtor nation's contribution for a debt swap so that the United States get an adequate return on its investment.

□ 1350

Mr. BOUCHER. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from California [Mr. BROWN], the chairman of the full Committee on Science, Space, and Technology.

Mr. BROWN. Mr. Speaker, I rise in support of H.R. 3215, as amended, a bill whose goal is to build institutional ties between the United States and Latin American scientific and technological communities, and to create long-term mechanisms for supporting cooperation.

I want to acknowledge the efforts of Mr. BOUCHER, chairman of the Subcommittee on Science, Mr. TORRICELLI, chairman of the Subcommittee on Western Hemisphere Affairs, Mr. FASCELL, chairman of the Committee on Foreign Affairs, Mr. PACKARD, ranking Republican of the Subcommittee on Science, and Mr. WALKER, ranking Republican of the Committee on Science, Space, and Technology. They have all been staunch supporters of this initiative that we are considering today. I was pleased that working together the two committees were able to bring a much improved version of the original bill to the floor.

As my colleagues know, I have a particular interest in promoting new incentives and institutions for scientific cooperation with our neighbors in the Western Hemisphere, and I think that H.R. 3215 offers an important mechanism for attaining these goals. I would like to call attention to several critical issues that bear on this legislation.

First of all, I must emphasize that the economic future of the United States depends in no small part on the capability for economic growth in Latin American nations. And we all agree that a strong science and technology base is a key component of sustained economic development. A strong economy is not only key to reaping the benefits of increasingly open trade relations in the Western Hemisphere, but also to the maintenance of political stability as well.

Second, I want to stress that this is not a foreign aid program. I have visited scientific facilities in Mexico, Brazil, Argentina, Chile, and Ecuador over the past several years, and the opportunities for expanded, mutually beneficial cooperation are abundant. In Mexico, for example, new centers for research in public health, biotechnology, and agriculture are exemplary research models that the rest of the world would do well to emulate. In my discussions with officials of Mexico, Brazil, Colombia, and Argentina; they have all indicated their strong support for the types of collaborative research and cost-sharing arrangements that this bill would promote.

The purpose of this legislation is to build institutional ties between the United States and Latin American scientific communities, and to create long-term mechanisms for ongoing support. We are trying to inculcate a spirit of hemisphere-wide partnership by encouraging cost sharing and innovative funding approaches such as debt-for-science swaps, by focusing on exchange of scientists and engineers, information, and equipment, and by creating new institutions, such as the recently inaugurated Mexico-United States Foundation for Science. I note that the establishment of this Foundation has received strong support from the highest levels within both the Bush and Salinas administrations, as well as from the Academies of Science and Engineering in the United States and Mexico.

This region of the world which we have so often neglected offers us considerable opportunities for the future. By increasing scientific cooperation between the United States and Latin America, we can help build a foundation for economic growth, and create a new spirit of partnership that extends from Point Barrow, AK, to Tierra del Fuego. Mr. Speaker, I strongly urge my colleagues to support H.R. 3215.

Mr. Speaker, at this point I would like to vent a little frustration. Having seen efforts at collaboration between ourselves and Latin America since the days of John F. Kennedy, having noted that almost every new American President hastens to conclude an agreement on science and technological cooperation with our neighbors to the south, and then having noted that very rarely is there adequate funding or continuing concern for implementing these agreements, it is my hope that what we are doing today will provide a permanent base and foundation under which we can continue with realistic programs based upon joint cost sharing and close cooperation between ourselves and our neighbors.

Mr. SCHIFF. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BOUCHER. Mr. Speaker, I have no further requests for time, I urge

adoption of the bill, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUBBARD). The question is on the motion offered by the gentleman from Virginia [Mr. BOUCHER] that the House suspend the rules and pass the bill, H.R. 3215, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BOUCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 3215, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

PERMISSION FOR COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY TO SIT DURING 5-MINUTE RULE ON TUESDAY, AUGUST 11, 1992

Mr. BROWN. Mr. Speaker, I ask unanimous consent that the Committee on Science, Space, and Technology be permitted to sit on Tuesday, August 11, 1992 while the House is in session under the 5-minute rule.

This request has been cleared by the minority leadership of both the House and the Committee on Science, Space, and Technology.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

FEDERAL FIRE SAFETY ACT OF 1992

Mr. BOUCHER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3360) to amend the Federal Fire Prevention and Control Act of 1974 to promote the use of automatic sprinklers, or an equivalent level of fire safety, and for other purposes; as amended.

The Clerk read as follows:

H.R. 3360

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Fire Safety Act of 1992".

SEC. 2. FINDINGS.

The Congress finds that—

(1) through the Federal Fire Prevention and Control Act of 1974, the Federal Government has helped to develop and promote the use of residential sprinkler systems and other means of fire prevention and control;

(2) the United States has one of the worst records of fire-related deaths and losses per capita of any industrialized nation in the world, with approximately 5,500 deaths annually attributable to fires;

(3) the vulnerability to fire of office buildings and residential housing units can be reduced through strong fire safety measures;

(4) it is essential for the protection of life and property from fire that effective technology be employed in detecting, containing, and suppressing fires;

(5) when properly installed and maintained, automatic sprinklers and smoke detectors provide effective safeguards against the loss of life and property from fire; and

(6) Federal employee office buildings, housing for Federal employees, and federally assisted housing should serve as models for demonstrating appropriate means of reducing fire hazards to the local community.

SEC. 3. FIRE SAFETY SYSTEMS IN FEDERALLY ASSISTED BUILDINGS.

The Federal Fire Prevention and Control Act of 1974 is amended by adding at the end the following new section:

"SEC. 31. FIRE SAFETY SYSTEMS IN FEDERALLY ASSISTED BUILDINGS.

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'affordable cost' means the cost to a Federal agency of leasing office space in a building that is protected by an automatic sprinkler system or equivalent level of safety, which cost is no more than 10 percent greater than the cost of leasing available comparable office space in a building that is not so protected;

"(2) the term 'automatic sprinkler system' means an electronically supervised, integrated system of piping to which sprinklers are attached in a systematic pattern, and which, when activated by heat from a fire—

"(A) will protect human lives by discharging water over the fire area, in accordance with the National Fire Protection Association Standard 13, 13D, or 13R, whichever is appropriate for the type of building and occupancy being protected, or any successor standard thereto; and

"(B) includes an alarm signaling system with appropriate warning signals (to the extent such alarm systems and warning signals are required by Federal, State, or local laws or regulations) installed in accordance with the National Fire Protection Association Standard 72, or any successor standard thereto;

"(3) the term 'equivalent level of safety' means an alternative design or system, based upon fire protection engineering analysis, which achieves a level of safety equal to or greater than that provided by automatic sprinkler systems;

"(4) the term 'Federal employee office building' means any office building in the United States, whether owned or leased by the Federal Government, that is regularly occupied by more than 25 full-time Federal employees in the course of their employment;

"(5) the term 'housing assistance'—

"(A) means assistance provided by the Federal Government to be used in connection with the provision of housing, that is provided in the form of a grant, contract, loan, loan guarantee, cooperative agreement, interest subsidy, insurance, or direct appropriation; and

"(B) does not include assistance provided by the Secretary of Veterans Affairs; the Federal Emergency Management Agency; the Secretary of Housing and Urban Development under the single family mortgage insurance programs under the National Housing Act or the homeownership assistance program under section 235 of such Act; the National Homeownership Trust; the Federal Deposit Insurance Corporation under the affordable housing program under section 40 of the Federal Deposit Insurance Act; or the Resolution Trust Corporation under the affordable housing program under section 21A(c) of the Federal Home Loan Bank Act;

"(6) the term 'hazardous areas' means those areas in a building referred to as hazardous areas in National Fire Protection Association Standard 101, known as the Life Safety Code, or any successor standard thereto;

"(7) the term 'multifamily property' means—

"(A) in the case of housing for Federal employees or their dependents, a residential building consisting of more than 2 residential units that are under one roof; and

"(B) in any other case, a residential building consisting of more than 4 residential units that are under one roof;

"(8) the term 'prefire plan' means specific plans for fire fighting activities at a property or location;

"(9) the term 'rebuilding' means the repairing or reconstructing of portions of a multifamily property where the cost of the alterations is 70 percent or more of the replacement cost of the completed multifamily property, not including the value of the land on which the multifamily property is located;

"(10) the term 'renovated' means the repairing or reconstructing of 50 percent or more of the current value of a Federal employee office building, not including the value of the land on which the Federal employee office building is located;

"(11) the term 'smoke detectors' means single or multiple station, self-contained alarm devices designed to respond to the presence of visible or invisible particles of combustion, installed in accordance with the National Fire Protection Association Standard 74 or any successor standard thereto; and

"(12) the term 'United States' means the States collectively.

"(b) FEDERAL EMPLOYEE OFFICE BUILDINGS.—

"(1) PROHIBITION.—

"(A) FEDERALLY OWNED BUILDINGS.—No Federal funds may be used for the construction or purchase of a Federal employee office building of 6 or more stories unless during the period of occupancy by Federal employees the building is protected by an automatic sprinkler system or equivalent level of safety. No Federal funds may be used for the construction or purchase of any other Federal employee office building unless during the period of occupancy by Federal employees the hazardous areas of the building are protected by automatic sprinkler systems or an equivalent level of safety.

"(B) FEDERALLY LEASED OFFICE SPACE.—(i) Except as provided in clause (ii), no Federal funds may be used for the lease of a Federal employee office building of 6 or more stories, where at least some portion of the federally leased space is on the sixth floor or above and at least 35,000 square feet of space is federally occupied, unless during the period of occupancy by Federal employees the entire Federal employee office building is protected by an automatic sprinkler system or equivalent level of safety. No Federal funds may be used for the lease of any other Federal employee office building unless during the period of occupancy by Federal employees the hazardous areas of the entire Federal em-

ployee office building are protected by automatic sprinkler systems or an equivalent level of safety.

"(ii) The first sentence of clause (i) shall not apply to the lease of a building the construction of which is completed before the date of enactment of the Federal Fire Safety Act of 1992 if the leasing agency certifies that no suitable building with automatic sprinkler systems or an equivalent level of safety is available at an affordable cost.

"(iii) Within 3 years after the date of enactment of the Federal Fire Safety Act of 1992, and periodically thereafter, the Comptroller General shall audit a selection of certifications made under clause (ii) and report to Congress on the results of such audit.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A) a Federal employee office building that was owned by the Federal Government before the date of enactment of the Federal Fire Safety Act of 1992;

"(B) space leased in a Federal employee office building if the space was leased by the Federal Government before the date of enactment of the Federal Fire Safety Act of 1992;

"(C) space leased on a temporary basis for not longer than 6 months;

"(D) a Federal employee office building that becomes a Federal employee office building pursuant to a commitment to move Federal employees into the building that is made prior to the date of enactment of the Federal Fire Safety Act of 1992; or

"(E) a Federal employee office building that is owned or managed by the Resolution Trust Corporation.

Nothing in this subsection shall require the installation of an automatic sprinkler system or equivalent level of safety by reason of the leasing, after the date of enactment of the Federal Fire Safety Act of 1992, of space below the sixth floor in a Federal employee office building.

"(3) RENOVATION OF FEDERALLY OWNED BUILDINGS.—No Federal funds may be used for the renovation of a Federal employee office building of 6 or more stories that is owned by the Federal Government unless after that renovation the Federal employee office building is protected by an automatic sprinkler system or equivalent level of safety. No Federal funds may be used for the renovation of any other Federal employee office building that is owned by the Federal Government unless after that renovation the hazardous areas of the Federal employee office building are protected by automatic sprinkler systems or an equivalent level of safety.

"(4) RENOVATION OF LEASED BUILDINGS.—No Federal funds may be used for entering into or renewing a lease of a Federal employee office building of 6 or more stories that is renovated after the date of enactment of the Federal Fire Safety Act of 1992, where at least some portion of the federally leased space is on the sixth floor or above and at least 35,000 square feet of space is federally occupied, unless after that renovation the Federal employee office building is protected by an automatic sprinkler system or equivalent level of safety. No Federal funds may be used for entering into or renewing a lease of any other Federal employee office building that is renovated after the date of enactment of the Federal Fire Safety Act of 1992, unless after that renovation the hazardous areas of the Federal employee office building are protected by automatic sprinkler systems or an equivalent level of safety.

"(c) HOUSING.—

"(1) HOUSING FOR FEDERAL EMPLOYEES.—

"(A) No Federal funds may be used for the construction, purchase, lease, or operation by the Federal Government of housing in the United States for Federal employees or their dependents unless—

"(i) in the case of a multifamily property acquired or rebuilt by the Federal Government after the date of enactment of the Federal Fire Safety Act of 1992, the housing is protected, before occupancy by Federal employees or their dependents, by an automatic sprinkler system and hard-wired smoke detectors; and

"(ii) in the case of any other housing, the housing, before—

"(I) occupancy by the first Federal employees (or their dependents) who do not occupy such housing as of the date of enactment of the Federal Fire Safety Act of 1992; or

"(II) the expiration of 3 years after such date of enactment,

whichever occurs first, is protected by hard-wired smoke detectors.

"(B) Nothing in this paragraph shall be construed to supersede any guidelines or requirements applicable to housing for Federal employees that call for a higher level of fire safety protection than is required under this paragraph.

"(2) FEDERALLY ASSISTED HOUSING.—

"(A) NEWLY CONSTRUCTED MULTIFAMILY PROPERTIES.—

"(i) REQUIREMENT FOR HOUSING ASSISTANCE.—Housing assistance may not be used in connection with any newly constructed multifamily property, unless after the new construction the multifamily property is protected by an automatic sprinkler system and hard-wired smoke detectors.

"(ii) DEFINITION OF NEWLY CONSTRUCTED MULTIFAMILY PROPERTY.—For purposes of clause (i), the term 'newly constructed multifamily property' means a multifamily property of 4 or more stories above ground level—

"(I) that is newly constructed after the date of the enactment of the Federal Fire Safety Act of 1992; and

"(II) for which (a) housing assistance is used for such new construction, or (b) a binding commitment is made, before commencement of such construction, to provide housing assistance for the newly constructed property.

"(iii) EXCEPTION.—Clause (i) shall not apply to any multifamily property for which, before the date of the enactment of the Federal Fire Safety Act of 1992, a binding commitment is made to provide housing assistance for the new construction of the property or for the newly constructed property.

"(B) REBUILT MULTIFAMILY PROPERTIES.—

"(i) REQUIREMENT FOR HOUSING ASSISTANCE.—Except as provided in clause (ii), housing assistance may not be used in connection with any rebuilt multifamily property, unless after the rebuilding the multifamily property complies with the chapter on existing apartment buildings of National Fire Protection Association Standard 101 (known as the Life Safety Code), as in effect at the earlier of (I) the time of any approval by the Department of Housing and Urban Development of the specific plan or budget for rebuilding, or (II) the time that a binding commitment is made to provide housing assistance for the rebuilt property.

"(ii) EXCEPTION.—If any rebuilt multifamily property is subject to, and in compliance with, any provision of a State or local fire safety standard or code that prevents compliance with a specific provision of National Fire Protection Association Standard 101, the requirement under clause (i) shall not apply with respect to such specific provision.

"(iii) DEFINITION OF REBUILT MULTIFAMILY PROPERTY.—For purposes of this subparagraph, the term 'rebuilt multifamily property' means a multifamily property of 4 or more stories above ground level—

"(I) that is rebuilt after the last day of the second fiscal year that ends after the date of the enactment of the Federal Fire Safety Act of 1992; and

"(II) for which (a) housing assistance is used for such rebuilding, or (b) a binding commitment is made, before commencement of such rebuilding, to provide housing assistance for the rebuilt property.

"(C) OTHER ASSISTED HOUSING.—After the expiration of the 180-day period beginning on the date of the enactment of the Federal Fire Safety Act of 1992, housing assistance may not be used in connection with any other dwelling unit, unless the unit is protected by a hard-wired or battery-operated smoke detector. For purposes of this subparagraph, housing assistance shall be considered to be used in connection with a particular dwelling unit only if such assistance is provided (i) for the particular unit, in the case of assistance provided on a unit-by-unit basis, or (ii) for the multifamily property in which the unit is located, in the case of assistance provided on a structure-by-structure basis.

"(d) REGULATIONS.—The Administrator of General Services, in cooperation with the United States Fire Administration, the National Institute of Standards and Technology, and the Department of Defense, within 2 years of the date of enactment of the Federal Fire Safety Act of 1992, shall promulgate regulations to further define the term 'equivalent level of safety', and shall, to the extent practicable, base those regulations on nationally recognized codes.

"(e) STATE AND LOCAL AUTHORITY NOT LIMITED.—Nothing in this section shall be construed to limit the power of any State or political subdivision thereof to implement or enforce any law, rule, regulation, or standard that establishes requirements concerning fire prevention and control.

"(f) PREFIRE PLAN.—The head of any Federal agency that owns, leases, or operates a building or housing unit with Federal funds shall invite the local agency or voluntary organization having responsibility for fire protection in the jurisdiction where the building or housing unit is located to prepare, and biennially review, a prefire plan for the building or housing unit.

"(g) REPORTS TO CONGRESS.—(1) Within 3 years after the date of enactment of the Federal Fire Safety Act of 1992, and every 3 years thereafter, the Administrator of General Services shall transmit to Congress a report on the level of fire safety in Federal employee office buildings subject to fire safety requirements under this section. Such report shall contain a description of such buildings for each Federal agency.

"(2) Within 10 years after the date of enactment of the Federal Fire Safety Act of 1992, each Federal agency providing housing to Federal employees or housing assistance shall submit a report to the Congress on the progress of that agency in implementing subsection (c) and on plans for continuing such implementation.

"(3)(A) The National Institute of Standards and Technology shall conduct a study and submit a report to Congress on the use, in combination, of fire detection systems, fire suppression systems, and compartmentation. Such study shall—

"(i) quantify performance and reliability for fire detection systems, fire suppression systems, and compartmentation, including a field assessment of performance and determination of conditions under which a reduction or elimination of 1 or more of those systems would result in an unacceptable risk of fire loss; and

"(ii) include a comparative analysis of compartmentation using fire resistive materials and compartmentation using noncombustible materials.

"(B) The National Institute of Standards and Technology shall obtain funding from non-Federal sources in an amount equal to that provided by Federal sources for carrying out this paragraph. Funding for the National Institute of Standards and Technology for carrying out such study shall be derived from amounts otherwise authorized to be appropriated. The study shall not commence until receipt of all matching funds from non-Federal sources. The scope and extent of the study shall be determined by the level of project funding. The Institute shall submit a report to Congress on the study within 30 months after the date of enactment of the Federal Fire Safety Act of 1992.

"(h) RELATION TO OTHER REQUIREMENTS.—In the implementation of this section, the process for meeting space needs in urban areas shall continue to give first consideration to a centralized community business area and adjacent areas of similar character to the extent of any Federal requirement therefor.".

SEC. 4. EFFECTIVE DATE.

Section 31(b) of the Federal Fire Prevention and Control Act of 1974, as added by section 3 of this Act, shall take effect 2 years after the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia [Mr. BOUCHER] will be recognized for 20 minutes, and the gentleman from New Mexico [Mr. SCHIFF] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Virginia [Mr. BOUCHER].

Mr. BOUCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3360 is designed to protect the American public. Despite the availability and affordability of automatic sprinkler systems and smoke detectors, the United States continues to have an unacceptably high fire death rate. Fire is the third leading cause of accidental death, accounting for more than 5,500 deaths each year. This is a rate that is 50 percent higher than most of the industrialized nations of the world. And the great majority of fire deaths in the United States occur among the elderly and children age 14 and younger.

The bill will enable the Federal Government to set an example in the area of fire safety and, by its own actions, encourage the private sector to make greater use of the technology that has been proven to save lives. H.R. 3360 will, for the first time, establish minimum standards of fire safety for Federal office space in both Government-owned and leased buildings, and in many categories of federally assisted housing.

According to the National Fire Protection Association, there has never been a multiple loss of life—involving three or more fatalities—in a building with an operational sprinkler system. The NFPA data further indicate that the presence of a smoke detector reduces the chance of dying in a fire by 50 percent, and that the addition of an automatic sprinkler system reduces the death rate by 82 percent.

These statistics are compelling evidence that preventing needless loss of life in fires is directly proportional to reliance upon automatic sprinklers and smoke detectors. The amendment will require the installation of automatic sprinklers—or an equivalent level of safety—in newly constructed, high-rise Government-owned buildings and in all newly leased buildings. The same requirement applies under H.R. 3360 when Federal office space, whether owned or leased, undergoes a renovation equivalent to 50 percent or more of the value of the building. While existing Federal office space not undergoing renovation is exempted from the bill's requirements, all renewals of leased office space will trigger compliance with the standards of H.R. 3360.

In regard to federally assisted housing, H.R. 3360 requires all newly constructed, multifamily properties of four or more stories to be protected by automatic sprinklers and hard-wired smoke detectors. Substantially rebuilt properties—undergoing renovation work equivalent to 70 percent or more of the replacement cost of the building—will be required to comply with the standards of the most current version of the National Fire Protection Association's Life Safety Code, which generally requires the installation of sprinklers except where the building is of brick-and-block compartmentalized construction. For all housing units receiving rental assistance, the bill requires that such housing must be protected by smoke detectors within 180 days after enactment.

The amendment in the nature of a substitute under consideration represents an agreement between the Science Committee and the Committees on Public Works and Transportation and Banking, Finance, and Urban Affairs, to which the bill was jointly referred.

I would like to thank Mr. ROE, chairman of the Committee on Public Works and Transportation, and Mr. SAVAGE, chairman of the Subcommittee on Public Buildings and Grounds, for their prompt consideration of this legislation and also for their two very constructive amendments regarding the issuance of regulations by the General Services Administration and agency reporting requirements. I would also like to express my gratitude to the ranking Republican member of the Committee on Public Works and Transportation, Mr. HAMMERSCHMIDT, and also to the ranking Republican member of the Subcommittee on Public Buildings and Grounds, Mr. INHOFE.

The Committee on Banking, Finance, and Urban Affairs has also made important contributions to the bill. I would like to thank Mr. GONZALEZ, the chairman of the Committee, Mr. WYLIE, the ranking Republican Member of the Committee on Banking, Finance, and Urban Affairs, and Mrs. ROUKEMA, the ranking Republican member of the Subcommittee on Housing and Community Development. The Committee's amendment linking the provisions for installation of automatic sprinklers in substantially rebuilt multifamily housing to the current requirements of the National Fire Protection Association's Life Safety Code was very constructive. I wish to insert in the RECORD at this point the exchange of letters between Chairman BROWN and Chairman GONZALEZ regarding the agreement reached by the two committees.

Finally, I would like to acknowledge the contribution of Mr. CONYERS, the chairman of the Committee on Governmental Operations, for his assistance in providing clarifying language that ensures that nothing in H.R. 3360 affects the Executive order requirement that the process for meeting Federal space needs in urban areas shall give first consideration to a centralized community business area and adjacent areas of similar character.

Within the Science Committee, I would like to acknowledge the support and assistance provided by Chairman BROWN and by the ranking Republican member, Mr. WALKER. I would also like to thank the ranking Republican member of the Science Subcommittee, Mr. PACKARD.

H.R. 3360 enjoys strong bipartisan support of 106 cosponsors. From the beginning of this initiative 1 year ago, I have looked to the ideas and leadership of Mr. BOEHLERT, who was the driving force behind the enactment in the 101st Congress of the Hotel and Motel Fire Safety Act of 1990. I want to express my gratitude for his tireless work in this area and for his persistence in securing the administration's assent to the provisions contained in the bill.

I would also like to acknowledge the significant contributions of our colleague, Mr. WELDON, the outgoing chair of the congressional fire services caucus, for his assistance in developing the fire protection standards contained in H.R. 3360.

These minimum standards of fire safety protection will signal the Federal Government's determination to lead by example. Enactment of H.R. 3360 will be a meaningful and influential example for the private sector, and encourage greater reliance upon the fire safety technology that will reduce the needless loss of life in fires. This legislation is the No. 1 legislative priority of the Nation's fire services, and I urge my colleagues to support this legislation.

COMMITTEE ON SCIENCE,
SPACE, AND TECHNOLOGY,
Washington, DC, August 4, 1992.

Hon. HENRY B. GONZALEZ,
Chairman, Committee on Banking, Finance, and Urban Affairs,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am pleased that our respective committees have reached an agreement governing the housing provisions of H.R. 3360, the "Federal Fire Safety Act of 1992." This legislation was introduced on September 17, 1991, by Mr. Boucher and Mr. Boehlert and was jointly referred to the Committees on Science, Space, and Technology; Public Works and Transportation; and Banking, Finance, and Urban Affairs. The Science Committee reported H.R. 3360 on April 30, 1992, and the Public Works Committee ordered the bill reported on July 1, 1992.

The agreement we have reached will make those sections of H.R. 3360, which are in the jurisdiction of your Committee, amendments to appropriate provisions of housing law. In response to your Committee's concerns, the amendment modifies H.R. 3360 to require that housing assistance may not be used in connection with any rebuilt multifamily property, unless after the rebuilding the multifamily property complies with the National Fire Protection Association Standard 101 (known as the Life Safety Code) as in effect at the earlier of (1) the time of any approval by the Department of Housing and Urban Development of the specific plan or budget for rebuilding, or (2) the time that a binding commitment is made to provide housing assistance for the rebuilt property.

The agreement defines the term "rebuilding" to mean the repairing or reconstructing of portions of a multifamily property where the cost of alterations is 50 percent or more of the replacement cost of the completed multifamily property, not including the value of the land on which the multifamily property is located.

As a result of the agreement between our committees, it is my understanding that the Committee on Banking, Finance, and Urban Affairs will discharge H.R. 3360, enabling the Science Committee to take the bill to the floor under suspension of the rules during the week of August 10, 1992.

Thank you for your assistance in regard to H.R. 3360.

Sincerely,

GEORGE E. BROWN, Jr.,
Chairman.

SUBCOMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT OF THE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS,
Washington, DC, August 7, 1992.

Hon. GEORGE E. BROWN, Jr.,
Chairman, Committee on Science, Space, and Technology,
Washington, DC.

DEAR CHAIRMAN GEORGE BROWN: I appreciate your recent letter which outlines the agreements reached with the Banking Committee on H.R. 3360, the Federal Fire Safety Act of 1992, which was jointly referred to the Banking Committee. Based on these agreements, the Banking Committee is discharging the bill from its referral to enable you to take the bill to the floor under suspension of the House rules next week. I have separately written to Speaker Foley indicating the Committee discharge of your bill.

Again, I appreciate your recent letter and your cooperation in working out the provisions of the bill affecting our federally-assisted subsidized housing programs.

Sincerely,

HENRY B. GONZALEZ,
Chairman.

□ 1400

Mr. Speaker, I reserve the balance of my time.

Mr. SCHIFF. Mr. Speaker, I yield myself such time as I may consume. I rise in support of H.R. 3360, the Federal Fire Safety Act of 1992. This bill was originally introduced in September of last year by my distinguished colleagues, Mr. BOUCHER of Virginia, who is the chairman of the Science Subcommittee, and Mr. BOEHLERT of New York, who is the ranking Republican of the Investigations and Oversight Subcommittee. I commend the gentlemen for their foresight and dedication to this important fire safety issue.

The intent of H.R. 3360 is to promote fire safety in Federal office buildings, housing for Federal employees, and federally assisted housing. The Federal Government will act as a role model for the private sector by using fire sprinklers which have been proven to save lives.

H.R. 3360 has undergone some intense and lengthy negotiations since the time that it was introduced. The staff has met with HUD, GSA, DOD, and OMB. Due to the numerous modifications that have been made in the bill, the administration is unopposed to the bill. I would like to thank the administration for their cooperation.

I would also like to thank the Banking Committee and the Public Works Committee for taking action on this bill so that we could bring it to the floor before we go out in August.

My appreciation goes out to Mr. BOUCHER, Mr. BOEHLERT, Mr. PACKARD of California, and Mr. WALKER of Pennsylvania, who is the ranking Republican of the Science, Space, and Technology Committee. The entire committee worked together in a spirit of cooperation to address the concerns of the administration and I think all of the outstanding issues have finally been resolved.

I would like to especially recognize Mr. WALKER and Mr. PACKARD for their efforts to develop a bill that would not result in significant additional cost to the taxpayer. In fact, the cost of the bill has been limited even further since a $5 to $8 million CBO cost estimate for 1993–95 was calculated. In effect, the bill codifies existing executive branch fire safety policy.

Mr. Speaker, I reserve the balance of my time.

Mr. BOUCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. SAVAGE], chairman of the subcommittee of the Committee on Public Works and Transportation that was extremely helpful to us in the passage of this measure.

Mr. SAVAGE. Mr. Speaker, I rise in strong support of H.R. 3360, and I commend the distinguished chairman from Virginia, for his leadership in the area of improving fire safety in the work place. The House Subcommittee on Public Buildings and Grounds, which I have the honor to chair, held a hearing on May 28, 1992, regarding this Federal Fire Safety Act of 1992.

During the hearing, the members heard persuasive testimony from an impressive witness panel, including an industry expert, GSA officials, and a spokesman for Chicago firemen, favoring the need for setting fire safety standards and guidelines in Government-owned or leased buildings.

With the enactment of H.R. 3360, the Federal Government will assume an appropriate leadership role in protecting the personal safety of Federal workers, as well as all people in the workplace.

Thus, I urge my concerned colleagues to support this vital legislation.

Mr. SCHIFF. Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. HAMMERSCHMIDT], who is the ranking Republican member of the Committee on Public Works and Transportation.

Mr. HAMMERSCHMIDT. Mr. Speaker, I am pleased to rise in strong support of H.R. 3360, the Federal Fire Safety Act of 1991. This bill amends the Federal Fire Prevention and Control Act of 1974 to promote the use of automatic sprinklers, or an equivalent level of fire safety.

Introduced by Congressmen BOUCHER and BOEHLERT on September 17, 1991, H.R. 3360 attempts to encourage the greater use of smoke detectors and automatic sprinklers by requiring that the Federal Government set an example in the area of fire safety.

The bill prohibits Federal funding for construction and leasing of Federal office buildings, housing for Federal employees, and Federally subsidized housing, unless the fire safety standards of the bill have been met.

Given that fire is the fourth largest accidental killer in the United States, it is appropriate that we consider legislation which would promote devices designed to save lives. I commend Mr. BOEHLERT and Mr. BOUCHER for their diligence in this area and urge my colleagues to support H.R. 3360.

□ 1410

Mr. BOUCHER. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from California [Mr. BROWN], the chairman of the full Committee on Science, Space and Technology.

Mr. BROWN. Mr. Speaker, I thank the gentleman for yeilding time to me.

Mr. Speaker, it has not been my intention to speak on this bill, but merely to submit my remarks on the bill. However, I think I ought to point out that the Committee on Science, Space, and Technology has brought three bills to the floor here, each of which was referred to other committees, and we

have worked in close cooperation with these other committees to bring them to the floor.

As I said in some earlier remarks, I think it is becoming increasingly necessary in the system that we live and work in here in Congress to explore ways to enhance the culture of cooperation, if I may put it that way, in order that we may bring to the floor legislation which may not fall precisely within the jurisdiction of one particular committee, but which nevertheless is important to the welfare of the country. I think the bill we have before us, H.R. 3360, is an excellent example of that particular kind of legislation.

Mr. Speaker, if we can encourage this cultural cooperation, it may be that we can expand it beyond some of the relatively minor bills we are considering here today under suspension to some of the more important bills, such as health legislation, the energy bill, which is still hung up in conference because of its complexity involving several different committees, and some of the other legislation, legislation involving economic growth, which is admittedly complex.

One of the things that this Congress is being faulted for, and probably properly so, is that we have not learned to cooperate among ourselves and to solve problems which in themselves do not neatly fit within the jurisdiction of any one committee. I appreciate the indulgence of the Chair for allowing me to make this statement, and hope that somebody up there will be listening.

Mr. Speaker, I rise in strong support of H.R. 3360, the Federal Fire Safety Act of 1992, as amended. The bill would require the installation of smoke detectors and automatic sprinkler systems in most newly constructed and newly leased Federal high-rise office buildings and federally subsidized, high-rise multifamily housing.

Despite the widespread availability of affordable means of preventing fire losses, the United States continues to have one of the highest per capita fire death rates in the industrialized world. Fire is the fourth largest accidental killer in the United States claiming about 6,000 lives annually and injuring an additional 30,000 individuals. The elderly and the very young are the most vulnerable to fire.

The Federal Government has taken some steps toward fire safety, but not enough to encourage the installation of fire safety devices like automatic sprinklers and smoke detectors. This bill would require the Federal Government to lead by example in the area of fire safety. H.R. 3360 would require Federal agencies to follow a minimum threshold level of protection.

The legislation we have before us today represents an agreement reached between the Committee on Science, Space, and Technology, the Committee on Public Works, and the Committee on Banking and Urban Affairs. I want to take this time to recognize the commitment of the primary cosponsors of the bill, Mr. BOUCHER and Mr. BOEHLERT. I would also like to recognize the support of Mr. WALKER, ranking Republican member and Mr. PACKARD, ranking Republican member of the Subcommittee on Science.

At the same time, I want to extend appreciation to the Committee on Public Works, in particular, Chairman ROE, Mr. HAMMERSCHMIDT, ranking Republican member, Mr. SAVAGE, chairman of the Subcommittee on Public Buildings and Grounds and Mr. INHOFE, ranking Republican member. I would like to also thank the Banking Committee, in particular Chairman GONZALEZ. Mr. WYLIE, ranking Republican member and Mrs. ROUKEMA, ranking Republican member of the Subcommittee on Housing and Community Development.

Many times legislation affecting health and safety is often called tombstone legislation when it is proposed in the aftermath of a tragic event. The Federal Fire Safety Act of 1992 is an exception. Join us in strengthening fire safety protection for Federal employees and occupants of federally subsidized high-rise housing.

I urge my colleagues to vote for passage of H.R. 3360, the Federal Fire Safety Act.

Mr. SCHIFF. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BOUCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I thank my friend, the gentleman from Virginia [Mr. BOUCHER] for yielding me this time, and for his leadership on this issue. I rise in strong support of the bill, H.R. 3360.

Mr. Speaker, the gentleman from Virginia and the gentleman from New Mexico [Mr. SCHIFF], my friend and colleague, have explained very well this bill. I will not reexplain it, but it is certainly important to note that all newly constructed Federal buildings, those Federal buildings which are extensively renovated or remodeled and leased facilities, facilities leased by the Federal Government for its workers, will have to conform to minimum fire protection standards. Those minimum standards would basically be an automatic sprinkler system, a system of smoke and fire alarms, or some combination thereof.

Mr. Speaker, I think the statistics the gentleman from Virginia just recited are appalling, the number of deaths of generally younger children and older people, and the fact that these 5,500-plus deaths are largely preventable if the buildings and structures are adequately alarmed or protected by sprinkler systems.

Mr. Speaker, I think in this age we ought to do everything we can to protect life and to prevent death. This bill will do that. I am pleased to report that in my own community of Louisville and Jefferson County, under the strong leadership of Louisville division fire chief, Chief Russell Sanders, we have very markedly reduced the number of deaths and injuries and property damage as a result of fire. The Louisville division's mission has been to prevent fire, and I think their statistics reflect the success of that program.

Chief Sanders is in town to testify tomorrow before the panel on children, youth and families, chaired by the gentlewoman from Colorado [Mrs. SCHROEDER], to talk about fire safety from the perspective of children and families.

So I think if Chief Sanders is able to convey to the committee, and I am sure he will, the steps we have taken at home to abate fire, to avoid fire, to save lives, then that will certainly be welcome testimony and helpful to other communities in our Nation.

Along with the bill to be passed today, H.R. 3360, I think the chief's testimony will go a long way to protect the lives of people in America from preventable fires.

I rise in strong support of the bill and commend my two friends for their work.

Mr. HOYER. Mr. Speaker, I rise in strong support of H.R. 3360, the Federal Fire Safety Act of 1992. Congressman RICK BOUCHER has done a tremendous job in bringing this bill to the floor today and deserves the praise of everyone concerned about public safety.

H.R. 3360 finally requires sprinkler suppression systems in new and renovated buildings owned by the Federal Government, as well as in federally assisted housing.

As a cochairman of the congressional fire services caucus, I can attest to the strong support that this legislation has had within the caucus. The best training and the best equipment in the world are only enhanced by suppression systems like sprinklers.

I believe the Federal Government is long overdue in embracing this level of fire protection in their buildings, particularly when considering that nearly half of the General Services Administration's buildings are over 40 years old. Few fire suppression systems save more lives than sprinklers, and I am very pleased to support this legislation.

Mr. BOEHLERT. Mr. Speaker, H.R. 3360 represents a significant step forward in protecting Americans from the dangers of fire—a serious danger that is too often ignored or trivialized. Our Nation has the highest rate of death and property loss from fire in the industrialized world precisely because of such nonchalant attitudes. By passing H.R. 3360 today, we will make the Federal Government a leader in raising the level of awareness about fire safety while raising the level of safety in federally-funded buildings.

The principle behind this bill is simple: Buildings that the Federal Government helps to pay for should be held to strict fire safety standards based on engineering precepts, not on the vagaries of politics. Gone will be the curiosities of existing fire safety policy such as sprinklering office buildings only to the floor where Federal employees work and having a far lower level of safety in public housing than in military housing. And the bill will do this without imposing unrealistic cost burdens or ignoring the existing private, consensus code writing process.

Moving this bill has been a long and tortuous process—not surprising given its breadth

of concern and what is at stake. I'd like to thank Frank Hodsell of the Office of Management and Budget for intervening early to help us reach an agreement with the administration, and our colleagues on the Public Works, Banking and Government Operations Committees for working with us to move the bill through this Congress.

We have known for decades that sprinklers and smoke detectors are the most effective way to protect lives and property. Today, we will finally be ensuring that the Federal Government puts that knowledge to use systematically in the buildings it helps to pay for.

Mr. BOUCHER. Mr. Speaker, I urge that the House approve the bill. I have no further requests for time, Mr. Speaker, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUBBARD). The question is on the motion offered by the gentleman from Virginia [Mr. BOUCHER] that the House suspend the rules and pass the bill, H.R. 3360, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BOUCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

PROVIDING FOR CONSIDERATION OF SENATE AMENDMENT TO H.R. 2152, HIGH SEAS DRIFTNET FISHERIES ENFORCEMENT ACT

Mr. JONES of North Carolina. Mr. Speaker, I move that the House suspend the rules and agree to the resolution (H. Res. 548) to provide for the consideration of the Senate amendment to H.R. 2152.

The Clerk read as follows:

H. RES. 548

Resolved, That upon the adoption of this resolution, the bill (H.R. 2152) to enhance the effectiveness of the United Nations international driftnet fishery conservation program, with the Senate amendment thereto, shall be considered to have been taken from the Speaker's table to the end that the Senate amendment thereto be, and the same is hereby, agreed to with the following amendments:

Strike title V of the matter proposed to be inserted by the amendment of the Senate to the text of the bill, and insert in lieu thereof the following:

TITLE V—REPEAL OF COAST GUARD RECREATIONAL BOAT USER FEE

SEC. 501. REPEAL OF COAST GUARD RECREATIONAL BOAT USER FEE.

(a) MANDATORY FEE TO TERMINATE ON SEPTEMBER 30, 1994.—Paragraph (1) of section 2110(b) of title 46, United States Code, is amended by striking "1994, and 1995" and inserting "and 1994".

(b) FEE SCHEDULE FOR FISCAL YEARS 1993 and 1994.—Subsection (b) of section 2110 of such title 46 is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) In the case of fiscal years 1993 and 1994, the fee or charge established under paragraph (1) shall be as follows:

"(A) In fiscal year 1993—

"(i) for vessels of 21 feet or less in length, zero;

"(ii) for vessels of more than 21 feet in length but less than 27 feet, not more than $35;

"(iii) for vessels of at least 27 feet in length but less than 40 feet, not more than $50; and

"(iv) for vessels of at least 40 feet in length, not more than $100.

"(B) In fiscal year 1994—

"(i) for vessels of 37 feet or less in length, zero;

"(ii) for vessels of more than 37 feet in length but less than 40 feet, not more than $50; and

"(iii) for vessels of at least 40 feet in length, not more than $100.".

(c) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of such section 2110(b) is amended—

(A) by striking "paragraph (2)" and inserting "paragraphs (2) and (3)", and

(B) by striking "that is greater than 16 feet in length".

(2) Paragraph (2) of such section 2110(b) is amended—

(A) by striking "The fee or charge" and inserting "In the case of fiscal years 1991 and 1992, the fee or charge", and

(B) by adding at the end thereof the following new sentence:

"No fee or charge may be imposed under this paragraph on any vessel of 16 feet in length or less.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1992.

SEC. 502. AUTOMATED TARIFF FILING AND INFORMATION SYSTEM.

(a) DEFINITIONS.—In this section—

(1) "Commission" and "conference" have the meaning given those terms under section 3 of the Shipping Act, 1984 (46 App. U.S.C. 1702);

(2) "common carrier" has the meaning given that term under section 3 of the Shipping Act, 1984 (46 App. U.S.C. 1702), and includes a "common carrier by water in interstate commerce" under the Shipping Act, 1916 (46 App. U.S.C. 801 et seq.), and a "common carrier by water in intercoastal commerce" under the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.);

(3) "essential terms of service contracts" has the meaning given that term under section 8 of the Shipping Act, 1984 (46 App. U.S.C. 1707); and

(4) "tariff" has the meaning given that term under section 3 of the Shipping Act, 1984 (46 App. U.S.C. 1702), and includes the rates, fares, and charges filed under the Shipping Act, 1916 (46 App. U.S.C. 801 et seq.) and the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(b) TARIFF FORM AND AVAILABILITY.—Notwithstanding any other law, according to the schedule under subsection (c)—

(1) common carriers and conferences shall file electronically with the Commission all tariffs and essential terms of service contracts required to be filed by section 8 of the Shipping Act, 1984 (46 App. U.S.C. 1707), the Shipping Act, 1916 (46 App. U.S.C. 801 et seq.), and the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.); and

(2) the Commission shall make available electronically to any person, without time, quantity, or other limitation, both at the Commission Headquarters and from remote terminals, all tariff information and essential terms of service contracts filed in the Automated Tariff Filing and Information System database and all tariff information in the system enhanced electronically by the Commission at any time.

(c) FILING SCHEDULE.—

(1) New tariffs and essential terms of service contracts shall be filed electronically not later than June 1, 1992; and

(2) All other tariffs and essential terms of service contracts shall be filed not later than September 1, 1992.

(d) FEES.—

(1) Beginning June 1, 1992, and subject to paragraph (3), the Commission shall charge—

(A) a fee of 46 cents for each minute of remote computer access by any person of the information available electronically under this section; and

(B)(i) for electronic copies of the Automated Tariff Filing and Information database (in bulk), or any portion of the database, a fee equal to the cost of duplication, distribution, and user-dedicated equipment; and

(ii) a person operating or maintaining information in a database that has multiple tariff or service contract information obtained directly or indirectly from the Commission a fee of 46 cents for each minute that database is subsequently accessed by computer by any person.

(2) A Federal agency is exempt from paying a fee under this subsection.

(3) No fee may be charged under paragraph (1) after September 30, 1995.

(e) ENFORCEMENT.—The Commission shall use systems controls or other appropriate methods to enforce subsection (d) of this section.

(f) PENALTIES.—

(1) A person failing to pay the fees established under subsection (b) of this section is liable to the United States Government for a civil penalty of not more than $5,000 for each violation.

(2) A person that willfully fails to pay the fees established under subsection (b) of this section commits a class A misdemeanor.

(g) AUTOMATIC FILING IMPLEMENTATION.—

(1) Software that provides for the electronic filing of data in the Automated Tariff Filing and Information System shall be submitted to the Commission for certification. Not later than 14 days after a person submits software to the Commission for certification, the Commission shall—

(A) certify the software if it provides for the electronic filing of data; and

(B) publish notice of that certification.

(2)(A) The Secretary of the Treasury shall make available to the Commission, as a repayable advance in fiscal year 1992, not more than $4,000,000, to remain available until expended. The Commission shall spend these funds to complete and upgrade the capacity of the Automated Tariff Filing and Information System to provide access to information under this section.

(B)(i) Any advance made to the Commission under subparagraph (A) shall be repaid (with interest thereon) to the general fund of the Treasury by not later than September 30, 1995.

(ii) Interest on any advance made to the Commission under subparagraph (A) shall be

at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding and shall be compounded annually.

(3) Out of amounts collected by the Commission under this section, amounts shall be retained and expended by the Commission for fiscal year 1992 and each subsequent fiscal year, without fiscal year limitation, to carry out this section and pay back the Secretary under paragraph (2) of this subsection.

(4) Except for the amounts retained by the Commission under paragraph (3) of this subsection, fees collected under this section shall be deposited in the general fund of the Treasury as offsetting receipts.

(h) CONFORMING AMENDMENT.—Effective June 1, 1992, section 2 of the Act of August 16, 1989 (Public Law 101-92; 103 Stat. 601), is repealed.

TITLE VI—FAIR TRADE FOR THE COMMERCIAL SHIPBUILDING AND REPAIR INDUSTRY

SEC. 601. SHORT TITLE.

This title may be cited as the "Shipbuilding Trade Reform Act of 1992".

SEC. 602. CONGRESSIONAL FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) in 1981, the United States Government terminated funding for the construction differential subsidy program, thereby ending direct subsidization of commercial shipbuilding in the United States;

(2) the international market for shipbuilding and ship repair continues to be distorted by a wide array of foreign subsidies including direct grants, preferential financing, equity infusions, research and development assistance, restructuring aid, special tax concessions, debt forgiveness, and other direct and indirect assistance;

(3) existing United States trade laws and trade agreements provide limited redress to domestic producers of ships for the trade-distorting subsidies and dumping practices of foreign shipbuilders; and

(4) a strong, effective multilateral agreement among all shipbuilding nations to eliminate trade-distorting practices in the shipbuilding and repair industry is the best means of providing for fair international competition, however, absent such an agreement, changes in United States trade laws are necessary to provide domestic producers of ships greater protection against unfair trade practices than is provided under current law.

(b) PURPOSE.—It is the purpose of this title to ensure fair trade in the commercial shipbuilding and repair industry by providing for effective trade remedies against subsidized and dumped foreign commercial ships.

SEC. 603. SUBSIDIZED SHIPYARD LIST AND REQUIRED VESSEL ENTRY DOCUMENTATION REGARDING CONSTRUCTION AND REPAIR SUBSIDIES.

(a) Part II of title IV of the Tariff Act of 1930 (19 U.S.C. 1431 et seq.) is amended by inserting after section 435 the following new sections:

"SEC. 435A. LISTING OF SUBSIDIZED SHIPYARDS.

"(a) ESTABLISHMENT OF LIST.—The administering authority shall establish and maintain a list of all foreign shipyards that receive or benefit from, directly or indirectly, a subsidy for the construction or repair of vessels.

"(b) INVESTIGATION.—The administering authority shall conduct an investigation to decide whether there is reasonable cause to believe that a foreign shipyard receives or benefits from a subsidy for the construction or repair of vessels. That investigation shall be initiated when the administering authority has reasonable cause to believe that a shipyard receives or benefits from, directly or indirectly, a subsidy for the construction or repair of vessels—

"(1) on the basis of information available to the administering authority; or

"(2) on petition for an investigation from an interested party.

"(c) DETERMINATION AFTER INVESTIGATION.—

"(1) IN GENERAL.—Based on the investigation conducted under subsection (b), the administering authority shall make a determination as to whether a shipyard receives or benefits from, directly or indirectly, a subsidy for the construction or repair of vessels.

"(2) NOTIFICATION AND PUBLICATION OF LISTING.—If the administering authority determines that a foreign shipyard receives or benefits from, directly or indirectly, a subsidy for the construction or repair of vessels, the administering authority shall—

"(A) add the foreign shipyard to the list established under subsection (a);

"(B) notify that shipyard of its inclusion on that list; and

"(C) publish notice of that determination in the Federal Register.

"(3) TIME LIMIT ON MAKING DETERMINATION.—The administering authority shall make a determination under this subsection within 90 days of receipt of the information or petition that serves as the basis for initiating an investigation under subsection (b).

"(4) PUBLICATION OF LIST.—The administering authority shall publish the list of foreign shipyards receiving or benefiting from a subsidy for the construction or repair of vessels at least once every 6 months.

"(d) EMERGENCY LISTING.—

"(1) IN GENERAL.—If at any time the administering authority finds a reasonable basis to suspect that a foreign shipyard may be receiving or benefiting from a subsidy for the construction or repair of vessels, the administering authority may add that shipyard to the list established under subsection (a). The administering authority shall publish notice of that emergency listing in the Federal Register, which shall also include a schedule for investigation of the alleged subsidy.

"(2) INVESTIGATION AND DETERMINATION OF EMERGENCY LISTINGS.—Within 90 days after publication of a listing under paragraph (1), the administering authority shall conclude the investigation and make a determination under subsection (c) whether the shipyard is receiving or benefiting from a subsidy for the construction or repair of vessels.

"(e) REVIEW OF LISTINGS.—If a foreign shipyard that is listed under subsection (c) requests a review of that determination within 30 days after the date of the publication of the determination in the Federal Register under subsection (c)(2), the administering authority shall review that listing.

"(f) SUBSEQUENT RECONSIDERATION AND REMOVAL OF LISTINGS.—

"(1) RECONSIDERATION.—The administering authority may reconsider a listing under subsection (c)—

"(A) on application from a foreign shipyard added to the list under subsection (c) alleging changed circumstances sufficient to warrant a reconsideration of that listing and notice of that reconsideration is published in the Federal Register; or

"(B) if the administering authority receives information concerning the signing of an agreement between the United States Government and the foreign country in which the shipyard is located that provides for the immediate elimination by that country of construction and repair subsidies for vessels.

"(2) RESTRICTION ON RECONSIDERATION.—A foreign shipyard may not make more than one application for reconsideration under this paragraph in any calendar year.

"(3) BURDEN OF PERSUASION.—In any reconsideration under paragraph (1)(A), the burden of persuasion with respect to whether there are changed circumstances sufficient to warrant a determination that the foreign shipyard should be removed from the list is on the applicant.

"(4) REMOVAL FROM LIST.—The administering authority may remove a foreign shipyard from the listing only if—

"(A) the foreign shipyard has proven that the foreign shipyard does not receive or benefit from a subsidy, directly or indirectly, for the construction or repair of vessels; or

"(B) there is a signed agreement between the United States Government and the foreign country in which the shipyard is located that provides for the immediate elimination of construction and repair subsidies for vessels.

"(g) PENALTY FOR FALSE INFORMATION AND RENEWAL OF SUBSIDIES.—The administering authority shall place a foreign shipyard on the list established under subsection (a) for a period of not less than 5 years if the administering authority determines—

"(1) that the foreign shipyard, or government of the country in which the shipyard is located, provided the administering authority with false or misleading information during the investigation conducted under subsection (b); or

"(2) after making a determination under subsections (c) or (f) that the shipyard is not subsidized, that the shipyard receives or benefits from, directly or indirectly, any new construction subsidies.

"(h) ACTION AGAINST THE UNITED STATES GOVERNMENT.—An interested party may bring a civil action against the United States Government, in an appropriate district court of the United States, for failure of the administering authority to use due diligence to add a subsidized foreign shipyard to the list established under subsection (a).

"SEC. 435B. CONSTRUCTION SUBSIDY CERTIFICATION REQUIRED OF VESSELS FOR ENTRY.

"(a) CERTIFICATION REQUIRED AT ENTRY.—The master of a vessel shall, at the time of making formal entry of the vessel under section 434 or 435, deposit with the appropriate customs officer a construction subsidy certification for the vessel.

"(b) CONSTRUCTION SUBSIDY CERTIFICATIONS.—

"(1) IN GENERAL.—For purposes of this section, a construction subsidy certification for a vessel is a document that—

"(A) is either—

"(i) issued by the administering authority under subsection (d), or

"(ii) in a form as the administering authority shall prescribe and signed by either the vessel owner or person that constructed the vessel; and

"(B) attests, regarding any construction carried out with respect to the vessel, that the construction meets one of the requirements set forth in paragraph (2).

"(2) CERTIFICATION REQUIREMENTS.—The requirements referred to in paragraph (1)(B) are as follows:

"(A) No construction subsidy was granted or otherwise provided with respect to the construction.

"(B) The construction was carried out with the benefit of one or more subsidies, all of which were granted or otherwise provided before the date of the enactment of this section.

"(C) The construction was carried out pursuant to a specific contract entered into before October 16, 1991.

"(D) The construction was carried out with the benefit of one or more subsidies that were granted or otherwise provided during the 2-year period beginning on the date of the enactment of this section, but an amount equal to the value of each construction subsidy has been repaid to the agency that granted or otherwise provided the construction subsidy.

"(E) The construction was carried out with the benefit of one or more subsidies that were granted or provided on or after the date of the enactment of this section, but an amount equal to the value of each construction subsidy, reduced by any amount repaid under paragraph (D), has been paid by the Treasury of the United States.

"(F) The construction was carried out in a foreign country which is signatory to a trade agreement with the United States that provides for the immediate elimination of construction subsidies for vessels.

"(G) The construction was carried out in a shipyard that, at the time of contracting for construction of the vessel, was not on the list established under section 435A(a).

"(3) APPLICATION OF CERTIFICATION REQUIREMENTS.—With respect to vessels constructed in a foreign country which is a signatory to a trade agreement with the United States that provides for the elimination of construction subsidies for vessels, the requirements set forth in paragraph (2) shall be applied in a manner consistent with that agreement.

"(c) ENFORCEMENT.—If the Secretary has reason to believe that an unlawful act under section 436 relating to this section has been committed, the Secretary shall—

"(1) undertake any investigation necessary to ascertain whether action authorized under section 436 against the master of the vessel, or the vessel, or both, is warranted; and

"(2) if the vessel is not covered by a construction subsidy certification issued under subsection (d) and the information obtained during that investigation indicates that there is reason to believe that the vessel does not meet any certification requirement under subsection (b), so inform the administering authority and provide that information to the authority.

"(d) ISSUANCE OF CONSTRUCTION SUBSIDY CERTIFICATIONS BY THE ADMINISTERING AUTHORITY.—

"(1) APPLICATIONS.—The owner or lessee of a vessel, or the builder of a vessel, may apply to the administering authority for the issuance of a construction subsidy certification for that vessel. An application shall be accompanied by any documentation that the administering authority may require for purposes of establishing the eligibility of the vessel for that certification, including, if compliance with the requirement in subsection (b)(2)(D) or (E) is alleged, information regarding the amount of each construction subsidy granted or provided with respect to the vessel and the payment or repayment of amounts equal to the value of the construction subsidy.

"(2) ACTION ON APPLICATIONS.—After considering the documentation submitted with an application under paragraph (1), the administering authority, within 90 days after the day on which the application was received, shall decide whether to issue or deny the construction subsidy certification. The administering authority shall make the decision publicly available.

"(3) DENIAL OR CONDITION OF ISSUANCE OF CERTIFICATION.—The administering authority shall, if a construction subsidy certification for a vessel is denied under paragraph (2), provide the applicant with a written statement of the reasons for the denial or condition. The applicant may, within 14 days after the date of the written statement, request a review of the denial or condition under subsection (e)(3).

"(e) DETERMINATIONS AND REVIEWS.—

"(1) PRELIMINARY INVESTIGATION.—The administering authority shall—

"(A) on the basis of information available to the administering authority;

"(B) on the basis of information provided by the Secretary under subsection (c)(2); or

"(C) upon petition therefor from an interested party; initiate a preliminary investigation to decide whether there is reasonable cause to believe that a vessel does not meet the construction subsidy certification requirements under subsection (c).

"(2) DETERMINATIONS AFTER PRELIMINARY INVESTIGATIONS.—If the administering authority makes an affirmative decision under paragraph (1) with respect to a vessel, the administering authority shall determine whether the vessel meets any construction subsidy certification requirement under subsection (b)(2). If the administering authority makes a negative determination on the basis of failure to meet the requirement under subparagraph (D) or (E) of subsection (b)(2), the administering authority shall calculate, and set forth in the determination, the aggregate value of the subsidy or subsidies used in the construction of the vessel.

"(3) REVIEW OF CERTIFICATION DENIALS AND CONDITIONS.—If a person whose application for a construction subsidy certification was denied or conditioned under subsection (d)(3) makes a timely request for review under this paragraph, the administering authority shall review the denial or condition.

"(4) CORRECTIVE ACTIONS.—If the administering authority makes a negative determination under paragraph (2), or upholds any certification denial or condition after review under paragraph (3), the administering authority shall set forth in the determination or review decision the action which must be taken in order to satisfy a requirement for construction subsidy certification for the vessel under subsection (b). The builder of the vessel shall be primarily responsible, and the vessel owner or operator secondarily responsible, for taking any corrective action. If that action is taken, the administering authority shall issue a construction subsidy certification for the vessel and that certification shall be treated as a construction subsidy certification issued under subsection (d).

"(5) CONSEQUENTIAL EFFECTS.—After a negative determination under paragraph (2), or a decision under paragraph (3) upholding a certification denial or condition, becomes final and until a construction subsidy certification for the vessel concerned is issued under paragraph (4), neither that vessel, nor any other vessel that is owned or leased by the owner of that vessel, may—

"(A) arrive at any port or place in the United States; or

"(B) remain at any port or place in the United States.

"SEC. 435C. DECLARATION OF REPAIR SUBSIDIES REQUIRED OF VESSELS FOR ENTRY.

"(a) SUBSIDY DECLARATION AND SURETY REQUIREMENTS AT ENTRY.—

"(1) IN GENERAL.—The owner or master of a vessel shall, at, or before, the time of making formal entry of a vessel under section 434 or 435, deposit with the appropriate customs officer a subsidy declaration for repairs made to that vessel since the vessel last entered the United States.

"(2) INFORMATION IN DECLARATION.—The subsidy declaration made under paragraph (1) shall include a statement attesting to whether any repairs were made in a foreign shipyard since the vessel last entered the United States and, if repairs were made in a foreign shipyard, include—

"(A) a list and description of each repair made;

"(B) an identification of each foreign shipyard in which a repair was made and the date of that repair;

"(C) the dollar value of the repair made in that shipyard; and

"(D) any other information required by the administering authority.

"(3) SURETY REQUIREMENTS.—

"(A) REQUIREMENT ON ENTRY.—On or before entry, the owner or master of the vessel shall file with the customs officer a bond, proof of insurance, or any other surety, as the administering authority may require, in an amount equal to at least 2 times the dollar value of the repairs declared under paragraph (2) that were made in a shipyard listed on the list established under section 435A(a) at the time of the repair.

"(B) FORM OF SURETY.—A bond, proof of insurance, or any other surety filed under paragraph (A) shall be in a form determined by the administering authority to be satisfactory to insure the financial responsibility of that vessel owner to pay for any repair subsidies. Any bond submitted under this section shall be issued by a surety company found acceptable by the Secretary.

"(C) CLAIMS AGAINST SURETY.—A bond, insurance, or other surety filed under paragraph (A) shall be available to pay for any repair subsidy determined by the administering authority or any penalty assessed under section 436.

"(b) APPLICATION FOR REPAIR SUBSIDY DETERMINATION.—Within 30 days after the filing of the bond, proof of insurance or other surety under subsection (a)(3), the vessel owner may apply to the administering authority for the issuance of a repair subsidy determination for that vessel. An application shall be accompanied by any documentation that the administering authority may require for purposes of making the determination, including information regarding the amount of each repair subsidy granted and any repayment of the repair subsidy to the foreign government.

"(c) REPAYMENT OF REPAIR SUBSIDY.—

"(1) IN GENERAL.—A vessel owner shall pay to the United States Government an amount equal to any repair subsidy from which the vessel owned by that person has received or benefitted.

"(2) PRELIMINARY FINDING.—Within 30 days after the application, the administering authority shall make a preliminary finding as to the amount of repair subsidy which is to be paid to the Treasury of the United States. Notice of this finding shall be provided to the owner or his agent and published in the Federal Register. At any time before the preliminary finding is made, an interested party

may file information with the administering authority regarding the validity or accuracy of the information provided by the vessel master or owner.

"(3) PETITION FOR REVIEW.—Unless a petition for review of that determination is received within 15 days after the date of notification under paragraph (2), from either the owner or an interested party, the finding by the administering authority is final.

"(d) FINAL REPAIR SUBSIDY DETERMINATIONS.—If the owner or interested party files a petition for review of the preliminary determination within the 15 days, the administering authority shall make a final determination within 30 days after the date the petition is filed.

"(e) FORFEITURE OF SURETY.—Unless a repair subsidy payback payment is made within 30 days of the final order, the face amount guaranteed by the bond, insurance, or other surety shall be forfeited to the United States Government.

"(f) INSUFFICIENT SURETY.—If the amount of the surety is insufficient to cover the amount of the repair subsidy ordered to be repaid, then the vessel, and any other vessel owned by that owner, may not enter or clear the United States until the full amount of the repair subsidy is paid to the United States Government.

"SEC. 435D. DEFINITIONS AND ADMINISTRATIVE PROVISIONS RELATED TO DETERMINATIONS AND REVIEWS UNDER SECTIONS 435A, 435B AND 435C.

"(a) DEFINITIONS.—As used in this section and sections 435A–435C:

"(1) The term 'administering authority' means the officer of the United States responsible for determining under subtitle A of title VII whether subsidies are provided with respect to imported merchandise.

"(2) The term 'construction' includes reconstruction.

"(3) The term 'interested party' means—

"(i) a person that engages in ship construction in the United States;

"(ii) a certified union or recognized union or group of workers which is representative of an industry that engages in ship construction in the United States;

"(iii) a trade or business association, a majority of whose members engage in ship construction in the United States; and

"(iv) an association, a majority of whose members is composed of interested parties described in clauses (i), (ii), and (iii) with respect to ship construction.

"(4) The term 'foreign shipyard' includes a ship construction or repair facility located in a foreign country that is directly or indirectly owned, controlled, managed, or financed by a foreign shipyard that receives or benefits from a subsidy.

"(5) The term 'subsidy' includes, but is not limited to, any of the following:

"(A) Officially supported export credits and development assistance.

"(B) Direct official operating support to the commercial shipbuilding and repair industry, or to a related entity that favors the operation of shipbuilding and repair, including—

"(i) grants;

"(ii) loans and loan guarantees other than those available on the commercial market;

"(iii) forgiveness of debt;

"(iv) equity infusions on terms inconsistent with commercially reasonable investment practices;

"(v) preferential provision of goods and services; and

"(vi) public sector ownership of commercial shipyards on terms inconsistent with commercially reasonable investment practices.

"(C) Direct official support for investment in the commercial shipbuilding and repair industry, or to a related entity that favors the operation of shipbuilding and repair, including the kinds of support listed in clauses (i) through (v) of subparagraph (B), and any restructuring support, except public support for social purposes directly and effectively linked to shipyard closures.

"(D) Assistance in the form of grants, preferential loans, preferential tax treatment, or otherwise, that benefits or is directly related to shipbuilding and repair for purposes of research and development that is not equally open to domestic and foreign enterprises.

"(E) Tax policies and practices that favor the shipbuilding and repair industry, directly or indirectly, such as tax credits, deductions, exemptions and preferences, including accelerated depreciation, if the benefits are not generally available to persons or firms not engaged in shipbuilding or repair.

"(F) Any official regulation or practice that authorizes or encourages persons or firms engaged in shipbuilding or repair to enter into anticompetitive arrangements.

"(G) Any indirect support directly related, in law or in fact, to shipbuilding and repair at national yards, including any public assistance favoring shipowners with an indirect effect on shipbuilding or repair activities, and any assistance provided to suppliers of significant inputs to shipbuilding, which results in benefits to domestic shipbuilders.

"(H) Any export subsidy identified in the Illustrative List of Export Subsidies in the Annex to the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade or any other export subsidy that may be prohibited as a result of the Uruguay Round of trade negotiations.

"(6) The term 'vessel' means any self-propelled, sea-going vessel—

"(A) of not less than 100 gross tons, as measured under the International Convention of Tonnage Measurement of Ships, 1969; and

"(B) not exempt from entry under section 441.

"(b) HEARING AND REVIEW PROCEDURES.—The administering authority shall make determinations under sections 435A(c), 435B(e)(2), and 435C(d) and conduct reviews under section 435A (b), (e), (f), section 435B(e)(3), and section 435C(c), under the hearing procedures applied by the administering authority under section 774 with respect to hearings required or permitted under title VII. A determination by the administering authority under section 435A(c), 435B(e)(2), or 435C(d) is subject to judicial review under section 516A under the applicable procedures and standards applied under that section for reviewable determinations described in subsection (a)(2)(B) of that section.

"(c) PROPRIETARY INFORMATION.—Information submitted to the administering authority in regard to the making of any determination under sections 435A(c), 435B(e)(2), and 435C(d) and reviews conducted under section 435A (b), (e), (f), section 435B(e)(3), and section 435C(c), shall be treated as proprietary if it fulfills the requirements of section 777(b). Access to proprietary information under protective order shall be permitted under, and governed by, section 777(c).

"(d) INFORMATION USED IN MAKING DETERMINATIONS OR REVIEWS.—The administering authority shall verify all information relied upon in making any determination under sections 435A(c), 435B(e)(2), and 435C(d) or review under section 435A (b), (e), (f), section 435B(e)(3), and section 435C(c). If the administering authority is unable to verify the information submitted, the authority shall use the best information available as the basis for action. Whenever a party refuses or is unable to produce information requested in a timely manner and in the form provided, the administering authority shall use the best information otherwise available.

"(e) PUBLIC AVAILABILITY OF DETERMINATIONS AND REVIEW DECISIONS.—The administering authority shall make available for public inspection the text of all determinations and review decisions made under sections 435A–435C.".

(b) SPECIAL PROVISIONS RELATING TO THE SUBSIDIZED SHIPYARD LIST.—

(1) STATUTORY LISTINGS.—For purposes of section 435A(a) of the Tariff Act of 1930 (as added by subsection (a)), unless the administering authority determines, with clear and convincing evidence, that a foreign shipyard does not receive or benefit from, directly or indirectly, subsidies, a foreign shipyard (including a shipyard in a country that was a party to negotiating a multilateral agreement for the elimination of shipbuilding subsidies in the Organization for Economic Cooperation and Development Working Party 6 on October 16, 1991) is deemed to be on the list established under that section until the earlier of the date—

(A) the administering authority publishes the list of subsidized shipyards under subsection (c); or

(B) the foreign country in which the shipyard is located signs a trade agreement with the United States that provides for the immediate elimination of subsidies for that shipyard.

(2) TIME LIMIT ON INITIAL LISTINGS.—Within 120 days after the date of enactment of this Act, the administering authority shall—

(A) conduct an investigation under section 435A(b) of the Tariff Act of 1930 (as enacted by subsection (a)) with respect to all foreign shipyards;

(B) make a determination under section 435A(c) of that Act; and

(C) publish in the Federal Register a list of the foreign shipyards that have been determined to be receiving or benefiting from a subsidy for the construction or repair of vessels.

(c) ENACTMENT OF CIVIL ACTION REMEDIES.—Section 435A(i) of the Tariff Act of 1930 (as added by subsection (a)) takes effect one year after the date of enactment of this Act.

(d) GRANDFATHERED REPAIRS.—Section 435C of the Tariff Act of 1930 (as added by subsection (a)) applies to repairs made to a vessel under a contract entered into after the date of enactment of this Act.

SEC. 604. CONFORMING AMENDMENTS.

(a) ENTRY REQUIREMENTS FOR VESSELS.—Section 434 of the Tariff Act of 1930 (19 U.S.C. 1934) is amended by inserting "its subsidy certification (if required under section 435B," after "or document in lieu thereof,".

(b) PENALTIES FOR VIOLATIONS OF ARRIVAL, REPORTING, AND ENTRY REQUIREMENTS.—Section 436(a) of the Tariff Act of 1930 (19 U.S.C. 1436(a)) is amended—

(1) by redesignating paragraph (4) as paragraph (7);

(2) by striking "or" at the end of paragraph (3);

(3) by inserting after paragraph (3) the following:

"(4) to present any forged, altered, or false subsidy certification to a customs officer

under section 435B(a) or 435C(a) without revealing the facts;

"(5) to enter, or to attempt to enter, any vessel to which a prohibition on arrival in the United States applies under section 435B(e)(5);

"(6) to fail to remove promptly from the United States any vessel to which a prohibition on remaining in the United States applies under section 435B(e)(5); or"; and

(4) by striking "(3)" in paragraph (7) (as redesignated by paragraph (1)) and inserting "(6)".

SEC. 605. TREATMENT OF VESSELS UNDER THE COUNTERVAILING AND ANTIDUMPING DUTY LAWS.

(a) IN GENERAL.—Subtitle D of title VII of the Tariff Act of 1930 is amended by adding after section 771B the following new section:

"SEC. 771C. SPECIAL RULES IN APPLYING TITLE TO FOREIGN-MADE VESSELS.

"(a) DEFINITION.—The term 'vessel' means any vessel of a kind described in heading 8901 or 8902.00.00 of the Harmonized Tariff Schedule of the United States of not less than 100 gross tons, as measured under the International Convention on Tonnage Measurement of Ships, 1969.

"(b) VESSELS CONSIDERED AS MERCHANDISE.—Vessels are merchandise for purposes of this title.

"(c) APPLICATION OF SUBTITLES A AND B.—

"(1) IN GENERAL.—In applying subtitles A and B with respect to vessels constructed, reconstructed, or repaired in foreign countries—

"(A) a vessel shall be treated as sold for importation into the United States when a United States person enters into a contract for—

"(i) the construction or reconstruction of the vessel by, or the purchase (or leasing, if the equivalent of a purchase) of the vessel after construction or reconstruction from, the builder; or

"(ii) the repair of the vessel; and

"(B) a vessel sold for importation into the United States shall be treated as being offered for entry for consumption under the tariff laws at the time of its first arrival at a port or place in the United States after construction, reconstruction, or repair, regardless of where the vessel is registered or documented.

"(2) DEFINITION.—For purposes of paragraph (1), the term 'United States person' means—

"(A) any individual or entity described in subsection (a) of section 12102 of title 46, United States Code;

"(B) any agent or other person acting on behalf of any individual or entity referred to in subparagraph (A); or

"(C) any person directly or indirectly owned or controlled by any individual or entity referred to in subparagraph (A).".

(b) PROSPECTIVE APPLICATION TO CONTRACTS.—The amendments made by subsection (a) of this section apply to a vessel built or repaired under a contract entered into after the date of enactment of this Act.

SEC. 606. UNITED STATES CONSTRUCTION SUBSIDY PROGRAMS.

(a) GOVERNMENT-IMPELLED CARGO.—Section 901(b) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1241(b)) is amended—

(1) in paragraph (1), by striking "For purposes of this section, the term 'privately owned United States-flag commercial vessels'" and all that follows through the end of the paragraph and inserting a period; and

(2) by adding at the end the following new paragraph:

"(3) In this section, 'privately owned United States-flag commercial vessels' does not include a vessel (until the vessel has been documented under chapter 121 of title 46, United States Code, for a period of 3 years) that—

"(A)(i) was built and, if rebuilt, rebuilt outside the United States; or

"(ii) for a vessel operated by an ocean common carrier (as defined in section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702)), is built under a contract entered into after October 16, 1991 and has not been issued a construction subsidy certification under section 435B of the Tariff Act of 1930; or

"(B) was registered under the laws of a foreign country.".

(b) CONSTRUCTION RESERVE FUND.—Section 511(a)(2) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1161(a)) is amended to read as follows: "(2) constructed in the United States after December 31, 1939," and all that follows through "insured under title XI of this Act as amended;" and inserting "(2)(A) constructed in the United States, or (B) the construction of which has been aided by a mortgage insured under title XI of this Act, or (C) if constructed in a foreign shipyard under a contract entered into after October 16, 1991, has been issued a construction subsidy certification under section 435B of the Tariff Act of 1930; and".

(c) OPERATING-DIFFERENTIAL SUBSIDY.—Section 601(a)(1) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1171(a)(1)) is amended by striking "and that such vessel or vessels were built in the United States," and all that follows through "prior to such date;" and inserting "and that the vessel was built in the United States or, if constructed in a foreign shipyard under a contract entered into after October 16, 1991, has been issued a construction subsidy certification under section 435B of the Tariff Act of 1930;".

(d) CONSTRUCTION LOAN GUARANTEES.—Section 1103(b) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1273(b)) is amended—

(1) after "(b)" by inserting "(1)"; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary may not guarantee an obligation under this title unless the vessel—

"(A) was built in the United States; or

"(B) if constructed in a foreign shipyard under a contract entered into after October 16, 1991, has been issued a construction subsidy certification under section 435B of the Tariff Act of 1930.".

(e) PRIORITY LOAN GUARANTEES FOR VESSELS IN COASTWISE TRADE.—Section 1103 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1273) is amended by adding at the end the following new subsection:

"(g) When making guarantees, or commitments to guarantee, under this title, the Secretary of Transportation shall give priority for guarantees or commitments for vessels that will be engaged in the coastwise trade over guarantees or commitments for vessels that will be engaged in the foreign commerce.".

(f) TRADE-IN OF OBSOLETE VESSELS.—Section 510(a)(2)(B) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1160(a)(2)(B)) is amended to read as follows: "(B) is built in the United States or, if constructed in a foreign shipyard under a contract entered into after October 16, 1991, has been issued a construction subsidy certification under section 435B of the Tariff Act of 1930, and documented under chapter 121 of title 46, United States Code.".

TITLE VII—TECHNICAL REVISIONS TO MAPS RELATING TO COASTAL BARRIER RESOURCES SYSTEM

SEC. 701. TECHNICAL REVISIONS TO MAPS.

(a) IN GENERAL.—The Secretary of the Interior shall, before the end of the 30-day period beginning on the date of the enactment of this Act, make such technical revisions to the maps described in subsection (b) as are necessary to ensure that—

(1) on the maps referred to in subsection (b)(2)(A) and (B), depictions of areas as "otherwise protected areas" do not include any area that is not an otherwise protected area within the meaning of that term under section 12 of the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3503 note); and

(2) on the map referred to in subsection (b)(2)(C), depictions of areas as "otherwise protected areas" identified as "VA-60P" do not include—

(A) any area that is located south of the north bank of the Salt Ponds Inlet in Hampton, Virginia; and

(B) the area that is located north of the line described in subsection (c), other than any part of that area which is an otherwise protected area within the meaning of that term under section 12 of the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3503 note).

(b) MAPS DESCRIBED.—The maps referred to in subsection (a) are—

(1) included in a set of maps entitled "Coastal Barrier Resources System", dated October 24, 1990; and

(2) entitled, respectively—

(A) "Pine Island Bay Unit, NC-01P",

(B) "Roosevelt Natural Area Unit, NC-05P", and

(C) "Plum Island Unit VA-59P Long Creek Unit VA-60P".

(c) LINE DESCRIBED.—The line referred to in subsection (a)(2)(B) is a line described as follows:

Beginning at an iron pipe in the low water line of Chesapeake Bay; said iron pipe being located 265.00 feet in a southerly direction from the south eastern corner of Fox Hill Shores Subdivision (as shown in Plat Book 9, page 161 as recorded in the Circuit Court for the City of Hampton, Virginia) and from this TRUE POINT OF BEGINNING running thence North 66 degrees 47 minutes 46 seconds West 995.79 feet to a found iron pipe; thence South 15 degrees 47 minutes 20 seconds East 270.65 feet to a found iron pipe; thence South 73 degrees 59 minutes 57 seconds West 836.68 feet to a point marking the low water line of Long Creek; being known as the southerly property line of Riley's Way.

TITLE VIII—CLEAN VESSEL ACT OF 1992

SEC. 801. SHORT TITLE.

This title may be cited as the "Clean Vessel Act of 1992".

SEC. 802. FINDINGS; PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) The discharge of untreated sewage by vessels is prohibited under Federal law in all areas within the navigable waters of the United States.

(2) The discharge of treated sewage by vessels is prohibited under either Federal or State law in many of the United States bodies of water where recreational boaters operate.

(3) There is currently an inadequate number of pumpout stations for marine sanitation devices where recreational vessels normally operate.

(4) Sewage discharged by recreational vessels because of an inadequate number of pumpout stations is a substantial contributor to the degradation of water quality in the United States.

(b) PURPOSE.—The purpose of this Act is to provide funds to coastal States for the construction, renovation, operation, and main-

tenance of pumpout stations and waste reception facilities.

SEC. 803. DETERMINATION AND PLAN REGARDING STATE MARINE SANITATION DEVICE PUMPOUT STATION NEEDS.

(a) SURVEY.—Within 3 months after the notification under section 805(b), each coastal State shall conduct a survey to determine—

(1) the number and location of all operational pumpout stations and waste reception facilities in the State, at public and private marinas, mooring areas, docks, and other boating access facilities; and

(2) the number of recreational vessels in the coastal waters of the State with type III marine sanitation devices or portable toilets, and the areas of those coastal waters where those vessels congregate.

(b) PLAN.—Within 6 months after the notification under section 805(b), and based on the survey conducted under subsection (a), each coastal State shall—

(1) develop and submit to the Administrator of the Environmental Protection Agency a plan for any construction or renovation of pumpout stations and waste reception facilities in the State that is necessary to ensure that, based on the guidance issued under section 805(a), there are pumpout stations and waste reception facilities in the State that are adequate and reasonably available to meet recreational vessel needs in the State; and

(2) submit to the Administrator with that plan a list of all such stations and facilities in the State which are operational on the date of submittal.

(c) PLAN APPROVAL.—

(1) IN GENERAL.—Not later than 60 days after a plan is submitted by a State under subsection (b), the Administrator of the Environmental Protection Agency shall approve or disapprove the plan, based on—

(A) the adequacy of the survey conducted by the State under subsection (a); and

(B) the ability of the plan, based on the guidance issued under section 805(a), to meet the construction and renovation needs identified in the survey.

(2) NOTIFICATION OF STATE; MODIFICATION.—The Administrator shall promptly notify the affected Governor of the approval or disapproval of a plan. If a plan is disapproved, the Administrator shall recommend necessary modifications and return the plan to the affected Governor.

(3) RESUBMITTAL.—Not later than 60 days after receiving a plan returned by the Administrator, the Governor shall make the appropriate changes and resubmit the plan.

(d) INDICATION OF STATIONS AND FACILITIES ON NOAA CHARTS.—

(1) IN GENERAL.—The Under Secretary of Commerce for Oceans and Atmosphere shall indicate, on charts published by the National Oceanic and Atmospheric Administration for the use of operators of recreational vessels, the locations of pumpout stations and waste reception facilities.

(2) NOTIFICATION OF NOAA.—

(A) LISTS OF STATIONS AND FACILITIES.—The Administrator of the Environmental Protection Agency shall transmit to the Under Secretary of Commerce for Oceans and Atmosphere each list of operational stations and facilities submitted by a State under subsection (b)(2), by not later than 30 days after the date of receipt of that list.

(B) COMPLETION OF PROJECT.—The Director of the United States Fish and Wildlife Service shall notify the Under Secretary of the location of each station or facility at which a construction or renovation project is completed by a State with amounts made available under the Act of August 9, 1950 (16 U.S.C. 777a et seq.), as amended by this Act, by not later than 30 days after the date of the completion of the project.

SEC. 804. FUNDING.

(a) TRANSFER.—Section 4 of the Act of August 9, 1950 (16 U.S.C. 777c), is amended—

(1) by striking "So much, not to exceed 6 per centum," and all that follows through "shall apportion the remainder of the appropriation for each fiscal year among the several States", and inserting the following:

"(a) The Secretary of the Interior shall distribute 18 per centum of each annual appropriation made in accordance with the provisions of section 3 as provided in the Coastal Wetlands Planning, Protection, and Restoration Act. Notwithstanding the provisions of section 3, such sums shall remain available to carry out such Act through fiscal year 1999.

"(b) Of the balance of each such annual appropriation remaining after making the distribution under subsection (a), an amount equal to $10,000,000 for fiscal year 1993, $15,000,000 for each of fiscal years 1994 and 1995, and $20,000,000 for each of fiscal years 1996 and 1997 shall be used as follows:

"(1) ½ shall be transferred to the Secretary of Transportation and be expended for State recreational boating safety programs under section 13106(a)(1) of title 46, United States Code.

"(2) ½ shall be used by the Secretary of the Interior to make grants under section 804(c) of the Clean Vessel Act of 1992.

"(c) Of the balance of each such annual appropriation remaining after the distribution and use under subsections (a) and (b), respectively, so much, not to exceed 6 per centum of such balance, as the Secretary of the Interior may estimate to be necessary for his or her expenses in the conduct of necessary investigations, administration, and the execution of this Act and for aiding in the formulation, adoption, or administration of any compact between 2 or more States for the conservation and management of migratory fishes in marine or freshwaters, shall be deducted for that purpose, and such sum is authorized to be made available therefor until the expiration of the next succeeding fiscal year.

"(d) The Secretary of the Interior, after the distribution, transfer, use, and deduction under subsections (a), (b), and (c), respectively, shall apportion the remainder of each such annual appropriation among the several States"; and

(2) by inserting "(e)" before "So much of any sum" and redesignating the last 2 sentences of that section as subsection (e).

(b) ACCESS INCREASE.—Section 8(b)(1) of the Act of August 9, 1950 (16 U.S.C. 777g(b)(1)), is amended—

(1) by striking "10 per centum" and inserting "12½ per centum"; and

(2) by adding at the end the following: "Of amounts allocated by a coastal State (as that term is defined in the Clean Vessel Act of 1992) under this subsection in each of fiscal years 1993 through 1997, 2½ per centum may be used to develop and implement the plan required under section 803(b) of that Act.".

(c) GRANTS.—The Secretary of the Interior shall, with amounts made available under section 4(b) of the Act August 9, 1950, make grants to coastal States to pay not more than 75 percent of the cost to a coastal State of—

(1) conducting a survey under section 803(a);

(2) developing and submitting a plan and accompanying list under section 803(b);

(3) constructing and renovating pumpout stations and waste reception facilities in accordance with that survey and plan; and

(4) conducting a program to educate recreational boaters about the problem of human body waste discharges from vessels and inform them of the location of pumpout stations and waste recreation facilities.

SEC. 805. GUIDANCE AND NOTIFICATION.

(a) ISSUANCE OF GUIDANCE.—Not later than 3 months after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall, after notice and opportunity for public comment, issue—

(1) guidance regarding the types of pumpout stations and waste reception facilities that may be appropriate for construction, renovation, operation, or maintenance with amounts available under the Act of August 9, 1950 (16 U.S.C. 777a et seq.), as amended by this Act, and appropriate location of the stations and facilities within a marina or boatyard;

(2) guidance defining what constitutes adequate and reasonably available pumpout stations and waste reception facilities in boating areas;

(3) guidance on appropriate methods for disposal of vessel sewage from pumpout stations and waste reception facilities;

(4) guidance on appropriate connector fittings to facilitate the sanitary and expeditious discharge of sewage from vessels;

(5) guidance on the coastal waters most likely to be affected by the discharge of sewage from vessels; and

(6) other information that the Administrator of the Environmental Protection Agency considers necessary to promote the establishment of pumpout facilities to reduce sewage discharges from vessels and to protect coastal waters.

(b) NOTIFICATION.—Not later than 1 month after the guidance issued under subsection (a) is finalized, the Director of the United States Fish and Wildlife Service shall provide notification in writing to the fish and game, water pollution control, and coastal zone management authorities of each coastal State, of—

(1) the availability of amounts under the Act of August 9, 1950 (16 U.S.C. et seq.); and

(2) the guidance developed under subsection (a).

SEC. 806. DEFINITIONS.

For the purposes of this Act—

(1) The term "coastal State"—

(A) means a State of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean; the Gulf of Mexico; Long Island Sound; or one or more of the Great Lakes;

(B) includes Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa; and

(C) does not include a State for which the ratio of the number of recreational vessels in the State numbered under chapter 123 of title 46, United States Code, to number of miles of shoreline (as that term is defined in section 926.2(d) of title 15, Code of Federal Regulations, as in effect on January 1, 1991), is less than one.

(3) The term "coastal waters" means—

(A) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes; and

(B) in other areas, those waters, adjacent to the shorelines, which contain a measurable percentage of sea water, including

sounds, bays, lagoons, bayous, ponds, and estuaries.

(4) The term "marine sanitation device" includes any equipment for installation on board a vessel which is designed to receive, retain, treat, or discharge human body wastes, and any process to treat such waters.

(5) The term "pumpout station" means a facility that pumps human body wastes out of marine sanitation devices installed on board vessels.

(6) The term "recreational vessel" means a vessel—

(A) manufactured for operation, or operated, primarily for pleasure; or

(B) leased, rented, or chartered to another for the latter's pleasure.

(7) The term "waste reception facility" means a facility to receive wastes from portable toilets carried on vessels.

TITLE IX—NATIONAL UNDERSEA RESEARCH PROGRAM

Subtitle A—Establishment of National Undersea Research Program

SEC. 901. SHORT TITLE.

This subtitle may be cited as the "National Undersea Research Program Act of 1992".

SEC. 902. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) The world's oceans occupy 317,000,000 cubic miles, and constitute 71 percent of the surface of the Earth.

(2) The Great Lakes comprise 20 percent of the world's freshwater and are a valuable, international, commercial, and recreational resource.

(3) The oceans and Great Lakes are inextricably linked to many important global processes, such as global temperature, weather patterns, and nutrient cycling.

(4) The oceans and Great Lakes hold many undiscovered or unexploited mineral and biological resources.

(5) A majority of invertebrate phyla and over half the vertebrate species inhabit the oceans.

(6) The genetic diversity of marine organisms makes the oceans a potentially important source of undiscovered medical agents.

(7) Understanding of the physical, chemical, geological, and biological processes which govern dynamics in the oceans and Great Lakes, particularly the deep ocean, is limited.

(8) Oceanic and limnological researchers require increasingly more advanced technologies and methodologies to accomplish complex research goals.

(9) Advanced underwater technology, including diving, underwater laboratories, research submersibles, and remotely operated vehicles, must be an integral part of the Nation's efforts to study, understand, utilize, conserve, and wisely manage the aquatic environment.

(b) PURPOSE.—The purpose of this subtitle is to establish a program of research to better understand ocean and large lakes ecosystems and their role in global systems.

SEC. 903. DEFINITIONS.

For the purposes of this subtitle, the term—

(1) "Administration" means the National Oceanic and Atmospheric Administration;

(2) "Center" means any National Undersea Research Center in existence prior to the date of enactment of this Act or established pursuant to section 906;

(3) "Center Director" means the Director of any National Undersea Research Center;

(4) "Committee" means the National Undersea Research Steering Committee established pursuant to section 905;

(5) "Office" means the Office of Undersea Research established under section 904(c)(1);

(6) "priority research area" means any of the priority research areas under section 904(f), as those areas may be revised by the Under Secretary under section 904(f)(2).

(7) "Program" means the National Undersea Research Program established under section 904;

(8) "Program Director" means the Director of the National Undersea Research Program appointed pursuant to section 904(c)(2);

(9) "undersea region" means each of—

(A) the North Atlantic region, comprised of the coastal and oceanic waters north of Montauk, New York, and off Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut;

(B) the Mid-Atlantic region, comprised of the coastal and oceanic waters south of Montauk, New York, and off New York, New Jersey, Delaware, Maryland, and Virginia;

(C) the South Atlantic region, comprised of the coastal and oceanic waters off North Carolina, South Carolina, Georgia, and the Atlantic coast of Florida (including the Florida Keys);

(D) the Gulf of Mexico region, comprised of the coastal and oceanic waters of the Gulf of Mexico off Florida, Alabama, Mississippi, Louisiana, and Texas;

(E) the Great Lakes region, comprised of the waters of the Great Lakes;

(F) the Southern Pacific region, comprised of the coastal and oceanic waters off California;

(G) the Northern Pacific region, comprised of the coastal and oceanic waters off Oregon and Washington;

(H) the Western Pacific region, comprised of the coastal and oceanic waters off Hawaii, Guam, American Samoa, and the Northern Mariana Islands;

(I) the Alaskan region, comprised of the coastal and oceanic waters off Alaska;

(J) the Caribbean region, comprised of the coastal and oceanic waters off Puerto Rico and the United States Virgin Islands; and

(K) any other undersea region resulting from an establishment, modification, or merger under section 906(f)(2);

(10) "undersea research" means scientific research carried out in the oceans or large lakes of the world, using underwater vehicles or techniques; and

(11) "Under Secretary" means the Under Secretary of Commerce for Oceans and Atmosphere.

SEC. 904. ESTABLISHMENT AND ADMINISTRATION OF NATIONAL UNDERSEA RESEARCH PROGRAM.

(a) PROGRAM ESTABLISHMENT AND MAINTENANCE.—The Under Secretary shall establish and maintain within the Administration a program to be known as the "National Undersea Research Program".

(b) PROGRAM PURPOSE.—The Program shall, for the purpose of enhancing scientific understanding of processes in the oceans and large lakes of the world—

(1) develop, maintain, and conduct scientific and engineering undersea research programs; and

(2) investigate, develop, and apply technology for undersea research.

(c) OFFICE OF UNDERSEA RESEARCH.—

(1) ESTABLISHMENT.—There is established in the Administration the Office of Undersea Research, which shall conduct the Program.

(2) PROGRAM DIRECTOR.—The head of the Office shall be the Director of the National Undersea Research Program, who shall be appointed by the Under Secretary from among individuals with extensive knowledge and expertise in undersea research, and having appropriate administrative experience.

(d) DUTIES OF PROGRAM DIRECTOR.—The Program Director shall administer the Program subject to the supervision of the Under Secretary. In addition to any other duty prescribed by law or assigned by the Under Secretary, the Program Director shall—

(1) establish and maintain a list for each priority research area of scientists who are actively conducting research in that area, for the purpose of—

(A) providing peer reviews of individual research proposals under the Program; and

(B) participating in site visits pursuant to section 907(c)(2); and

(2) develop guidelines for the submission and review of proposals from Centers and individual researchers for research under the Program.

(e) SCIENCE ADVISOR.—

(1) APPOINTMENT.—The Under Secretary shall, pursuant to the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4701 et seq.) and by not later than 6 months after the date of the enactment of this Act, appoint to serve as a science advisor to the Director on the scientific needs of the Program, an individual who—

(A) is a scientist active in one or more priority research areas;

(B) is not employed by the Federal Government; and

(C) during the period of such service, is on leave of absence from an institution of higher education or oceanographic research.

(2) TERMS.—

(A) IN GENERAL.—The term of an individual as a science advisor under this subsection shall be one year.

(B) LIMITATION.—An individual may serve not more than 2 terms as a science advisor under this subsection.

(f) PRIORITY RESEARCH AREAS.—

(1) IN GENERAL.—The Under Secretary may use amounts appropriated for the Program to fund research, including long-term studies, within the following priority research areas:

(A) Oceanic, coastal, estuarine, and limnological processes.

(B) Pathways and fates of materials in the oceans and large lakes.

(C) Diversity, distribution, productivity, and recruitment of organisms with respect to habitat characteristics in the oceans and large lakes.

(D) Global change processes.

(E) Ocean lithosphere processes and mineral resources.

(F) Undersea research platform and instrument technology.

(G) Diving safety, physiology, and technology.

(2) REVISION OF PRIORITY AREAS.—Upon the recommendation of the Committee, the Under Secretary may, after public comment, revise the priority research areas under paragraph (1).

SEC. 905. STEERING COMMITTEE.

(a) ESTABLISHMENT OF COMMITTEE.—The Under Secretary shall establish an independent steering committee to be known as the "National Undersea Research Steering Committee".

(b) COMPOSITION.—

(1) IN GENERAL.—The Committee shall consist of 9 members appointed by the Under Secretary from individuals who are professional scientists or engineers and active in at least one priority research area, of whom

2 members shall be appointed from individuals nominated by Center Directors. The Under Secretary shall complete appointments under this paragraph by not later than 6 months after the date of the enactment of this Act.

(2) BALANCE.—In appointing members of the Committee, the Under Secretary shall seek to ensure balanced representation of priority research areas, disciplines related to those research areas, and geographic regions of the United States.

(3) PROHIBITION ON APPOINTMENT OF FEDERAL EMPLOYEES.—No member of the Committee may be an employee of the Federal Government, except the Chief Scientist of the Administration.

(4) EX OFFICIO MEMBER.—The Chief Scientist of the Administration shall be a nonvoting ex officio member of the Committee.

(c) DUTIES.—The Committee shall advise the Under Secretary and the Program Director concerning—

(1) the quality of research performed with grants awarded under section 908, including the applicability of such research to the priority research areas;

(2) the designation, establishment, merger, and operation of Centers;

(3) the modification and merger of undersea regions;

(4) the need to revise the priority research areas;

(5) the process of responding to research proposal reviews, including making determinations and recommendations under section 907(a)(3)(B).

(6) any other matters the Under Secretary refers to the Committee for review and advice or the Committee considers appropriate.

(d) TERM OF MEMBERSHIP.—

(1) IN GENERAL.—Subject to paragraph (2), the term of membership on the Committee shall be 3 years.

(2) INITIAL APPOINTMENTS.—Of the members first appointed to the Committee—

(A) 3 members shall serve a term of one year;

(B) 3 members shall serve a term of 2 years; and

(C) 3 members shall serve a term of 3 years;

as specified by the Under Secretary at the time of appointment.

(3) TERM LIMITATION.—No Committee member may serve consecutive terms as a member of the Committee.

(e) COMPENSATION.—Members of the Committee, while performing official duties as members of the Committee, are entitled to receive compensation for travel and transportation expenses under section 5703 of title 5, United States Code.

(f) CHAIRPERSON.—The members of the Committee shall select annually from among themselves an individual who shall serve as Chairperson of the Committee. No member of the Committee may serve more than 2 annual terms as a chairperson.

(g) CONDUCT OF BUSINESS.—The Committee shall conduct its business according to the majority vote of those members present at a meeting of the Committee.

(h) EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Committee.

SEC. 906. ESTABLISHMENT OF NATIONAL UNDERSEA RESEARCH CENTERS.

(a) ASSIGNMENT AND ESTABLISHMENT OF CENTERS.—

(1) ASSIGNMENT OF REGIONS TO EXISTING CENTERS.—The Under Secretary shall, in consultation with the Committee, assign one or more undersea regions to each Center in existence on the date of the enactment of this Act, by not later than 6 months after that date.

(2) ESTABLISHMENT OF NEW CENTERS.—The Under Secretary may establish a new Center to implement the Program for any undersea region at an institution of higher education or oceanographic research located in a State bordering the region—

(A) if there are adequate funds available for the establishment of the Center;

(B) after reviewing each proposal submitted under subsection (b) with respect to that region; and

(C) if the Committee concurs in the selection of that institution.

(3) LIMITATION.—The Under Secretary may not establish a new Center for an undersea region if—

(A) the expenditure of amounts for that Center would result in any reduction of amounts available for expenditure for any existing Center; and

(B) there is a Center in existence for that region.

(b) SOLICITATION OF PROPOSALS FOR NEW CENTERS.—

(1) IN GENERAL.—The Under Secretary may solicit proposals for the establishment of a new Center under subsection (a)(2) from institutions of higher education or oceanographic research.

(2) PROPOSAL REQUIREMENTS.—A proposal under this subsection shall consist of—

(A) a proposed science program;

(B) a program management plan;

(C) a description of the facilities of the institution submitting the proposal;

(D) a description of relevant institutional capabilities;

(E) an operational safety plan;

(F) mechanisms for information transfer;

(G) a budget for the Center; and

(H) any other information the Under Secretary considers necessary.

(c) REVIEW OF PROPOSALS.—The Under Secretary and the Committee shall review each proposal submitted under subsection (b) on the basis of—

(1) relevance of the proposal to priority research areas; and

(2) the capability of the applicant institution to administer and direct research in those areas.

(d) CENTER DIRECTOR.—Each institution at which a Center is established under this section may select an individual who shall be the Director for that Center.

(e) 5-YEAR REVIEW OF CENTERS.—

(1) IN GENERAL.—The Under Secretary and the Committee shall jointly review the operation of each Center every 5 years. The first review of a Center shall be completed—

(A) in the case of a Center in existence on the day before the date of the enactment of this Act, by not later than the date which is 5 years after that date of enactment; and

(B) in the case of a Center established on or after that date of enactment, by the date which is 5 years after the date of the establishment of the Center.

(2) CONTENT OF REVIEW.—A review under this subsection shall consist of—

(A) an evaluation of the quality of the research conducted at the Center under the Program and the applicability of the research to the priority research areas, including consideration of the annual reviews and site visits conducted under section 907(c);

(B) recommendations for changes in the scientific research program and operations of the Center, that are considered beneficial by the Committee and the Under Secretary; and

(C) a determination of whether the continued operation of the Center will increase knowledge in the priority research areas.

(3) ESTABLISHMENT OF NEW CENTER AT DIFFERENT INSTITUTION.—If the Under Secretary and the Committee determine as a result of a review under this subsection that continued operation of a Center is not warranted, the Under Secretary shall—

(A) provide notification of that determination to the Center, including a description of any changes in the operations of the Center the Under Secretary considers necessary for continued operation of the Center;

(B) after 18 months after providing that notice, and not later than 2 years after providing that notice, review the implementation of those changes by the Center; and

(C) establish, at a different institution of higher education or oceanographic research, a new Center for the same undersea region in accordance with this section, if the Under Secretary determines as a result of that review that those changes are not implemented.

(f) 5-YEAR REVIEW OF UNDERSEA REGIONS.—

(1) REVIEW BY COMMITTEE.—The Committee shall—

(A) review the configurations of undersea regions every 5 years following the date of the enactment of this Act to determine whether those regions meet scientific needs for research in priority research areas; and

(B) provide to the Under Secretary appropriate recommendations for meeting those needs, regarding—

(i) any modification or merger of existing undersea regions, or establishment of new undersea regions, and

(ii) the establishment of new Centers or merger of existing Centers for any undersea regions recommended to be established or merged.

(2) MODIFICATION, MERGER, OR ESTABLISHMENT OF REGIONS.—The Under Secretary may establish a new undersea region or modify or merge any existing undersea region or regions if, based on a recommendation by the Committee under paragraph (1)(B), the Under Secretary determines there is a scientific need for that establishment, modification, or merger.

(3) ESTABLISHMENT OR MERGER OF CENTERS.—If the Under Secretary establishes or merges any undersea region under paragraph (2), the Under Secretary may, in accordance with section 906 and any recommendations provided by the Committee under paragraph (1)(B), establish a new Center or merge existing Centers for the resulting undersea region.

(g) PROHIBITION.—Except as provided in subsections (a) and (f)(3), the Under Secretary may not establish or merge any Centers.

SEC. 907. NATIONAL UNDERSEA RESEARCH CENTER RESEARCH PROGRAMS.

(a) INDIVIDUAL RESEARCH PROPOSALS.—

(1) SOLICITATION.—Each Center Director shall annually solicit individual proposals from the scientific community for research to advance the priority research areas of the Program. Research under each proposal shall be primarily conducted within the undersea region of the Center, but may be conducted in another undersea region in cooperation with the Center for that region, or other geographic areas with the approval of the Program Director. Individual proposals shall adhere to guidelines established by the Program Director pursuant to section 904(d)(2). Proposals under this paragraph may be for multi-year research.

(2) INDIVIDUAL PROPOSAL REVIEW PROCESS.—Each individual proposal shall be reviewed

by the Center Director or his or her designees and not less than 3 anonymous mail reviewers from the list of reviewers maintained by the Program Director pursuant to section 904(d)(1). Each review shall consider—

(A) the scientific merit of the proposal;

(B) the applicability of the proposal to the priority research areas; and

(C) the capability of the principal investigator to carry out the proposed research.

(3) ALLOWANCE FOR RESPONSE.—

(A) IN GENERAL.—Subject to any regulation that is issued by the Program Director under subparagraph (C), a Center Director shall provide to each person who submits a proposal under this section to the Center copies of all written reviews of the proposal conducted by the Center Director, his or her designees, and anonymous reviewers, and shall give the person not less than 14 days to respond to those reviews before rendering any final decision regarding funding for the proposal.

(B) REVIEW OF PROCESS BY COMMITTEE.—Not later than 3 years after the date of the enactment of this Act, the Committee shall—

(i) determine whether all Centers are implementing subparagraph (A);

(ii) determine whether the opportunity of persons who submit proposals to respond to reviews pursuant to subparagraph (A) has been utilized by those persons;

(iii) determine whether those responses have been effective in ensuring full and fair consideration of those proposals; and

(iv) recommend to the Program Director that the procedures established by subparagraph (A) be continued, terminated, or modified (including the specific modifications which should be made).

(C) ISSUANCE OF REGULATION.—Notwithstanding subparagraph (A), the Program Director may issue a regulation implementing any recommendation made by the Committee under subparagraph (B)(iv).

(b) PROPOSED CENTER PROGRAM.—Not later than October 31 of each year, each Center Director shall submit to the Program Director—

(1) a proposed program for the Center for that fiscal year, which shall adhere to guidelines established by the Program Director pursuant to section 904(d)(2) and shall include—

(A) a description of the activities performed and research funded by the Center in the previous fiscal year;

(B) those individual research proposals submitted under subsection (a) that the Center Director determines to be meritorious based on reviews conducted under that subsection;

(C) a proposed budget for operation of the Center for the current fiscal year; and

(D) any other materials requested by the Program Director to clarify the proposed program; and

(2) reviews (including responses under subsection (a)(3) to the reviews) of all individual research proposals submitted to the Center Director for the current fiscal year, including those research proposals not selected for inclusion in the proposed program of the Center.

(c) REVIEW OF PROPOSED CENTER PROGRAM.—

(1) IN GENERAL.—The Program Director, in consultation with the Committee, shall review the proposed program for the current fiscal year submitted by each Center Director under subsection (b).

(2) SITE VISITS.—At least once every 2 years, the review of a proposed program of a Center under this subsection shall include a formal inspection of the Center by a site visit team. The site visit team shall—

(A) be composed of not less than 4 individuals appointed by the Program Director with experience in undersea research, at least one of whom shall be a member of the Committee and 2 of whom are selected from the list maintained under section 904(d)(1);

(B) assess the quality of the individual research proposals included in the proposed program; and

(C) assess the ability of the Center to oversee the research included in the proposed program.

(d) REQUIRING ADDITIONAL PROPOSED PROGRAMS PROHIBITED.—Except as provided in this section, a center shall not be required to submit to the Program Director or the Under Secretary any program proposal.

(e) GIFTS, DEVISES, AND BEQUESTS.—Each Center may accept, solicit, and use the services of volunteers, and may accept, receive, hold, administer, and use gifts, devises, and bequests, to carry out the research program of the Center.

SEC. 908. REGIONAL UNDERSEA RESEARCH CENTER PROGRAM GRANTS.

(a) AUTHORIZATION.—The Under Secretary may use amounts appropriated to carry out the Program to make grants and enter into contracts under this subsection to fund any Center program if the Under Secretary finds that the program will advance knowledge in the priority research areas.

(b) ALLOCATION OF FUNDING.—

(1) IN GENERAL.—Not later than April 1 of each year and based on the reviews under section 907(c) of proposed programs, the Under Secretary shall—

(A) allocate among the Centers, in such manner as will best advance knowledge in the priority research areas, all amounts available for the current fiscal year for research to be conducted by, and administration of, the Centers; and

(B) notify each Center Director of the amount allocated to that Center under subparagraph (A) for the current fiscal year.

(2) LIMITATION ON ALLOCATION PER CENTER.—The total amount which may be allocated for any fiscal year for activities conducted by any one Center shall not exceed 20 percent of the total amounts available for the Program for that fiscal year, except that the Under Secretary may allocate a greater amount for a Center for the purpose of making major capital expenditures for the Center.

(c) TERMS AND CONDITIONS.—

(1) IN GENERAL.—Any grant made, or contract entered into, under this section shall be subject to paragraphs (2) and (3), and to any other terms, conditions, and requirements the Under Secretary considers necessary.

(2) LIMITATIONS ON USES.—

(A) LAND AND BUILDINGS.—No payment under any grant or contract under this section may be applied to—

(i) the purchase of any land; or

(ii) the purchase or construction of any building.

(B) ADMINISTRATION.—At least 60 percent of the amount of a grant or contract under this section shall be used to fund individual research proposals carried out with the grant or contract.

(3) MAINTENANCE OF RECORDS.—Any person who receives or utilizes any proceeds of any grant or contract under this section shall keep any records the Under Secretary prescribes as necessary to facilitate effective audit and evaluation, including reports which fully disclose the amount and disposition of funds received under this subtitle, the total cost of activities for which those funds were used, and the amount, if any, of costs which were provided through other sources. The records shall be maintained for 3 years after the completion of the activity. The Under Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and evaluation, to any books, documents, papers, and records of receipts which, in the opinion of the Under Secretary or of the Comptroller General, may be related or pertinent to the grants and contracts.

SEC. 909. FINANCIAL ASSISTANCE REVIEW BOARD.

After the date of the enactment of this Act, grants and contracts under the Program shall not be subject to review by the board in the Department of Commerce known as the Financial Assistance Review Board.

SEC. 910. AUTHORIZATION OF APPROPRIATIONS.

(a) CENTER PROGRAM FUNDING.—There is authorized to be appropriated to the Under Secretary for use for grants and contracts under section 908, to remain available until expended—

(1) $20,000,000 for fiscal year 1993;

(2) $22,000,000 for fiscal year 1994;

(3) $24,000,000 for fiscal year 1995;

(4) $26,000,000 for fiscal year 1996; and

(5) $28,000,000 for fiscal year 1997.

(b) MANAGEMENT, ADMINISTRATION, AND STUDIES.—There is authorized to be appropriated to the Under Secretary for management and administration of the Program (including administration of grants and contracts under section 908, the development of undersea research technology, and the conduct of studies of underwater diving techniques and equipment under section 21(e) of the Outer Continental Shelf Lands Act (43 U.S.C. 1347(c))), to remain available until expended—

(1) $3,000,000 for fiscal year 1993;

(2) $3,100,000 for fiscal year 1994;

(3) $3,200,000 for fiscal year 1995;

(4) $3,300,000 for fiscal year 1996; and

(5) $3,400,000 for fiscal year 1997.

(c) LIMITATION ON USE.—Amounts appropriated under the authority of subsection (a) shall not be available for administration of this subtitle by the Office, or for program or administrative expenses of the Administration.

(d) REVERSION OF UNOBLIGATED AMOUNTS.—The amount of any grant, contract, or portion of a grant or contract, made under section 908 that is not obligated before the end of the third fiscal year in which it is authorized to be obligated shall revert to the Under Secretary. The Under Secretary shall add that reverted amount to the funds available for grants under section 908.

Subtitle B—Miscellaneous

SEC. 921. GREAT LAKES UNDERSEA RESEARCH CENTER.

(a) IN GENERAL.—Subject to the limitations in subsections (a)(2)(A) and (a)(3) of section 906, and not later than December 31, 1993, the Under Secretary of Commerce for Oceans and Atmosphere shall establish a National Undersea Research Center for the Great Lakes region in accordance with section 906 to implement the National Undersea Research Program established under section 904 for that region, at a qualified institution.

(b) DEFINITIONS.—For purposes of this section—

(1) "qualified institution" means an institution of higher education—

(A) located directly on the shoreline of one of the Great Lakes;

(B) with strong undergraduate and graduate programs in engineering, science, and technology as they may apply to undersea research;

(C) with facilities for maintaining research vessels appropriate for deployment of equipment necessary to conduct undersea research;

(D) with faculty and other personnel with expertise in undersea research;

(E) which has received funding from the National Undersea Research Program in the past; and

(F) which maintains cooperative institutional relationships with Federal agencies responsible for research work on the Great Lakes; and

(2) "undersea research" has the meaning that term has in section 903(10).

SEC. 922. PROCEDURES FOR JOINT REVIEW OF RESEARCH PROPOSALS.

The Under Secretary, in consultation with the Program Director, and jointly with the Director of the National Science Foundation and the Secretary of the Navy, shall—

(1) develop procedures for the submittal and joint review of proposals for research in priority research areas to be carried out with assistance from 2 or more agencies within the Department of Commerce, the National Science Foundation, or the Department of Defense; and

(2) issue final rules establishing those procedures by not later than 1 year after the date of the enactment of this Act.

SEC. 923. COMPLIANCE WITH BUY AMERICAN ACT.

No funds appropriated pursuant to this title may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the "Buy American Act").

SEC. 924. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided under this title, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this title, the Under Secretary of Commerce for Oceans and Atmosphere shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

Amend the title so as to read: "An Act to enhance the effectiveness of the United Nations international driftnet fishery conservation program, repeal the Coast Guard recreational boat user fee, ensure fair trade in the commercial shipbuilding and repair industry, provide funds to coastal States to protect the marine environment through the use of pumpout stations for recreational vessels, establish a program of research to better understand ocean and large lakes ecosystems, and for other purposes.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. DAVIS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2152, the High Seas Driftnet Fisheries Enforcement Act, passed the House on February 25, 1992, by a vote of 412 to 0. On July 31, the Senate approved the bill with amendments and returned it to the House.

My resolution contains an amendment to H.R. 2152. It is composed of the first four titles of the Senate amendment plus additional amendments.

Briefly, the committee amendment includes the following:

Title I strengthens our Nation's ability and commitment to achieve an international ban on the use of large-scale drift nets, a method of fishing which devastates the natural resources of the world's oceans.

Title II deals with fishery conservation issues under the Fisherman's Protective Act.

Title III calls for strong measures against unregulated and environmentally damaging fishing practices in the central Bering Sea.

Title IV makes miscellaneous amendments to the Marine Mammal Protection Act and the Magnuson Act.

Title V of the amendment contains a provision which my committee and this House have diligently pursued—a repeal of the Coast Guard user tax. On May 13, by a vote of 339 to 78, the House passed a repeal as part of H.R. 2056.

This is the fourth time this House will have the opportunity to register its vehement opposition to this unfair and inequitable tax. Now that the other body has finally joined us in this repeal effort, I am confident that our Nation's boaters will soon be rid of this foolhardy attempt to balance the budget on their backs.

Title VI is the text of Mr. GIBBONS' bill fighting foreign shipyard subsidies. The text is the same as in H.R. 2056 as passed by the House.

Title VII corrects technical mapping errors made in the 1990 amendments to three coastal barrier resource system maps. Some privately owned property was inadvertently included within a designation reserved for land held for conservation purposes by governments or conservation organizations. This amendment removes those areas from three maps in the system.

Title VIII includes a program twice agreed to by this House to improve coastal water quality. The Clean Vessel Act is intended to keep sewage out of our recreational waters by encouraging the construction of pump-out stations for boaters.

Finally, title IX includes legislation approved overwhelmingly by the House on June 30, by a vote of 265 to 86, to establish the National Undersea Research Program in law.

Mr. Speaker, the provisions of the committee amendment represent important legislation that I encourage my colleagues to adopt forthwith so that we might get the concurrence of the Senate and see them signed into law.

With one vote, Members will move us closer to ending the random destruction of marine life by drift nets. With one vote, Members will help pave the way for the rebirth of American shipyards. With one vote, we grow stronger in the movement to scuttle the Coast Guard user fee. With one vote, we can help clean up our coastal waters and take undersea research efforts to new heights.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS. Mr. Speaker, I yield myself such time as I may consume.

(Mr. DAVIS asked and was given permission to revise and extend his remarks.)

Mr. DAVIS. Mr. Speaker, we have all heard the cliche "between a rock and a hard spot," and this particular bill puts me between a big rock and a hard, hard spot. Why? Because there are two major pieces of legislation that this House passed, very important pieces of legislation. One passed 412 to zip, and the other one has very strong support from the House of Representatives and from the people back home, and that is the repeal of the boat user fee.

□ 1420

Why does it put a person in between a rock and a hard spot? This is why, because we have passed these two bills, sent them over to the Senate and they have combined them together, sent them back over to us.

We could have sent this back over as is and accepted it, and had the bill on the President's desk. However, we decided to add four more bills to this piece of legislation. And frankly these are, in my opinion, good bills too. The so-called Shipbuilding Trade Reform Act is a piece of legislation that I supported when it did pass the House. But it is controversial.

Nevertheless, I am going to acquiesce to those Members who want to get the so-called Gibbons Shipbuilding Trade Reform Act passed because I support it too. But I hope that we realize that it is very important that the two bills, the drift net bill and the boat user fee bill pass.

The other bills that we put, the three other bills are important bills too, but when we send this over to the Senate, and certainly I want it to go to the Senate, the Senate will have to make a decision as to whether or not they are going to accept it as it is, and accept the Gibbons bill. If that does not happen, and I hope it does, but if it does not happen, then we hope the Senate will send it back and allow us an opportunity to get the drift net bill and the repeal of the boat user fee passed.

Another fear that I have is that the Senate may strip something out of

here and then add some more. There are things we go back and forth and never get the real issue resolved on. I hope this does not happen, and I am going to go along with this piece of legislation because, frankly, I do support all four bills.

But do not lose sight of the fact that the drift net bill is very important and the repeal of the boat user fee is very important. Whatever we do, we ought to make sure that these two pieces of legislation are on the President's desk before we adjourn this year.

Mr. Speaker, I yield such time as he may consume to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of the bill and amendments before us today, but object most strongly to the procedure that is being used.

In February, the House passed the drift net bill by a vote of 412 to 0. On July 31, the Senate returned the bill to the House with a series of amendments, including language repealing the vessel user tax which previously had passed the House. The text of the other amendment is not controversial, and includes language that has been requested by the administration. Under normal circumstances we would simply take the bill with the Senate amendments, pass it, and send it to the White House. Unfortunately, we are choosing to play political games by sending this bill back to the other body with new language added.

Mr. Speaker, this process is silly, and is a good example of why this Congress is held in such low esteem by the people of the United States. Here we have a bill promoting fisheries conservation, protecting marine mammals, correcting an improper court decision on fisheries imports, and repealing the vessel user tax that affects hundreds of thousands of Americans. We should be passing this bill on to the President. Instead, because the other body has not passed all of the bills we want them to, we are sending back the drift net bill in a fruitless game of Ping-Pong.

I have the greatest respect for my colleagues on the majority and have appreciated working with them on resource conservation issues. The RECORD should reflect that the majority Members of our committee want to pass this bill without amendments, Yet, I am amazed that other Members of the party which nominated "Mr. Green" as a Vice-Presidential candidate are slowing down passage of important environmental bills. I am astounded that Members of the party which criticizes our President on tax issues are refusing to repeal a tax that affects hundreds of thousands of Americans. We shouldn't be playing games. We should be going about the serious business of passing laws that affect our environment and affect our citizens.

Mr. Speaker, I am going to vote for this bill, but I hope my colleagues will put an end to these playground squabbles and get on with the serious business of legislating.

Mr. JONES of North Carolina. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I thank the distinguished chairman of the full Merchant Marine and Fisheries Committee for yielding me the time. Let me congratulate him and the ranking Republican, the gentleman from Alaska [Mr. YOUNG], as well as the gentleman from Michigan [Mr. DAVIS], my colleague who will be leaving us this year, for their yeoman work in attempting to put once again the repeal of the user fee before the Congress. Hopefully we will get it on the President's desk before too long so that we can finally, finally repeal that unfortunate tax.

I might say, Mr. Speaker, that in 1981 the President proposed this kind of a tax, and our committee rejected it on both sides of the aisle. They could not find a Democrat or a Republican on the Merchant Marine and Fisheries Committee to sponsor a bill that would impose a user fee on recreational boaters. And it is most unfortunate that in the context of the summit negotiations and that budget process that we saddled recreational boaters with this tax. It has not raised any money. There never was any money for the Coast Guard operations. It is not as if the recreational boaters are not taxed already. They contribute about $175 million to the Breaux-Wallop fund. So it is so important for us to repeal that tax once and for all.

Many of my boaters really do not know what to do at this point. Most of them have been led to believe that this tax would have been repealed months ago, and they have been lulled into a false sense of security in many instances. So we need to get on to the business of repealing that tax.

Mr. Speaker, this particular bill also has provisions that would address a serious imbalance in the commercial shipbuilding and repair industry. Current U.S. law and trade agreements fail to provide adequate protections for U.S. shipbuilders from the effects of foreign unfair trade practices, particularly subsidies. They are killing us in foreign yards, and we need to deal with that. And we have provisions in this bill that will address those particular problems.

Mr. Speaker, in addition we have provisions in this bill to reauthorize the national undersea research programs. The programs have been in effect for over a decade, Mr. Speaker, and year after year we find that they are again zero-funded.

This program has consistently proven its important role in providing opportunities for the scientific community to conduct research not possible within the limits of traditional ship-based research and laboratories. I am happy to say that Rutgers University in my State will play a premier role in attempting to better understand the ocean environment, something we have neglected for so many years. We spend billions and billions of dollars to understand space, and we spend peanuts trying to understand the impact of the oceans on our environment. This is a step in the direction of trying to redress some of that imbalance.

Finally, there are some very important drift net fisheries conservation initiatives in this bill.

Mr. Speaker, it is a good bill and I urge my colleagues to support it. And I thank my colleague, the chairman of the committee, once again for yielding me the time.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in support of House Resolution 548, which returns to the Senate, H.R. 2152 with additional House amendments.

The House of Representatives passed H.R. 2152, the U.S. International Driftnet Fishery Conservation Program, on February 25, by a unanimous vote of 412 to 0. The purpose of H.R. 2152 is to enhance the effectiveness of U.N. Resolution 46–215, which will bring an end to the practice of large-scale drift net fishing on the high seas. It would do so by broadening the import sanctions applicable under U.S. law to countries whose nationals or vessels engage in large-scale drift net fishing on the high seas on or after December 31, 1992.

On July 31, the Senate passed H.R. 2152 with amendments. Several of these were technical amendments germane to the bill as passed by the House. However, the Senate also added several nongermane amendments to the bill, including the repeal of the recreational boat user fee to be financed by a new fee on the Automated Tariff Filing and Information System [ATFI] of the Federal Maritime Commission. Members will recall that the House originally passed legislation repealing the recreational boat user fee as part of H.R. 2056, the Shipbuilding Trade Reform Act of 1992, which passed the House on May 13.

The proposed House amendment to the Senate amendment covers several matters which fall within the jurisdiction of either the Committee on Merchant Marine and Fisheries or the Committee on Ways and Means, or both. Chairman JONES and I have consulted on the most appropriate way to respond to the Senate amendments and have agreed that the matters in the proposed House amendment to the Senate amendment are entirely appropriate. Chairman JONES has already described those provisions of the proposed House amendment that pertain most directly to those matters falling within the jurisdiction of his committee. I would therefore limit myself to commenting briefly on the shipbuilding part of the pending amendment.

H.R. 2056, the Shipbuilding Trade Reform Act of 1992, passed the House on May 13, by a vote of 339 to 78. Title I of this legislation is designed to ensure fair international trade in the commercial shipbuilding and repair industry by enacting new trade remedies against subsidized and dumped foreign-built commer-

cial vessels. Title II of the bill repeals the recreational boat user fee financed by the new ATFI fee. When H.R. 2056 was considered by the House, an effort was made through a motion to recommit to separate title I from title II of the bill. This effort failed by a vote of 179 to 237. So, a clear majority of the House supports linkage of these two provisions.

By attaching only the boat user fee repeal to H.R. 2152, the Senate amendment now attempts to do what a clear majority of the House was unwilling to do. Chairman JONES and I have agreed that this would be inappropriate and that the proper response of the House to the Senate amendments is to attach H.R. 2056 in its entirety to H.R. 2152. House Resolution 548 would do just that.

Mr. Speaker, I urge my colleagues' support for House Resolution 548, so that the position of a clear majority of the House on the shipbuilding provisions will be maintained and respected.

Mr. HUGHES. Mr. Speaker, I rise today in support of H.R. 2152, A bill to enhance the effectiveness of the U.N. International Driftnet Fishery Conservation Program.

For several years, the United States has endeavored to protect marine mammals and threatened and endangered species from large-scale destruction such as that caused by drift nets. In 1990 the enactment of the Magnuson fishery management conservation reauthorization implemented a ban on the use of drift nets in the U.S. 200-mile exclusive economic zone and a prohibition of the use of such nets by U.S. fishing fleets anywhere in the world. It also prohibited the importation into the United States of certain fish or fish products caught with these nets.

In late 1989, the United Nations passed a resolution calling for the ban on large-scale drift net fishing on the high seas by June 30, 1992. In December 1991, the U.N. resolution was strengthened and the ban deadline pushed back to December 31, 1992.

The time has come to ensure compliance with the international moratorium by all nations. For too many years, driftnetters have been allowed to fish the seas, decimating populations of marine mammals, seabirds, sea turtles, and nontarget fish populations, in addition to seriously overfishing target species. Lost or discarded drift nets roam the seas unabated causing widespread destruction of marine life.

H.R. 2152 encourages full implementation of the U.N. resolution to end large-scale drift net fishing on the high seas by prohibiting fishing vessels of nations that engage in drift net fishing from entering U.S. ports, and imposing certain import sanctions against countries whose vessels violate the moratorium.

The bill also expands the authority of the President to impose import restrictions on any product of a nation which conducts fishery practices or engages in trade that diminish the effectiveness of international programs for fishery conservation or the protection of endangered or threatened species.

I strongly support H.R. 2152 and am pleased that the legislation includes language to notify nations of impending U.S. action when countries are in violation of the drift net moratorium.

This legislation expresses the sense-of-Congress that we, as a nation, must do our part to end large-scale drift net fishing and preserve our important marine life and I urge my colleagues' support for its passage.

Mr. TAUZIN. Mr. Speaker, I rise today to urge my colleagues in the House to concur in the amendments to H.R. 2152. H.R. 2152 was introduced in the House to enhance the effectiveness of the U.N. international driftnet fishery conservation program. Now H.R. 2152 comes back to this House with an amendment that repeals certain fees imposed on recreational boaters.

My subcommittee originally reported a bill to repeal the fee on recreational boats on May 14, 1991, over 1 year ago. The repeal was originally on H.R. 534. After H.R. 534 was reported by the Merchant Marine Committee, it was referred to the Ways and Means Committee which reported it out on October 22, 1991. On May 13, 1992, the repealer was attached as an amendment on H.R. 2056 by Mr. GIBBONS, the Shipbuilding Trade Reform Act of 1991 which passed this House by a vote of 339–78.

From this chronology it is clear that the Congress has moved much too slowly on this issue. We have an opportunity today to break the gridlock on this bill and send the legislation to the President's desk for signature. My constituents have had enough of increases in user fees and taxes. They want relief and today, H.R. 2152 spells relief.

If the Members of the House agree to place these proposed amendments on this bill, H.R. 2152 is dead and some other vehicle will have to be found to accomplish the repeal of this unjust fee. It may eventually be repealed, but not until the very end of this session if at all. If we wait until the end of September to repeal the fee, the costs to the Coast Guard of changing their rules will increase. To implement the repeal and the new requirements, the Coast Guard will have to go through a regulatory process that will take at least 60 days to complete. On January 1, boaters will have to obtain their new decals. It is imperative that this Congress act promptly so that the process of changing the fee schedules can be done expeditiously and in an orderly fashion by the Coast Guard. We cannot expect this already overburdened agency to act by January 1 unless we give them some lead time.

I urge my colleagues to act immediately to make H.R. 2152 law.

Mr. DAVIS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUBBARD). The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and agree to the resolution, House Resolution 548.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The SPEAKER pro tempore. Pursuant to House Resolution 548, the title of the bill is amended so as to read:

An Act to enhance the effectiveness of the United Nations international driftnet fishery conservation program, repeal the Coast Guard recreational boat user fee, ensure fair trade in the commercial shipbuilding and repair industry, provide funds to coastal States to protect the marine environment through the use of pumpout stations for recreational vessels, establish a program of research to better understand ocean and large lakes ecosystems, and for other purposes.

A motion to reconsider was laid on the table.

□ 1430

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 548, the resolution just agreed to.

The SPEAKER pro tempore (Mr. HUBBARD). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

DES EDUCATION AND RESEARCH AMENDMENTS OF 1992

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4178) to amend the Public Health Service Act to provide for a program to carry out research on the drug known as diethylstilbestrol, to educate health professionals and the public on the drug, and to provide for certain longitudinal studies regarding individuals who have been exposed to the drug, as amended.

The Clerk read as follows:

H.R. 4178

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 "DES Education and Research Amendments of 1992".

SEC. 2. ESTABLISHMENT OF PROGRAM REGARDING DES.

Part A of title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by adding at the end the following new section:

"DES

"SEC. 403A. (a) The Director of NIH shall establish a program for the conduct and support of research and training, the dissemination of health information, and other programs with respect to the diagnosis and treatment of conditions associated with exposure to the drug diethylstilbestrol (in this section referred to as 'DES').

"(b) In carrying out subsection (a), the Director of NIH, after consultation with nonprofit private entities representing individuals who have been exposed to DES, shall conduct or support programs to educate health professionals and the public on the drug, including the importance of identifying and treating individuals who have been exposed to the drug.

"(c) After consultation with the Office of Research on Women's Health, the Director of NIH, acting through the appropriate national research institutes, shall in carrying out subsection (a) conduct or support one or more longitudinal studies to determine the incidence of the following diseases or disorders in the indicated populations and the relationship of DES to the diseases or disorders:

"(1) In the case of women to whom (on or after January 1, 1938) DES was administered while the women were pregnant, the incidence of all diseases and disorders (including breast cancer, gynecological cancers, and impairments of the immune system, including autoimmune disease).

"(2) In the case of women exposed to DES in utero, the incidence of clear cell cancer (including recurrences), the long-term health effects of such cancer, and the effects of treatments for such cancer.

"(3) In the case of men and women exposed to DES in utero, the incidence of all diseases and disorders (including impairments of the reproductive and autoimmune systems).

"(4) In the case of children of men or women exposed to DES in utero, the incidence of all diseases and disorders.

"(d) For purposes of this section, an individual shall be considered to have been exposed to DES in utero if, during the pregnancy that resulted in the birth of such individual, DES was (on or after January 1, 1938) administered to the biological mother of the individual.

"(e) In addition to any other authorization of appropriations available for the purpose of carrying out this section, there are authorized to be appropriated for such purpose such sums as may be necessary for each of the fiscal years 1993 through 1996.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from California [Mr. DANNEMEYER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4178, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the DES Education and Research Amendments of 1992 would authorize an education and research program to help the approximately 10 million people in this country who have been exposed to the drug DES.

The story of DES is well-known. Between 1941 and 1971, DES was prescribed to pregnant women for the prevention of miscarriages and a variety of other conditions. Records show that DES was promoted to make bigger and stronger babies.

Although it was known from the time it was first marketed that DES causes cancer in animals, the drug companies insisted that it was safe for humans. They were wrong. It turns out that DES causes breast cancer in the women who took it; it causes a rare form of vaginal cancer in their daughters, as well as an increased incidence of fertility problems, tubal pregnancy, miscarriage, and premature labor and delivery. There is also evidence of an increased risk of genital problems and infertility in DES sons. Because premature birth can lead to serious health effects, DES also affects the grandchildren of the women who took the drug.

It is ironic that a drug given to treat fertility problems caused fertility complications in the children of the women who were treated with the drug. The tragedy of DES is compounded by the fact that it was never demonstrated that DES was effective for use by pregnant women.

Despite a flurry of activity during the 1970's, little public education or research has been done on this vital issue since the early 1980's. The Federal Government last published information about DES in 1983. Today that brochure is out of print and out of date.

Funds for tracking DES victims have also largely dried up. As a result, we do not know the full implications of DES. And we have not adequately communicated what we do know about the drug. DES mothers, daughters, and sons have not been adequately informed about measures they should take to minimize the health impact of the drug.

Congresswoman LOUISE SLAUGHTER has stepped into this vacuum with a very constructive piece of legislation. H.R. 4178 would authorize an education and research program to study the link between DES and various diseases and disorders. This research will increase our understanding of DES and other similar drugs, and it will benefit the three generations of DES victims in understanding both the impact of the drug on them and what precautions they should take to minimize its complications.

The education and research that H.R. 4178 would authorize could help millions of DES mothers, as well as their children and their grandchildren.

The bill was adopted without opposition in the Committee on Energy and Commerce. It is a noncontroversial bill that will benefit a significant segment of our population at little cost. I urge all Members to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. DANNEMEYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill reminds researchers at the National Institutes of Health about an activity that the Congress views as a very high priority. In fact, this bill would specifically authorize a research program that the Labor, Health and Human Services Appropriations Committee already has indicated it would like NIH to initiate.

This program would include research and dissemination of information regarding the consequences of using the drug DES.

Millions of women used this drug in the period of time from the late thirties to the late sixties, because DES was thought to be effective in preventing miscarriages. Tragically, too late for these women and their children, DES was determined to be linked with a high rate of a rare cancer in the female children of women who took the drug. Because of this discovery, FDA in 1971 removed the drug from the market, and it is no longer used in pregnant women. Nevertheless, its effects continue to be seen. In addition to cancer in female children, DES use also has been linked more recently to other reproductive abnormalities in both male and female children. More distressing still are findings that DES use may also cause problems in the grandchildren of women who used it.

A workshop on the long-term effects of exposure to DES was conducted by NIH this year, and participants agreed that more research is needed and more information needs to be provided to the people who may be affected by DES use in their mothers or grandmothers.

I mentioned that the Appropriations Committee already has indicated its interest in this by encouraging NIH to place a high priority on studies to determine cancer risk and other potential effects of DES use. In fact, when the NIH appropriation was increased for fiscal year 1992, the Congress urged NIH to use part of these increased resources to fund work related to DES.

I support this activity. I think the Energy and Commerce Committee expressed its support very strongly for these research and information activities which may help those who have been affected by DES.

I want to emphasize again, however, that NIH does not need a special authority under the law to conduct or support this kind of work. Indeed, because NIH has sufficient authority under current law, this special authorization should be viewed as another message from the Congress to NIH: "Conduct this program. It is important. It should be considered to be a very high priority." In no way should this authorization bill be viewed as a signal that new funds need to be appropriated before this program can be initiated.

There are sufficient resources in the NIH budget to support the activities defined in this legislation without additional appropriations.

This bill is telling NIH to place a high priority on activities related to DES. This may involve making a choice. In this day and age, all of us have to make choices. NIH is no different. All of us make lists, and do what can be done. What this legislation tells NIH is to place this activity at the top of the list.

Mr. Speaker, I reserve the balance of my time.

Mr. WAXMAN. Mr. Speaker, I am pleased to yield such time as she may consume to the gentlewoman from New

York [Ms. SLAUGHTER], the author of this legislation. She has made an enormous contribution in bringing forth this issue for our consideration, and I want to commend her for her important measure that I feel confident will pass the House, and we will urge the Senate and the President to accept it as well.

Ms. SLAUGHTER. Mr. Speaker, I am proud to rise today in support of the DES Education and Research Amendments of 1992. As the sponsor of this legislation, I am grateful to Chairman WAXMAN for his active interest in the DES issue and for his work in bringing this bill to the floor.

H.R. 4178 finally addresses the haunting health questions which, for at least two decades, have plagued millions of American mothers and their children.

The synthetic hormone drug diethylstilbestrol [DES] was prescribed to 5 million pregnant women from 1941 to 1971. An advertisement by the Grant Chemical Co. appearing in a 1957 issue of the American Journal of Obstetrics and Gynecology encouraged the use of DES "for routine prophylaxis in all pregnancies." The ad promised pregnant women to whom DES was prescribed reduced risk of miscarriage, plus "bigger and stronger babies, too." Instead, DES caused birth defects and cancer. Today, the drug's lingering health effects continue to haunt these women and their families.

In the 22 years since DES was banned for use in pregnant women, DES exposure has been linked to clear cell vaginal cancer, autoimmune disease, reproductive tract malformations, infertility, and an increased incidence of breast, testicular, and prostate cancers. But the majority of DES injuries do not manifest until approximately 20 or 30 years after exposure and the long-term effects of exposure remain unknown.

Despite the fact that at least 10 million Americans have been exposed to DES and face these horrible health effects, very little research has been done on the long-term effects of DES exposure. Even more troubling, many Americans are unaware of their exposure and its potential effects because the U.S. Government has undertaken no organized public health education campaign on DES since 1983. Physicians who have long since filed away back issues of their medical journals are too often unaware of the signs of DES exposure or how to treat DES-related conditions. Sadly, this lack of information has led to a real insensitivity among some health care providers not only to the medical needs of the DES-exposed, but also to the emotional distress of persons suffering from very personal and very tragic reproductive, gynecological, and genital problems.

H.R. 4178 will meet each of these pressing needs for DES research, public health education, and health professional training. The inattention of the Federal Government to these issues over the past two decades is reason enough to enact H.R. 4178, but the most poignant, most compelling testimony to the need for the legislation we have before us comes straight from the hearts and voices of DES mothers, daughters and sons from all across the country. Since I began work on the DES issue in Congress, I have received literally hundreds of letters from DES-exposed individuals and their families.

Letters have come from Chamblee, GA; Kearney, NE; Biddeford, ME; Los Angeles, and the Bronx. They are written by the mothers who took DES and today struggle with guilt and worry over the health of their children. They are written by DES daughters unable to have children of their own. They are written by cancer survivors anxious about what lies ahead. At the same time, they are both haunting and hopeful.

A Portland, OR, woman wrote me,

> I am one of the very unfortunate DES mothers who has died a thousand deaths because of DES. I was given DES with my first daughter in 1959. She has had no cancer, thank God, but who knows what is in the future for her. She had very much trouble trying desperately to have her two children. They had to sew up her cervix. If there's no research, what about the grandchildren who are so trusting and loving?

And Mr. Speaker, no research at all has been done on those grandchildren.

A registered nurse in Mineola, NY, was exposed to DES in utero and has been in and out of the doctor's office since age 21, at great emotional and financial cost. She wrote:

> I had cervical dysplasia. I lost my son in the fifth month of pregnancy and was with him when he died after a week of life. Now I will always be a high-risk pregnancy, confined to bed, with astronomical medical costs and no guarantee of success. I also worry about my mother getting breast cancer.

Because DES-exposed mothers have a very high incidence of breast cancer.

These two women and the hundreds of others who painstakingly wrote these letters look to us here today for the promise that answers to their haunting questions will be found. And, do not forget the millions of others who are DES-exposed, but suffer in silence or are totally unaware of their exposure. DES sons are particularly unaware—no studies have been done on the second generation. The attention that Congress today calls to the DES problem and the legislative priority we give to DES education and research by acting on H.R. 4178 will do much to address the needs of the DES-exposed and ease their suffering.

Before I close, I want to give special recognition to the work of the DES Cancer Network and DES Action USA under the leadership of Margaret Lee Braun, Nora Cody, and Pat Cody. As president of the DES Cancer Network, Margaret Lee Braun—a constituent and a friend of mine—has tirelessly pursued the cause of DES research while providing comfort and support to her peers, the cancer survivors.

Together, the Cancer Network and DES Action provide a central resource of information and support to the DES-exposed. They have done remarkable work across the country and around the world to alleviate the fear and isolation experienced by many DES-exposed men and women; despite that their success is limited by the extent of scientific knowledge available on DES-related health risks and the scarcity of resources available for outreach. Groups like the DES Cancer Network and DES Action USA must work with the NIH to implement nationwide the same kind of successful education, outreach and support programs they have been able to provide for several years, though on a limited basis.

I would especially also like to thank the DES mothers, sons, and daughters who have worked closely with me and revealed much about their very personal and painful medical histories in order to advance this important legislation: Amanda Sherman, Karen Renick, Edna and Susan Helmrich, Judy Helfand, Nina Weisman, Gail Schofer, Sally Esposito, Sharon Cerasoli, Alice Hooper, Beth Sardone, Sue Desmond, Tim Sheehan, Jane Dolan, Darci Picoult, and others. Their earnest efforts to help others who suffer from DES exposure have been instrumental in the success of this legislation.

Finally, Mr. Speaker, allow me to share with my colleagues one last letter, this one from a Long Island woman:

> I was violated before I even took my first breath of life. It has ultimately meant to me that I will never have children of my own. It is encouraging to know that someone has gone to bat for me over an issue that's largely unknown, yet has hurt me enormously. Because of your willingness to take risks, a new door has been opened for me and others. I see hope on the other side of that door.

I ask my colleagues to help me open this door and give hope to the DES-exposed that answers to their questions will be found and their health problems will be over. We all know someone who has been touched by the DES tragedy: a relative, friend, colleague, or staff member. On behalf of millions of American mothers, sons and daughters, I urge my colleagues to support passage of H.R. 4178.

Ms. OAKAR. Mr. Speaker, I rise today in strong support of H.R. 4178, the DES Education and Research Amendments of 1992. I am proud to be an original cosponsor of this legislation, which authorizes a special National Institutes of Health [NIH] research program to study the effects of exposure to the drug diethylstilbestrol [DES]. I commend the efforts of my colleague, the distinguished gentlewoman from New York [Ms. SLAUGHTER]. She has done a tremendous job on this bill. I

would also like to thank the gentleman from California, distinguished chairman of the Energy and Commerce Subcommittee on Health and the Environment, Mr. WAXMAN, for putting this legislation at the top of his agenda. He has become a true leader in the fight to make up for precious lost time on the needs in women's health at the NIH.

The story of DES mothers and their children is a tragic example of the chronic, systemic disregard for women's health concerns that has plagued NIH over the years. The first link between the delayed effects of DES exposure and breast and cervical cancers was discovered in 1971. Now more than 20 years have passed, and we are finally getting around to the first comprehensive study of DES exposure and its effects on successive generations. Armed with overwhelming scientific knowledge that DES exposure dramatically heightens the risk for cancer, we have a responsibility to follow these individuals to ensure that they are fully informed of their risk and obtain regular followup examinations.

During my tenure in Congress, I have struggled to bring attention to the breast cancer epidemic that plagues this Nation. It is no small coincidence that many of those who first brought my attention to the problem were, themselves, exposed to DES. The late Rose Kushner, a pioneer in breast cancer advocacy, and my own personal mentor, was exposed to DES. Just before her death, in January of 1990, she informed me of a longitudinal study on DES exposure, the only one of its kind, that could not obtain the resources to follow up on the daughters of those women in the study group. This was in spite of considerable evidence that DES exposure carries effects on to the children of those exposed. The cost of this study—$60,000—was far less than the average treatment costs of just one woman who dies from breast or cervical cancer.

Mr. Speaker, last year the Congress met my demand for a substantial 46-percent increase in breast cancer research, and recently the House passed yet another 33-percent increase for breast, ovarian, and cervical cancer research. It has always been my intention that a comprehensive study of those exposed to DES should be included as a target of this increased funding. DES has been a neglected potential link to a number of female cancers, and is now suspected to be a factor in certain types of cancer among the sons of DES-exposed women.

Mr. Speaker, we do need a comprehensive DES research and education program for more than 10 million Americans who are directly affected by the DES nightmare. So I commend Ms. SLAUGHTER, DES Action, and all those who have led this effort. I thank Mr. WAXMAN, Chairman DINGELL, and the Committee on Energy and Commerce for bringing this bill to the floor—and I thank Senator TOM HARKIN, who has introduced similar legislation in the other body. I urge all of my colleagues to support this critical legislation.

Mrs. MINK. Mr. Speaker, I rise today in strong support of H.R. 4178, the DES Education and Research Amendments of 1992. I want to thank the gentlewoman from New York [Ms. SLAUGHTER] for introducing this legislation and for her efforts to bring answers and information to millions of families across this Nation who continue to suffer from the devastating effects of DES.

The exposure of 5 million women to the synthetic hormone drug diethylstilbestrol [DES] is one of the greatest medical tragedies of this century.

Over a 30-year period DES was touted as a wonder drug, which would produce complication-free pregnancies and healthier babies. But unbeknownst to the women prescribed this drug, hidden in these little pills was the power to destroy the lives of millions of children over several generations, as well as affect the health of the mothers themselves.

In 1952, at the University of Chicago Hospital, I was one of 2,000 wornen who were unknowingly involved in a DES trial. One-half of these women, including myself, were given DES during pregnancy and told it was a vitamin pill. I was in fact a guinea pig.

It wasn't until the 1970's when the medical community first began reporting the possible long-term effects of DES. In 1975, I received a letter from the University of Chicago advising me that I was included in a DES experiment and that I and my child could have medical consequences.

The first reports on DES in 1971 linked the drug to clear cell carcinoma in DES children. Later, other effects such as premature births, infertility, reproductive malfunctions, and increased risk of breast and ovarian cancer were found also to be related to DES exposure in the mothers.

Now we face a whole new generation of children who may also be affected third-hand by this terrible drug.

As one who has had to live with the unanswered questions of what this drug did to me or my daughter, I cannot overstate the importance of continued education and research on DES.

This bill will establish a network to disseminate information on new research findings, and provide outreach and support services for DES victims and families across the Nation. It will increase our research efforts on DES and the role of estrogen hormone drugs on female health, which could heighten our understanding of breast and other cancers; and most importantly, prevent this kind of tragedy from happening again.

I urge my colleagues to support H.R. 4178. It is truly a matter of life and death.

□ 1440

Mr. DANNEMEYER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I urge all Members to support this legislation, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUBBARD). The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 4178, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PUBLIC HEALTH SERVICE ACT TECHNICAL AMENDMENTS ACT

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 3112) to amend the Public Health Service Act to make certain technical corrections, and for other purposes.

The Clerk read as follows:

S. 3112

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 "Public Health Service Act Technical Amendments Act".

SEC. 2. TECHNICAL AMENDMENTS.

(a) PUBLIC HEALTH SERVICE ACT.—The Public Health Service Act is amended—

(1) in section 464H(a), by striking out "Institute of Alcohol" and inserting in lieu thereof "Institute on Alcohol";

(2) in section 464J(b), by striking out "702(2)" and inserting in lieu thereof "701(1)";

(3) in section 464L(d)(1), by inserting "other than section 464P," after "this subpart,";

(4) in section 464N(b), by striking out "701(2)" and inserting in lieu thereof "701(1)";

(5) in section 464R(f)(1), by striking out "other than section 464P";

(6) in section 502(b)(3)(B), by striking out "and management" and inserting in lieu thereof "or management";

(7) in section 504(a), by striking out "by regulation";

(8) in section 1918(a)(5)(A)(iii) by striking out "25" and inserting in lieu thereof "45";

(9) in section 1918(c)(2)—

(A) by striking out "and" at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new subparagraph:

"(C) with respect to fiscal years 1993 and 1994, an amount equal to 20.6 percent of the amount received by the territory from allotments made pursuant to this part for fiscal year 1992.";

(10) in section 1927(b)(2)(B), by striking out "available" the first time such term occurs;

(11) in section 1933(c)(2)—

(A) by striking out "and" at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new subparagraph:

"(C) with respect to fiscal years 1993 and 1994, an amount equal to 79.4 percent of the amount received by the territory from allotments made pursuant to this part for fiscal year 1992.";

(12) in section 1943(a)(3), by striking out "515" and inserting in lieu thereof "505"; and

(13) in section 1971(g), by inserting "substance abuse" before "treatment services".

(b) OTHER TECHNICALS.—

(1) CONDUCT OF CERTAIN RESEARCH PROJECTS.—Section 149 of the ADAMHA Reorganization Act is amended by striking out "464I, 464O, or 464T" and inserting in lieu thereof "464H, 464L, and 464R".

(2) PATH PROGRAM.—Section 163(a) of the ADAMHA Reorganization Act is amended by striking out paragraphs (1) and (3), and redesignating paragraph (2) as paragraph (1).

(c) REFERENCES.—Section 205 of the ADAMHA Reorganization Act is amended—

(1) in subsection (a)(2)(A)—

(A) by striking out "1916(c)(6)(A)" in the matter preceding clause (i) and inserting in lieu thereof "1916(c)(6)";

(B) by striking out "under clause (i) of such section 1916(c)(6)(A) for fiscal year 1991" in clause (i) and inserting in lieu thereof "as a result of the matter contained in the proviso of the item relating to the Alcohol, Drug Abuse, and Mental Health Administration in title II of Public Law 101-57"; and

(C) by striking out "under clause (ii) of such section 1916(c)(A) for fiscal year 1991" in clause (ii) and inserting in lieu thereof "as a result of the matter contained in the proviso of the item relating to the Alcohol, Drug Abuse, and Mental Health Administration in title II of Public Law 101-517"; and

(2) in subsection (b)(3)—

(A) by striking out "in compliance with clause (i) of former section 1916(c)(6)(A)" in subparagraph (E) and inserting in lieu thereof "as a result of the matter contained in the proviso of the item relating to the Alcohol, Drug Abuse, and Mental Health Administration in title II of Public Law 101-517";

(B) by striking out "in compliance with clause (ii) of former section 1916(c)(6)(A)" in subparagraph (F) and inserting in lieu thereof "as a result of the matter contained in the proviso of the item relating to the Alcohol, Drug Abuse, and Mental Health Administration in title II of Public Law 101-517";

(C) by redesignating subparagraph (F) as subparagraph (G); and

(D) by inserting after subparagraph (E), the following new subparagraph:

"(F) The term 'State' includes the territories of the United States.".

SEC. 3. EFFECTIVE DATE.

The amendments made by—

(1) subsection (a) of section 2, shall take effect immediately upon the effectuation of the amendments made by titles I and II of the ADAMHA Reorganization Act; and

(2) subsections (b) and (c) of section 2, shall take effect on the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from California [Mr. DANNEMEYER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on S. 3112, the Senate bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of S. 3112 is to make minor technical corrections and conforming amendments to Public Law 102-321, the ADAMHA Reorganization Act. The legislation is necessary to assure that transition provisions affecting Federal block grants conform to congressional intent and that technical errors contained in the new law are corrected.

Mr. DANNEMEYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation.

Mr. Speaker, on July 10, 1992, President Bush signed into law S. 1306, the ADAMHA Reorganization Act. It became Public Law 102-321. That legislation contains many provisions designed to improve the Federal effort against mental illness and substance abuse. One of the changes made in that law was the separation on the alcohol, drug abuse, and mental health services block grant into two block grants—a substance abuse grant and a mental health grant.

The current bill, S. 3112, makes a number of minor technical and clarifying changes with respect to the revised block grant and corrects several other technical errors.

Mr. Speaker, most of these changes were made at the request of the administration. I know of no opposition to this legislation, and I urge my colleagues to support it.

□ 1450

Mr. Speaker, I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUBBARD). The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the Senate bill, S. 3112.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

BANKRUPTCY JUDGESHIP ACT OF 1992

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5688) to amend title 28, United States Code, to authorize the appointment of additional bankruptcy judges, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5688

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 "Bankruptcy Judgeship Act of 1992".

SEC. 2. PERMANENT JUDGESHIPS.

Section 152(a)(2) of title 28, United States Code, is amended—

(1) in the item relating to the district of Arizona by striking "5" and inserting "7";

(2) in the item relating to the central district of California by striking "19" and inserting "21";

(3) in the item relating to the district of Connecticut by striking "2" and inserting "3";

(4) in the item relating to the middle district of Florida by striking "4" and inserting "8";

(5) in the item relating to the southern district of Florida by striking "3" and inserting "5";

(6) in the item relating to the northern district of Georgia by striking "6" and inserting "8";

(7) in the item relating to Georgia by adding at the end the following:

"Middle and Southern ..... 1";

(8) in the item relating to the district of Maryland by striking "3" and inserting "4";

(9) in the item relating to the district of Massachusetts by striking "4" and inserting "5";

(10) in the item relating to the district of New Jersey by striking "7" and inserting "8";

(11) in the item relating to the southern district of New York by striking "7" and inserting "9";

(12) in the item relating to the eastern district of Pennsylvania by striking "3" and inserting "5";

(13) in the item relating to the middle district of Tennessee by striking "2" and inserting "3";

(14) in the item relating to the western district of Tennessee by striking "3" and inserting "4";

(15) in the item relating to the northern district of Texas by striking "5" and inserting "6"; and

(16) in the item relating to the eastern district of Virginia by striking "4" and inserting "5".

SEC. 3. TEMPORARY JUDGESHIPS.

(a) APPOINTMENTS.—The following bankruptcy judges shall be appointed in the manner prescribed in section 152(a)(1) of title 28, United States Code.

(1) 1 additional bankruptcy judge for the northern district of Alabama.

(2) 1 additional bankruptcy judge for the district of Colorado.

(3) 1 additional bankruptcy judge for the district of Delaware.

(4) 1 additional bankruptcy judge for the southern district of Illinois.

(5) 1 additional bankruptcy judge for the district of New Hampshire.

(6) 1 additional bankruptcy judge for the middle district of North Carolina.

(7) 1 additional bankruptcy judge for the district of Puerto Rico.

(8) 1 additional bankruptcy judge for the district of South Carolina.

(9) 1 additional bankruptcy judge for the eastern district of Tennessee.

(10) 1 additional bankruptcy judge for the western district of Texas.

(b) VACANCIES.—The first vacancy in the office of bankruptcy judge in each of the judicial districts set forth in subsection (a), resulting from the death, retirement, resignation, or removal of a bankruptcy judge, and occurring 5 years or more after the date of the enactment of this Act, shall not be filled. In the case of a vacancy resulting from the expiration of the term of a bankruptcy judge not described in the preceding sentence, that judge shall be eligible for reappointment as a bankruptcy judge in that district.

SEC. 4. REPORTS TO CONGRESS ON NEED FOR BANKRUPTCY JUDGES.

Section 152(b) of title 28, United States Code, is amended by adding at the end thereof the following:

"(3) Not later than December 31, 1994, and not later than the end of each 2-year period thereafter, the Judicial Conference of the United States shall conduct a comprehensive

review of all judicial districts to assess the continuing need for the bankruptcy judges authorized by this section, and shall report to the Congress its findings and any recommendations for the elimination of any authorized position which can be eliminated when a vacancy exists by reason of resignation, retirement, removal, or death.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from New York [Mr. FISH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5688 would create 35 additional bankruptcy judgeships. I introduced this bill—along with Congressman HAMILTON FISH, the Judiciary Committee's ranking minority member—because bankruptcy courts over the past several years have experienced a dramatic increase in filings that has severely hampered their ability to process their caseload in a timely manner.

The judicial conference periodically makes recommendations to Congress for the creation of additional bankruptcy judgeships. The conference is currently proposing 32 new positions—most of which were recommended under the conference's new system that calculates a weighted caseload for each bankruptcy court based on the type and dollar amount of cases handled in a given year. Upon this system, the conference sets a threshold standard of 1,500 case-related hours per judgeship per year. Meeting the threshold does not, however, guarantee that a district will be recommended for a new judgeship—the conference also considers other factors, such as historical caseload data and the effectiveness of the court's case management techniques.

Every judgeship recommended by the conference is included in H.R. 5688. The bill, however, is different in one significant respect from the conference's proposal. Ten of the districts would receive a temporary judgeship subject to a sunset provision. In each of these districts, the first vacancy occurring 5 or more years after the date of enactment of this bill would not be filled if the vacancy occurs as the result of the death, retirement, resignation, or removal of a judge.

The temporary judgeship provisions reflect a carefully crafted, fiscally prudent approach. They provide the supplemental resources needed to deal with current caseloads while avoiding the continual expense of permanent judgeships that may become unnecessary as bankruptcy filings decline when the economy recovers from the current recession.

Mr. Speaker, the bankruptcy courts are an essential element of the Federal judiciary and the American economic system. However, without judgeships, the courts will find it increasing difficult to perform their vital role efficiently and effectively. I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to speak in support of H.R. 5688, needed bankruptcy judgeship legislation that I have joined with the gentleman from Texas [Mr. BROOKS], chairman of the Committee on the Judiciary, in sponsoring.

Bankruptcy judges, in a number of Federal judicial districts, are facing excessively heavy caseloads. Total filings nationwide have increased dramatically from 412,431 cases in 1985 to 943,987 cases in 1991. In percentage terms, the recent increases have amounted to 10.8 percent in 1989, 15.1 percent in 1990, and 20.6 percent in 1991.

In my own State of New York—according to an article in the Poughkeepsie Journal of Sunday, August 9—"bankruptcy filings were up an average of 31.1 percent * * * in 1991–92 compared with 1990–91 * * *" Closer to home, the article points out: "Filings from the seven-county midHudson Valley increased 50.3 percent between 1990 and 1991, according to the U.S. Bankruptcy Court in Poughkeepsie."

Although Congress authorized 52 new bankruptcy judgeships in 1986 and seven additional judicial positions in 1988, the caseload per judgeship nationwide continues to climb rapidly. Surges in filing levels pose a serious problem for the judiciary.

Bankruptcy judges in heavily impacted districts need relief if we hope to see bankruptcy matters resolved expeditiously. When backlogs climb, both creditors and debtors suffer and economic activity stagnates. The societal costs associated with failing to authorize essential judicial positions simply are unacceptable. Debtors do not get a fresh start; creditors' assets are tied up.

The legislation before us represents an appropriate response to burgeoning caseloads. In contrast to our consideration of judgeship needs in prior Congresses, we have the benefit today of a new needs assessment methodology—developed by the Federal Judicial Center—that attempts to recognize the varying time demands of different categories of bankruptcy cases.

The Judicial Conference of the United States, acting exclusively on requests initiated by Federal judicial districts, recommended 32 new bankruptcy judgeships to augment the current 291 authorized positions nationwide. H.R. 5688, as originally introduced, incorporated only the additional judgeships recommended by the judicial conference. These recommendations included two new bankruptcy judges for the southern district of New York—positions that clearly merited inclusion in any judgeship legislation. The Committee on the Judiciary, during its markup, increased the total number of additional judgeships nationwide from 32 to 35—acting in recognition of very recent caseload developments.

An innovative feature of H.R. 5688 is the designation of certain new bankruptcy judgeships as temporary in nature. H.R. 5688 provides that in specified districts the first bankruptcy judgeship vacancy "resulting from the death, retirement, resignation, or removal of a bankruptcy judge, and occurring 5 years or more after the date of the enactment of this Act, shall not be filled." We protect the 14-year terms of bankruptcy judges and preserve reappointment prospects at the same time that we provide for the numbers of judgeships in certain districts to revert eventually to former levels. The position of bankruptcy judge, under this legislative formulation, will continue to provide attractive career opportunities for highly qualified lawyers. We need not create permanent positions when temporary increases in judgeship levels may suffice.

In deciding whether to designate a specific judicial position as temporary, members of the Committee on the Judiciary examined statistical projections. Generally a district was slated to receive a temporary judgeship if weighted caseload hours per judge would fall below 1,500 after taking into account an additional position. Temporary positions, of course, can be converted to permanent positions by future enactments if caseload developments justify such action.

Our committee recognizes that even permanent judicial positions can become unnecessary if conditions change. For that reason, H.R. 5688 directs the judicial conference periodically to assess the continuing need for permanent bankruptcy judgeships and report to the Congress its findings and any recommendations for eliminating positions at times that will not adversely affect sitting judges. The judicial conference will continue—in accordance with current law—to recommend needed additional bankruptcy judgeships.

The Senate passed a judgeship bill in 1991. By passing our counterpart legislation today, we offer the prospect of final action in the current Congress.

I urge my colleagues in this body to support H.R. 5688.

Mr. SMITH of Florida. Mr. Speaker, I rise in support of H.R. 5688, a bill to authorize additional bankruptcy judges.

Among its provisions, this bill authorizes two additional bankruptcy judges for the southern district of Florida, which covers my district.

The people of south Florida understand the need for these new judges. In 1991, 15,332 bankruptcy cases were filed in my region, a 57-percent increase from the previous year. More importantly, this trend began before the

current recession. The number of cases last year was 500 percent above the 1985 level.

The southern district, which includes Dade, Broward, and Palm Beach Counties, now has three judges. This is the same number of judges as it had in 1978. Since then, the caseload per judge has increased from about 500 to more than 4,000. Consequently, no fewer than five judges are needed to alleviate the impact of the present bankruptcy backlog on the business community in Florida. This bill authorizes the additional two judges.

I commend the gentleman from Texas [Mr. BROOKS] for his efforts and remain committed to working with my colleagues to secure funding for these new jurists and their support personnel within the Appropriations Committee.

I urge the House to support H.R. 5688.

Mr. POSHARD. Mr. Speaker, I rise in support of H.R. 5688, which authorizes the appointment of additional bankruptcy judgeships across the Nation. A most welcome provision of this bill is the authorization of a temporary judgeship for the southern district of Illinois which serves my congressional district.

Presently, there is only one judge serving this district which is comprised of 38 counties in the lower half of the State. When the sitting judge was appointed 5 years ago, the caseload was under 2,000. Since that time the caseload has doubled, showing sustained growth during good economic times as well as bad economic times. In fact, the caseload has grown so large, it is becoming impossible for the sitting judge to travel to every location within the district. Consequently, those Illinoisans in need of a bankruptcy judge will be forced to travel hundreds of miles to attend court proceedings. This is an unnecessary and unfair situation in which to place these citizens who deserve full and just representation.

Mr. Chairman, I extend my deepest appreciation to Chairman BROOKS for his commitment to addressing the need for additional bankruptcy judgeships. His effort and the support of my colleagues for this legislation ensures that the citizens within the southern district of Illinois and other jurisdictions will have full and fair access to a judicial system they need and to which they are entitled.

Mr. FISH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 5688, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CHINESE STUDENT PROTECTION ACT OF 1992

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1216) to provide for the adjustment of status under the Immigration and Nationality Act of certain nationals of the People's Republic of China unless conditions permit their return in safety to that foreign state, as amended.

The Clerk read as follows:

S. 1216

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 "Chinese Student Protection Act of 1992".

SEC. 2. ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS OF CERTAIN NATIONALS OF THE PEOPLE'S REPUBLIC OF CHINA.

(a) IN GENERAL.—Subject to subsection (c)(1), whenever an alien described in subsection (b) applies for adjustment of status under section 245 of the Immigration and Nationality Act during the application period (as defined in subsection (e)) the following rules shall apply with respect to such adjustment:

(1) The alien shall be deemed to have had a petition approved under section 204(a) of such Act for classification under section 203(b)(3)(A)(i) of such Act.

(2) The application shall be considered without regard to whether an immigrant visa number is immediately available at the time the application is filed.

(3) In determining the alien's admissibility as an immigrant, and the alien's eligibility for an immigrant visa—

(A) paragraphs (5) and (7)(A) of section 212(a) and section 212(e) of such Act shall not apply; and

(B) the Attorney General may waive any other provision of section 212(a) (other than paragraph (2)(C) and subparagraph (A), (B), (C), or (E) of paragraph (3)) of such Act with respect to such adjustment for humanitarian purposes, for purposes of assuring family unity, or if otherwise in the public interest.

(4) The numerical level of section 202(a)(2) of such Act shall not apply.

(5) Section 245(c) of such Act shall not apply.

(b) ALIENS COVERED.—For purposes of this section, an alien described in this subsection is an alien who—

(1) is a national of the People's Republic of China described in section 1 of Executive Order No. 12711 as in effect on April 11, 1990;

(2) has resided continuously in the United States since April 11, 1990 (other than brief, casual, and innocent absences); and

(3) was not physically present in the People's Republic of China for longer than 90 days after such date and before the date of the enactment of this Act.

(c) CONDITION; DISSEMINATION OF INFORMATION.—

(1) NOT APPLICABLE IF SAFE RETURN PERMITTED.—Subsection (a) shall not apply to any alien if the President has determined and certified to Congress, before the first day of the application period, that conditions in the People's Republic of China permit aliens described in subsection (b)(1) to return to that foreign state in safety.

(2) DISSEMINATION OF INFORMATION.—If the President has not made the certification described in paragraph (1) by the first day of the application period, the Attorney General shall, subject to the availability of appropriations, immediately broadly disseminate to aliens described in subsection (b)(1) information respecting the benefits available under this section. To the extent practicable, the Attorney General shall provide notice of these benefits to the last known mailing address of each such alien.

(d) OFFSET IN PER COUNTRY NUMERICAL LEVEL.—

(1) IN GENERAL.—The numerical level under section 202(a)(2) of the Immigration and Nationality Act applicable to natives of the People's Republic of China in each applicable fiscal year (as defined in paragraph (3)) shall be reduced by 1,000.

(2) ALLOTMENT IF SECTION 202(E) APPLIES.—If section 202(e) of the Immigration and Nationality Act is applied to the People's Republic of China in an applicable fiscal year, in applying such section—

(A) 300 immigrant visa numbers shall be deemed to have been previously issued to natives of that foreign state under section 203(b)(3)(A)(i) of such Act in that year, and

(B) 700 immigrant visa numbers shall be deemed to have been previously issued to natives of that foreign state under section 203(b)(5) of such Act in that year.

(3) APPLICABLE FISCAL YEAR.—

(A) IN GENERAL.—In this subsection, the term "applicable fiscal year" means each fiscal year during the period—

(i) beginning with the fiscal year in which the application period begins; and

(ii) ending with the first fiscal year by the end of which the cumulative number of aliens counted for all fiscal years under subparagraph (B) equals or exceeds the total number of aliens whose status has been adjusted under section 245 of the Immigration and Nationality Act pursuant to subsection (a).

(B) NUMBER COUNTED EACH YEAR.—The number counted under this subparagraph for a fiscal year (beginning during or after the application period) is 1,000, plus the number (if any) by which (i) the immigration level under section 202(a)(2) of the Immigration and Nationality Act for the People's Republic of China in the fiscal year (as reduced under this subsection), exceeds (ii) the number of aliens who were chargeable to such level in the year.

(e) APPLICATION PERIOD DEFINED.—In this section, the term "application period" means the 12-month period beginning July 1, 1993.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from New York [Mr. FISH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 1216, the Chinese Student Protection Act of 1992. This legislation allows the Attorney General to grant permanent residence to Chinese nationals, many of them students, who have been in the United States—in a state of limbo—since the Tiananmen Square Massacre. The students have been permitted to remain and work in the United States pursuant to an Executive order which expires at the end of 1993.

The bill applies to approximately 80,000 Chinese who have resided continuously in the United States since April 11, 1990—the date of the President's Executive order—and who have not returned to China for longer than 90 days. Chinese who are drug traffickers, terrorists, security risks, or for-

eign policy risks are not covered. Beginning on July 1, 1993, eligible Chinese have 1 year to apply for adjustment of status. Each year, 1,000 Chinese who adjust under this program are counted against China's overall immigrant quota.

This adjustment program is premised on the continued threat to the safety and security of Chinese students who return to their homeland. As a result, the bill provides that the President can cancel the program by certifying that it is safe for the Chinese nationals to return to China.

I commend the gentleman from Kentucky [Mr. MAZZOLI], the chairman of the Subcommittee on International Law, Immigration, and Refugees, for his work in bringing this legislation to the floor.

I would also like to commend the gentlewoman from California [Ms. PELOSI], the distinguished Member of this body from San Francisco, who has done outstanding work on this issue and dedicated a great deal cf time and effort to help these Chinese students.

Mr. Speaker, the other body passed this bill earlier this year. By our support today, we can clear this legislation for the President, who has already expressed his support, and finally place the status of these Chinese students on solid—and free—ground.

□ 1500

Mr. Speaker, I reserve the balance of my time.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 1216. This bill is very similar to H.R. 3871, which was introduced by Mr. BARTON of Texas. It will provide permanent immigration status to Chinese nationals who have been allowed to remain in the United States since the Tiananmen Square massacre in 1989.

Generally, the type of protection that was extended to Chinese nationals is intended to be temporary, and beneficiaries are expected to return to their homeland when it is safe to do so.

However, there is no real prospect that the Chinese nationals covered by S. 1216 will be able to return safely to mainland China in the foreseeable future. Given that situation, it is reasonable and fair to allow them to adjust their immigration status to permanent residency.

I want to clarify that this bill covers more than just Chinese students. It covers all Chinese nationals who were in the United States any time from June 5, 1989, through April 11, 1990, and who have resided in the United States since April 11, 1990.

An estimated 80,000 people will benefit from this bill. Some of them are students; many are not. The number of persons given permanent residence under this bill will be offset against the immigrant visa numbers available to nationals of the People's Republic of China.

Under this bill, applications for adjustment of status would be accepted for 1 year beginning on July 1, 1993. However, if by some unforeseen chance, conditions change in China before July 1, 1993, and the President certifies that the Chinese Government will allow the safe return of the Chinese nationals, the bill will expire and no adjustments will take place.

This bill is a reasonable approach to the unique situation of Chinese nationals in the wake of Tiananmen Square and the continued hard line of the Chinese Government. It deserves our support.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I rise in strong support of this measure, S. 1216, the Chinese Student Protection Act of 1992.

When the Chinese Government rolled out its tanks to crush the pro-democracy demonstrators of Tiananmen Square in 1989 it became immediately apparent that the approximately 40,000 Chinese students then studying in the United States would face substantial risk of incarceration or harm upon return to China.

This group shared the pro-democracy sympathies of their Tiananmen Square compatriots, and they did not hesitate to make their feelings known. They demonstrated publicly—as is their right here in the United States. They spoke to, and were filmed by, the media. They testified at congressional hearings.

In some respects the Chinese students in the United States were even more suspect in the eyes of their Government than the protestors of Tiananmen Square. If the students in Beijing were dangerous to the established order, imagine how much more dangerous might be those 40,000 students who had been directly exposed to, had lived with, and had inculcated the ideals of freedom, representative government, and due process of law.

Recognizing the potential danger to this population, the administration in 1989 announced that no Chinese national in the United States would be involuntarily returned to China for 1 year. Less than 1 year later the administration extended this deferred enforced departure program for approximately 4 more years—through January 1, 1994.

Congress is sometimes criticized for waiting until the last minute to get its work done. Congress could wait until the end of next year (1993) before deciding whether to extend any immigration benefits to this population. It seems to me, however, that there is no benefit in that approach.

It is highly unlikely that by the end of next year the PRC will have been transformed into a safe, secure, democratic and freedom loving country. But should that happen, and should the President certify to Congress that it is safe for the Chinese here in the United States to return to China, the benefits of this bill will, under the terms of this bill, not be made available to anyone. Thus, we have nothing to gain by waiting to enact this measure.

We could simply allow this entire population to apply for asylum, but that would add 80,000 cases to an already hopelessly backlogged asylum caseload of 120,000. And since over 90 percent of all PRC nationals who apply for asylum receive it, it makes little sense to compel INS to provide individual asylum hearings for cases that we know will ultimately be approved.

The bill provides lawful permanent residency to the approximately 80,000 PRC nationals, both student and nonstudent alike, who have been living here under safe haven since June 1989. Criminals, drug traffickers and those who are otherwise security risks are prohibited from receiving this benefit.

In the past, this committee has acted on numerous occasions to regularize the immigration status of persons who had been here a significant amount of time, who had become Americanized by virtue of time spent in the United States, and who faced an uncertain future if returned to their home countries.

In 1986, for example, the Immigration Reform and Control Act extended permanent resident status to the thousands of Cuban and Haitian nationals who had arrived during the Mariel boat-lift episode.

In 1987 the President signed into law a measure that permitted Ethiopians, Afghans, and Poles, who had been living here since 1984 under extended voluntary departure status, to become permanent resident aliens.

In 1989 this committee approved a measure, which subsequently became law, that allowed approximately 10,000 Soviet and Vietnamese parolees to become permanent resident aliens.

And so the precedents for this bill are ample. The only real difference between this measure and prior measures is that under S. 1216 all visas issued will be counted under the worldwide quota; in previous programs the visas were provided over and above the quota.

Mr. Speaker, this measure was approved on June 24, by the Subcommittee on International Law, Immigration and Refugees, which I have the privilege to chair. The full Judiciary Committee approved the bill, with minor amendments, on July 22. In each instance the bill enjoyed wide, bipartisan support, and it is also supported by the administration.

I urge my colleagues to approve this meritorious bill.

Mr. FISH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from California [Ms. PELOSI] who has been a stalwart supporter of the Chinese students since their original difficulties.

Ms. PELOSI. Mr. Speaker, I thank the gentleman from Texas [Mr. BROOKS] for yielding this time to me and also for his leadership in bringing this legislation to the floor. When the book is written on what happened in the United States following the aftermath of Tiananmen Square, the gentleman from Texas [Mr. BROOKS] will figure significantly as the champion for protecting the rights and safety of those who spoke out for democracy in China while in our country, and I am grateful to him for his leadership on this.

I would also like to commend the ranking member, the gentleman from New York [Mr. FISH] for his leadership and cooperation on this legislation and on the previous Chinese student legislation. Without his cooperation, of course we would not be here today, and the Chinese students and nationals in our country would not have the protection that they have of our law.

I would also like to salute the chairman of the subcommittee, the gentleman from Kentucky [Mr. MAZZOLI] for his cooperation and bringing his thinking and common sense into forging legislation that is not disruptive of our immigration law while protecting the rights and freedom of these people.

I am sorry that our colleague, the gentleman from Texas [Mr. BARTON] could not be here. I am sure he is on his way, but he is the author of the legislation, what I think is a finely crafted, precise piece of legislation.

Mr. Speaker, 3 years ago in the 101st Congress, Members of both Houses overwhelmingly supported H.R. 2712, the Emergency Chinese Adjustment Status Facilitation Act. This bill was designed to provide some protection to the Chinese students in this country who, after the Tiananmen Square massacre, were suspected by the Chinese Government of being involved in prodemocracy activities. After clearing both the House and Senate with wide majorities, this bill was vetoed by the President who, after much prodding finally issued an Executive order to protect the students.

Now, 3 years later, the situation for these students in China is still uncertain. Although economic reform continues, the Chinese leadership has made it clear that they do not support political reform. Recently Deng Xiaoping, the authority for the Tiananmen Square massacre was quoted as saying "Once the forces of turmoil reappear in the future, we will not hesitate to use any means to eliminate them as soon as possible." There is a suspicion on the part of the Chinese Government that Chinese students here in the United States are part of the forces of turmoil.

Over the course of the past 3 years, I have been fortunate to work with representatives of the Chinese nationals. Their appreciation of the openness of our society and their commitment to democratic reform in China is strong. Currently, though, because their futures are uncertain, their ability to speak out without fear is hampered.

S. 1216 would allow Chinese nationals who were in the United States during the Tiananmen Square massacre to apply for permanent residency in the United States. To be eligible for permanent residency, the Chinese national must have first, been in the United States sometime between June 4, 1989 and April 11, 1990; second, continuously resided in the United States since April 11, 1990; and third, not been to China for more than 90 days after April 11, 1990.

By granting these nationals the opportunity to apply for permanent residency status in the United States, we will be granting them an opportunity to continue to work for democratic reforms in China. Assuring them of continued protection in this country, as long as it is necessary, will allow them to speak their consciences without fear of retribution. And, make no mistake about it, the Chinese Government is capable of retaliating. We know, for example, that the Chinese regime is keeping a close watch on the students here, tracking their activities and harassing them.

We also know that China has not stopped its human rights abuses. These nationals are in danger for their activities here if they are forced to go home now. Mr. Speaker, political change in China has not yet occurred. We must assist those trying to speak out for democratic reform in China while here in the United States. I urge my colleagues to support S. 1216, which will provide the Chinese nationals with an opportunity to apply for permanent residency and grant them a little more certainty in the future.

□ 1510

Mr. BROOKS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUBBARD). The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the Senate bill, S. 1216, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and to include therein extraneous material, on H.R. 5688 and S. 1216.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DRY TORTUGAS NATIONAL PARK

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5061) to establish Dry Tortugas National Park in the State of Florida, as amended.

The Clerk read as follows:

H.R. 5061

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

SECTION 1. ESTABLISHMENT OF DRY TORTUGAS NATIONAL PARK.

(a) IN GENERAL.—In order to preserve and protect for the education, inspiration, and enjoyment of present and future generations nationally significant natural, historic, scenic, marine, and scientific values in South Florida, there is hereby established the Dry Tortugas National Park (hereinafter in this Act referred to as the "park").

(b) AREA INCLUDED.—The park shall consist of the lands, waters, and interests there in generally depicted on the map entitled "Boundary Map, Fort Jefferson National Monument", numbered 364-90,001, and dated April 1980 (which is the map referenced by section 201 of Public Law 96-287). The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(c) ABOLITION OF MONUMENT.—The Fort Jefferson National Monument is hereby abolished.

SEC. 2. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall administer the park in accordance with this Act and with the provisions of law generally applicable to units of the national park system, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1,2,3, and 4).

(b) MANAGEMENT PURPOSES.—The park shall be managed for the following purposes, among others:

(1) To protect and interpret a pristine subtropical marine ecosystem, including an intact coral reef community.

(2) To protect populations of fish and wildlife, including (but not limited to) loggerhead and green sea turtles, sooty terns, frigate birds, and numerous migratory bird species.

(3) To protect the pristine natural environment of the Dry Tortugas group of islands.

(4) To protect, stabilize, restore, and interpret Fort Jefferson, an outstanding example of nineteenth century masonry fortification.

(5) To preserve and protect submerged cultural resources.

(6) In a manner consistent with paragraphs (1) through (5), to provide opportunities for scientific research.

SEC. 3. LAND ACQUISITION AND TRANSFER OF PROPERTY.

(a) IN GENERAL.—Within the boundaries of the park the Secretary may acquire lands

and interests in land by donation or exchange. For the purposes of acquiring property by exchange with the State of Florida, the Secretary may, notwithstanding any other provision of law, exchange those Federal lands which were deleted from the park by the boundary modifications enacted by section 201 of the Act of June 28, 1980 (Public Law 96-287), and which are directly adjacent to lands owned by the State of Florida outside of the park, for lands owned by the State of Florida within the park boundary.

(b) UNITED STATES COAST GUARD LANDS.—When all or any substantial portion of lands under the administration of the United States Coast Guard located within the park boundaries, including Loggerhead Key, have been determined by the United States Coast Guard to be excess to its needs, such lands shall be transferred directly to the jurisdiction of the Secretary for the purposes of this Act. The United States Coast Guard may reserve the right in such transfer to maintain and utilize the existing lighthouse on Loggerhead Key in a manner consistent with the purposes of the United States Coast Guard and the purposes of this Act.

(c) ADMINISTRATIVE SITE.—The Secretary is authorized to lease or to acquire, by purchase, donation, or exchange, and to operate incidental administrative and support facilities in Key West, Florida, for park administration and to further the purposes of this Act.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act. Any funds available for the purposes of the monument shall be available for the purposes of the park, and authorization of funds for the monument shall be available for the park.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Colorado [Mr. HEFLEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 5061.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5061 establishes the Dry Tortugas National Park in the State of Florida by redesignating the existing Fort Jefferson National Monument. The bill was introduced by Congressman FASCELL on May 5, 1992, and was ordered reported to the House by the Committee on Interior and Insular Affairs on July 29, 1992.

The Dry Tortugas are a cluster of seven coral reefs located almost 70 miles west of Key West, and are known for their bird and marine life. These reefs and the surrounding waters constitute Fort Jefferson National Monument whose central feature is Fort Jefferson, the largest of the 19th century American coastal forts. While the fort itself is a significant cultural resource, the monument's boundaries encompass 64,700 acres which contain the most unaltered coral reef ecosystem in the continental United States as well as a wealth of marine life, a variety of birds, and nesting grounds for endangered marine turtles. Historic shipwrecks also occupy the surrounding waters.

To more accurately reflect this conservation unit's size and variety of resources, H.R. 5061 redesignates the existing Fort Jefferson National Monument as the Dry Tortugas National Park. H.R. 5061 also authorizes the Secretary of the Interior to acquire through purchase or lease, and to operate an administrative site in Key West, FL. This site is intended to perform auxiliary support for the Dry Tortugas National Park by providing transient accommodations for park personnel on shore duty or leave, docking for park vessels, and limited storage and office space for some administrative duties.

The bill authorizes the Secretary to acquire lands and interests in lands within the park boundaries by donation or exchange, and provides that U.S. Coast Guard lands on Loggerhead Key will be transferred to the Secretary when the Coast Guard determines that such lands are excess to its needs.

A provision in the bill also authorizes the secretary to exchange Federal lands deleted from the park by the boundary modifications enacted in 1980, which total approximately 7,700 acres, for land owned by the State of Florida within the park boundary, approximately 3,200 acres. While this does not represent an equal exchange, both the State of Florida and the National Park Service believe that bringing ownership patterns into conformity with the park boundaries will save administrative costs for both, and provide for improved land management and protection of marine resources.

It is not the committee's intention to set a precedent with regard to equity in land exchanges. The submerged lands in question are wholly within the boundaries of either the existing national monument or the surrounding Florida Keys National Marine Sanctuary which was established by the Department of Commerce and is managed by the National Oceanic and Atmospheric Administration. This land exchange will simplify the management of lands within these respective boundaries.

The State of Florida has both donated a significant amount of acreage to the National Park Service in the Everglades National Park and provided a great deal of financial support for land acquisition in both the Everglades National Park and Big Cypress National Preserve. Compared to the 43,000 acres donated by the State of Florida for the Everglades National Park in 1991, their agreement to donate 20 percent of the acquisition costs for the remaining 107,000 acre addition, and their funding of more than $40 million for land acquisition within Big Cypress National Preserve in the 1970's, this discrepancy in the acreage of submerged lands to be exchanged appears negligible.

Mr. Speaker, in testimony before the subcommittee on national parks and public lands, the administration testified in favor of the bill, and the National Park Service expressed its support for the redesignation. The Dry Tortugas contain a broader and more diverse range of natural and cultural resources than is reflected by the current national monument designation. I believe the redesignation of Fort Jefferson National Monument as the Dry Tortugas National Park is an appropriate recognition of the significance of all of these resources, and I urge my colleagues' support of H.R. 5061.

Mr. HEFLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to support H.R. 5061, a bill to convert the existing Fort Jefferson National Monument to Dry Tortugas National Park. Mr. VENTO has already explained the details of this measure.

Mr. Speaker, I have no objections to this bill, but H.R. 5061 points up a problem in our National Park System. A review of that system would reveal an array of over 20 different categories of areas managed by the Park Service. Since each of the 361 National Park Service areas are required to be managed by the same policies, all we are really doing with this legislation is changing the name of the park signs. Now, neither I, nor my colleagues, nor the administration have any objection to this bill, since Fort Jefferson meets the criteria for a national park. But I think it is time that Congress took a comprehensive look at restructuring Park Service nomenclature, rather than altering names on a case-by-case basis. Finally, I would like to commend the gentleman from Florida, not just for his work on this measure but for his continuing efforts to protect natural and cultural resources, in Florida.

I also commend the gentleman from Minnesota and Chairman MILLER for recognizing, with this bill, that there are public policy considerations even greater than our committee's equal value land exchange policy. I support their actions in setting that policy aside to move this bill forward.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume to thank the gentleman from Colorado [Mr. HEFLEY] for his endorsement of this bill. I hope the gentleman in recognizing my statement of unequal exchanges, will also note the surrounding information concerning the State of Florida, and the role it has played in

terms of really providing for the core of the Everglades Park.

Initially, the Everglades Park itself was started by a significant donation by the State, and has since then proceeded by significant donations to provide that unit to the Park System in its existing state today.

Mr. Speaker I point out that the gentleman from Florida [Mr. FASCELL] has taken a second seat to none in terms of his interest in not just the Everglades, but in Fort Jefferson and the Dry Tortugas National Park legislation before us. He has been a strong advocate for the protection of these resources in his own district and beyond. I know that at times there have been many and numerous conflicts that the gentleman has attempted to mediate between those to the multiple use goals around those public lands and private lands in the State of Florida, and I would suggest that many of my colleagues and I that have worked in this capacity, Chairman BURTON, Chairman Udall, Chairman Seiberling, Chairman MILLER, and myself, recognize the tremendous contribution that the gentleman from Florida [Mr. FASCELL] has made.

□ 1520

I know that other members of the Florida delegation revere the units in the National Park System within the State, as does the State of Florida, and those they serve and represent. But he has for the last 30 years, I think, really held this together.

I hope that they will be able to, in the future, meet the type of commitment that is reflected by the gentleman from Florida, Chairman DANTE FASCELL, in terms of protecting these resources. I think that it is appropriate that one of the measures that is moving through Congress, this last month of service, is one that redesignates this as a national park because surely, while we may have discussions and disagreements about nomenclature and the titles that we use in identifying these units, we all recognize that the national parks title is the highest and the greatest honor that we can bestow in terms of designation on these resources.

I do not think there is any question or argument concerning this, while we frequently have had disagreements about retitling or naming monuments and so forth within the Park Service.

Mr. Speaker, I commend the gentleman from Florida [Mr. FASCELL] for his work on this and on many other topics in this Congress. I also want to express my gratitude to the gentleman from North Carolina [Mr. JONES], who has had an interest in this particular matter and a matter of jurisdiction. He has concurred with the actions by the Committee on Interior and Insular Affairs and permitted us to move forward with this responsibility, a joint responsibility between the Committee on Merchant Marine and Fisheries and the Committee on Interior and Insular Affairs.

Mr. Speaker, I include for the RECORD a letter from the gentleman from North Carolina [Mr. JONES].

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, DC, August 10, 1992.

Hon. GEORGE MILLER,
Chairman, Committee on Interior and Insular Affairs, Washington, DC.

DEAR MR. CHAIRMAN: The Committee on Interior and Insular Affairs has ordered reported H.R. 5061, a bill to establish the Dry Tortugas National Park, in place of the existing Fort Jefferson National Monument, in the State of Florida. Although I have no substantive objection to this bill, it contains matters within the jurisdiction of the Committee on Merchant Marine and Fisheries and I request that the Committee on Interior and Insular Affairs recognize the jurisdictional interest of my Committee over this legislation.

The Dry Tortugas National Park is established specifically for protection of fish and wildlife, including pristine coral reefs and several endangered species. Another purpose of the Park is protection of submerged cultural resources (i.e., historic shipwrecks). To eliminate inholdings of submerged lands under the jurisdiction of the State of Florida within the Park, the bill authorizes the Secretary of the Interior to exchange these lands for federal submerged lands outside of the Park.

The federal submerged lands eligible for exchange are within the Florida Keys National Marine Sanctuary (FKNMS), as designated by the Florida Keys National Marine Sanctuary and Protection Act (P.L. 101-605). The parent bills for that Act, H.R. 3719 and H.R. 5909, were referred solely to the committee on Merchant Marine and Fisheries. The National Marine Sanctuary Program falls within the jurisdiction of this committee. The transfer of areas within the FKNMS from federal to state jurisdiction may affect management of the Sanctuary by NOAA, depending on the resources found within those areas.

H.R. 5061 also authorizes the transfer, to the Secretary of the Interior, of lands within the Park which are currently administered by the U.S. Coast Guard. During the 101st and 102nd Congresses, seven bills that would have transferred Coast Guard property to other entities were referred solely to the committee on Merchant Marine and Fisheries.

Mr. Chairman, I support this legislation and do not wish to impede its progress. However, because it contains matters that are central to our jurisdiction, I request that you recognize the jurisdiction of the committee on Merchant Marine and Fisheries over the provisions of H.R. 5061 discussed above by inserting this letter in the RECORD during the floor consideration of the bill.

With warm regards, I am

Sincerely,

WALTER B. JONES,
Chairman.

Mr. FASCELL. Mr. Speaker, I rise in support of H.R. 5061, which I introduced, to establish the Dry Tortugas National Park.

H.R. 5061 would upgrade Fort Jefferson National Monument, located in the Dry Tortugas off the Florida Keys, to a national part—a status it has long deserved. It would not change the boundaries of the existing monument, other than to clean up some areas by providing for exchanges between the Federal Government and the State of Florida so that State-owned lands within the existing boundary would be transferred to the United States and federally owned property adjacent to State lands would be transferred to Florida. In addition, lands currently under the administration of the Coast Guard located within the monument's boundary would be transferred to the National Park Service. No expenditure of funds for land acquisition would be required.

The legislation also provides for acquisition of an administrative site in Key West for park administration. Presently, the Park Service is using property provided by the Coast Guard, primarily for the berthing of its boat. However, additional land-based space is needed and, in fact, would have to be acquired in any case, even if there were no change of status from monument to park. This legislation provides the authorization to do this.

Mr. Speaker, not only is the fort itself an outstanding example of 19th century masonry fortification, but it possesses a fascinating history. Fort Jefferson was a Union-held fort during the Civil War and was the place where Dr. Samuel Mudd, convicted of treating John Wilkes Booth following the assassination of President Lincoln, was incarcerated. During his term of imprisonment, Dr. Mudd heroically treated Union soldiers during a severe outbreak of yellow fever.

But the monument is much more than just the fort. Its surrounding waters and islands include a wide variety of marine and bird life and it is a critical nesting area for a variety of species.

Despite its isolated location, Fort Jefferson has seen an increase in visitation in recent years of 25–30 per cent. Unfortunately, however, it has not been receiving the priority it deserves from the Park Service in terms of allocation of resources, including personnel and funds for stabilization, protection, and interpretation.

While I am aware that, on paper, parks and monuments are supposed to be treated equally with respect to resource allocation, the reality is that public perception of importance contributes considerably to how the Park Service views its own units. National Park status will raise the fort's profile in the mind of the public and, hopefully, with the Park Service as well.

The existing monument is larger than at least seven national parks and has a wider diversity of both cultural and natural resources than several of these. It fully deserves to be upgraded to a national park and should be redesignated as Dry Tortugas National Park in recognition of this diversity.

Mr. Speaker, I urge our colleagues to support this very worthwhile legislation.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HEFLEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUBBARD). The question is on the motion offered by the gentleman from

Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 5061, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MOUNT OLIVET CEMETERY

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 807) to permit Mount Olivet Cemetery Association of Salt Lake City, UT, to lease a certain tract of land for a period of not more than 70 years.

The Clerk read as follows:

S. 807

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

SECTION 1. RELEASE OF RESTRICTION.

Notwithstanding the Act of January 23, 1909 (chapter 37, 35 Stat. 589), the Secretary of the Interior shall execute such instruments as may be necessary to allow the Mount Olivet Cemetery Association of Salt Lake City, Utah, to lease for use other than as a cemetery, for a period of not more than 70 years, any portion of the land described in the first section of that Act, excluding the tract of land granted to Salt Lake City, Utah, pursuant to the Act of April 3, 1952 (66 Stat. 36), so long as such additional use will not prevent future use for cemetery purposes.

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Colorado [Mr. HEFLEY] will be recognized for 20 minutes.

The Chairman recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the Senate bill, S. 807.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume. S. 807 is identical to a bill, H.R. 1808, introduced by the gentleman from Utah [Mr. OWENS]. It would allow the Mount Olivet Cemetery Association of Salt Lake City to lease certain lands for non-cemetery uses. To expedite matters, the Interior Committee acted on the Senate-passed bill, which is now before the House.

Under a 1909 Act, 50 acres of Federal lands were conveyed by the Secretary of the Interior to the Cemetery Association, subject to reversion to the United States if the lands were used for any purpose other than as a cemetery. While 15 acres have been used for cemetery purposes, the remaining 35 acres have not been so used, and are reportedly vacant and overgrown.

The cemetery association now estimates that the unused 35 acres will not be needed for cemetery purposes for at least 70 years, and the association would like to lease the land for development of a golf teaching and practice facility. However, the reverter clause imposed by the 1909 Act prevents such a lease.

The bill would extinguish the reverter clause now applicable to the entire 50-acre tract, and authorize the cemetery association to lease any portion of it for up to 70 years for any use that will not prevent future cemetery use.

Mr. Speaker, the bill is not controversial. I urge its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. HEFLEY. Mr. Speaker, I yield myself such time as I may consume. I rise in support of S. 807, which was introduced by Senator GARN and is supported by all five members of the Utah congressional delegation.

This bill has already been fully explained by Chairman VENTO so I will not repeat what he's already said.

I would add that S. 807 could serve as a model for the way the National Park Subcommittee should work.

This bill was worked out by the entire Utah delegation before it was introduced, which makes the subcommittee's job a lot easier.

I urge my colleagues to support S. 807.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

I might say, I am dying to have more bills like this. In any case, obviously if all the bills had this noncontroversial nature to them, it would make all of our tasks somewhat easier.

This is an appropriate measure, and I would ask positive consideration in the House.

Mr. OWENS of Utah. Mr. Speaker, I rise in support today of S. 807, a bill introduced by my good friend from Utah, Senator HATCH, to provide that land in Salt Lake County which was originally transferred to the Mount Olivet Cemetery Association by the Federal Government in 1909 for cemetery use may be leased for other purposes for the next 70 years. S. 807 is identical to the companion piece in the House which I introduced, H.R. 1808. As Chairman VENTO of the National Parks and Public Lands Subcommittee has said, mostly in jest, this bill may be an indirect tribute to the longevity and the general good health of Utahns in general and Mormons in particular, since we have not yet been able to fill up the cemetery, and will be unable to do so in the foreseeable future.

This land use change will allow an unused part of the Mount Olivet Cemetery to be used as a golf course, or possibly for an athletic field by a local high school. Nothing can be constructed on this land which could preclude future use as a cemetery. Enactment of this bill, which has already been passed by the Senate, will enhance our quality of life in Salt Lake City by recognizing the changing needs of the city since 1909.

I am grateful to the Interior Committee for its action on this important matter and I urge the adoption of this resolution.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HEFLEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 807.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

FORT CARSON-PINON CANYON MILITARY LANDS WITHDRAWAL ACT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4404) to withdraw and reserve certain public lands and minerals within the State of Colorado for military uses, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4404

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 "Fort Carson-Pinon Canyon Military Lands Withdrawal Act".

SEC. 2. WITHDRAWAL AND RESERVATION OF LANDS AT FORT CARSON MILITARY RESERVATION.

(a) WITHDRAWAL.—Subject to valid existing rights and except as otherwise provided in this Act, the lands at the Fort Carson Military Reservation that are described in subsection (c) are hereby withdrawn from all forms of appropriation under the public land laws including the mining laws and the mineral and geothermal leasing laws.

(b) RESERVATION.—The lands withdrawn under subsection (a) are reserved for use by the Secretary of the Army—

(1) for military maneuvering, training and weapons firing; and

(2) for other defense related purposes consistent with the uses specified in paragraph (1).

(c) LAND DESCRIPTION.—The lands referred to in subsection (a) comprise 3,133.02 acres of public land and 11,415.16 acres of federally-owned minerals in El Paso, Pueblo and Fremont Counties, Colorado, as generally depicted on the map entitled "Fort Carson Proposed Withdrawal—Fort Carson Base", dated February 1992, and filed in accordance with section 4.

SEC. 3. WITHDRAWAL AND RESERVATION OF LANDS AT PINON CANYON MANEUVER SITE.

(a) WITHDRAWAL.—Subject to valid existing rights and except as otherwise provided in this Act, the lands at the Pinon Canyon Maneuver Site that are described in subsection

(c) are hereby withdrawn from all forms of appropriation under the public land laws including the mining laws and the mineral and geothermal leasing laws.

(b) RESERVATION.—The lands withdrawn under subsection (a) are reserved for use by the Secretary of the Army—

(1) for military maneuvering and training; and

(2) for other defense related purposes consistent with the uses specified in paragraph (1).

(c) LAND DESCRIPTION.—The lands referred to in subsection (a) comprise 2,517.12 acres of public lands and 130,139 acres of federally-owned minerals in Las Animas County, Colorado, as generally depicted on the map entitled "Fort Carson Proposed Withdrawal—Fort Carson Maneuver Area—Pinon Canyon site", dated February 1992, and filed in accordance with section 4.

SEC. 4. MAPS AND LEGAL DESCRIPTIONS.

(a) PREPARATION.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall—

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this Act; and

(2) file maps and a legal description of the lands withdrawn and reserved by this Act with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Interior and Insular Affairs of the United States House of Representatives.

(b) LEGAL EFFECT.—Such maps and legal descriptions shall have the same force and effect as if they were included in this Act, except that the Secretary of the Interior may correct clerical and typographical errors in such maps and legal descriptions.

(c) LOCATION OF COPIES.—Copies of such maps and legal descriptions shall be available for public inspection in the offices of the Colorado State Director and the Canon City District Manager of the Bureau of Land Management, and the Commander, Fort Carson, Colorado.

(d) COSTS.—The Secretary of the Army shall reimburse the Secretary of the Interior for the costs of implementing this section.

SEC. 5. MANAGEMENT OF WITHDRAWN LANDS.

(a) MANAGEMENT GUIDELINES.—(1) Except as provided in section 6, during the period of withdrawal, the Secretary of the Army shall manage for military purposes the lands covered by this Act and may authorize use of the lands by the other military departments and agencies of the Department of Defense, and the National Guard, as appropriate.

(2) When military operations, public safety, or national security, as determined by the Secretary of the Army, require the closure of roads and trails on the lands withdrawn by this Act commonly in public use, the Secretary of the Army is authorized to take such action, except that such closures shall be limited to the minimum areas and periods required for the purposes specified in this subsection. Appropriate warning notices shall be kept posted during closures.

(3) The Secretary of the Army shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the lands as a result of military activities and may seek assistance from the Bureau of Land Management in suppressing such fires. The memorandum of understanding required by this section shall provide for Bureau of Land Management assistance in the suppression of such fires, and for a transfer of funds from the Department of the Army to the Bureau of Land Management as compensation for such assistance.

(b) MANAGEMENT PLAN.—The Secretary of the Army, with the concurrence of the Secretary of the Interior, shall develop a plan for the management of acquired lands and lands withdrawn under sections 2 and 3 for the period of withdrawal. The plan shall—

(1) be consistent with applicable law;

(2) include such provisions as may be necessary for proper resource management and protection of the natural, cultural, and other resources and values of such lands;

(3) identify those withdrawn and acquired lands, if any, which are to be open to mining or mineral and geothermal leasing, including mineral materials disposal; and

(4) be developed not later than 5 years after the date of enactment of this Act.

(c) LISTING OF LANDS SUITABLE FOR MINING.—On completion of the management plan prepared pursuant to subsection (b), the Secretary of the Interior shall publish a notice in the Federal Register listing the lands determined under such subsection to be suitable for opening to mining, and mineral and geothermal leasing, including mineral materials disposal, and specifying the opening date.

(d) IMPLEMENTATION OF MANAGEMENT PLAN.—(1) The Secretary of the Army and the Secretary of the Interior shall enter into a memorandum of understanding to implement the management plan described in subsection (b).

(2) The duration of any such memorandum of understanding shall be the same as the period of withdrawal under section 8.

(3) The memorandum of understanding may be amended by agreement of both Secretaries.

(e) REEXAMINATION OF LANDS FOR SUITABILITY FOR MINING.—At least every five years after the initial identification of lands suitable for opening to mining required by subsection (b)(3), the Secretary of the Army and the Secretary of the Interior shall determine those withdrawn lands, if any, which the Secretaries consider suitable for opening to mining, mineral and geothermal leasing, or mineral material disposal, and those acquired lands, if any, which the Secretaries consider suitable for opening to mineral and geothermal leasing or mineral material disposal. The Secretary of the Interior shall publish a notice in the Federal Register listing the lands determined suitable for opening and specifying the opening date.

(f) USE OF CERTAIN RESOURCES.—The Secretary of the Army is authorized to utilize sand, gravel, or similar mineral or mineral material resources when the use of such resources is required for construction needs of the Fort Carson Reservation or Pinon Canyon Maneuver Site.

SEC. 6. MANAGEMENT OF WITHDRAWN AND ACQUIRED MINERAL RESOURCES.

(a) AUTHORITY OF SECRETARY OF THE INTERIOR.—Notwithstanding any other provision of law, and except as provided in section 5 of this Act, the Secretary of the Interior shall manage all withdrawn and acquired mineral resources contained within the boundaries of the Fort Carson Reservation and Pinon Canyon Maneuver Site.

(b) EFFECT OF IDENTIFICATION OF LANDS AS SUITABLE FOR MINING.—On the day specified by the Secretary of the Interior in the notice published in the Federal Register pursuant to subsections (c) and (e) of section 5, the land identified as suitable for opening to the operation of the mining, mineral, and geothermal leasing and the mineral material disposal laws shall automatically be open to the operation of such laws without the necessity for further action by either the Secretary of the Interior or the Congress.

(c) EXCEPTION FROM CERTAIN LAWS.—No deposit of minerals or materials of the types identified by section 3 of the Act of July 23, 1955 (30 U.S.C. 611; 69 Stat. 368), whether or not included in the term "common varieties" in that Act, shall be subject to location under the Act of May 10, 1872 (commonly known as the Mining Law of 1872) (30 U.S.C. 22 et seq.), on lands described in sections 2 and 3.

(d) REGULATIONS.—On lands identified for opening to mining, mineral, and geothermal leasing or mineral material disposal by section 5(b)(3), or by subsequent amendments to the management plan described in section 5, all minerals contained in those lands shall be subject to mining, mineral, and geothermal leasing or mineral material disposal under such rules and regulations as the Secretary of the Interior may promulgate pursuant to the terms and conditions of section 12 of the Military Lands Withdrawal Act of 1986 (Public Law 99-606; 100 Stat. 3466).

(e) CLOSURE OF LANDS UNDER CERTAIN CIRCUMSTANCES.—In the event of a national emergency or for purposes of national defense or security, the Secretary of the Interior, at the request of the Secretary of the Army, shall close any lands that have been opened to mining, mineral, and geothermal leasing or mineral material disposal pursuant to this section.

(f) MINING CLAIMS.—(1) Except as otherwise provided in this Act, mining claims located pursuant to this Act shall be subject to the provisions of the Act of May 10, 1872 (commonly known as the Mining Law of 1872) (30 U.S.C. 22 et seq.). In the event of a conflict between that law and this Act, this Act shall prevail.

(2) All mining claims located under the terms of this Act shall be subject to the provisions of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(g) PATENTS FOR LOCATABLE MINERALS.—(1) Patents issued pursuant to this Act for locatable minerals shall convey title to the locatable minerals only, and shall be issued together with an appropriate authorization for use of so much of the surface as may be necessary for purposes incident to mining under the guidelines for such use established by the Secretary of the Interior by regulation.

(2) All such patents shall contain a reservation to the United States of the surface of all lands patented and of all nonlocatable minerals on those lands.

(3) For the purposes of this section, all minerals subject to location under the Act of May 10, 1872 (commonly known as the Mining Law of 1872) (30 U.S.C. 22 et seq.), are referred to as "locatable minerals".

SEC. 7. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing, and trapping on the lands withdrawn and reserved by this Act shall be conducted in accordance with section 2671 of title 10, United States Code.

SEC. 8. TERMINATION OF WITHDRAWAL AND RESERVATION AND EFFECT OF CONTAMINATION.

(a) TERMINATION DATE.—The withdrawal and reservation established by this Act shall terminate 15 years after the date of enactment of this Act.

(b) DETERMINATION OF CONTINUING MILITARY NEED.—(1) At least three years prior to the termination under subsection (a) of the withdrawal and reservation established by this Act, the Secretary of the Army shall advise the Secretary of the Interior as to whether or not the Department of the Army will have a continuing military need for any of the lands after the termination date.

(2) If the Secretary of the Army concludes under paragraph (1) that there will be a continuing military need for any of the lands after the termination date established by subsection (a), the Secretary of the Army, in accordance with applicable law, shall evaluate the environmental effects of renewal of such withdrawal and reservation, shall hold at least one public hearing in Colorado concerning such evaluation, and shall thereafter file an application for extension of the withdrawal and reservation of such lands in accordance with the regulations and procedures of the Department of the Interior applicable to the extension of withdrawals for military uses. The Secretary of the Interior shall notify the Congress concerning such filing and thereafter may take necessary steps, in accordance with applicable law, to prevent uses inconsistent with such extension for a period not in excess of 2 years after the termination of the withdrawal and reservation made by this Act.

(3) If the Secretary of the Army concludes under paragraph (1) that prior to the termination date established by subsection (a), there will be no military need for all or any of the lands withdrawn and reserved by this Act, or if, during the period of withdrawal, the Secretary of the Army decides to relinquish any or all of the lands withdrawn and reserved under this Act, the Secretary of the Army shall file a notice of intention to relinquish with the Secretary of the Interior.

(c) DETERMINATION OF CONTAMINATION.—Prior to the filing of a notice of intention to relinquish pursuant to subsection (b)(3), the Secretary of the Army shall prepare a written determination as to whether and to what extent the lands are contaminated with explosive, toxic, or other hazardous materials. A copy of the determination made by the Secretary of the Army shall be supplied with the notice of intention to relinquish. Copies of both the notice of intention to relinquish and the determination concerning the contaminated state of the lands shall be published in the Federal Register by the Secretary of the Interior.

(d) EFFECT OF CONTAMINATION.—(1) If any land which is the subject of a notice of intention to relinquish under subsection (b)(3) is contaminated, and the Secretary of the Interior, in consultation with the Secretary of the Army, determines that decontamination is practicable and economically feasible, taking into consideration the potential future use and value of the land, and that upon decontamination, the land could be opened to the operation of some or all of the public land laws, including the mining laws, the Secretary of the Army shall decontaminate the land to the extent that funds are appropriated for such purpose.

(2) If the Secretaries of the Army and the Interior conclude either that decontamination of any or all of the lands proposed for relinquishment is not practicable or economically feasible, or that the lands cannot be decontaminated sufficiently to allow them to be opened to the operation of the public land laws, or if Congress declines to appropriate funds for decontamination of the lands, the Secretary of the Interior shall not be required to accept the lands proposed for relinquishment.

(3) If, because of their contaminated state, the Secretary of the Interior declines under paragraph (2) to accept jurisdiction of the lands proposed for relinquishment, or if at the expiration of the withdrawal made by this Act the Secretary of the Interior determines that some of the lands withdrawn by this Act are contaminated to an extent which prevents opening such contaminated lands to operation of the public land laws—

(A) the Secretary of the Army shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry onto such lands;

(B) after the expiration of the withdrawal, the Secretary of the Army shall undertake no activities on such lands except in connection with decontamination of such lands; and

(C) the Secretary of the Army shall report to the Secretary of the Interior and to the Congress concerning the status of such lands and all actions taken in furtherance of the subsection.

(4) If the lands are subsequently decontaminated, upon certification by the Secretary of the Army that the lands are safe for all nonmilitary uses, the Secretary of the Interior shall reconsider accepting jurisdiction over the lands.

(e) PROGRAM OF DECONTAMINATION.—Throughout the duration of the withdrawal and reservation made by this Act, the Secretary of the Army, to the extent funds are made available, shall maintain a program of decontamination of the lands withdrawn by this Act at least at the level of effort carried out during fiscal year 1992.

(f) ACCEPTANCE OF LANDS PROPOSED FOR RELINQUISHMENT.—Notwithstanding any other provision of law, the Secretary of the Interior, upon deciding that it is in the public interest to accept jurisdiction over the lands proposed for relinquishment, is authorized to revoke the withdrawal and reservation established by this Act as it applies to the lands proposed for relinquishment. Should the decision be made to revoke the withdrawal and reservation, the Secretary shall publish in the Federal Register an appropriate order which shall—

(1) terminate the withdrawal and reservation;

(2) constitute official acceptance of full jurisdiction over the lands by the Secretary of the Interior; and

(3) state the date upon which the lands will be opened to the operation of the public land laws, including the mining laws if appropriate.

SEC. 9. DELEGATION.

The functions of the Secretary of the Army under this Act may be delegated. The functions of the Secretary of the Interior under this Act may be delegated, except that the order referred to in section 8(f) may be approved and signed only by the Secretary of the Interior, the Deputy Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

SEC. 10. HOLD HARMLESS.

The United States and all departments or agencies thereof shall be held harmless and shall not be liable for any injuries or damages to persons or property suffered in the course of any mining, mineral, or geothermal leasing activity conducted on lands comprising the Fort Carson Reservation or Pinon Canyon Maneuver Site.

SEC. 11. AMENDMENT TO MILITARY LANDS WITHDRAWAL ACT OF 1986.

Section 3(f) of the Military Lands Withdrawal Act of 1986 (Public Law 99-606, 100 Stat. 3461) is amended by adding at the end a new paragraph (2) as follows:

"(2) The Secretary of the military department concerned may utilize sand, gravel, or similar mineral or material resources when the use of such resources is required for construction needs on the respective lands withdrawn by this Act.".

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Colorado [Mr. HEFLEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on H.R. 4404.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4404 was introduced by the gentleman from Colorado [Mr. HEFLEY], at the request of the administration.

The bill would withdraw for military purposes certain lands and minerals associated with the Fort Carson Reservation and the Pinon Canyon Maneuver Area, in Colorado.

This withdrawal would be pursuant to the Engle Act, which provides that peacetime military withdrawals exceeding 5,000 acres be done by congressional action.

The Interior Committee and the Committee on Armed Services adopted a number of amendments. Some of these are technical, but they include four substantive revisions to the bill as introduced.

Under the bill as amended, the duration of the withdrawal would be 15 years, rather than 25. A 15-year term is consistent with the military withdrawal of areas in Alaska, Arizona, Nevada, and New Mexico under the 1986 Omnibus Military Lands Withdrawal Act, passed at a time when the Nation was still engaged in the cold war. Arguably, the changes in the world situation since 1986 would support an even shorter duration. Certainly, those developments argue against the 25-year period in the bill as introduced.

Second, the committees added an explicit requirement that any proposed renewal of the withdrawal be preceded by an analysis of environmental impacts. However, the bill does not specify that this analysis be in the form of a full environmental impact statement, if some lesser analysis would fulfill the requirements of the National Environmental Policy Act. This is a less restrictive provision than in the 1986 omnibus legislation, but is appropriate because of the extent and status of the lands and minerals covered by the bill.

Third, the committees have deleted the provision in the bill as introduced that would have allowed the Secretary

of the Interior, by approving a request from the Army, to keep the withdrawal in effect unless and until Congress acted to end it. That would be directly contrary to the letter and the intent of the Engle Act, because it would leave the decision about extending the withdrawal to the administration, rather than the Congress.

In response to the administration's argument that they want to be able to prevent adverse uses—such as mining claims—while Congress was considering a proposal to renew the withdrawal, the committees have included language to make it clear that the Secretary of the Interior could use other, existing authority to prevent such uses for up to 2 years after the end of the 15-year period of the withdrawal.

This will give the administration more flexibility than it has with respect to the areas withdrawn by the 1986 legislation—flexibility that is appropriate because of the particular facts of this case, especially the fact that the bulk of the withdrawal involves minerals rather than the surface of the lands.

Finally, the bill as amended would require that the Army conduct an ongoing program of decontamination of the withdrawn lands, to the extent that Congress appropriates funds for that purpose. This also is similar to what is required on the lands withdrawn by the 1986 legislation.

Mr. Speaker, with the end of the cold war there is a need to review the extent to which our Nation's lands, airspaces, and other resources have been devoted to military purposes. The Interior Committee has recently approved my bill, H.R. 3564, to make a number of revisions in existing laws and policies applicable to allocation of lands and airspaces for military uses, and I am hopeful that the Armed Service Committee will consider it soon.

However, the bill now before the House involves lands already devoted to important military purposes for which withdrawal is appropriate. As approved by the Interior Committee and the Committee on Armed Services, it is an appropriate measure that provides such a withdrawal, as requested by the administration. I urge its passage by the House.

□ 1530

Mr. Speaker, I reserve the balance of my time.

Mr. HEFLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4404 which will extend for 15 years the BLM's withdrawal of mineral rights beneath the Fort Carson and Pinon Canyon tank training grounds in my home district.

Areas has been used since 1941 for training and maneuvers and is probably the world's foremost training area for armored vehicles.

Many of the men who served in the Persian Gulf during Desert Storm received their training at Fort Carson.

This bill will withdraw over 3,000 acres of public lands and minerals and an additional 11,415 acres of public domain mineral estate within the Fort Carson training area from all forms of appropriations.

The bill before us incorporates a number of noteworthy changes from past policy.

It authorizes a 15-year withdrawal at Fort Carson; this compares to a 5-year withdrawal now.

Other facets of the amended bill effectively extend the withdrawal for up to 17 years.

This is an important change. At a May 19 hearing, witnesses said preparations for withdrawal renewals commonly take about 8 years.

As a result, the Army and the BLM are constantly preparing for renewing withdrawals.

This gives them some breathing room.

I'd like to thank the chairpersons of the Interior and Armed Services Committees for moving this bill along and hope the other body will move as quickly to pass the bill into law.

Mr. Speaker, I might just add that I think this bill, although it is not one of our more complex bills that we have in this committee, I think this shows an example of the way people can sit down and work out compromises. We had asked, for instance, for a 25-year withdrawal period. It is presently 5. We settled on 15.

Mr. Speaker, it seems to me our deliberations in the Committee on Interior and Insular Affairs too often degenerate into partisan harangues which are simply not necessary, because I think on most of these issues they are not partisan issues, they are issues people of good will should be able to sit down and reason together and come to a compromise conclusion, with no one on either side having all the wisdom about what is the right way to do it.

I think, although this is a relatively minor example of this, that it is a good example of it, Mr. Speaker. I would hope we can move more and more toward the business of trying to sit down and reason together and come out as a total committee with compromise agreements, as we have in this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise just briefly to thank the gentlewoman from Colorado [Mrs. SCHROEDER], my counterpart on the Committee on Armed Services, who had responsibility for the Subcommittee on Military Installations and Facilities, and urge her to consider the other measure that I sent along that dealt with the broader issues, rather than simply this reauthorization. Time is short, but I hope that we can get that done.

I do appreciate their responsiveness, and the opportunity to manage this bill and move ahead with an important measure which my colleague, the gentleman from Colorado [Mr. HEFLEY] and others had introduced. I appreciate his compromise and work. We have numerous measures we have to bring to the floor. We obviously can agree on this, and then we have to agree to disagree on other matters.

In any case, we have a tremendous workload in the committee, and I appreciate the cooperation that the gentleman has exhibited in these measures today and others.

Mrs. SCHROEDER. Mr. Speaker, I rise in support of H.R. 4404, the Fort Carson-Pinon Canyon Military Lands Withdrawal Act, introduced by my colleague from Colorado, Mr. HEFLEY. The Subcommittee on Military Installations and Facilities, which I chair, held hearings and marked up these bills on July 2, and the full Armed Services Committee approved the bill on August 4.

H.R. 4404 is designed to extend the withdrawal of public lands and minerals at Fort Carson and the Pinon Canyon maneuver site, Colorado. These lands have been withdrawn for military purposes beginning in the 1930's and renewals have occurred every 5 years since then. The present withdrawal expired on June 23, 1992.

The bill would withdraw 3,133 acres of public lands and 11,415 acres of federally owned minerals at Fort Carson, and 2,517 acres of public lands and 130,139 acres of federally owned minerals at Pinon Canyon.

The Secretary of the Army would be given management responsibility of the withdrawn lands for military purposes. The Secretary of the Interior would be given management responsibility for all other purposes. Every 5 years, the Secretaries are required to determine which lands are suitable for opening for mining, mineral and geothermal leasing or mineral material disposal.

Hunting, fishing, and trapping on lands withdrawn would be required to be conducted in accordance with State law.

The withdrawal would last for 15 years, consistent with the 1986 Military Lands Withdrawal Act, and would set up a procedure for renewal of the withdrawal.

The amendment also would amend the Military Lands Withdrawal Act of 1986, to allow military secretaries to utilize sand, gravel, or similar mineral or material resources for onsite construction needs.

Mr. Speaker, H.R. 4404 has been carefully considered by the Armed Services and Interior Committees and I urge our colleagues to adopt it.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

Mr. HEFLEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4404, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

NEW RIVER WILD AND SCENIC STUDY ACT OF 1992

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5021) to amend the Wild and Scenic Rivers Act for the purposes of determining the eligibility and suitability of designating a segment of the New River as a national wild and scenic river, as amended.

The Clerk read as follows:

H.R. 5021

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 "New River Wild and Scenic Study Act of 1992".

SEC. 2. DESIGNATION OF NEW RIVER AS A STUDY RIVER.

Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding the following new paragraph at the end thereof:

NEW RIVER, WEST VIRGINIA AND VIRGINIA.—The segment defined by public lands commencing at the U.S. Route 460 bridge over the New River in Virginia to the maximum summer pool elevation (one thousand four hundred and ten feet above mean sea level) of Bluestone Lake in West Virginia; by the Secretary of the Interior. Nothing in this Act shall affect or impair the management of the Bluestone project or the authority of any department, agency or instrumentality of the United States to carry out the project purposes of that project as of the date of enactment of this paragraph. The study of the river segment identified in this paragraph shall be completed and reported on within one year after the date of enactment of this paragraph.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Colorado [Mr. HEFLEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this measure, H.R. 5021, was introduced by the gentleman from West Virginia [Mr. RAHALL], our friend and colleague who serves with us on the Committee on Interior and Insular Affairs. The bill would require a study of a portion of the New River for possible designation as a component of the National Wild and Scenic Rivers System.

In a hearing before the Subcommittee on National Parks and Public Lands of the Committee on Interior and Insular Affairs, the administration testified in support of the bill, noting the relevant portion of the river and characteristics that made it very eligible for study. The Committee on Interior and Insular Affairs adopted an amendment to have the study include about 5 miles of the river within Virginia upstream from the West Virginia State line. In all, under the bill the study would encompass nearly 20 miles of the New River in the two States.

Mr. Speaker, this is a sound measure that provides for an appropriate study of what evidently is a portion of the New River that has many outstanding attributes and characteristics that will qualify it for a wild and scenic designation.

Mr. Speaker, this past week we have been thrilled by many of the Olympic activities that take place. We have seen the kayaking and other activities. I think that many citizens of our country are not always familiar with the tremendous resources close to urban areas, such as these wild and scenic streams in West Virginia. These streams represent world-class opportunities for kayaking and for other types of activities that really put West Virginia and this eastern portion of the country and the Appalachians on the map with regard to important recreational and sport activities.

Mr. Speaker, I hope that we can preserve more of these river miles. I especially hope we can do it in their natural state. With this study, the hope is that we will be coming back in several years, that is, somebody may be coming back in several years, to in fact act on these particular measures, and we will see the preservation and conservation of such important resources that have really existed this way for literally thousands of years, and hopefully they will be around for the next generation, with the good help of the gentleman from West Virginia [Mr. RAHALL] and others.

Mr. Speaker, I urge passage of this bill, and I reserve the balance of my time.

Mr. HEFLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will not voice any opposition to H.R. 5021, which will authorize the study of about 19.5 miles of the New River in West Virginia for designation under the Wild and Scenic Rivers Act.

Prior to the introduction of this bill, this river segment had not been identified as a high priority for study.

Still, the river appears to have all the characteristics necessary to warrant study.

Further, there appear to be no significant problems with land ownership, since the lands within the study corridor are federally owned.

The administration has voiced no objection on this bill, other than to state that this study may be premature.

In conclusion, I know of no serious opposition to this bill and would recognize the tireless and apparently unceasing efforts of the gentleman from West Virginia to gain Federal support for the preservation of outstanding natural resources in his State.

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from West Virginia [Mr. RAHALL], the author of this good legislation.

Mr. RAHALL. Mr. Speaker, I thank the gentleman from Minnesota for yielding time to me, and for his very expert leadership on this legislation. He has spoken of our fine rivers in the southern part of West Virginia. He speaks from first-hand knowledge. He has been there, and he has seen up close what we have to experience.

Mr. Speaker, I also appreciate the gentleman from Colorado [Mr. HEFLEY] for his comments in support of this legislation.

Mr. Speaker, the legislation designates a segment of the New River for potential addition to the National Wild and Scenic Rivers System.

As to the particulars of H.R. 5021, under the bill the National Park Service would conduct a study to determine whether a 19.5-mile segment of the New River, starting at the U.S. Route 460 bridge in Glen Lyn, VA, downstream to the Bluestone Lake in West Virginia, is eligible for designation as a national wild and scenic river. In this regard, the study segment would end at the lake's 1,410-foot maximum summer pool elevation, and it is my understanding that this point lies in the vicinity of the Bull Falls camping area. In addition, the legislation limits the study to the river segment that is defined by public lands. As such, the Island Creek, Lick Creek, and Indian Creek tributaries within this corridor would also be the subject of the study.

Mr. Speaker, it is our intention that no Federal agency would take an action such as approving a right-of-way for the purpose of constructing a powerline across the lands that are the subject of the pending legislation during the study period. While some may have a contrary view, this is the intent of this gentleman from West Virginia, the bill's sponsor. It is also my understanding that this is the intent of the chairman of the Subcommittee on National Parks and Public Lands, as well as that held by the majority.

The pending legislation calls for the study to be completed within 1 year after the date of enactment. I would expect the National Park Service to meet this deadline. These are, after all, federally owned lands with the portion in West Virginia being managed by the State under a leasing arrangement for recreation purposes and fish and wildlife conservation. A good deal of basic information on the values associated with the river segment should already be available. Further, under the terms of the Wild and Scenic Rivers Act, the

law's protections for study segments would continue for a period of 3 years after the formal submission of the study to the Congress.

The legislation also makes it very clear that nothing in the Wild and Scenic Rivers Act would impair or in any way affect the management of the Bluestone project and its authorized project purposes.

Mr. Speaker, certain portions of the New river are well known. North and downstream of the segment that is the subject of this legislation lies the New River Gorge National River, established in 1878 as a unit of the National Park System. Often referred to as the grand canyon of the East, this portion of the river is famous for its whitewater rapids, small-mouth bass fishing, and historic coal towns. And, in North Carolina where the headwaters of the New River are found, a segment of the river known as the South Fork has been protected under the Wild and Scenic Rivers Act.

The segment of the New River that is the subject of this legislation, however, is extremely remote. Known primarily by fishermen,hunters, and canoeists, it is an incredibly beautiful free-flowing segment of river. We want to keep it that way. Our intent is to preserve the rural characteristics of the New River valley. In effect, to ensure that the New River stays like it is, wild and scenic. For this reason there is already a strong bias toward the outright designation of this river segment.

In conclusion, I would like to offer my deep appreciation to the many residents of southeastern West Virginia who have worked so hard to make today's consideration of the pending legislation possible. Many of us gathered on the banks of the New River on April 22, at a place called Shanklins Ferry to kickoff this legislative endeavor. Before the year is ended, it is my deepest desire to see us gathered there once again to celebrate the enactment of the New River Wild and Scenic River Study Act of 1992.

□ 1540

Mr. HEFLEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker,I urge passage of this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 5021, as amended.

The question was taken.

Mr. BLILEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

APPOINTMENT OF CONFEREES ON H.R. 429, RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT OF 1991

Mr. VENTO. Mr. Speaker, I move to take from the Speaker's table the bill (H.R. 429) to amend certain Federal reclamation laws to improve enforcement of acreage limitations, and for other purposes, with the Senate amendment to the House amendment to the Senate amendment thereto, disagree to the Senate amendment to the House amendment to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO].

The motion was agreed to.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees:

From the Committee on Interior and Insular Affairs, for consideration of titles I and VII–XL of the Senate amendment, and titles I and VII–XXXIV of the House amendment, and modifications committed to conference: Messrs. MILLER of California, RAHALL, GEJDENSON, VENTO, KOSTMAYER, DE LUGO, LEHMAN of California, MARKEY, HANSEN, RHODES, THOMAS of Wyoming, YOUNG of Alaska, and MARLENEE.

From the Committee on Interior and Insular Affairs, for consideration of titles II–VI of the Senate amendment, and titles II–VI of the House amendment, and modifications committed to conference: Messrs. MILLER of California, RAHALL, GEJDENSON, VENTO, KOSTMAYER, DE LUGO, LEHMAN of California, OWENS of Utah, HANSEN, RHODES, THOMAS of Wyoming, YOUNG of Alaska, and MARLENEE.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of titles II–VI, IX, XXXIII, XXXIV, XXXVI, and XXXVIII of the Senate amendment, and titles II–VI, IX, XXX, and XXXIV of the House amendment, and modifications committed to conference: Messrs. JONES of North Carolina, STUDDS, HUGHES, HERTEL, CARPER, and MANTON, Mrs. LOWEY of New York, Mrs. UNSOELD, and Messrs. DAVIS, FIELDS, HERGER, DOOLITTLE, and CUNNINGHAM.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of titles I, VII, XI, XII, XIV, XV, XIX, and XX of the Senate amendment, and titles I VII, XI, and XVIII–XX of the House amendment, and modifications committed to conference: Messrs. JONES of North Carolina, STUDDS, and DAVIS.

As additional conferees from the Committee on Public Works and Transportation, for consideration of titles XXI, XXXI, and XXXVIII, and sections 3001–04, 3007, 3508, and 3509 of the Senate amendment, and section 3411 of the House amendment, and modifications committed to conference: Messrs. ROE, ANDERSON, MINETA, NOWAK, BORSKI, KOLTER, VALENTINE, HAYES of Louisiana, HAMMERSCHMIDT, SHUSTER, CLINGER, PETRI, and PACKARD.

As additional conferees from the Committee on Public Works and Transportation, for consideration of title VII, and section 3004(c)(7) of the Senate amendment, and title VII of the House amendment, and modifications committed to conference: Messrs. ROE, NOWAK, and HAMMERSCHMIDT.

As additional conferees from the Committee on Agriculture, for consideration of section 212 of the Senate amendment, and title XXV and section 212 of the House amendment, and modifications committed to conference: Messrs. DE LA GARZA, ENGLISH, DOOLEY, CONDIT, HUCKABY, STENHOLM, STALLINGS, CAMPBELL of Colorado, COLEMAN of Missouri, MORRISON, HERGER, SMITH of Oregon, and MARLENEE.

As additional conferees from the Committee on Agriculture, for consideration of titles XIII, XIV, XVIII, and XXXVI, and section 202 of the Senate amendment, and titles XIX and XX, and sections 301, 305, 308, and 2302 of the House amendment, and modifications committed to conference: Messrs. DE LA GARZA, VOLKMER, and COLEMAN of Missouri.

There was no objection.

PROVIDING FOR DOMESTIC DISSEMINATION OF CERTAIN USIA MATERIALS

Mr. PAYNE of New Jersey. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5751) to provide for the distribution within the United States of certain materials prepared by the U.S. Information Agency.

The Clerk read as follows:

H.R. 5751

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

SECTION 1. DISTRIBUTION WITHIN THE UNITED STATES OF CERTAIN MATERIALS PREPARED BY THE UNITED STATES INFORMATION AGENCY FOR DISTRIBUTION ABROAD.

(a) AUTHORITY FOR DISSEMINATION IN UNITED STATES.—Nothwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461–1(a)) and the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461)—

(1) the Director of the United States Information Agency shall make available to the Archivist of the United States a master copy of the documentary film entitled "The Voice" and the radio documentary entitled "All of Our Yesterdays"; and

(2) upon evidence that necessary rights and licenses have been secured and paid for by the person seeking domestic release of such materials, the Archivist shall—

(A) reimburse the Director for any expenses of the Agency in making such master copies available;

(B) deposit such master copies in the National Archives of the United States; and

(C) make copies of such master copies available for purchase and public viewing and broadcast.

(b) REIMBURSEMENT.—Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. PAYNE] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. PAYNE of New Jersey. Mr. Speaker, I rise in support of H.R. 5751, which authorizes the release within the United States to two U.S. Information Agency products. "The Voice" which is a USIA Television and Film Service product and "All of Our Yesterdays" which is a radio documentary produced by VOA. My colleagues will recall that USIA's products are prohibited from being distributed domestically unless a product is given a specific legislative exemption.

Both of these products document and commemorate the 50 years of broadcasting by the Voice of America. They document VOA's own history against its coverage of the historical events of the 1942–92 period. They focus on universally important themes such as the free flow of information, the role of a free press in a democratic society, building democratic institutions, and American values and social change.

This legislation would allow USIA to make a master copy of both the film and the radio documentary available to the Archivist of the United States who will make copies available for purchase and public viewing and broadcasting.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

□ 1550

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to express my strong support for this legislation.

As many of my colleagues know, this year marks the 50th anniversary of the Voice of America. In observance of this historic occasion, the U.S. Information Agency produced the documentary film "The Voice," and the radio documentary, "All of Our Yesterdays." H.R. 5751 would allow USIA to provide to the National Archives master copies of these two documentaries so that they can be made available for purchase and public viewing.

These productions tell the story of VOA during the past half-century. The Voice became a formidable weapon in this Nation's fight against fascism and communism. By keeping its pledge to tell the truth, whether good or bad, VOA demonstrated that truth could be a stronger force than armies or barbed wire.

Fifty years after its founding, The Voice still plays a vital role for America. VOA's mission of providing objective news and information is as important today as it was back in 1942.

Making these documentaries available to the American people will not only help them understand VOA's past, but also its future mission.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN], ranking member on the Committee on Foreign Affairs.

Mr. GILMAN. Mr. Speaker, I rise to express my strong support for H.R. 5751, a resolution to provide for the distribution within the United States of certain materials prepared by the U.S. Information Agency, and I commend the distinguished chairman of our Foreign Affairs Committee, Mr. FASCELL, as well as our distinguished ranking Republican member, Mr. BROOMFIELD, for their outstanding work on this important resolution.

This year marks the 50th anniversary of the founding of the Voice of America. To commemorate this historic occasion, the U.S. Information Agency produced a documentary film entitled "The Voice," and a radio documentary, "All of Our Yesterdays."

This bill permits USIA to provide copies of both productions to the National Archives so they may be made available for purchase and viewing.

In February 1992, when VOA first began broadcasting, it pledged to its listeners that it would always tell the truth, no matter what the consequences. For 50 years, USIA has worked to live up to that pledge.

During World War II, VOA provided objective and accurate information to those living under Nazi occupation, and gave hope to those suffocated by Nazi propaganda. During the cold war, the Voice battled Communist propaganda by letting people behind the Iron Curtain learn about American culture and values.

Now that the cold war is over, VOA continues to provide objective news and information to a worldwide audience, and educates its listeners about American values, institutions and policies. Release of these historical materials on VOA can aid public understanding of its mission in the future as well as the past.

Mr. PAYNE of New Jersey. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New Jersey [Mr. PAYNE] that the House suspend the rules and pass the bill, H.R. 5751.

The question was taken; and (two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PAYNE of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5751, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

CONCERNING THE SITUATION IN SOMALIA

Mr. PAYNE of New Jersey. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 132) expressing the sense of the Congress regarding the desperate humanitarian crisis in Somalia and urging the deployment of United Nations security guards to assure that humanitarian relief gets to those most in need.

The Clerk read as follows:

S. CON. RES. 132

Whereas as a result of the civilian conflict in Somalia, at least thirty thousand people have died, hundreds of innocent civilians, many of them children, continue to die each day, and an additional one million two hundred thousand lives are at risk;

Whereas the Somali political factions show no signs of ceasing their internecine war for power even as thousands of their own people perish;

Whereas international relief agencies have been unable to deliver adequate humanitarian assistance to those most in need due to increasingly difficult and dangerous conditions, including pervasive banditry and looting;

Whereas the United Nations Security Council, on July 27, 1992, adopted a resolution on the situation in Somalia, including an expansion of United Nations relief efforts and support for the deployment of United Nations security personnel to facilitate the delivery of relief supplies, and the President has expressed strong support for the United Nations proposals; and

Whereas although the Congress has expressed strong support for more active efforts to deliver humanitarian relief to the suffering people of Somalia, the situation has continued to deteriorate: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) condemns in the strongest possible terms the senseless killing and wanton destruction wrought by the political factions in Somalia;

(2) strongly urges these factions to abide by the United Nations ceasefire and to allow the deployment of security forces to protect humanitarian relief deliveries and workers;

(3) commends the dedicated and energetic efforts of United Nations Secretary-General Boutros Boutros Ghali, and his Special Envoy to Somalia, Ambassador Mohammed Sahnoun;

(4) pays tribute to the courageous and heroic actions of the relief agencies working in Somalia;

(5) calls upon the international community, through the United Nations, and in particular the United Nations specialized agencies, to immediately expand its relief efforts in Somalia;

(6) recognizes with appreciation the July 27, 1992, statement of the President urging the United Nations to deploy a sufficient number of security guards to permit relief supplies to move into and within Somalia, and committing funds for such an effort; and

(7) urges the President to work with the United Nations Security Council to deploy these security guards immediately, with or without the consent of the Somalia factions, in order to assure that humanitarian relief gets to those most in need, particularly the women, children and elderly of Somalia.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. PAYNE] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, First, I would like to commend my esteemed friend and colleague, the chairman of the Subcommittee on Africa, the Honorable MERVYN DYMALLY for expeditiously moving this piece of legislation for consideration. Also, I would like to applaud the commitment and dedication of my distinguished colleague, Mr. GILMAN, of New York, for his diligence in keeping the issue of Somalia before the House. It is critical that we demonstrate bipartisan leadership in attempting to resolve the crisis in Somalia.

In January 1991, the brutal and repressive regime of Maj. Gen. Mohamed Siad Barre came to an end. While driving President Barre and his forces out of Mogadishu was positive move toward democratization, it marked the beginning of a violent civil war characterized by anarchy and mindless bloodshed against the Somalian people.

Interational human rights organizations estimate that over 30,000 Somalians have been killed since this conflict began, and relief workers predict that unimaginable numbers of innocent Somalians will perish from starvation and deprivation.

The international community has repeatedly called for a cease-fire between the warring parties, and time after time those calls have been denied.

The use of food as a weapon to force innocent noncombatants into actively participating in this conflict is unconscionable and has complicated whatever futile attempts there have been to provide assistance to this war-torn nation.

Earlier this year, the Committee on Foreign Affairs approved House Resolution 422 which urged greater involvement and a larger role for the United States at the United Nations in resolving the Somalia crisis, and providing humanitarian assistance to the Somalian people.

Today, the House is considering Senate Concurrent Resolution 132, a bill which again calls for greater international intervention in resolving the crisis. However, today Mr. Speaker, we have legislation before us which takes into account and represents current developments and is based on a recent trip by the distinguished Senator from Kansas, the Honorable NANCY KASSEBAUM.

Senate Concurrent Resolution 132 acknowledges the actions of the U.N. security resolution expanding relief efforts and supporting the deployment of U.N. security personnel to facilitate the delivery of relief supplies.

This legislation calls for the strongest condemnation possible against the wanton destruction and senseless killings in Somalia. It also calls upon the leaders of the warring factions to abide by the U.N. cease-fire agreement. This legislation, among other things, urges the President to work with the international community to insure that Somalians in need, particularly the women, children and the elderly, can access international relief assistance with or without the cooperation of the warring factions.

Mr. Speaker, I urge my colleagues to support this legislation, as we in the Congress must continue to send a strong, bipartisan and unambiguous message to the world that the U.S. Congress will not sit idly by while such a devastating human rights disaster unfold before our very eyes.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend Senator KASSEBAUM for her fine work in crafting the legislation before us today. I also want to salute my good friend BEN GILMAN for his deep compassion for the Somali people and his early leadership in crafting legislation dealing with the tragedy in Somalia.

Congressman DYMALLY deserves our praise as does Chairman FASCELL for their timely efforts in bringing the identical House bill, introduced by Mr. GILMAN, House Concurrent Resolution 352, for consideration and approval by the Foreign Affairs Committee last week.

Senate Concurrent Resolution 132 condemns the warring factions in Somalia. It urges all groups to comply with the U.S. cease-fire and cooperate with U.N. efforts. It also calls upon the international community to expand its relief efforts in that troubled nation and encourages the administration to work with the United Nations in the deployment of food security guards.

By any standard, the ongoing tragedy of Somalia is the single worst humanitarian crisis in the world today. Few nations in Africa have been so brutally struck down by severe drought, widespread famine and long-term political instability. Sadly, all of the plagues found in the Third World seem to have visited upon that country in recent years.

The Somali civil war has compounded the suffering and brought those people another scourge—human rights abuses. The fighting has undermined the desperately needed efforts of relief organizations and threatened the lives of international workers.

An estimated 30,000 innocent Somalis have been killed since 1991 and nearly 3 million Somali civilians face the threat of starvation in the next 6 months. Already, 500,000 Somalis have fled the country. Damage to property and the fragile economy has been massive.

In recent months, the situation in Somalia has improved to some degree due to a decline in the fighting between the warring factions and the arrival of a ship carrying relief supplies. In addition, the Security Council just passed a resolution that authorizes the dispatch of a small technical mission to Somalia. It also proposes a massive airlift of food to the suffering people there. Unfortunately, a Somali clan leader is obstructing the arrival of 500 U.N. security personnel to that country.

Our Government has donated about $77 million in assistance to Somalia in the past 2 years. President Bush is to be commended for his recent statement supporting more assistance to that long-suffering land. More, however, remains to be done.

The world's indifference to this human tragedy must give way to a concerted international effort. Our great Nation must continue to show leadership on this terrible problem. This legislation is a step in the right direction.

I call upon my colleagues to join me in supporting this legislation on behalf of the poor people of Somalia.

□ 1600

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN], who has had a real interest in this problem for many months.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for his support and for his kind words.

Mr. Speaker, I rise in strong support for Senate Concurrent Resolution 132, legislation expressing the sense of the

Congress regarding the desperate humanitarian crisis in Somalia and urging the deployment of U.N. security forces to assure that humanitarian relief gets to those most in need.

I want to thank the chairman of the Subcommittee on Africa, the distinguished gentleman from California [Mr. DYMALLY], and the ranking minority member, the distinguished gentleman from Indiana [Mr. BURTON], and the gentleman from New Jersey [Mr. PAYNE], for supporting my resolution, House Concurrent Resolution 352, which is identical to Senate Concurrent Resolution 132, and for their leadership in attempting to resolve the crisis in Somalia and end the bloodbath that has engulfed Mogadishu. Their support has been crucial to the development of the strong bipartisan support for the resolution. I also want to thank the chairman of the House Foreign Affairs Committee, the gentleman from Florida [Mr. FASCELL], and the ranking minority member, the gentleman from Michigan [Mr. BROOMFIELD], for bringing Senate Concurrent Resolution 132 to the floor today.

I also want to commend the House Select Committee on Hunger for its special interest in this issue. Select committee staff have worked diligently and closely with Foreign Affairs Committee staff in calling attention to the holocaust facing the Somalian people.

On April 7, I introduced House Resolution 422, a resolution that addressed the problems facing Somalia earlier this year. Recently, my good friend and colleague the Senator from Kansas [Ms. KASSEBAUM], returned from Somalia and the Select Committee on Hunger, 2 weeks ago, held a hearing regarding her trip. The resolution before the House reflects her expert observations and updates the April resolution.

The tragedy facing Somalia is beyond our hearts and minds to grasp. While I in no way want to make light of the devastation in Yugoslavia, Mogadishu makes Sarajevo look like a picnic in the park. More people die in Mogadisu each day than in all of Yugoslavia each month. Save the Children Foundation informs us that at least 200 children die each day from starvation. Last month 7,000 people died from hunger in Baidoba. Red Cross officials say they believe that about one-third of Somalia's people, estimated to number anywhere from 4.5 million to 6 million, are likely to perish in the next few months unless more food is pumped into the country.

Accordingly, I urge my colleagues to support Senate Concurrent Resolution 132.

Mr. PAYNE of New Jersey. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the distinguished subcommittee chairman and the gentleman from New Jersey [Mr. PAYNE], one of the experts on Africa in this body and one of the international experts of this body as well.

I also want to thank the ranking member, the gentleman from Michigan [Mr. BROOMFIELD] for his comments, and the gentleman from New York [Mr. GILMAN], one of the leading fighters for human rights in this body now and in the past.

Mr. Speaker, I rise in very strong support of Senate Concurrent Resolution 132, a resolution which brings immediate attention to the severe crisis in Somalia and recognizes that efforts to bring prompt humanitarian relief to the region is critical.

I commend the chairman of the Foreign Affairs Committee for quickly bringing this measure to the floor for our immediate consideration.

During the past week, Mr. Speaker, I, the Speaker and many others have spoken about the atrocities being perpetrated in Bosnia-Hercegovina. It is my strong belief that the United States and the international community has a moral obligation to ensure that humanitarian relief efforts are not impeded and that war crimes perpetrated against the refugees in that region should cease, and ultimately those responsible should be held accountable.

In another part of the world, tens of thousands of people have died as a result of famine and drought exacerbated by a civil war which has been raging for well over a year.

The gentleman from New York [Mr. GILMAN] dramatically points out that the loss of life and the human rights abuses that are occurring in Somalia in some degree overwhelm the statistics coming out of Sarajevo, Bosnia-Hercegovina, and Yugoslavia.

It is, therefore, imperative that we also give consideration to Somalia, where it has been estimated that one-third of the country's population will perish within the next 6 months, unless food is safely delivered to the region. To dramatize this situation, if this were the case in the United States of America, it would mean that some 83 million Americans would die in the next 6 months.

The International Committee of the Red Cross is mounting the biggest relief operation of its history. According to the special U.N. representative for Somalia, as many as 5,000 children, this statistic has been used again and again with reference to this resolution, 5,000 children under the age of 5 are dying today, yesterday, tomorrow and tomorrow and tomorrow. Children with protruding rib cages and listless eyes are too sick and weak to eat and are literally dying in food camps while they await their allotment of food. Mothers cannot even nurse their children because as a result of inadequate nutrition they are unable to produce life-giving milk.

Somalia has no electricity, no running water, army, government or police force. It is literally, Mr. Speaker, being run by armed gangs if in fact run is the appropriate term, who roam the towns, looting, raping, and killing civilians. These are thugs, no better and much worse. The intense fighting and violence makes food delivery extremely dangerous, if not impossible.

House Concurrent Resolution 132 urges, appropriately, that the United States take a more active role in the Somali crisis through supporting the U.N. efforts. It requests the immediate deployment of U.N. security guards to guarantee the security of relief workers and provide for extensive food and humanitarian relief.

The gentleman from Indiana [Mr. HAMILTON], the chairman of the Subcommittee on Europe wrote an article as to when it was appropriate to intervene in nine crisis such as this. He concluded that one of the criteria certainly was tremendous loss of life and egregious violation of human rights. That exists here in Somalia.

It is critical that we give equal consideration to countries who have been ravaged by war and whose citizens are dying by the thousands as a result of civil conflict and famine. It is incumbent upon us to recognize the atrocities that are occurring in other regions of the world, and not just in Eastern Europe.

As chairman of the Commission on Security and Cooperation in Europe, that is my focus, and a major responsibility given to me as a Member of this body. However, it would be absolutely unacceptable if we would focus our views solely on Europe while thousands, hundreds of thousands, millions of others are suffering equally, if not worse conditions and deprivation.

Somalia demands the attention of this Congress. Somalia demands the attention of this country. Somalia demands the attention of the international community.

The U.S. Congress must make every effort to ensure that the plight of the Somalis is not obscured by current headlines.

Mr. Speaker, I urge my colleagues to support this resolution, as I know they will, and not stand idly by to witness the starvation of 2 million people.

Mr. Speaker, I thank the subcommittee chairman and the ranking member for yielding me this time.

□ 1610

Mr. BROOMFIELD. Mr. Speaker, I yield the remaining time to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. I thank the gentleman from Michigan for yielding time to me.

Mr. Speaker, as a member of both the Committee on Foreign Affairs and the Select Committee on Hunger, this Member rises in the strongest possible

support of Senate Concurrent Resolution 132, which builds upon the early initiatives by the distinguished gentleman from New York [Mr. GILMAN]. As mentioned, the distinguished Senator from Kansas [Mrs. KASSEBAUM] deserves a special commendation for her initiatives. I also join Mr. BROOMFIELD and Mr. GILMAN in their commendatory comments regarding other Members.

Mr. Speaker, there are at least two basic elements to the crisis in Somalia. First, there is the enormous human suffering and starvation caused by years of drought and famine. The second aspect is the clan warfare and organized piracy that has made relief efforts all but impossible. Taken together, it results in what is quite possibly the most desperate humanitarian situation in the world today.

The facts of the humanitarian crisis in Somalia are gradually becoming well known. In the last 18 months an estimated 100,000 people have died in the clan warfare that has ravaged the entire country. One million Somalis have been forced to flee the country, living in squalid camps in Ethiopia, Kenya, and Djibouti. Another 1.5 million who have been unable to flee are in danger of starving to death. Yet another 4.5 million require food and other emergency assistance.

These are mind-numbing numbers, almost too massive to comprehend. But these numbers take a human form in the shape of the starving children who line the streets in the capital of Mogadishu and elsewhere, and the distended stomachs and the skeletal forms in those who are lucky enough to be in refugee camps.

While the international community has tried to provide assistance, these efforts have for the most part been thwarted by the gangs of gun-toting thieves and extortionists. Local warlords exact huge fees for aid to be off loaded. Marauding gangs charge additional fees as the food moves inland toward the refugee camps and the dispersal facilities. And throughout the process, the food will be hijacked if it is not continuously under armed guard. According to one relief worker, to distribute 1 kilo of food one must pay 10 times the cost of the food in security and in bribes. And even the paying of bribes is often not enough, as a number of relief workers have been murdered in recent months.

After far too long a delay, the international community is beginning to respond to this crisis. Recently the U.N. Security Council authorized the dispatch of a brigade of peacekeepers to guard the camps and convoys, and to begin disarming the various factions. This is a hazardous mission, for the armed factions have shown themselves quite willing to kill in order to rob from the relief convoys. But, if we are to consider ourselves a moral and civilized international society, it is a mission that must be undertaken. Indeed, if the United Nations is ever to realize its true potential as a force for peace, it must not shy away from the tragic and difficult problems such as the one now occurring in Somalia.

Mr. Speaker, this Member praises the unrelenting determination of U.N. Secretary General Boutros Boutrous-Ghali for his refusal to permit the suffering in Somalia to be ignored. This Member would also join with his colleagues in urging strong and swift U.N. action to respond to this crisis. I urge passage of Senate Concurrent Resolution 132.

The article referred to is as follows.

[From the Christian Science Monitor, Aug. 6, 1992]

WHITE HOUSE HINTS CHANGE IN STANCE AGAINST PUTTING U.N. PEACEKEEPERS IN SOMALIA

(By George D. Moffett III)

Facing pressure from Congress and international relief organizations, the Bush administration may be shedding its reluctance to have United Nations forces deployed in the wartorn African nation of Somalia.

The United States backed a recent Security Council resolution favoring the dispatch of 500 soldiers to protect food shipments to Somalia, but it has said deployment should be delayed until there was a break in the country's bloody, 18-month civil war.

Sending UN forces would be "premature until there was an effective cease-fire," Assistant Secretary of State John Bolton, the highest-ranking US official to visit Somalia since the civil war began, told a congressional panel two weeks ago. This week he sounded a different note, saying UN forces should be dispatched, even if the fighting continues.

James Kunder, director of the Office of Foreign Disaster Assistance (OFDA) told reporters at the State Department: "I would endorse the deployment of the troops—with or without" the permission of the warring factions.

A congressional source says, "There has been a disconnect between State and AID" [the Agency for International Development, OFDA's parent organization] on the issue of UN forces. "State may now be gravitating in AID's direction."

A White House statement issued last week urged the UN "to move as quickly as possible" to deploy security guards to protect food shipments. Relief organizations say the deployment of the UN troops is essential to get food supplies to Somalia's starving people. More than 150,000 tons of food are ready for distribution, according to AID.

As many as 100,000 Somalian soldiers and civilians have died since the start of the war, according to various estimates. The war and a two-year drought have combined to put 1.5 million more Somalis on the edge of starvation. It is "the world's worst humanitarian crisis," Mr. Kunder said.

The Senate passed a resolution Monday calling for the dispatch of UN guards "with or without the consent of the Somali factions." The House is expected to vote on a similar resolution next week.

Civil war erupted in Somalia in January 1991, after forces that overthrew longtime President Mohammed Siad Barre fell into factional fighting.

The conflict has devolved into a confusing pattern of tribal and clan warfare, disrupting agriculture and displacing a quarter of the country's estimated six million inhabitants. Some 800,000 more have streamed across the border into Kenya and Ethiopia and across the Red Sea into Yemen, according to AID.

In April the UN Security Council approved a massive airlift of food and medicines to Somalia and deployment of guards to protect food convoys to towns where Somalis are starving.

Convinced they would legitimize his main rival, Somali warlord Gen. Farrah Aidid said he would not allow UN in areas controlled by his own forces. Mr. Bolton said an aide to General Aidid warned: "If the UN sent in 50 military observers, they might as well send in 50 coffins, too."

A team of UN technicians is due to arrive in Somalia this week to assess conditions for deploying UN soldiers.

The International Committee for the Red Cross (ICRC), the main relief organization working in Somalia, says that of 35,000 tons of food needed per month only 15,000 are now getting through, enough to feed half a million Somalis at 450 feeding centers in the country.

UN troops could unclog the supply lines, especially ports, and ensure that food supplies would be fairly distributed. To reduce the tensions that feed the civil war, relief officials say, the international community must pour massive amounts of food into Somalia, with or without immediate regard to efficiency or equity.

"We have to accept the fact that food will first reach people with guns, then the people who really need it," says Mark Gastellu-Etchegorry, deputy director of the Paris-based group Doctors Without Frontiers. "Monitoring food shipments will be possible only in the second phase."

Since the start of the civil war, local agriculture has all but ceased to exist, factories that produced food have been destroyed, and food-distribution systems have been disrupted.

More than a fourth of all children under age five have died. Without major food supples, the figure could jump to three-fourths within six months, according to estimates used by US AID and the private relief groups.

"The international community is looking at a country that is now dying," says Dr. Gastellu-Etchegorry. "A whole generation is going to disappear in Somalia, more than any other nation.

Most of it has been channeled through the ICRC and other private organizations. "This shows a decided patter of strong American support" for the relief effort, says a State Department official.

Critics rejoin that distribution not money, is the main issue and that the only way to get food where it is needed is with a UN military presence. They have echoed UN Secretary-General Boutros Boutros-Ghali's complaint that the UN Security Council has been more concerned with helping Yugoslavia than Somalia.

[From the Washington Post, Aug. 6, 1992]

FIERCE FIGHTING COULD HALT U.N. SARAJEVO MISSION

(By Kurt Schork)

SARAJEVO, BOSNIA, August 5.—A U.N. spokesman said today that the U.N. humanitarian relief mission here may have to be scrapped as fighting between powerful Serb militia forces and Sarajevo's Slavic Moslem defenders escalated into perhaps the most concentrated battle for the city since the Serbs laid siege to it nearly four months ago.

"There comes a time when we have to assess the situation, and I guess that time

comes now," said U.N. spokesman Mik Magnusson, just one day after U.N. officials announced an indefinite suspension of international relief flights for the city's 300,000 civilians because of heavy fighting around the airport.

"We have had one man killed [a Ukrainian soldier] and six badly injured" in the last few days, Magnusson said. "We cannot go on indefinitely. If the level of violence continues, it will seriously endanger us during our mission."

Magnusson said French Gen. Philippe Morillon was to have arrived in Sarajevo to discuss prospects for reopening the airport, but the fighting prevented him from making the journey. "He cannot find an aircraft to fly here because there isn't enough money to pay the insurance," Magnusson said. The warring factions keep saying they want a truce, Magnusson said, "but you can hear the cease-fire"—an ironic reference to the sounds of nearby artillery shells and automatic weapons fire.

Magnusson's gloomy assessment came as Moslem and local Serb militia forces flailed at each other with all the heavy weapons they could muster, including armored vehicles, massed artillery batteries, multiple rocket-launchers and—on the Serb side—jet aircraft. Early reports indicated the Moslems had made some progress toward breaking out of the Serb encirclement, but analysts here said it was unlikely that the Moslem forces had sufficient firepower for a clean breakthrough.

They have 10 times as many weapons as they have troops around Sarajevo, and we have 10 times more people who would fight than we have weapons to arm," said Stjepan Siber, a deputy commander of Sarajevo defense forces. Earlier this week, another senior defense official, Col. Jovan Divjak, said that his forces were fighting "more or less bare-handed against Serb tanks and artillery."

Siber said the battle began as "our side and the Serb side launched offensives against each other at the same time." He estimated the fighting involved more than 8,000 of his militiamen and about 5,000 Serbs, who he said had the advantage of holding the high ground around Sarajevo and of being far better armed.

Nighttime artillery duels lit up the skies and hills around the city as downtown Muslim neighborhoods and the largely Muslim suburb of Dobrinja, which adjoins the airport, were heavily pounded. Return fire seemed directed primarily at Trebevic Mountain, a forest-clad ridge overlooking the city. Fiery rocket salvos streamed into the ridge line, while mortar fire and less frequent heavy artillery rounds tore into the lower slope.

Bemoaning the seemingly inexhaustible supply of arms available to his Serb antagonists, Siber complained bitterly about the continued refusal of Western governments to come to the aid of his embattled young nation. "I don't understand why the world does not blockade the weapons and ammunition sent to Serb forces" from neighboring Serbia and Montenegro, he said. "They have reserves here they haven't begun to use yet."

The United Nations has imposed trade sanctions on Serbia and Montenegro—the only members of the new Serb-controlled Yugoslav state—for their support of Serb aggression in Bosnia; the world body also instituted the humanitarian airlift to Sarajevo, but it has so far declined to commit combat troops.

U.N. Secretary General Boutros Boutros-Ghali recently proposed creation of a U.N. rapid reaction force that could intervene in conflicts like the one in Bosnia, and he was quoted in a newspaper interview today as saying that France had agreed to provide 2,000 troops for such a force.

Boutros-Ghali told the German weekly Die Zeit that French President Francois Mitterrand had said France could contribute 1,000 paratroops on 24 hours' notice and another 1,000 in less than a week. "If 20 other countries were ready to do that, I would be in a much better position [to handle regional conflicts]," Boutros-Ghali said.

[From the Washington Times, Aug. 4, 1992]

U.N. SOLDIERS CALLED VITAL TO RELIEF IN SOMALIA

(By Martin Sieff)

The presence of armed U.N. troops in the war-ravaged African country of Somalia is necessary to ensure that relief gets to 1.5 million starving people in "the world's worst humanitarian crisis," a senior U.S. aid official said yesterday.

"Provision of security is the fundamental issue," said James R. Kunder, director of foreign disaster assistance at the Agency for International Development.

The U.N. Security Council adopted a resolution July 28 authorizing the deployment of U.N. troops to aid relief efforts in drought-stricken, disease-wracked and war-torn Somalia, and Mr. Kunder said a U.N. technical team is to arrive in the Kenyan capital of Nairobi today to advise on whether 500 troops will be sufficient.

Relief workers are unable to do their job properly because they are continually harassed, robbed and shot at by armed gangs, Mr. Kunder said.

Somalia has been in a state of chaos since longtime dictator Mohammed Siad Barre was toppled in January 1991. The two main feuding clans signed a U.N.-brokered cease-fire in February, but anarchy has prevailed since then.

Mr. Kunder said a quarter of all Somalian children under age 5 have died in the famine and violence and 75 percent of those remaining could die in the next few months. There was no indication of the total number of children involved.

"This is the world's worst humanitarian crisis" he said.

"I strongly endorse the U.N. plan for the deployment of armed security personnel to Somalia to provide security for relief workers," the disaster aid chief said. "Those Somali factional authorities who claim the mantle of leadership in Mogadishu appear either unable or unwilling to control the chaos on their own."

He said the U.N. troops should be sent in whether or not the warring factions in Somalia agree to accept them. One powerful group led by Mohammed Farah Aidid has resisted.

A resolution calling for U.N. peacekeepers is pending in Congress.

Mr. Kunder, the first senior U.S. official to visit the east African country of 6.5 million people in 18 months, announced that the United States will send an additional 8,300 tons of relief supplies.

Mr. Kunder said he was shocked by the chaos in the capital of Mogadishu during his visit last month. Tons of food spill out of dockside warehouses as people starve a few hundred yards away, he said.

"Somali and international relief workers are providing care in the midst of American Civil War-like conditions," Mr. Kunder said. He noted that 30 to 50 gunshot victims a day were coming into one hospital he visited.

The International Committee of the Red Cross estimates that Somalia needs 35,000 tons of food relief a day to avert a full-scale disaster. But only 15,000 tons a day is moving into the country and much of this cannot be distributed because of the chaos, Mr. Kunder said.

Another 150,000 to 200,000 tons of food relief is already "in the pipeline" but cannot be moved in until conditions improve, he said.

Mr. Kunder said armed gangs roam the capital, where heavy weapons are positioned at many street corners.

"The entire economy consists of protecting relief food or attacking food convoys," he said. "The security picture is chaos."

Red Cross emergency kitchens are feeding nearly 500,000 people a day in the capital, but relief experts said this was just a "drop in the ocean," Mr. Kunder said.

He described conditions in refugee camps for Somalis in northern Kenya as "terrible" and "horrible." About 300,000 refugees are living in the camps and 1,000 more flee across the border every day he said.

[From the Los Angeles Times, Aug. 4, 1992]

SEVENTY-FIVE PERCENT OF SOMALI CHILDREN MAY DIE, OFFICIAL WARNS

(By Stanley Meisler)

Washington—A Bush Administration official warned Monday that three-quarters of Somalia's children may die in the next six months unless U.N. guards restrain looters enough to let food and medicine reach the starving and sick.

James Kunder of the U.S. Agency for International Development, the first top American official to reach Somalia in a year and a half, described the situation in the ravaged East African country as "the world's worst humanitarian disaster."

Kunder, who directs AID's Office of Foreign Disaster Assistance, at a briefing endorsed U.N. plan to send guards to the Somali capital of Mogadishu to force distribution of the supplies now bottled up in the port by two rival and belligerent tribal subclans.

Insisting that lack of security is the main reason Somalis are starving and dying of illness, the AID official cited a flagrant example of the problem. "Seven thousand tons of food are spilling out of the docks of Mogadishu while Somalis starve a kilometer away," he said.

Mogadishu has been ravaged and paralyzed by an incessant civil war between the two sub-clans that seems to defy logic and lack any ethnic base. "Not only are they from the same tribe," a U.N. official said of the two warring factions recently after several trips there. "Not only do they speak the same language and have the same ethnicity—[but] there is not one shred of difference between them ideologically. They are only interested in power, and it cannot be shared."

The crisis has received new attention in recent weeks largely through the efforts of U.N. Secretary General Boutros Boutros-Ghali, who has accused Westerners of focusing so hard on the problems of Yugoslavia and its breakaway republics that they have blinded themselves to the even more terrible loss of life in the Horn of Africa.

Kunder, who had just spent two days in Somalia as part of a study of relief problems in East Africa, said that heavy artillery shelling has stopped under a U.N.-mediated cease-fire but that armed bands continue to wander through Mogadishu, looting food and terrorizing civilians.

"There are an awful lot of armed people on the street," he said. "There are heavy weap-

ons on the street corners. There is firing in the air. Thirty to 40 casualties a day are coming into one of Mogadishui's three hospitals. I would paint the security picture in general as one of chaos."

The AID official offered an array of grim statistics. He said a quarter of Somalia's population of 6.5 million faces starvation. The figures for children under 5 are worse. He said AID's best guess is that a quarter of the children have died already and that, in all, three-quarters will die in six months unless the food pipeline is unclogged.

Furthermore, he said, more than 800,000 Somalis have fled to Ethiopia, Kenya, Djibouti and Yemen. He described the Kenyan refugee camps, which he had just toured, as "terrible, horrible." A thousand Somalis are crossing the border into northern Kenya every day, he said, and Kenya does not have the resources to cope with them.

Kunder said U.N. experts believe that security could be established at the Mogadishu docks with 500 guards. But Reuters news agency reported that Mohammed Sahnoun, the Algerian diplomat who is the U.N. special representative in Somalia, now believes that several thousand may be needed to ensure that relief supplies reach those in need.

Working through international agencies such as the International Committee of the Red Cross and the Office of the U.N. High Commissioner for Refugees, the U.S. government, according to Kunder, has donated $77 million for food relief, shipments of medical supplies and airlifts.

Kunder said that only 15,000 tons of food have been reaching the hungry in Somalia every month, less than half of the 35,000 tons needed, according to estimates. But he emphasized that relief for Somalia hinges far more on a reduction in looting than on an increase in food.

He said that 150,000 to 200,000 tons of food are "in the pipeline," ready to move into Somalia if secure routes can be found from Mogadishu to relief workers in the field. When food reaches relief workers, he said, "most of it does get through to the people."

Kunder said Somalia now has no other economy except relief. The economy, he explained, "consists either in protecting relief food—that is, the hiring of armed guards for relief convoys—or [in] attacking those convoys."

"We need to examine ways to bring Somali merchants into the food distribution process," he went on, "both in order ±to move more food into the country and to generate currency, local currency, to provide jobs and earnings in the marketplace."

Mr. EMERSON. Mr. Speaker, I rise in strong support of Senate Concurrent Resolution 132 and the companion House resolution sponsored by the gentleman from New York [Mr. GILMAN], concerning the appalling humanitarian crisis in Somalia. I would also like to take this opportunity to commend my colleagues on the Hunger Committee, Chairman HALL and Mr. WHEAT, for their leadership in bringing attention to the plight of the Somali people at a time when the eyes of the world seem to be turned elsewhere.

Somalia is, without question, the world's greatest human disaster. To be quite honest, I am almost at a loss to describe the horror of what is going on in that country today. We heard 7 months ago that vicious factional fighting in Mogadishu had claimed the lives of 30,000 people. At the time, food stocks were already exhausted, and malnutrition rates in some places had soared to almost 90 percent.

Today, although there is a nominal cease-fire in the capital, the situation throughout the country has so deteriorated that Somalia seems little more than a smouldering ruin. While armed bandits roam the countryside, stealing emergency rations and endangering the lives of relief personnel, whole generations are literally starving to death. As many as 100,000 people may have already died from hunger and disease, and hundreds more perish every day waiting for food to arrive.

This cannot go on. Further action must be taken now by this Government, by the United Nations, and by other members of the international community to reverse the course of this human catastrophe.

However, I have been pleased to see in recent weeks the efforts of U.N. Secretary-General Boutros-Ghali and his envoy Ambassador Mohammed Sahnoun to focus world attention on the crisis in Somalia. And I applaud the statements of the President in support of U.N. proposals to deploy security forces in Somalia to guard the delivery of emergency supplies.

Nevertheless, we must move beyond the stage of debate toward the dramatic and immediate expansion of relief activities—by whatever means necessary. Through this resolution, the Congress speaks with one voice to say that we and the American people believe that the time for such dramatic action has come. Emergency operations must now double or triple in Somalia if the lives of millions are to be saved, and U.N. security forces must be deployed to ensure that food and medicine reaches those most in need.

This legislation is a call to humanitarian arms in a war that the innocent people of Somalia are losing badly. I urge you to join me in supporting this resolution at this critical time.

Mr. DORGAN of North Dakota. Mr. Speaker, finally, and too slowly, the world is turning its attention toward the devastating human tragedy in Somalia. It is a sad commentary on our humanitarian policies to note that since Somalia has lost its strategic significance due to the end of the cold war, we have directed very little attention or aid its way. Why are we so consumed with the loss of life, lack of food, and civil strife in Yugoslavia, and yet relatively unaffected by what are arguably much worse conditions in Somalia? We have all been greatly moved by the plight of two young children who were killed in an attempted evacuation from Sarajevo. But why aren't we hearing more about the fact that in Somalia, 600 children under the age of 5 are dying each and every day?

The United States is not alone in its shortcomings on this issue. The United Nations, and all the so-called donor nations are equally to blame for focusing so few of their resources, in terms of personnel, food, money, medicine, or diplomatic intervention, on this war-torn and famine-ridden land where 5,000 people are dying daily. It is time for all of us to stand up and be counted in our determination to help the suffering people of Somalia.

The resolution before us today is intended to express to both the President and the United Nations the sense of the Congress that this situation must be dealt with swiftly and with great determination. I am an original cosponsor of the companion bill, House Concurrent Resolution 352. It builds on the Horn of Africa Recovery and Food Security Act, which I introduced last year and which the President signed this spring. It provided an array of relief, recovery and conflict resolution tools for use in Somalia and other Horn countries.

In a sense, we as a legislative body are powerless to effect any greater U.S. involvement than the executive branch is willing to implement with existing commodities and appropriations, and certainly we have no direct authority over the actions of the United Nations. But it is most important that we stand together today in our insistence that these two organizations, and in fact all civilized nations that are capable of any assistance at all, get off the dime and start delivering massive amounts of aid, under armed guards if necessary, to the starving people of Somalia.

And it is also important that we convey to the warring factions in Somalia itself, who continue their struggle despite the decimation of their own people, that it is time to put down their guns and tend to the needs of all Somalis. The enemy leaders, who are members of the same clan, must be made to realize that if the populace of Mogadishu dies of starvation, there will be little reason left to gain control of that once-beautiful city.

Mr. Speaker, this is a terrible tragedy, and one that should have been averted long ago through a much more forceful international presence and concern. The only people who are eating in Somalia right now are the people with guns, and that tends to be younger men. The women, children, and aged are dying in unprecedented numbers of starvation. It is now widely agreed that the only possible solution is to flood the country with so much food aid that it will no longer be necessary for the powerful few to appropriate available supplies for their own needs at gunpoint.

I urge all of my colleagues to unanimously support this resolution, Senate Concurrent Resolution 132, and to send the strongest possible message to President Bush, the United Nations, and the warring Somali generals that this Congress wants action now—before it is too late.

Mr. HALL of Ohio. Mr. Speaker, I rise in support of the resolution offered by the gentleman from New York [Mr. GILMAN]. I am pleased to be an original cosponsor. The situation in Somalia, as most of my colleagues know by now, is the worst humanitarian crisis the world is faced with today. In fact, relief agencies say that it is the worst situation that they have ever faced. The death rates defy imagination: 7,000 people died in one town of 40,000 people in 1 month, and it has been estimated that up to one-fourth of the children under the age of 5 have perished. This is a situation which we cannot, with any moral conscience, sit by and watch as an entire nation perishes.

There have been, and continue to be, efforts to bring some measure of humanity to this unparalleled tragedy. The nongovernmental organizations, supported by United States and other donors' assistance, have been working tirelessly and courageously, at extreme risk of personnel, to save lives and keep supply networks open. But despite their unflagging dedication and commitment, much, much more needs to be done to pull Somalia

out of this profound human tragedy. That is what this resolution is trying to do. It is asking the United States to take the moral leadership at the United Nations to make Somalia a top priority. It commends the administration for having recently become more actively engaged with the Somalian situation, but more importantly, it urges the United States to work with the United Nations to deploy the humanitarian escort guards in Somalia immediately—with or without the consent of the Somali factions. Let me make it absolutely clear, however, we are not talking about a military intervention of the type that has been discussed in the former Yugoslavia aimed at military targets. Nor should it be confused with a peacekeeping force. The purpose of this humanitarian escort force is solely to protect relief personnel and supplies for a limited peirod of time until greater stability can be brought to the country.

As chairman of the Select Committee on Hunger, I can tell you that there are a lot of crises around the world—Yugoslavia is only the one you're hearing most about these days—that demand greater attention than we can give them. But, Mr. Speaker, I would have to say, that if there is one place in the world where I believe that we have to reach out and set a bottom line for human suffering, it would be Somalia. We, the United Nations and the United States, can—and must—do more.

I urge my colleagues to support the resolution.

Mr. PENNY. Mr. Speaker, I strongly support Senate Concurrent Resolution 132 condemning the senseless killing in Somalia and calling upon the international community to make every effort to provide humanitarian aid to the millions of people who are starving.

Our newspapers daily carry headlines of civil war and strife around the world but it seems that the disaster occurring in Somalia has not been as prominent or eye-catching. Yet we are facing a disaster of unbelievable proportions.

The Red Cross officials believe that one-third of Somalia's people, a number between 4.5 to 6 million, are likely to die in the next 6 months unless more food is delivered to the country. To give some perspective to these numbers, during the Ethiopian famine in 1985, about 1 million of the country's 40 million people died.

The least we can do as Members of Congress is show support for the efforts of U.N. Secretary General Boutros Boutros Ghali, the U.N. Special Envoy to Somalia, Ambassador Mohammed Sahnoun and the thousands of unsung heros who represent relief agencies that risk their lives daily to deliver much needed humanitarian assistance.

In addition, we urge President Bush to work with the U.N. Security Council to deploy U.N. Security Forces to provide protection for relief workers delivering food and medicine. The U.N. also must develop creative and alternative transportation options to bypass the besieged capital of Mogadishu and transport supplies to rural areas.

I urge my colleagues to support Senate Concurrent Resolution 132.

Mr. BROOMFIELD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PAYNE of New Jersey. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New Jersey [Mr. PAYNE] that the House suspend the rules and concur in the Senate concurrent resolution, Senate Concurrent Resolution 132.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PAYNE of New Jersey. Mr. Speaker, I unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the Senate concurrent resolution just considered and concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

REGARDING VIOLENCE IN SOUTH AFRICA

Mr. PAYNE of New Jersey. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 497) relating to ongoing violence connected with apartheid in South Africa, as amended.

The Clerk read as follows:

H. RES. 497

Whereas more than 11,000 people have died in South Africa as a result of political violence since 1984, and more than one-half of these have died since the release of Nelson Mandela from prison in 1990;

Whereas the negotiations by the Convention for a Democratic South Africa (CODESA) on the formation of a transitional government that will lead to a new constitution and a nonracial, democratic government could be undermined by the continuing violence;

Whereas the terror perpetuated by the ongoing political violence jeopardizes the willingness of South Africans to participate in the transition process and compromises the climate for free political participation by all South Africans; and

Whereas credible evidence has been presented to the Goldstone Commission on Inquiry into Public Violence and Intimidation, South African human rights organizations, Amnesty International, and others that members of South African security force units have trained, armed, and funded paramilitary groups involved in committing and instigating violence, and perhaps continue to do so: Now, therefore, be it

Resolved, That the House of Representatives—

(1) notes with dismay the killing in South Africa and condemns this senseless violence;

(2) urges the Government of South Africa to take effective steps to end the violence and protect all South African citizens regardless of race, color, or creed;

(3) stresses the responsibility of all parties to end the violence in South Africa;

(4) urges all parties to return to negotiations within the Convention for Democratic South Africa (CODESA) as soon as possible; and

(5) urges the President to submit a report to the House of Representatives on—

(A) the nature of the violence in South Africa and the role that the various participants are playing in the ongoing violence; and

(B) the impact of this violence on South Africa's transition to democracy.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. PAYNE] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. PAYNE].

(Mr. PAYNE of New Jersey asked and was given permission to revise and extend his remarks.)

Mr. PAYNE of New Jersey. Mr. Speaker, on August 5, the Committee on Foreign Affairs favorably reported an amended version of House Resolution 497 for consideration by the full House. Earlier, the Subcommittee on Africa also favorably reported an amended version of the measure.

The resolution sets forth United States concerns about the devastating impact which on going violence has and will continue to have on South Africa's long overdue transition to democracy.

The measure also stresses the responsibility of all parties to take steps to end the violence and urges them to resume CODESA negotiations.

The death and destruction has significantly weakened an already delicate situation. It has also made it virtually impossible for negotiations to continue.

In July, the ANC suspended negotiations amid allegations that the South African Government was a coconspirator in the on-going violence. Most recently, COSATU and the ANC held a peaceful 2 day strike that ended with at least 20 persons being killed.

Both Mr. Mandela and President de Klerk have expressed hope that the violence will end and the negotiations will resume. However, to date, neither has occurred. Therefore, Mr. Speaker, it is imperative that the full body move swiftly to pass this resolution and send a strong message to South Africa stressing the urgency of ending the violence and moving quickly to resume negotiations toward a post apartheid South Africa.

This resolution represents a bipartisan effort by members of the Subcommittee on Africa and the Committee on Foreign Affairs to craft legislation reflecting the concern of the Congress about the violence continuing unabated in South Africa. I urge my

colleagues to support this important initiative.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support House Resolution 497, which condemns the violence in South Africa. All of us recognize the tragedy of the continuing bloodshed—and the threat the killing poses for a peaceful, democratic future.

Throughout the subcommittee and committee process, we have made substantial improvements to the resolution, led by the ranking member of the Africa Subcommittee, Mr. BURTON. The resolution now urges all parties to return to the negotiating table. As Assistant Secretary of State for Africa, Hank Cohen, recently pointed out before the subcommittee, the recent violence makes further negotiations, more, not less important.

All parties—the Government, the ANC, and Inkatha—must do more to contain the violence. All parties must also redouble their efforts to work out South Africa's future at the bargaining table—not in the streets.

I urge my colleagues to support this resolution to end the violence in South Africa and return the parties to the negotiating table. Only through such action will the people of South Africa find a just end to the apartheid system.

□ 1620

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN], the senior Republican on the Committee on Foreign Affairs.

Mr. GILMAN. Mr. Speaker, I rise to express my support for House Resolution 497, and I commend the chairman of our Subcommittee on Africa, the gentleman from California [Mr. DYMALLY], as well as the ranking Republican member of the subcommittee, the distinguished gentleman from Indiana [Mr. BURTON], for their outstanding work on this measure.

All of us recognize the tragedy of continued bloodshed in South Africa, and we all hope and pray for that nation's peaceful future.

I am concerned with the ANC's decision to walk away from the negotiating table, in favor of mass action. As Assistant Secretary of State for African Affairs, Hank Cohen, recently pointed out before the subcommittee, that violence makes further negotiations more, not less important.

All parties in South Africa—the Government, the ANC, Inkatha—must do more to contain the violence. All parties must redouble their efforts to work out South Africa's future at the bargaining table—not in the streets.

Mr. PAYNE of New Jersey. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I, too, have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New Jersey [Mr. PAYNE] that the House suspend the rules and agree to the resolution, House Resolution 497, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PAYNE of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just considered and agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

SENSE OF THE CONGRESS ON THE ALLEVIATION OF HUNGER

Mr. PAYNE of New Jersey. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 179) expressing the sense of the Congress with regard to supporting increased donations of commodities for international hunger alleviation purposes through purchases of agricultural commodities from the United States and developing countries financed by the Government of Japan.

The Clerk read as follows:

H. CON. RES. 179

Expressing the sense of the Congress with regard to supporting increased donations of commodities for international hunger alleviation purposes through purchases of agricultural commodities from the United States and developing countries financed by the Government of Japan.

Whereas 750,000,000 people worldwide, more than three times the population of the United States, suffer from moderate to severe malnutrition and do not consume enough calories to perform sustained manual labor;

Whereas 9,240 people, mostly children under the age of five, die every day from hunger-related causes and others suffer brain damage due to malnutrition;

Whereas medical research documents that full economic productivity by adults and full mental development of young children both require adequate nutrition;

Whereas permanent impairment of body or mind due to chronic or temporary hunger contributes to a cycle of lowered economic productivity in which millions of individuals and families are incapable of generating sufficient income to escape from the cycle of hunger and lack of productivity;

Whereas adequate nutrition and other health measures have resulted in lowering rates of infant mortality below 50 per 1,000 during the twentieth century in countries containing over 50 percent of the world's population, and it is technically feasible to achieve such a reduction worldwide by the year 2000 through elimination of persistent hunger and other health measures;

Whereas sufficient food can be produced on a global basis to adequately feed the population of the world, to prevent brain damage due to malnutrition, and to eliminate lack of economic productivity due to hunger;

Whereas such food supplies must come from production both in the countries which are net exporters of agricultural commodities and products and also from increased food production in food-deficit countries in the developing world;

Whereas development assistance in the from of food can be productively used to alleviate hunger and malnutrition among impoverished people and also as a resource to promote improvements in local agriculture, health, sanitation, education, environmental sustainability and basic infrastructure;

Whereas private voluntary groups, other nongovernmental organizations, and international organizations have experience in the design and successful administration of projects using food assistance for development-related projects and for emergency relief;

Whereas the United States has demonstrated a sustained commitment to making food available for development and relief purposes through the Public Law 480 Food for Peace and other food donation programs, totaling $41,000,000,000 in gross value between 1954 and 1988;

Whereas the policy of the United States has been to encourage cooperation among the bilateral aid programs of various donor governments and international organizations such as the World Food Programmed in pursuit of hunger alleviation and related development goals;

Whereas the Japanese commitment to double its official development assistance from $25,000,000,000 between 1983 and 1987 to $50,000,000,000 between 1988 and 1992 and to provide a larger proportion of its aid programs as grants will make Japan the largest net bilateral development assistance donor;

Whereas it is in the interest of both the Unites States and Japan to promote hunger alleviation, sustainable economic growth and political democracies in developing nations;

Whereas Japan has barriers to the importation of certain United States agricultural commodities and products, such as rice;

Whereas there has been a lack of progress on negotiating reduced barriers to many United States commodities which would be highly competitive in an open Japanese market;

Whereas it is also in the interest of both the United States and Japan to reduce bilateral trade tensions between the two nations, particularly in the area of agricultural trade; and

Whereas the United States' agricultural production capabilities and Japan's financial capabilities are complementary factors that must be coordinated for dramatic global progress to be made in reducing preventable deaths from hunger-related causes during the next decade: Now, therefore be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the President should direct the Secretary of Agriculture, the Secretary of State, and the Administrator of the Agency for International Development to encourage the Government of Japan to use a portion of

its increased foreign assistance funds to significantly increase the availability of international food aid supplies through bilateral or multilateral channels to meet the needs of the world's hungry people;

(2) Japanese aid resources could be channeled to finance, directly or indirectly, long-term contracts to purchase and deliver commodities from the United States and developing country agricultural producers as donations to nongovernmental or international organizations for use in hunger alleviation projects with developmental results;

(3) during the duration of any such long-term contractual agreement, such purchases of food and agricultural commodities and products produced in the United States which are purchased by the Government of Japan for donation and delivery to international hunger relief programs should be considered as the equivalent of increased importation into Japan of the same quantities of such product for the purposes of United States Trade Law in cases where this would be of advantage to Japan;

(4) during the time period of any such Japanese purchases from the United States, the value of United States Government purchases of the same commodities for use in food aid programs under Public Law 480 should be maintained at no less than fiscal year 1990 levels; and

(5) the commodities purchased under this program should be donated to organizations equipped to ensure that the food will be available only to projects that meet the following criteria:

(A) The use of the food will either be positive or neutral in its impact on the incomes of local agricultural producers and on incentives for production in the recipient nation.

(B) The food will be targeted for use in improving the nutritional status of impoverished and malnourished people.

(C) To the maximum extent possible, the food will be used in such programs as food-for-work, school feeding, or other programs resulting in improved smallholder agricultural productivity, health, sanitation, environmental sustainability, education or basic infrastructure as well as improved nutrition.

Allowance should also be made for the monetization of up to 25 percent of the food donated for any particular project, subject to the three conditions listed above.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. PAYNE] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of House Concurrent Resolution 179, a resolution which proposes to encourage the Government of Japan to use its foreign assistance funds to purchase United States agricultural commodities for the purpose of alleviating hunger in developing countries. I would like to thank Representative BEREUTER for his leadership in sponsoring this resolution. In addition, we appreciate the cooperation of Chairman ROSTENKOWSKI and the Committee on Ways and Means and Chairman DE LA GARZA and the Committee on Agriculture in promptly reporting this resolution.

We are well aware that regional food supply shortages exist in many areas of the world. In drought-stricken southern Africa, famine later this year can be averted only by a massive and immediate international relief effort. Serious difficulties also persist in the Horn, especially in war-torn Somalia. In spite of sharply higher food needs, cereal food aid shipments are expected to decline by half a million tons this year.

While the United States can be proud of its contributions of food aid to the southern Africa drought, where it has provided over a million and half metric tons of grain to date, more than 30 percent of the total aid required, other donors have not yet made sufficient assistance available to meet the region's requirements. This resolution urges that the Japanese Government use some of that country's substantial foreign assistance budget to purchase agricultural commodities in the United States which can be donated to the World Food Program to help meet urgent food shortages.

I ask my colleagues to join with me in supporting this resolution to direct the executive branch to encourage the Government of Japan to work with our Government in meeting the needs of starving people around the world.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend the gentleman from Nebraska [Mr. BEREUTER] for the leadership he has shown on this issue, and the gentleman from Florida [Mr. FASCELL] for his efforts in bringing this resolution to the floor.

The purpose of House Concurrent Resolution 179 is very simple: It matches up one of the world's largest foreign aid donors—Japan—with the world's largest agricultural producer—the United States—in order to address the problem of global hunger.

This legislation urges cooperation between the United States and Japan in an area where we both have a long-standing commitment. For the last 10 years, our two countries have ranked one and two in the amount of foreign aid we provide to developing countries. At the same time, relations between our two countries have at times been difficult because of the trade deficit.

This resolution can improve the trade problem by building on areas where we already work together.

I support this resolution, and I hope that the administration and the Japanese Government will seek to pursue this policy.

Mr. Speaker, I ask unanimous consent for the gentleman from Nebraska [Mr. BEREUTER] to control the balance of the time allocated to me.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. BEREUTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this Member would like to thank the cosponsors of House Concurrent Resolution 179, which this Member introduced in original form back in the 101st Congress and, in refined form, in this Congress. I also want to thank a number of committees and Members that have been mentioned by the distinguished gentleman from New Jersey [Mr. PAYNE], and I thank him for his kind remarks.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise in strong support of House Concurrent Resolution 179, legislation encouraging Japan to help alleviate international hunger. I commend my colleague the gentleman from Nebraska [Mr. BEREUTER] for his timely initiative and I thank the chairmen and ranking minority members of the House Foreign Affairs Committee and the Subcommittees on International Policy and Trade, and Asia and the Pacific for supporting this bold proposal.

Each day, we can vividly observe through the press the deteriorating ability of vast numbers of people to meet their daily nutritional requirements. In the United States, the lack of coordination among various Federal programs has brought attention to the idea of one stop shopping. Abroad, drought and war in Africa effects the ability of hundreds of millions of individuals to provide basic nutrition for themselves and their families. Furthermore, environmental degradation and ill-conceived development programs continue to exacerbate the problem worldwide and frequently are its cause.

If the foreign assistance resources available to Japan become more closely tied to alleviating world hunger, many lives will be saved and much good-will will be generated. Accordingly, I urge my colleagues to support House Concurrent Resolution 179.

Mr. BEREUTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from New York [Mr. GILMAN] for his kind and informative remarks.

As I mentioned, we have a great number of Members and three committees that have acted favorably on this legislation. In particular, thanks go to the distinguished chairman and ranking member of the Committee on Foreign Affairs, Mr. FASCELL and Mr. BROOMFIELD, and its Subcommittees on Asia and the Pacific, Mr. SOLARZ and Mr. LEACH, and International Economic Policy and Trade, Mr. GEJDENSON and Mr. ROTH, and the chairman and ranking member of the Committee on Ways and Means, Mr. ROSTENKOWSKI

and Mr. ARCHER and its Subcommittee on Trade, Mr. GIBBONS and Mr. CRANE, the chairman and ranking member of the Committee on Agriculture, Mr. DE LA GARZA and Mr. COLEMAN, and its Subcommittee on Department Operations, Research, and Foreign Agriculture, Mr. ROSE and Mr. ROBERTS, and the chairman and ranking member of the Select Committee on Hunger, Mr. HALL and Mr. EMERSON.

The broad interest in this resolution in the Congress is indicative of the fact that it makes sense from a number of angles: foreign policy, exports and trade, agriculture, and hunger alleviation.

House Concurrent Resolution 179 expresses the sense of the Congress that the President should encourage the Government of Japan to consider financing increased donations of commodities for international hunger alleviation purposes through purchases of agricultural commodities from the United States and developing countries. Developing a long-term collaborative program of this type is an excellent win-win-win opportunity, helping hungry and starving people, the farmers of the United States, and better trade balance and better relations between Japan and the United States.

The idea is simple. The Japanese foreign aid program has recently been expanded significantly. The need for international food assistance for emergencies and for developmentally oriented poverty alleviation programs has never been greater. Would it not be a good idea for Japan to use some of its foreign assistance cash to help needy, poor people in a way that creates United States exports and more balanced bilateral trade relations between the United States and Japan? This kind of program could provide immediate three-way benefits while not, I repeat, not, in any way, impeding other critically important and necessary Japanese market-opening measures such as those being discussed in the GATT negotiations and ongoing bilateral United States-Japan trade and SII [structural impediments initiative] talks?

Nor would such a program displace any commercial sales of U.S. commodities. The assistance would be going through channels that could ensure that it was targeted to reach the poorest of the poor, who are malnourished because they do not have enough money to buy the food they need in the market economy. How can these people, almost 1 billion worldwide, 1 in 7 of the people on the globe, ever become productive and paying consumers unless they are given a hand to get out of the health-impairing situation of hunger and malnutrition in which they live?

The Japanese aid program, mostly focused on multilateral financial assistance, project aid, and cash grants, is not roughly the same size as the U.S. program. Its growth is a sign of hope for the world's attack on poverty and malnutrition. Japan has increased its aid program at a time when many nations' programs have been stagnant or shrinking. This generosity is to be commended. However, donation of agricultural products for hunger relief has never been a major component of the Japanese aid program. In part this is because of limited Japanese domestic food production capacity. In part it is because of the limitations imposed by the special institutional requirements of effective food aid coupled with a low level of involvement by Japanese private voluntary groups in international relief and development efforts historically. Food aid, to be effective, takes a special kind of handling and requires careful on-the-ground supervision. The U.S. Food for Peace Program since 1954 has benefited from close collaboration with major private voluntary groups such as CARE, Catholic Relief Services, and Lutheran World Relief and with U.N. agencies such as the World Food Program. These organizations provide the channels to ensure that food gets to the people in need, promotes development, and does not damage local farmers in desperately poor countries. This linkage with the private voluntary community is one of the great strengths of the U.S. foreign aid program in general, and U.S. Food Aid Programs in particular.

Such private voluntary organizations are themselves becoming more global. CARE International has recently established a Japanese CARE, for example. The U.N. agencies, particularly the World Food Program [WFP] which is the U.N.'s food aid agency, also play a valuable international role in relief and development using food aid. These organizations are poised to use additional commodity aid that the Japanese might supply. Of course, U.S. farmers and food processors would be delighted to grow and sell whatever food Japan might want to purchase for this program.

To give a concrete example of this type of activity, which is already happening, modestly and sporadically, let me talk about the World Food Program of the United Nations, now headed by the former Assistant Secretary for Food and Consumer Services of the U.S. Department of Agriculture, Catherine A. Bertini. The total donations of commodities and cash by all countries for use in the World Food Program have stayed roughly stable since 1985 at about $600 million per year. The United States has been the largest donor to the program, accounting for about one-third of all donations and pledges in 1991–92 and prior periods. Total donations received by WFP have provided only about 85 percent of what the World Food Program felt was needed in those years, and the proportion may fall even further in 1992. Up until 1988, only 20–25 percent of this amount donated to WFP needed to be used for emergencies and refugee relief. After 1988, the proportion needed just to meet emergency needs has grown steadily and is now over 50 percent of the total. This has meant tremendous cutbacks and shortages in WFP-supported development programs such as food for work for the destitute rural poor in Bangladesh and school-feeding programs that help keep poor children in school to receive basic education. Clearly, the amount of food needed, particularly in light of the terrible drought in eastern and southern Africa this year and multiplying emergency and refugee needs in other regions, is growing even more rapidly than usual. Without question, more food donations can be used this very day.

Up to now, the Government of Japan has occasionally procured food in the United States for international hunger relief through the World Food Program. During the 5-year period 1988–1992, World Food Program purchases financed by untied cash contributions from the Government of Japan totaled $300 million; $185 million of this procurement was done in developing countries; $27 million was for procurement in developed countries other than the United States; $88 million financed procurement in the United States, all for wheat used in WFP programs in the Horn of Africa and Pakistan, especially in refugee camps. The resolution being considered today would encourage increased funding by Japan for procurement of this sort in the United States, which now averages less than $20 million per year.

To the extent that the Government of Japan would purchase commodities in the United States through long-term contractual arrangements for donation and delivery to international hunger relief programs, the resolution proposes that such purchases be considered as the equivalent of increased importation into Japan of the same quantities of this product for the purposes of United States trade law. At the present time, the bilateral United States-Japan trade imbalance is not used as a trigger for trade actions of a retaliatory nature though there are a number of legislative proposals to do so. Without taking a position on the merits of such proposals, this resolution expresses the sense of Congress that worthy action by Japan to ensure that additional food assistance reaches hungry people around the world through effective channels should be treated as a positive contribution to establishing better balance in direct United States-Japan trade.

Many experienced private voluntary organizations, as well as the World Food Program, would stand ready to help the Government of Japan distribute additional food aid effectively. The resolution suggests that commodities purchased should be donated to—

Organizations equipped to ensure that the food will be available only to projects that meet the following criteria: (1) The use of the food will either be positive or neutral in its impact on the incomes of local agricultural producers and on incentives for production in the recipient nation; (2) The food will be targeted for use in improving the nutritional status of impoverished and malnourished people; and (3) To the maximum extent possible, the food will be used in such programs as food-for-work, school feeding, or other programs resulting in improved smallholder agricultural productivity, health, sanitation, environmental sustainability, education or basic infrastructure as well as improved nutrition.

These types of assurances are self-explanatory and address the known problems of poorly designed food assistance programs.

These types of programs are the ones that will make this triple benefit program for the United States agriculture, and food producers and for Japan on behalf of international peace, development, and understanding. Mr. Speaker, I urge support for the resolution.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in support of House Concurrent Resolution 179. This resolution expresses the sense of the Congress with regard to supporting increased donations of food to needy developing countries through purchases of agricultural commodities from the United States and developing countries, financed by Japanese development assistance programs.

The purpose of this resolution is to identify a way that the Government of Japan can make a substantial contribution for the benefit of the world's hungry while at the same time improving trade relations with the United States.

The United States has traditionally been the world's leader in providing food assistance to the world's hungry and has provided over $40 million in such assistance since 1954. This historic commitment by the United States will continue, but needs to be augmented by the efforts of other countries, such as Japan, if there is to be concrete progress toward the goal of eliminating hunger in the world by the year 2000.

Mr. Speaker, this resolution sets forth a cooperative approach between United States agriculture and Japanese development assistance programs. If the provisions of this resolution are carried out, it would help to improve United States-Japanese trade relations, increase United States agricultural exports, and, most importantly, help feed millions of hungry people around the world.

For these reasons, I urge my colleagues' support for this important resolution.

Mr. DORGAN of North Dakota. Mr. Speaker, I wish to support this resolution because it can contribute to a reduction in our trade deficit with Japan, and foster a spirit of cooperation with Japan in the arenas of both trade and international hunger relief.

This resolution comes in a year when the need for food assistance, especially for grain, is critical, and the donations by the more affluent nations is down.

In fact, grain donations to areas where people are starving is down by about 500,000 tons this year, according to the United Nations. This is despite severe food shortages in many parts of Africa and elsewhere.

This resolution is only an invitation by the Congress to Japan, offering the Japanese leaders a chance to score their Government's donations of food as if they were United States grain arriving in Japan. That is, for purposes of any United States policies that could result in United States trade sanctions or retaliations because of the unbridled trade deficit between Japan and the United States, Japan could count any purchases of United States food commodities for hungry nations as its own imports of United States commodities.

Since Japan does not itself grow grain for export, this would encourage Japan to buy American grains when contributing to world food assistance programs.

In fact, Japan has been involved in such programs for many years. Japan supplied about 450,000 metric tons, or about $60 million to $70 million, toward such food assistance programs in the past year. It would be a plus for the United States grain market if Japan bought that grain from us.

This resolution encourages Japan to make those food assistance purchases from us. It is a resolution offering a deal that is good for both the United States and Japan, and I ask the Members of the body to support it.

Mr. EMERSON. Mr. Speaker, I rise today in support of this resolution on increasing Japan's contributions to international food aid programs through the purchase of commodities from the United States or developing countries. I would also like to commend my colleague, the gentleman from Nebraska, for his sponsorship of this important legislation and his work in bringing it to the floor.

Hunger, especially among children, remains one of the world's most intractable and tragic problems. This year, indeed, Africa faces perhaps its most monumental food deficits of this century. From southern Africa to the Horn, the lethal combination of drought, famine and civil unrest have placed at risk the lives of 40 million people. Even in better times, 40,000 children die each day from diseases related to malnutrition, and millions more go to bed hungry.

The United States has a long and proud tradition of support for food assistance programs as a way to fight malnutrition and to promote long-term development in the Third World. Through the Food for Peace and other food assistance programs, we have provided some $41 billion to help achieve these goals over the past 40 years. However, while the United States remains committed to staying in the forefront of efforts to reduce malnutrition and poverty in the developing world, it is time now for other nations—such as Japan—to join as partners in these efforts.

This resolution calls upon the President, through the appropriate agencies of government, to encourage Japan to use its increased foreign assistance funds to expand resources available to meet global food aid needs. These funds might be used, for example, to buy and transport goods from the United States to countries in need or to reinforce the hunger-related activities of non-governmental or international organizations. In this way, this legislation is an important expression of America's commitment to work together with Japan and other nations to eradicate the chronic suffering that afflicts so many of the world's people, and I urge your strong support of this bill.

□ 1630

Mr. BEREUTER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PAYNE of New Jersey. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New Jersey [Mr. PAYNE] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 179.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PAYNE of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on House Concurrent Resolution 179.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PROVIDING FOR USE OF ELECTRONIC COTTON WAREHOUSE RECEIPTS

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5764) to amend the U.S. Warehouse Act to provide for the use of electronic cotton warehouse receipts, as amended.

The Clerk read as follows:

H.R. 5764

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

Section 17 of the United States Warehouse Act (7 U.S.C. 259) is amended—

(1) in paragraph (1)(A) of subsection (c)—

(A) by striking "The Secretary of Agriculture, or" and inserting "Notwithstanding any other provisions of State or Federal law, the Secretary of Agriculture, or";

(B) by striking "licensed under this Act" and inserting "licensed under this Act or in any other warehouse";

(C) by striking "section 18" and inserting "section 18 or under any applicable State law";

(2) in paragraph (2)(A) of subsection (c), by striking "of this Act" and inserting "of this Act or State law";

(3) in paragraph (2)(B) of subsection (c), by striking "the Secretary may" and inserting "with respect to cotton stored in a warehouse licensed under this Act, the Secretary may";

(4) in paragraph (3) of subsection (c), by striking "licensed under this Act" and inserting "covered under this subsection"; and

(5) by adding the following new subsection at the end thereof:

"(e) Notwithstanding any other provision of State or Federal law, any person designated as a holder of an electronic cotton warehouse receipt on a record in a system of records applicable to cotton maintained on an electronic cotton warehouse receipt system approved by the Secretary of Agriculture pursuant to regulations issued under this section shall, for the purposes of perfecting the security interest of such person under State or Federal law with respect to the cotton covered by such warehouse receipt, be considered to be in possession of the warehouse receipt. This subsection is applicable to electronic cotton warehouse receipts covering cotton stored in a cotton warehouse, whether or not such warehouse is licensed under this Act.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes, and the gentleman from Kansas [Mr. ROBERTS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to advise Members that this is a very simple bill. It does exactly what the title stipulates, and that is that electronic warehouse receipts for cotton may be used by the industry. This will bring us into the 21st century.

Mr. Speaker, H.R. 5764 amends the U.S. Warehouse Act to authorize the use of electronic warehouse receipts for cotton.

This legislation simply broadens the authority of the Secretary of Agriculture to allow the use of an electronic central filing system, in accordance with regulations issued by the Secretary, in lieu of the outdated paper-based warehouse receipt system. Warehouse receipts are used to track the ownership of cotton stored in Federal- and State-licensed warehouses.

H.R. 5764 will modernize and streamline the entire cotton warehouse receipt system. It will require all the same information and provide all the same legal protections as are provided with the current paper system.

Mr. Speaker, several pilot projects have been used to test the electronic system. The new system will be faster, more efficient, require less storage space, and improve security. I am pleased to support this legislation and help the U.S. cotton industry join the computer information age.

Mr. Speaker, an informal review by the Congressional Budget Office indicates this legislation has no budget cost. I urge my colleagues to support H.R. 5764.

Mr. Speaker, I ask unanimous consent that the balance of the time allocated to me be managed by the gentleman from Louisiana [Mr. HUCKABY], the distinguished chairman of the subcommittee that handled this legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas [Mr. DE LA GARZA]?

There was no objection.

Mr. HUCKABY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5764 amends the U.S. Warehouse Act to clarify that all cotton warehouses, whether federally or State licensed, may record in a central filing system the information required to be included in a receipt under section 18 of the act or applicable State law, and requires such electronic warehouse receipts for cotton to be treated identically to paper receipts with respect to the perfection of a security interest under State law.

After harvest, cotton is ginned and pressed into bales. Each bale is individually tagged and assigned a grade. If stored in a warehouse, the bale is assigned a warehouse receipt. Generally, these documents are 80-column computer punch cards. When a farmer or a buyer returns to a warehouse to retrieve cotton, the farmer or buyer must tender the warehouse receipt to receive the same bale of cotton delivered to the warehouse by the farmer.

The paper warehouse receipts are bearer documents and are the ultimate means of perfecting an interest in the cotton represented by the certificates. There are major inefficiencies in handling the paper documents because sorting, storing, and moving the documents is slow and expensive. Frequently, the data on the documents must be entered into computers before the data can be utilized, and the documents must then be stored in secure areas. The equipment to handle these outdated punch cards is becoming obsolete. Maintenance of the equipment is becoming increasingly expensive and difficult as the use of this technology ebbs and replacement parts become difficult to obtain.

In order to modernize and streamline this system, H.R. 5764 authorizes the use of an electronic receipt to replace the current paper warehouse receipt. The electronic receipt can be created on an electronic title system by warehouses storing cotton, who would transfer the electronic receipt to the producer or others. The receipt can be transferred to specific accounts and only the owner of the account can act on the receipt.

The 1990 farm bill authorized the Secretary of Agriculture to issue regulations governing the operation of such a system of computerized cotton warehouse receipts in federally licensed warehouses. The bill expands the Secretary's authority to issue such regulations to apply to cotton stored in all cotton warehouses. The provisions of H.R. 5764 will help protect the lien rights of creditors with respect to electronic cotton warehouse receipts issued by non-federally licensed warehouses as well as by federally licensed warehouses. This requires States to treat an electronic cotton warehouse receipt the same way the State treats a paper receipt with respect to how a security interest is perfected under State law. This also provides that State law treat the electronic receipt the same way it treats a paper receipt and allows State licensed warehouses to issue electronic receipts.

Without the authority provided by the bill, State-licensed warehouses would be placed at a significant disadvantage until each individual State law is changed to provide equal treatment of electronic receipts for bales of cotton. The bill ensures that State-licensed warehouses have equal opportunity to utilize electronic systems and benefits from the efficiencies and cost reductions. Without the legislation, federally licensed warehouses could gain a significant competitive advantage as the industry shifts from outdated and cumbersome paper documents to modern and efficient electronic receipts.

Electronic warehouse receipts offer the potential for increased efficiencies and reduced costs by both private and public entities in the domestic cotton industry. In comparison to paper receipts, electronic receipts reduce keypunch data entry and require none of the handling or storage associated with paper. The speed of transactions involving electronic receipts would be greatly improved over the time currently required to consummate a paper based transaction.

□ 1640

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend the Agriculture Committee chairman, Mr. DE LA GARZA, and Cotton Subcommittee chairman, Mr. HUCKABY, for their efforts in bringing H.R. 5764 to the floor today. H.R. 5764 amends the U.S. Warehouse Act to clarify that all cotton warehouses, either federally or State licensed, may utilize electronic or paper receipts in a similar manner with respect to financial security interests under State Law.

For some time, the domestic cotton industry has been leading the effort to make the practical use of electronic warehouse receipts a reality. What the domestic industry has lacked was the legal capacity to protect the financial interests of creditors with respect to electronic warehouse receipts issued by nonfederally licensed warehouses in the same manner that federally licensed warehouses are protected.

This legislation would require States to treat an electronic warehouse receipt—whether issued by a federally or nonfederally licensed warehouse—the same way that a State treats a paper receipt with respect to protecting financial security interests under State law.

Electronic warehouse receipts offer the potential for increased efficiencies and reduced costs by both private and

public entities in the domestic cotton industry. In comparison to paper receipts, electronic receipts reduce keypunch data entry and require none of the cumbersome handling and storage presently associated with paper receipts. Plus, electronic receipts would lead to improved security of the collateral instrument by making forgery or false documents much more difficult to accomplish.

I thank both the Agriculture Committee chairman and Cotton Subcommittee chairman for their leadership on this cost-saving and commonsense approach to cotton warehousing. I fully support this measure and urge its immediate adoption.

Mr. Speaker, I yield back the balance of my time.

Mr. HUCKABY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the bill, H.R. 5764, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

EQUITABLE RELIEF TO PRODUCERS OF SUGARCANE

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5763) to provide equitable relief to producers of sugarcane subject to proportionate shares, as amended.

The Clerk read as follows:

H.R. 5763

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

SECTION 1. EQUITABLE TREATMENT FOR PRODUCERS.

Section 359f(b)(5) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ff(b)(5)) (hereinafter referred to as "the 1938 Act"), is amended by striking subparagraph (B) and inserting the following:

"(B) DETERMINATION OF VIOLATION.—No producer shall be considered to have violated subparagraph (A) unless the processor of the sugarcane harvested by such producer from acreage in excess of the proportionate share of the farm markets an amount of sugar that exceeds the allocation of such processor for a fiscal year.

"(C) CIVIL PENALTY.—Any producer on a farm who violates subparagraph (A) by knowingly harvesting, or allowing to be harvested, an acreage of sugarcane in excess of the farm's proportionate share shall be liable to the Commodity Credit Corporation for a civil penalty equal to one and one-half times the United States market value of the quantity of sugar that is marketed by the processor of such sugarcane in excess of the allocation of such processor for the fiscal year. The Secretary shall prorate penalties imposed under this subparagraph in a fair and equitable manner among all the producers of sugarcane harvested from excess acreage that is acquired by such processor.".

SEC. 2. ADJUSTMENT AFTER DISASTER.

Section 359f(b) of the 1938 Act, as amended by section 1 of this Act, is further amended by inserting after paragraph (6) the following new paragraph:

"(7) ADJUSTMENT.—Whenever the Secretary determines that, because of a natural disaster or other condition beyond the control of producers that adversely affects a crop of sugarcane subject to proportionate shares, the amount of sugarcane produced by producers subject to the proportionate shares will not be sufficient to enable processors in the State to meet the State's cane sugar allotment and provide a normal carryover inventory of sugar, the Secretary may uniformly allow producers to harvest an amount of sugarcane in excess of their proportionate share, or suspend proportionate shares entirely, as necessary to enable processors to meet the State allotment and providea normal carryover inventory of sugar.".

SEC. 3. CLARIFYING AND CONFORMING AMENDMENTS.

Section 359f(b) of the 1938 Act, as amended by sections 1 and 2 of this Act, is further amended—

(a) in paragraph (1)(B), by—

(1) striking "production of sugar" and inserting "production of sugarcane"; and

(2) inserting "of sugar" before the period at the end;

(b) in the first sentence of paragraph (2), by—

(1) striking "sugar processed from all crops by all processors" and inserting "sugarcane produced by producers in the area"; and

(2) inserting "of sugar" after "provide a normal carryover inventory"; and

(c) in the second sentence of paragraph (2), by inserting "paragraph (7) and" after "under".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes, and the gentleman from Kansas [Mr. ROBERTS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, again, the title exactly explains what this legislation is all about. In the 1990 Farm Act, we had a standby marketing program to limit the production of cane sugar and sugar beets. It came to our attention that in some instances inadequate notice was given and, thereby, the producers would have beyond their allocation.

This legislation is to correct that and allow them equitable relief.

Mr. Speaker, H.R. 5763 provides for the equitable treatment of producers of sugarcane in the event a national sugar marketing allotment program is in effect.

Under the 1990 Farm Act, Congress authorized a standby marketing program to limit the production of cane sugar and sugar beets. If this program goes into effect, for States with more than 250 sugarcane producers, each farm would be assigned a proportionate share of harvestable acres and would be liable for severe penalties for exceeding its share.

It has been brought to the attention of the Committee on Agriculture that because of the way the overall proportionate allocation provision is structured, producers in some States may not receive adequate notice of what their proportionate shares will be prior to harvest. In order to avoid being penalized for harvesting above their proportionate share, these producers would be forced to plow up or destroy their sugarcane.

In order to avoid this problem, H.R. 5763 will allow these producers to harvest the sugarcane from excess acres provided that the processor of such cane does not market sugar in excess of its allocation. In the event that the processor exceeds its allocation, producer penalties would be assessed and prorated based on the amount of sugar marketed in excess of the processor's allocation.

H.R. 5763 also authorizes harvest in excess of the farm's proportionate share in the event of a natural disaster or other adverse condition beyond the control of the producer that affects a crop of sugarcane. This will help enable processors to meet their allocation and provide a normal carryover inventory of sugar.

Mr. Speaker, this legislation merely provides for the equitable treatment of all cane sugar producers in States subject to proportionate shares. An informal review by the Congressional Budget Office indicates this legislation has no budget cost. I urge passage of this legislation.

Mr. Speaker, I ask unanimous consent that the balance of the time allocated to me be handled by the gentleman from Louisiana [Mr. HUCKABY], chairman of the subcommittee.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. HUCKABY. Mr. Speaker, I yield myself such time as I may consume. H.R. 5763 provides for equitable treatment of sugarcane producers who are subject to proportionate shares. In order to maintain the integrity of the no-cost provision of the United States sugar program and protect our traditional foreign suppliers, such as the CBI nations and the Philippines, the 1990 farm bill guarantees a minimum level of sugar imports of 1.25 million tons. To insure this minimum import level, the 1990 farm bill provides for domestic marketing controls on American sugar. One provision of the marketing allotments requires the establishment of proportionate shares, essentially acreage allotments, for sugarcane farms in States with more than 250 producers, in this case, my home State of Louisiana.

If the Secretary of Agriculture determines that marketing allotments must be imposed, the announcement would come only weeks before the commencement of the harvest in Louisiana, a year or more after the crop was planted. As the law is currently drafted, producers would be penalized for harvesting acreage in excess of their proportionate shares. Farmers who plant and cultivate a crop of sugarcane without receiving any notice that their crop acreage for that year would be restricted would be unfairly penalized if limitations on harvesting acreage were imposed just before harvest. This problem would be particularly burdensome in the first year that proportionate shares are triggered. It would be not only economically wasteful but extremely difficult from a cultural stand-

point for producers to plow up acreage with harvestable sugarcane or to destroy the mature cane.

H.R. 5763 changes this provision so that producers would only be penalized if sugar in excess of a processor's allotment is marketed. This allows producers to harvest the crop, process it, and store it until it can be legally marketed. H.R. 5763 ensures that Louisiana sugarcane farmers will be treated in the same manner as their fellow sugarcane and sugar beet producers in other States.

H.R. 5763 also modifies the producer penalty rate to better reflect the producer's share of proceeds from the sale of sugar from cane and allows the Secretary to adjust or suspend proportionate shares for a crop to account for natural disasters.

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 5763, a measure to ensure equitable relief to producers of sugarcane subject to proportionate shares in the event a national sugar marketing allotment program is in effect. I would also like to thank the Agriculture Committee chairman, Mr. DE LA GARZA, and subcommittee chairman, Mr. HUCKABY, for their work on behalf of this bill.

This measure makes technical changes to the Agricultural Adjustment Act of 1938 by providing the Secretary of Agriculture greater flexibility in allowing the harvest of sugarcane acreage in excess of proportionate shares, or to suspend proportionate shares entirely, in the case of a natural disaster or other adverse crop and weather condition.

This measure also provides for a civil penalty for willful harvesting of sugarcane acreage in excess of a farm's proportionate share based on the value of any sugar marketed in excess of the sugarcane processor's allotment.

Mr. Speaker, this bill is a fairness measure which will ensure that sugarcane producers are not penalized for market or weather conditions beyond their control. I thank both the full committee and subcommittee chairman for their cooperation on this issue and urge the immediate adoption of H.R. 5763.

Mr. Speaker, I yield back the balance of my time.

Mr. HUCKABY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the bill, H.R. 5763, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to provide equitable treatment to producers of sugarcane subject to proportionate shares."

A motion to reconsider was laid on the table.

PERISHABLE AGRICULTURAL COMMODITIES ACT TECHNICAL AMENDMENTS OF 1992

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5741) entitled the "Perishable Agricultural Commodities Act Technical Amendments of 1992," as amended.

The Clerk read as follows:

H.R. 5741

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 "Perishable Agricultural Commodities Act Technical Amendments of 1992".

SEC. 2. REAFFIRMATION OF FINDINGS.

Congress hereby reaffirms the findings of section 5(c)(1) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499(c)(1)) that a burden on commerce in perishable agricultural commodities is caused by financing arrangements under which commission merchants, dealers, or brokers, who have not made payment for perishable agricultural commodities purchased, contracted to be purchased, or otherwise handled by them on behalf of another person, encumber or give lenders a security interest in, such commodities, or on inventories of food or other products derived from such commodities or products, and any receivables or proceeds from the sale of such commodities or products, and that such arrangements are contrary to the pubic interest; and that section 5(c) is intended to remedy such burden on commerce in perishable agricultural commodities and to protect the public interest.

SEC. 3. TECHNICAL AMENDMENT.

Section 5(c)(2) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499e(c)(2)) is amended to read as follows:

"(2) Perishable agricultural commodities received by a commission merchant, dealer, or broker in all transactions, and all inventories of food or other products derived from perishable agricultural commodities, and any receivables or proceeds from the sale of such commodities or products, shall be held in trust by such commission merchant, dealer, broker, or by a lender who finances the business operations of such a commission merchant, dealer, or broker, whether or not the lender holds a security interest in such trust assets, for the benefit of all unpaid suppliers or sellers of such commodities or agents involved in the transaction, until full payment of the sums owing in connection with such transactions has been received by such unpaid suppliers, sellers, or agents. Payment shall not be considered to have been made if the supplier, seller, or agent receives a payment instrument which has been dishonored. The provisions of this subsection shall not apply to transactions between a cooperative association, (as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141J(a)), and its members.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes, and the gentleman from Kansas [Mr. ROBERTS] will be recognized for 20 minutes.

The Chairman recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume. H.R. 5741 reestablishes in law the congressional intent behind the statutory trust provisions contained in the Perishable Agricultural Commodities Act [PACA]. This bill is needed in order to rectify a recent decision by the Eleventh Circuit Court of Appeals.

In 1984, PACA was amended to require that a statutory trust be placed upon certain assets of a produce buyer for the benefit of an unpaid produce seller. This trust goes into effect as soon as the buyer takes possession, ownership or control of the goods. Generally, trust assets include fruit and vegetable inventory, products derived from fruits and vegetables, and all proceeds from the sale of these fruits and vegetables.

In the case of C.H. Robinson versus Trust Company Bank, the appeals court held that an unpaid seller could not recover trust assets transferred by the buyer to the buyer's lender if the lender did not have notice of the breach of trust. This decision runs counter to the intent of the statutory trust provisions.

H.R. 5741 amends PACA to clarify the intention of the trust provision. The bill makes explicit that lenders who finance the business operations of buyers must hold assets in trust for the benefit of unpaid sellers.

Mr. Speaker, an informal review by the Congressional Budget Office indicates that this legislation has no budget cost. I urge my colleagues to support this measure.

Mr. Speaker, I reserve the balance of my time.

□ 1650

Mr. ROBERTS. Mr. Speaker, I yield myself such time at I may consume.

Mr. Speaker, I rise in support of H.R. 5741, the Perishable Agricultural Commodities Act Technical Amendments of 1992. This bill clarifies the intent of existing PACA law to state that the PACA trust includes assets paid to lenders who finance the business operations of produce dealers, brokers, and merchants, whether or not they hold a security interest in the trust assets, and whether or not they had notice that payments to them were made in breach of the trust.

The purpose of the bill is to assure that produce sellers are paid and have the benefits of the PACA trust.

PACA regulates the buying and selling of fruits and vegetables to prevent unfair and fraudulent trade and to assure that sellers of fruits and vegetables will be paid promptly. The PACA trust was established in 1984 to increase the protection of unpaid sellers until full payment of the money due to

them had been paid. The PACA trust is a nonsegregated floating trust that applies to the produce, the products derived from the produce, and any money from their sale that is in the hands of the commission merchant, dealer, or broker.

PACA provides that in cases of business failure these assets are not available for general distribution to other creditors until the trust claims, filed by produce sellers, are fully satisfied.

H.R. 5741 clarifies the original intent of the PACA trust that lenders who finance the business operations of buyers of fruits and vegetables must hold certain assets in trust for the benefit of unpaid sellers of fruits and vegetables. I urge my colleagues to support this bill.

Thank you.

Mr. LEWIS of Florida. Mr. Speaker, I rise in support of H.R. 5741, a bill that makes technical changes to the Perishable Agricultural Commodities Act [PACA]. As Members know, because of the highly perishable nature of fruits and vegetables and the distance of production from markets, PACA was established to be a stabilizing element in the marketplace. The PACA law sets up a code of fair trading and helps to enforce contracts for the marketing of fresh fruits and vegetables in interstate and foreign commerce.

Fruits and vegetables play a vital role in the economy and one purpose of PACA is to provide a level playing field for all who participate in the buying and selling of fresh fruits and vegetables.

Consumers pay almost $100 billion each year for domestically produced fruits and vegetables. The farmers' share is about 20 percent, with approximately 80 percent of the consumer dollar going to pay the bills for transportation, refrigeration, and other service costs.

Fair trading under PACA means that traders must comply with the terms of their contracts; that sellers must ship the quantity and quality of the product purchased; that buyers must accept shipments that meet the contract terms and pay the sellers promptly; and, finally, that buyers must maintain sufficient assets to pay for the produce they receive.

It is this latter element, known as the PACA trust, that is addressed in H.R. 5741. The bill clarifies the intent of existing PACA law to state that the PACA trust includes assets paid to third parties, by that we mean lenders, who finance the business operations of produce buyers, whether or not they hold a security interest in the trust assets, and whether or not they had notice that payments to them were made in breach of the trust.

The PACA trust was set up in 1984 to increase the protection of produce sellers who are not paid for their produce. The PACA trust is a nonsegregated floating trust set up to ensure that buyers have sufficient assets on hand to pay sellers. A recent court decision did not fully reflect the provisions of the PACA trust. H.R. 5741 clarifies the intent of the PACA trust.

Mr. Speaker, I urge my colleagues to support H.R. 5741.

Mr. ROBERTS. Mr. Speaker, I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the bill, H.R. 5741, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5764, H.R. 5763, and H.R. 5741, the legislation just passed.

Mr. SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

INTERMODAL SURFACE TRANSPORTATION TECHNICAL CORRECTIONS ACT

Mr. ROE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5753) to make technical corrections to title 23, United States Code, the Federal Transit Act, and the Intermodal Surface Transportation Efficiency Act of 1991, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5753

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Intermodal Surface Transportation Technical Corrections Act".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Secretary defined.

TITLE I—TITLE 23 PROGRAMS

Sec. 101. Definitions.
Sec. 102. References to Dwight D. Eisenhower System of Interstate and Defense Highways.
Sec. 103. Federal-aid systems.
Sec. 104. Apportionment.
Sec. 105. Programs of projects.
Sec. 106. Advance acquisition of rights-of-way.
Sec. 107. Letting of contracts.
Sec. 108. Prevailing rate of wage.
Sec. 109. Construction.
Sec. 110. Advance construction.
Sec. 111. Certification acceptance.
Sec. 112. Availability of funds.
Sec. 113. Federal share.
Sec. 114. Payment to States for construction.
Sec. 115. Payments to States for bond retirement.
Sec. 116. Relocation of utility facilities.
Sec. 117. Advances to States.
Sec. 118. Emergency relief.
Sec. 119. Applicability of axle weight limitations to buses.
Sec. 120. Toll roads.
Sec. 121. Rail-highway crossings.
Sec. 122. Surface transportation program.
Sec. 123. Metropolitan planning.
Sec. 124. Statewide planning.
Sec. 125. Control of junkyards.
Sec. 126. Nondiscrimination.
Sec. 127. Enforcement of requirements.
Sec. 128. Highway bridge program.
Sec. 129. Congestion mitigation and air quality improvement program.
Sec. 130. Hazard elimination program.
Sec. 131. Use of safety belts and motorcycle helmets.
Sec. 132. National maximum speed limit.
Sec. 133. Minimum allocation.
Sec. 134. National minimum drinking age.
Sec. 135. Revocation of drivers' licenses of individuals convicted of drug offenses.
Sec. 136. Reimbursement for segments of interstate system constructed without Federal assistance.
Sec. 137. State transportation revolving funds.
Sec. 138. Federal lands highway program.
Sec. 139. Bicycle transportation and pedestrian walkway.
Sec. 140. Research and technology program.
Sec. 141. Highway safety promotion program.
Sec. 142. Highway safety programs.
Sec. 143. Alcohol-impaired driving countermeasures.
Sec. 144. Use of recycled paving material.
Sec. 145. Roadside barrier technology.
Sec. 146. High cost bridge projects.
Sec. 147. Congestion relief projects.
Sec. 148. High priority corridor projects.
Sec. 149. Rural access projects.
Sec. 150. Urban access and mobility projects.
Sec. 151. Innovative projects.
Sec. 152. Intermodal projects.
Sec. 153. Corrected projects.
Sec. 154. Infrastructure awareness program.
Sec. 155. Miscellaneous Intermodal Surface Transportation Efficiency Act amendments.
Sec. 156. Disadvantaged business enterprise program.
Sec. 157. Amendments to Surface Transportation and Uniform Relocation Assistance Act of 1987.
Sec. 158. Freeway service patrols.
Sec. 159. Traffic control standards.
Sec. 160. Construction of Interstate Route 287.
Sec. 161. Center for trauma and motor vehicle safety studies.
Sec. 162. Signs designating location of Department of Veterans Affairs' facilities.
Sec. 163. Pan American Highway.
Sec. 164. Reopening of temporary ramp in Birmingham, Alabama.
Sec. 165. Priority projects.
Sec. 166. Connector Road, Massachusetts.
Sec. 167. Revision of manual-crossbucks.
Sec. 168. Use of tourist oriented directional signs.
Sec. 169. Temporary matching fund waiver.
Sec. 170. Reaffirmation of policies and priorities of ISTEA.

TITLE II—FEDERAL TRANSIT PROGRAMS

Sec. 201. Section 3 program amendments.
Sec. 202. Metropolitan planning.
Sec. 203. Formula grant program.
Sec. 204. Mass transit account block grants.
Sec. 205. Grants for research and training.
Sec. 206. General provisions.
Sec. 207. Period of availability and reapportionment of section 16 funds.
Sec. 208. Rural transit program.
Sec. 209. Authorizations.
Sec. 210. Planning and research program.
Sec. 211. State responsibility for rail fixed guideway system.
Sec. 212. National Transit Institute.

Sec. 213. Increased Federal share.
Sec. 214. Completion of MOS-1 Project.
Sec. 215. Miscellaneous multiyear contracts.
Sec. 216. World University Games.

TITLE III—MISCELLANEOUS SURFACE TRANSPORTATION PROGRAMS

Sec. 301. Participation in international registration plan and international fuel tax agreement.
Sec. 302. Study of radio and microwave technology for commercial and other motor vehicles.
Sec. 303. Intelligent vehicle-highway systems.
Sec. 304. Title 49, United States Code, amendments.
Sec. 305. Surface Transportation Assistance Act of 1982 amendments.
Sec. 306. Commercial Motor Vehicle Safety Act of 1986 amendments.
Sec. 307. National Driver Register Act of 1982 amendments.
Sec. 308. Cleveland Harbor, Ohio.
Sec. 309. Deauthorization of a portion of the Canaveral Harbor, Florida, project.
Sec. 310. Intermodal Surface Transportation Efficiency Act technical amendments.
Sec. 311. Improved bus safety.
Sec. 312. Motor carrier safety grant program.
Sec. 313. Redesignation of metropolitan planning organizations.

SEC. 2. SECRETARY DEFINED.

As used in this Act, the term "Secretary" means the Secretary of Transportation.

TITLE I—TITLE 23 PROGRAMS

SEC. 101. DEFINITIONS.

Section 101(a) of title 23, United States Code, is amended—

(1) by striking the 1st undesignated paragraph of such section that relates to public lands highways; and

(2) in the last undesignated paragraph relating to transportation enhancement activities by inserting "traffic noise abatement on highways open to traffic," after "archaeological planning and research,".

SEC. 102. REFERENCES TO DWIGHT D. EISENHOWER SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS.

(a) DECLARATION OF POLICY.—Section 2 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1914–1915) is amended—

(1) in the 3d undesignated paragraph by striking "National System of" and inserting "Dwight D. Eisenhower System of"; and

(2) in the 7th undesignated paragraph by striking "Interstate and Defense Highway System" and inserting "Dwight D. Eisenhower System of Interstate and Defense Highways".

(b) COMPLETION OF INTERSTATE SYSTEM.—Section 1001 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 104 note; 105 Stat. 1915–1916) is amended in each of subsections (a) and (b) by striking "National".

(c) DEFINITION OF INTERSTATE SYSTEM IN TITLE 23.—The undesignated paragraph of section 101(a) of title 23, United States Code, relating to the Interstate System is amended by striking "National".

(d) CONFORMING AMENDMENT TO VEHICLE WEIGHT LIMITATIONS.—Section 127(a) of title 23, United States Code, is amended by striking "National" each place it appears and inserting "Dwight D. Eisenhower".

(e) VEHICLE LENGTH RESTRICTION.—Section 411(j) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2311(j)) is amended in each of paragraphs (1), (5)(D), and (6)(A) by striking "National" and inserting "Dwight D. Eisenhower".

(f) COMMEMORATION.—Section 6012 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 2180–2181) is amended—

(1) in the section heading by striking "**NATIONAL**"; and

(2) in subsection (a) by striking "National".

SEC. 103. FEDERAL-AID SYSTEMS.

(a) NATIONAL HIGHWAY SYSTEM.—Section 103(b)(4) of title 23, United States Code, is amended by inserting "and all corridors identified in section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991" after "by the States".

(b) INTERSTATE SYSTEM.—Section 103(e)(1) of such title is amended by striking the next to the last sentence.

(c) SUBSTITUTE PROJECTS.—Section 103(e)(4) of such title is amended—

(1) in the last sentence of subparagraph (B) by striking "projects on the Federal-aid secondary system" and inserting "surface transportation program projects"; and

(2) in subparagraph (J)(i) by inserting a comma after "October 1, 1991".

(d) EXPENDITURES OF SUBSTITUTE HIGHWAY FUNDS FOR PLANNING.—If a State expended for any planning activity eligible for assistance under section 307(c) of such title any funds allocated for any fiscal year ending on or before the date of the enactment of this Act, under the first sentence of section 103(e)(4)(H)(i) of title 23, United States Code, the Secretary shall not require the State to repay the amount of such funds but not to exceed 1½ percent of the sums allocated under such sentence for such fiscal year.

SEC. 104. APPORTIONMENT.

(a) SET-ASIDE.—Section 104(a) of title 23, United States Code, is amended—

(1) by striking "for the Federal-aid systems" and inserting "for this chapter"; and

(2) by striking "upon the Federal-aid systems" and inserting "under this chapter".

(b) REPEAL OF URBAN SYSTEM APPORTIONMENT.—Section 104(b)(6) of such title is repealed.

(c) NHS APPORTIONMENT TRANSFERABILITY.—Section 104(c) of such title is amended by adding at the end the following new sentence: "For purposes of this subsection, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall be treated as being a State and as having an apportionment under subsection (b)(3).".

(d) PLANNING SET ASIDE.—Section 104(f)(3) of such title is amended by striking "(j)".

(e) TRANSFERABILITY AMONG SAFETY AND BRIDGE PROGRAMS.—Section 104(g) of such title is amended by striking "Not more than" and all that follows through "any other of such sections" the second place it appears and inserting the following: "Not more than 40 percent of the amount which is apportioned in any fiscal year to each State under section 144 or which is reserved for such fiscal year under section 133(d)(1) only for carrying out section 130 or 152 may be transferred from the apportionment under section 144 or one of the reservations under section 133(d)(1) to the apportionment or reservation under such other section if such a transfer is requested by the State highway department and is approved by the Secretary as being in the public interest. The Secretary may approve the transfer of 100 percent of the apportionment under section 144 or one of the reservations under section 133(d)(1) to the apportionment or reservation under such other section".

SEC. 105. PROGRAMS OF PROJECTS.

(a) REPEAL OF REQUIREMENT.—Section 105 of title 23, United States Code, and the item relating to such section in the analysis for chapter 1 of such title are each repealed.

(b) CONFORMING AMENDMENTS.—Section 106(a) of such title is amended—

(1) by striking ", as soon as practicable after program approval,"; and

(2) by striking "included in an approved program".

(c) PRIORITY FOR HIGH PRIORITY SEGMENTS OF CORRIDORS OF NATIONAL SIGNIFICANCE.—Section 1105(g)(7) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2036) is amended to read as follows:

"(7) PRIORITY FOR HIGH PRIORITY SEGMENTS OF CORRIDORS OF NATIONAL SIGNIFICANCE.—In selecting projects for inclusion in a plan or program under chapter 1 of title 23, United States Code, a State may give priority to high priority segments of corridors identified under subsection (c) of this section.".

SEC. 106. ADVANCE ACQUISITION OF RIGHTS-OF-WAY.

(a) APPORTIONED FUNDS.—Section 108(a) of title 23, United States Code, is amended—

(1) by striking "of the Federal-aid highway systems, including the Interstate System," and inserting "project eligible for surface transportation program funds";

(2) by striking "for expenditure on any of the Federal-aid highway systems, including the Interstate System," and inserting "which may be expended on the project"; and

(3) by striking "a road" and inserting "the project".

(b) RIGHT-OF-WAY REVOLVING FUND FUNDS.—Section 108(c) of such title is amended—

(1) in paragraph (2) by striking "highways on any Federal-aid system" and inserting "any project eligible for surface transportation program funds";

(2) in paragraph (3) by striking "a highway" the first place it appears and inserting "a project";

(3) in paragraph (3) by striking "such project for the actual construction of a highway" and inserting "actual construction of such project";

(4) in paragraph (3) by striking "Federal-aid highway funds apportioned" and inserting "funds apportioned under this chapter"; and

(5) in paragraph (3) by striking "projects on the Federal-aid system of which such project is to be a part," and inserting "such projects,".

(c) ADVANCEMENT TO CALIFORNIA FROM RIGHT-OF-WAY REVOLVING FUND.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Transportation shall approve an advance, from the right-of-way revolving fund established by section 108(c) of title 23, United States Code, $12,000,000 to the State of California for acquisition of right-of-way for carrying out the transportation project described in item number 13 of the table contained in section 1108(b) of the Intermodal Surface Transportation Efficiency Act of 1991, relating to Northern California.

SEC. 107. LETTING OF CONTRACTS.

(a) CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.—

(1) PERMANENT PROGRAM.—Section 112(b)(2) of title 23, United States Code, is amended by adding at the end the following new subparagraphs:

"(C) PERFORMANCE AND AUDITS.—Any contract or subcontract awarded in accordance with subparagraph (A), whether funded in whole or in part with Federal-aid highway funds, shall be performed and audited in compliance with cost principles contained in the Federal acquisition regulations of part 31 of title 48 of the Code of Federal Regulations.

"(D) INDIRECT COST RATES.—In lieu of performing its own audits, a recipient of funds under a contract or subcontract awarded in accordance with subparagraph (A) shall accept indirect cost rates established in accordance with the Federal acquisition regulations for 1-year applicable accounting periods by a cognizant government agency or independent certified public accountant if such rates are not currently under dispute. Once a firm's indirect cost

rates are accepted, the recipient of such funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment and shall not be limited by administrative or de facto ceilings in accordance with section 15.901(c) of such title 48. A recipient of such funds requesting or using the cost and rate data described in this subparagraph shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided, in whole or in part, to any other firm or to any government agency which is not part of the group of agencies sharing cost data under this subparagraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.".

(2) REPEAL OF PILOT PROGRAM.—Section 1092 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 112 note; 105 Stat. 2024) is repealed.

(b) REPEAL OF OBSOLETE PROVISION.—Section 112(f) of title 23, United States Code, relating to applicability to contracts for projects on the secondary system, is repealed.

SEC. 108. PREVAILING RATE OF WAGE.

Section 113 of title 23, United States Code, is amended—

(1) in subsection (a) by striking "the" before "Federal-aid highways";

(2) in subsection (a) by striking "upon the Federal-aid systems," and inserting "on Federal-aid highways,"; and

(3) in subsection (b) by striking "of the Federal-aid systems" and inserting "Federal-aid highway".

SEC. 109. CONSTRUCTION.

Section 114 of title 23, United States Code, is amended—

(1) in subsection (a) by striking "highways or portions of highways located on a Federal-aid system" and inserting "Federal-aid highway or portion thereof"; and

(2) in subsection (b)(1) by striking "highways or portions of highways located on a Federal-aid system" and inserting "a Federal-aid highway or portion thereof".

SEC. 110. ADVANCE CONSTRUCTION.

(a) TECHNICAL AMENDMENTS.—Section 115 of title 23, United States Code, is amended—

(1) in subsection (a)(2) by striking "PLANS, SPECIFICATIONS," and inserting "PROJECT APPROVAL"; and

(2) in subsection (c) by striking "134," and the second comma after "144".

(b) ADVANCED PLANNING.—Notwithstanding any other provision of law, upon application of a State, the Secretary shall pay to the State the Federal share of the cost of transportation planning carried out (including transportation planning carried out by metropolitan planning organizations), after September 30, 1991, and before December 18, 1991, in accordance with all procedures and all requirements applicable to such planning under title 23, United States Code. Such payment shall be made to the State from funds apportioned to the State under such title and available for carrying out transportation planning.

SEC. 111. CERTIFICATION ACCEPTANCE.

Section 117 of title 23, United States Code, is amended by striking subsection (f), relating to discharge of the Secretary's responsibilities with respect to the secondary system.

SEC. 112. AVAILABILITY OF FUNDS.

(a) PERIOD OF AVAILABILITY.—Section 118(b)(1) of title 23, United States Code, is amended—

(1) in the first sentence by striking "Interstate construction in a State" and inserting "completion of the Interstate System in a State (other than Massachusetts)";

(2) in the second sentence by inserting "for completion of the Interstate System" after "shall be allocated"; and

(3) in the last sentence by striking "before" and inserting "after".

(b) SET ASIDE FOR INTERSTATE CONSTRUCTION PROJECTS.—Section 118(c)(1) of such title is amended by striking the period at the end of the first sentence and all that follows through the period at the end of the second sentence and inserting "for obligation at the discretion of the Secretary for projects to complete the Interstate System.".

SEC. 113. FEDERAL SHARE.

(a) INTERSTATE SYSTEM PROJECTS.—Section 120(a) of title 23, United States Code, is amended by inserting before "including a project" the following: "including a project the cost for which is included in the 1991 interstate cost estimate and".

(b) SAFETY PROJECTS.—Section 120(c) of such title is amended by striking "for all the Federal-aid systems".

(c) EMERGENCY RELIEF.—The first sentence of section 120(e) of such title is amended—

(1) by striking "system, including" and inserting ", including a highway on";

(2) by striking "on a project on such system";

(3) by striking "and (c)" and inserting "and (b)"; and

(4) by striking "90 days" and inserting "180 days".

(d) PLANNING PROJECTS.—Section 120 of such title is amended by adding at the end the following new subsection:

"(j) PLANNING PROJECTS.—The Federal share payable on account of any project to be carried out with funds set aside under section 104(f) of this title shall be 80 percent of the costs thereof unless the Secretary determines that the interest of the Federal-aid highway program would best be served by decreasing or eliminating the non-Federal share of such costs.".

SEC. 114. PAYMENT TO STATES FOR CONSTRUCTION.

Section 121 of title 23, United States Code, is amended—

(1) in subsection (b) by striking "After" and inserting "Except as otherwise provided in this title, after"; and

(2) by striking subsection (c) and redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

SEC. 115. PAYMENTS TO STATES FOR BOND RETIREMENT.

Section 122 of title 23, United States Code, is amended to read as follows:

"§122. Payment to States for bond retirement

"(a) IN GENERAL.—Any State that uses the proceeds of bonds or short-term securities issued by the State, county, city, or other political subdivision of the State for the carrying out of one or more projects eligible for assistance under this title may claim payment of any portion of the sums apportioned or allocated, from the Highway Trust Fund (other than the Mass Transit Account), to it for expenditure for such projects to aid in the retirement of the principal and interest of such bonds or securities, to the extent that the proceeds of such bonds or securities have been actually expended in carrying out one or more of such projects. Such claim for payment may be made only when all of the provisions of this title have been complied with to the same extent and with the same effect as though payment were to be made to the State under section 121 of this title instead of this section, and the Federal share payable shall not exceed the pro rata basis of payment authorized in section 120 of this title or any other applicable Federal law.

"(b) LIMITATION ON STATUTORY CONSTRUCTION.—This section shall not be construed as a commitment or obligation on the part of the United States to provide for the payment of the principal or interest of any bonds or other securities.

"(c) TREATMENT OF CERTAIN COSTS.—The payment of interest on bonds or other securities to which subsection (a) applies and incidental costs in connection with the sale of such bonds or securities shall not be included in the estimated cost of completing the Interstate System.".

SEC. 116. RELOCATION OF UTILITY FACILITIES.

Section 123(a) of title 23, United States Code, is amended—

(1) by striking "on any Federal-aid system" and inserting "eligible for assistance under this chapter"; and

(2) by striking "Federal-aid highway projects for which Federal funds are obligated subsequent to April 16, 1958," and inserting "such project".

SEC. 117. ADVANCES TO STATES.

Section 124(a) of title 23, United States Code, is amended by striking "projects on any of the Federal-aid systems, including the Interstate System, he" and inserting "a project eligible for assistance under this title, the Secretary".

SEC. 118. EMERGENCY RELIEF.

(a) IN GENERAL.—Section 125(b) of title 23, United States Code, is amended by striking "highways on" the first place it appears.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) and section 101 of Public Law 102–302 shall be treated as taking effect December 18, 1991.

SEC. 119. APPLICABILITY OF AXLE WEIGHT LIMITATIONS TO BUSES.

(a) WAIVER AUTHORITY.—The Governor of a State may waive with respect to such State application of those provisions of the second sentence of section 127 of title 23, United States Code, which relate to axle weight limitations for vehicles using the Dwight D. Eisenhower System of Interstate and Defense Highways, in the 2-year period beginning on the date of the enactment of this Act, to any vehicle which is designed to transport 15 or more passengers (including the driver) and which has a maximum gross weight of 25,000 pounds or less on each axle.

(b) STUDY.—

(1) PURPOSES.—The Secretary shall conduct a study to determine whether or not section 127 of title 23, United States Code, needs to be modified with regard to vehicles which are designed to transport 15 or more passengers (including the driver), whether or not a permanent exemption should be made for such vehicles from the requirements of such section, whether or not the design of such vehicles should be modified to meet the requirements of such section, whether or not the bridge formula set forth in such section should be modified as it applies to such vehicles, the effect on the Interstate System of such vehicles operating under any waivers granted under subsection (a), and the effects of implementation of the Clean Air Act, the Americans with Disabilities Act of 1990, and other Federal laws are having on the weights of such vehicles.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the results of the study conducted under paragraph (1), together with recommendations.

(c) WISCONSIN STATE ROUTE 78 AND UNITED STATES ROUTE 51.—Section 127 of title 23, United States Code, is amended by adding at the end the following new subsection:

"(f) OPERATION OF CERTAIN SPECIALIZED HAULING VEHICLES ON CERTAIN WISCONSIN HIGHWAYS.—The gross weight limits set forth in subsection (a) shall not apply to the operation on the 104-mile portion of Wisconsin State Route

78 and United States Route 51 between I-94 near Portage, Wisconsin, and Wisconsin State Route 29 south of Wausau, Wisconsin, of any commercial motor vehicle used for transporting raw forest and agricultural products if such vehicle is of a type of vehicle as was operating on such 104-mile portion on June 1, 1992.".

(d) VEHICLE WEIGHT LIMITATIONS IN THE STATES OF OHIO AND OKLAHOMA.—

(1) REVIEW.—The Secretary of Transportation shall review the Federal and State commercial motor vehicle weight limitations applicable to Federal-aid highways in the States of Ohio and Oklahoma.

(2) WAIVER AUTHORITY.—

(A) FOR OHIO.—If the Secretary of Transportation determines, on the basis of the review conducted under paragraph (1), that it is in the public interest, the Secretary may waive application of the vehicle weight limitations of section 127(a) of title 23, United States Code, in whole or in part, to highways on the Dwight D. Eisenhower System of Interstate and Defense Highways in the State of Ohio for short wheelbase vehicles for such period as the Secretary determines may be necessary to permit a reasonable period of depreciation for short wheel-base vehicles purchased before October 1, 1991.

(B) FOR OKLAHOMA.—If the Secretary of Transportation determines, on the basis of the review conducted under paragraph (1), that it is in the public interest, the Secretary may waive application—

(i) of the vehicle weight limitations of section 127(a) of title 23, United States Code, in whole or in part, to highways on the Dwight D. Eisenhower System of Interstate and Defense Highways in the State of Oklahoma for such commercial motor vehicles as the Secretary determines appropriate; and

(ii) of those requirements of sections 141(b) and 141(c) that relate to certification and enforcement of State laws respecting maximum vehicle weights permitted on Federal-aid highways in such State;

until June 1, 1993.

(3) MORATORIUM ON WITHHOLDING OF FUNDS.—

(A) OHIO.—Until the Secretary of Transportation makes a determination relating to public interest under paragraph (2)(A), the Secretary shall not withhold funds under section 127(a) of title 23, United States Code, from apportionment to the State of Ohio for failure to comply with such section.

(B) OKLAHOMA.—Until the Secretary of Transportation makes a determination relating to public interest under paragraph (2)(B), the Secretary shall not withhold funds under section 127(a) of title 23, United States Code, from apportionment to the State of Oklahoma for failure to comply with such section and under sections 141(b) and 141(c) for failure to certify or enforce State laws respecting maximum vehicle weights permitted on Federal-aid highways in such State.

(e) CONFORMING TECHNICAL AMENDMENT.—Section 127(d)(1)(E) of such title is amended by striking "July 5, 1991" and inserting "July 6, 1991".

SEC. 120. TOLL ROADS.

(a) REFERENCE TO FEDERAL-AID HIGHWAYS.—The last sentence of section 129(a)(4) of title 23, United States Code, is amended by striking "the Federal-aid system" and inserting "Federal-aid highways".

(b) USE OF REVENUES.—Section 129(a)(3) of such title is amended by striking "all toll revenues received" and all that follows through the period at the end of the first sentence and inserting the following: "toll revenues received from operation of the toll facility will be used for financing and any other obligations in respect of the facility, for reserves, for reasonable return to investors financing the project (as determined by the State), and for the costs necessary for the proper operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration, and rehabilitation.".

(c) LOANS.—Section 129(a)(7) of such title, is amended—

(1) by inserting "or commit to loan" after "loan" the first place it appears;

(2) by striking "agency" each place it appears and inserting "entity";

(3) by inserting after "constructing" the first place it appears "or proposing to construct";

(4) by striking "all Federal environmental requirements have been complied with and permits obtained" and inserting "the National Environmental Policy Act of 1969 has been complied with";

(5) by inserting "to a private entity" after "Any such loan";

(6) by inserting after the fifth sentence the following new sentence: "Any such loan to a public entity shall bear interest at such rate as the State determines appropriate."; and

(7) by striking "the time the loan was obligated" and inserting "the date of the initial funding of the loan".

(d) TREATMENT OF CENTENNIAL BRIDGE, ROCK ISLAND, ILLINOIS, AGREEMENT.—For purposes of section 129(a)(6) of title 23, United States Code, the agreement concerning the Centennial Bridge, Rock Island, Illinois, entered into under of the Act entitled "An Act authorizing the city of Rock Island, Illinois, or its assigns, to construct, maintain, and operate a toll bridge across the Mississippi River at or near Rock Island, Illinois, and to a place at or near the city of Davenport, Iowa", approved March 18, 1938 (52 Stat. 110), shall be treated as if such agreement had been entered into under section 129 of title 23, United States Code, as in effect on December 17, 1991, and may be modified accordingly.

(e) TREATMENT OF I-95 AND PENNSYLVANIA TURNPIKE.—For purposes of section 129 of title 23, United States Code, the project for construction of an interchange between Interstate Route 95 and the Pennsylvania Turnpike shall be treated as a reconstruction project described in section 129(a)(1)(B) of such title.

SEC. 121. RAIL-HIGHWAY CROSSINGS.

Section 130 of title 23, United States Code, is amended—

(1) in subsection (a) by striking "Except as provided in subsection (d) of" and inserting "Subject to";

(2) in subsection (a) by striking "entire" each place it appears;

(3) in subsection (a) by striking "except as provided in subsection (d) of" and inserting "subject to";

(4) in subsection (e) by striking "authorized for and";

(5) in subsection (e) by striking the last sentence; and

(6) by striking subsection (f) and redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

SEC. 122. SURFACE TRANSPORTATION PROGRAM.

(a) STATE CERTIFICATION.—Section 133(e)(2) of title 23, United States Code, is amended by inserting after "each State" the following: "or the designated transportation authority of the State".

(b) TECHNICAL AMENDMENT.—Section 1007(b)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1930) is amended—

(1) by striking "104(b)(3)" and inserting "104(b)"; and

(2) by striking "to read as follows" and inserting "by inserting after paragraph (2) the following new paragraph".

(c) ALLOCATIONS OF NEW JERSEY STP APPORTIONMENTS.—

(1) IN GENERAL.—Of amounts apportioned to the State of New Jersey under section 104(b)(3) of title 23, United States Code, $13,000,000 per fiscal year for each of fiscal years 1993 and 1994 shall only be available for construction of sound barriers in accordance with paragraph (2).

(2) SPECIFIED PROJECTS.—

(A) INTERSTATE ROUTE 80.—$7,500,000 per fiscal year of the amounts made available for construction of sound barriers under paragraph (1) shall only be available for construction of such barriers along the following segments of Interstate Route 80:

(i) West side of I-80 from Webster Avenue to Glover Avenue in Paterson, New Jersey.

(ii) West side of I-80 from Glover Avenue to Squirrelwood Road in West Paterson, New Jersey.

(iii) West side of I-80 from the Squirrelwood Road exit ramp to the Passaic River in West Paterson, New Jersey.

(iv) West side of I-80 from Dewey Avenue to the Union Avenue exit ramp in Totowa, New Jersey.

(v) East side of I-80 from Vernon Court to Squirrelwood Road in West Paterson, New Jersey.

(B) ROUTE 3.—$5,500,000 per fiscal year of the amounts made available for construction of sound barriers under paragraph (1) shall only be available for construction of such barriers along the west side of Route 3 from Bloomfield Avenue to the Garden State Parkway north entrance ramp in Clifton, New Jersey.

(d) ALLOCATION OF PENNSYLVANIA STP TRANSPORTATION ENHANCEMENT APPORTIONMENT.—Of amounts apportioned to the State of Pennsylvania under section 104(b)(3) of title 23, United States Code, and set aside under section 133(d)(2) for transportation enhancement activities, $600,000 per fiscal year for fiscal years 1993 and 1994 shall only be available for carrying out a project for transportation enhancement activities along Pennsylvania State Route 4013 in Altoona, Pennsylvania.

SEC. 123. METROPOLITAN PLANNING.

(a) TECHNICAL AMENDMENTS.—Section 134 of title 23, United States Code, is amended—

(1) in subsection (f)(11) by inserting "passengers and" before "freight"; and

(2) in subsection (g)(5), by redesignating subparagraphs (i) and (ii) as subparagraphs (A) and (B).

(b) CONFORMING CHAPTER ANALYSIS AMENDMENT.—The analysis for chapter 1 of such title is amended by striking

"134. Transportation planning in certain urban areas."

and inserting

"134. Metropolitan planning.".

SEC. 124. STATEWIDE PLANNING.

Section 135 of title 23, United States Code, is amended—

(1) in subsection (c) by striking paragraph (1) and inserting the following new paragraph:

"(1) The transportation needs identified through use of the management systems required by section 303 of this title.";

(2) in subsection (c)(5) by inserting after "nonmetropolitan areas" the following: ", including the identification of a rural priority local road and bridge system,";

(3) in subsection (c) by striking paragraph (15) and redesignating paragraphs (16) through (20) as paragraphs (15) through (19), respectively;

(4) in subsection (c)(18), as so redesignated, by striking "commercial motor vehicles" and inserting "passengers and freight";

(5) in subsection (d)(3) by striking "concerns" and inserting "transportation needs"; and

(6) in each of subsections (e) and (f)(1) by inserting "Indian tribal governments," after "private providers of transportation,".

SEC. 125. CONTROL OF JUNKYARDS.

(a) STRICTER STATE STANDARDS.—Section 136(l) of title 23, United States Code, is amended by striking "the Federal-aid highway systems" and inserting "Federal-aid highways".

(b) PRIMARY SYSTEM DEFINED.—Section 136 of such title is amended by adding at the end the following new subsection:

"(n) PRIMARY SYSTEM DEFINED.—For purposes of this section, the term 'primary system' means the Federal-aid primary system in existence on June 1, 1991, and any highway which is not on such system but which is on the National Highway System.".

SEC. 126. NONDISCRIMINATION.

Section 140(b) of title 23, United States Code, is amended—

(1) by inserting "operator of a Job Corps center," after "nonprofit),";

(2) by striking "for the surface transportation program"; and

(3) by striking "the bridge program".

SEC. 127. ENFORCEMENT OF REQUIREMENTS.

Section 141(b) of title 23, United States Code, is amended by striking "the Federal-aid primary highway system" and all that follows through "including" and inserting "Federal-aid highways, including highways on".

SEC. 128. HIGHWAY BRIDGE PROGRAM.

(a) SEISMIC RETROFIT PROJECTS.—

(1) ELIGIBILITY.—Section 144(d) of title 23, United States Code, is amended by inserting before the period at the end of the third sentence the following: "; except that a State may carry out a project for seismic retrofit of a bridge under this section without regard to whether such bridge is eligible for replacement or rehabilitation under this section".

(2) APPORTIONMENT FACTOR ADJUSTMENT.—Section 144(e) of such title is amended—

(A) by inserting before the period at the end of the fourth sentence the following: "and by the total cost of all projects carried out under this section in such State seismic retrofit of highway bridges not eligible for replacement or rehabilitation under this section";

(B) by striking "Federal-aid primary system" and inserting "National Highway System".

(b) SET ASIDES.—Section 144(g) of such title is amended—

(1) in paragraph (1) by striking "103" and inserting "1003";

(2) in paragraph (3) by striking "OFF-SYSTEM BRIDGES" and inserting "BRIDGES NOT ON FEDERAL-AID HIGHWAYS";

(3) in paragraph (3) by striking ", other than those on a Federal-aid system" and inserting "that are functionally classified as local or rural minor collector"; and

(4) in paragraph (3) by striking "bridges not on a Federal-aid system" and inserting "such bridges".

(c) CONTINUATION OF EXISTING BRIDGE APPORTIONMENT CRITERIA.—The criteria for apportionment of funds used by the Department of Transportation under section 144 of title 23, United States Code, and in effect on September 30, 1991, shall remain in effect until September 30, 1997, or until changed by law, whichever occurs first.

(d) TIMBER BRIDGE PROGRAM.—Section 1039(c)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 144 note; 105 Stat. 1991) is amended by inserting "(other than highways on the National Highway System)" after "rural Federal-aid highways".

SEC. 129. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.

Section 149(b) of title 23, United States Code, is amended by adding at the end the following new sentence: "In areas of a State which are nonattainment for ozone or carbon monoxide, or both, and for PM–10 resulting from transportation activities, the State may obligate such funds for any project or program under paragraph (1) or (2) without regard to any limitation of the Department of Transportation relating to the type of ambient air quality standard such project or program addresses.".

SEC. 130. HAZARD ELIMINATION PROGRAM.

Section 152 of title 23, United States Code, is amended—

(1) in subsection (c) by striking "authorized" and inserting "available"; and

(2) by striking subsections (d) and (e) and redesignating subsections (f), (g), and (h) as subsections (d), (e), and (f), respectively.

SEC. 131. USE OF SAFETY BELTS AND MOTORCYCLE HELMETS.

(a) ELIGIBILITY FOR GRANTS.—Section 153(f)(2) of title 23, United States Code, is amended by striking "at all times" each place it appears.

(b) PENALTIES.—Section 153(h) of such title is amended—

(1) in paragraph (1) by striking "at any time in" and inserting "by the last day of";

(2) in paragraph (2) by inserting "by the last day of fiscal year 1995 or" after "If,";

(3) in paragraph (2) by striking "1994," and inserting "1995,"; and

(4) in paragraph (4)(A) by striking "under section 402" and inserting "by this subsection".

(c) DEFINITIONS.—Section 153(i) of such title is amended by adding at the end the following new paragraph:

"(5) STATE.—The term 'State' has the meaning such term has under chapter 4 of this title.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 153(j) of such title is amended by striking ". From" and all that follows through "$24,000,000" and inserting "and $20,000,000".

(e) APPLICABILITY OF OBLIGATIONS.—Section 153(j) of such title is further amended by adding at the end the following new sentence: "The obligation limitation imposed by section 1002(a) of the Intermodal Surface Transportation Efficiency Act of 1991 shall apply to obligations under this section for fiscal year 1992.".

SEC. 132. NATIONAL MAXIMUM SPEED LIMIT.

(a) EXISTING PROGRAM.—Section 154(a)(1) of title 23, United States Code, is amended by striking "on the Interstate System" and all that follows through "or more" and inserting "described in clause (2) or (3) of this subsection".

(b) NEW PROGRAM.—Section 1029 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1968–1970) is amended—

(1) in subsection (c)(1)(A) by inserting "of a State" after "apportionments";

(2) in subsection (c)(1)(A) by striking "if a State" and inserting "to the apportionment of the State under section 402 of such title if the State";

(3) in subsection (c) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(4) by inserting after paragraph (1) of such subsection (c) the following new paragraph:

"(2) SPECIFIC REQUIREMENTS.—

"(A) MINIMUM AND MAXIMUM PERCENTAGES.—The transfer of apportionments required pursuant to paragraph (1)(A) shall not be less than 1 percent and not be more than 5 percent of the funds apportioned to the State; except that, in any case in which an apportionment of a State is transferred pursuant to this subsection in 2 or more consecutive fiscal years, the minimum percentage to be transferred shall be 2 percent and the maximum percentage to be transferred shall be 10 percent.

"(B) LIMITATION ON USE OF FUNDS.—

"(i) GENERAL RULE.—A State must obligate at least 50 percent of its funds transferred pursuant to this subsection for a fiscal year for speed limit enforcement and public information and education.

"(ii) WAIVER.—Upon request of a State, the Secretary may waive the requirement of clause (i) for any fiscal year quarter if in the preceding fiscal year quarter the State was in compliance with the speed limit requirements established pursuant to paragraph (1).";

(5) in paragraph (4) of subsection (c), as so redesignated, by striking "60" and inserting "120";

(6) in paragraph (4) of subsection (c), as so redesignated, by inserting "and paragraph (2)" after "paragraph (1)" the second place it appears; and

(7) in subsection (f) by striking "and 1991" and inserting ", 1991, and 1992".

SEC. 133. MINIMUM ALLOCATION.

Section 157 of title 23, United States Code, is amended by striking subsection (c) and redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

SEC. 134. NATIONAL MINIMUM DRINKING AGE.

(a) CONFORMING AMENDMENTS.—Section 158 of title 23, United States Code, is amended—

(1) in subsection (a) by striking "104(b)(5), and 104(b)(6)" each place it appears and inserting "104(b)(3), and 104(b)(5)";

(2) in subsection (b)(1)(A)(iii) by striking "104(b)(6)" and inserting "104(b)(3)";

(3) in subsection (b)(3)(B) by striking "104(b)(5)(B), or 104(b)(6)" and inserting "104(b)(3), or 104(b)(5)(B)"; and

(4) in each of subsections (b)(3) and (b)(4) by striking "118(b)" and inserting "118".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply to funds withheld from apportionment on or after October 1, 1991.

SEC. 135. REVOCATION OF DRIVERS' LICENSES OF INDIVIDUALS CONVICTED OF DRUG OFFENSES.

Section 159 of title 23, United States Code, is amended—

(1) in subsection (a) by striking "(5), and (6)" each place it appears and inserting "(3), and (5)";

(2) in subsection (b)(1)(A)(iii) by striking "(6)" and inserting "(3)";

(3) in subsection (b)(3)(B) by striking "(5)(B), or (6)" and inserting "(3), or (5)(B)"; and

(4) in each of subsections (b)(3) and (b)(4) by striking "118(b)" and inserting "118".

SEC. 136. REIMBURSEMENT FOR SEGMENTS OF INTERSTATE SYSTEM CONSTRUCTED WITHOUT FEDERAL ASSISTANCE.

(a) INCLUSION OF PUERTO RICO.—Section 160 of title 23, United States Code, is amended—

(1) in subsection (b) by striking "The amount" and inserting "Subject to subsection (g), the amount"; and

(2) by adding at the end the following new subsection:

"(g) PUERTO RICO.—Notwithstanding any other provision of this section, Puerto Rico shall receive in a fiscal year ½ of 1 percent of the amounts appropriated pursuant to subsection (f) for such fiscal year. No State (including the District of Columbia) which has a reimbursement percentage in the table contained in subsection (c) of 0.50 shall have its reimbursement amount in fiscal years 1996 and 1997 reduced as a result of the enactment of the preceding sentence.".

(b) KANSAS PROJECTS.—Section 1014(c)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1943) is amended by striking "$24,440,000" and inserting "such sums as may be necessary".

SEC. 137. STATE TRANSPORTATION REVOLVING FUNDS.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following new section:

"§161. State transportation revolving funds

"(a) IN GENERAL.—Subject to the provisions of this section, a State may deposit all or any portion of funds apportioned or allocated to it under section 104, 144, 157, or 160 of this title or

under section 1015 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 104 note) into a transportation revolving fund established by the State for making loans to public and private entities for construction of projects for which such funds may be used.

"(b) STATE MATCHING REQUIREMENT.—If a State deposits funds under subsection (a) into a transportation revolving fund, the State, at the time of such deposit, shall deposit from non-Federal sources an amount determined by dividing the amount of such funds by the non-Federal share applicable to such State under section 120(b) of this title. The provisions of section 1054 of the Intermodal Surface Transportation Efficiency Act of 1991, relating to temporary matching fund waiver, shall apply to deposits in transportation revolving funds under subsection (a). For purposes of such section, such deposits shall be treated as the Federal share of a qualifying project is treated under such section.

"(c) LOANS.—

"(1) GENERAL AUTHORITY.—From amounts in a transportation revolving fund established by a State under this section, a State may loan all or part of the cost of construction of a project for which such funds may be used (as apportioned or allocated under title 23, United States Code, or section 1015 of the Intermodal Surface Transportation Efficiency Act of 1991) to a public or private entity constructing or proposing to construct the project.

"(2) COMPLIANCE WITH NEPA.—A loan may be made from a State transportation revolving fund for a project only after the National Environmental Policy Act of 1969 has been complied with.

"(3) SUBORDINATION OF DEBT.—The amount loaned for a project from a State transportation revolving fund shall be subordinated to other debt financing for the project except for loans made by the State or any other public entity to the entity constructing the facility.

"(4) TERM OF LOAN.—The repayment of any loan from a State transportation revolving fund shall commence not more than 5 years after the facility has opened to traffic. The term of any such loan shall not exceed 30 years from the date of the initial funding of the loan.

"(5) INTEREST.—Any loan from a State transportation revolving fund to a private entity shall bear interest at the average rate the State's pooled investment fund earned in the 52 weeks preceding the start of repayment. Any such loan to a public entity shall bear interest at such rate as the State determines appropriate.

"(6) REUSE OF FUNDS.—Amounts repaid to a State from any loan made under this section may be obligated for any purpose for which the loaned funds were available.

"(7) PROCEDURES AND GUIDELINES.—The Secretary shall establish procedures and guidelines for establishing and operating State transportation revolving funds under this section and for making loans from such funds.

"(d) LOAN DEFINED.—For purposes of this section, the term 'loan' includes the making of a loan and the providing of loan guarantees, bond insurance, letters of credit, and other forms of debt financing.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end the following new item:

"161. State transportation revolving funds.".

SEC. 138. FEDERAL LANDS HIGHWAY PROGRAM.

(a) PUBLIC LANDS HIGHWAYS ALLOCATION.—Section 202(b) of title 23, United States Code, is amended by striking "66 percent of the remainder" and inserting "the remaining 66 percent".

(b) LIMITATION ON REALLOCATIONS.—Section 202 of title 23, United States Code, is amended by adding at the end the following new subsection:

"(e) LIMITATION ON REALLOCATIONS.—If, in a fiscal year, the Secretary has approved engineering and related work for a Federal lands highway project within the boundaries of a State or has approved plans, specifications, and estimates for procurement of construction for a Federal lands highway project within the boundaries of such State, the Secretary may not reallocate from funds allocated for such fiscal year to such State under this section for such projects an amount of funds. The amount of funds which may not be reallocated shall be equal to the estimated cost of construction of such project.".

(c) AVAILABILITY OF FUNDS.—Section 203 of such title is amended by striking the comma preceding "forest development" each place it appears.

(d) APPROVAL OF INDIAN RESERVATION ROAD PROJECTS.—Section 204(c) of such title is amended by inserting "of" after "15 percent".

(e) REFERENCE TO PARK ROADS.—Section 1003(a)(6)(C) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1919) is amended—

(1) by striking "HIGHWAYS" in the subparagraph heading and inserting "ROADS"; and

(2) by striking "highways" the place it appears preceding "$69,000,000" and inserting "roads".

(f) TECHNICAL AMENDMENT.—Section 1032(b)(2)(A) of such Act (105 Stat. 1974) is amended by striking "improvements" and inserting "improvement".

SEC. 139. BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAY.

Section 217 of title 23, United States Code, is amended—

(1) in subsection (b) by inserting "pedestrian walkways and" before "bicycle transportation facilities";

(2) by redesignating subsection (j) as subsection (k); and

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

"(j) INCLUSION OF PEDESTRIAN WALKWAYS AND BICYCLE TRANSPORTATION FACILITIES IN PLANNING.—

"(1) GENERAL RULE.—The Secretary may not approve under this chapter a highway project for new construction or reconstruction within the boundaries of a State along which a pedestrian walkway or bicycle transportation facility is required to be included under the State's transportation improvement plan developed under section 135 unless such pedestrian walkway or bicycle transportation facility is part of such highway project.

"(2) EXCEPTION.—The Secretary does not have to approve a project for construction of a pedestrian walkway or bicycle transportation facility under paragraph (1)—

"(A) if the Secretary determines that such construction is not feasible or that use of the walkway or facility would pose a safety risk to pedestrians or bicyclists, as the case may be; or

"(B) the Secretary determines that there will be no substantial transportation or recreation benefit resulting from the project.".

SEC. 140. RESEARCH AND TECHNOLOGY PROGRAM.

(a) STATE PLANNING AND RESEARCH.—Section 307(c)(1) of title 23, United States Code, is amended by striking "104" and inserting "104(b)".

(b) APPLIED RESEARCH AND TECHNOLOGY PROGRAM.—Section 307(e) of such title is amended—

(1) in paragraph (8) by inserting "in the State of Arkansas" before "to demonstrate";

(2) by redesignating paragraphs (9) through (13) as paragraphs (10) through (14);

(3) by inserting after paragraph (8) the following new paragraph:

"(9) HIGH CARBON CONCRETE.—As part of the program under this subsection, the Secretary shall carry out in fiscal year 1993 a project in the State of Pennsylvania to demonstrate the durability and elasticity benefits of high carbon concrete."; and

(4) in paragraph (14), as so redesignated by paragraph (2), by striking the quotation marks preceding "$35,000,000".

SEC. 141. HIGHWAY SAFETY PROMOTION PROGRAM.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is amended by inserting after section 312 the following new section:

"§313. Highway safety promotion program

"(a) ESTABLISHMENT.—The Secretary shall carry out education, research, development, and technology transfer activities to promote the safe operation and maintenance of commercial motor vehicles in interstate commerce.

"(b) GRANTS.—To carry out the purposes of this section, the Secretary shall make grants to, and enter into cooperative agreements with—

"(1) a not-for-profit membership organization that has been engaged exclusively in truck-related research and education since 1985;

"(2) not-for-profit organizations engaged in commercial motor vehicle safety research; and

"(3) labor organizations engaged in commercial motor vehicle safety research.

"(c) FEDERAL SHARE.—The Federal share of the costs of activities carried out under this section shall be 100 percent.

"(d) FUNDING.—Out of administrative funds deducted under section 104(a) of this title for each of fiscal years 1993 through 1997, the Secretary shall make available—

"(1) for making grants and entering into cooperative agreements under subsection (b)(1) $800,000;

"(2) for making grants and entering into cooperative agreements under subsection (b)(2) $200,000; and

"(3) for making grants and entering into cooperative agreements under subsection (b)(3) $200,000.

Such funds shall remain available until expended.

"(e) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, approval by the Secretary of a grant under this section shall be deemed a contractual obligation of the United States for payment of the Federal share of the grant.

"(f) ANNUAL REPORT.—Annually, beginning on January 1, 1994, the Secretary shall transmit to Congress a report which provides information on the progress and activities of the programs conducted under this section.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of such title is amended by inserting after the item relating to section 312 the following:

"313. Highway safety promotion program.".

SEC. 142. HIGHWAY SAFETY PROGRAMS.

(a) IN GENERAL.—Section 402 of title 23, United States Code, is amended to read as follows:

"§402. Highway safety programs

"(a) IN GENERAL.—Each State shall have a highway safety program approved by the Secretary which is designed to reduce traffic accidents and deaths, injuries, and property damage resulting therefrom.

"(b) UNIFORM GUIDELINES.—

"(1) REQUIREMENT.—The State highway safety programs approved under this section shall be in accordance with uniform guidelines promulgated by the Secretary.

"(2) PERFORMANCE CRITERIA.—The uniform guidelines shall be expressed in terms of performance criteria.

"(3) PURPOSES.—The uniform guidelines shall include, at a minimum, criteria relating to—

"(A) reducing injuries and deaths resulting from motor vehicles being driven in excess of posted speed limits;

"(B) encouraging the proper use of occupant protection devices (including the use of safety belts and child restraint systems) by occupants of motor vehicles and increasing public awareness of the benefit of motor vehicles equipped with airbags;

"(C) reducing deaths and injuries resulting from persons driving motor vehicles while impaired by alcohol or a controlled substance;

"(D) reducing deaths and injuries resulting from accidents involving motorcycles;

"(E) reducing injuries and deaths resulting from accidents involving school buses; and

"(F) improving law enforcement services in motor vehicle accident prevention, traffic supervision, and post-accident procedures.

"(4) EFFECTIVENESS DETERMINATION.—A State highway safety program relating to a guideline established pursuant to paragraph (3) shall be considered a most effective program for purposes of subsection (i) unless the Secretary determines, after a rulemaking process under subsection (i), that it should not be so considered and submits a report to Congress describing the reasons for the determination.

"(5) ADDITIONAL PURPOSES.—The uniform guidelines may include provisions to improve driver performance (including driver education, driver testing to determine proficiency to operate motor vehicles, driver examinations (both physical and mental) and driver licensing) and to improve pedestrian performance and bicycle safety. In addition the uniform guidelines may include provisions for an effective record system of accidents (including injuries and deaths resulting therefrom), accident investigations to determine the probable causes of accidents, injuries, and deaths, vehicle registration, operation, and inspection, highway design and maintenance (including lighting, markings, and surface treatment), traffic control, vehicle codes and laws, surveillance of traffic for detection and correction of high or potentially high accident locations, and emergency services.

"(6) APPLICABILITY TO FEDERALLY ADMINISTERED AREAS.—The uniform guidelines which are applicable to State highway safety programs shall, to the extent determined appropriate by the Secretary, be applicable to federally administered areas where a Federal department or agency controls the highways or supervises traffic operations.

"(7) LIMITATION ON STATUTORY CONSTRUCTION.—Implementation of a highway safety program under this section shall not be construed to require the Secretary to require compliance with every uniform guideline, or with every element of every uniform guideline, in every State.

"(8) COOPERATION IN PROMULGATION.—Uniform guidelines promulgated by the Secretary to carry out this section shall be developed in cooperation with the States, their political subdivisions, appropriate Federal departments and agencies, and such other public and private organizations as the Secretary deems appropriate.

"(9) ASSISTANCE OF OTHER FEDERAL DEPARTMENTS.—The Secretary may make arrangements with other Federal departments and agencies for assistance in the preparation of uniform guidelines for the highway safety programs contemplated by this subsection and in the administration of such programs. Such departments and agencies are directed to cooperate in such preparation and administration, on a reimbursable basis.

"(c) REQUIREMENTS FOR APPROVAL.—

"(1) IN GENERAL.—The Secretary may not approve a State highway safety program under this section which does not—

"(A) provide that the Governor of the State shall be responsible for the administration of the program through a State highway safety agency which shall have adequate powers and be suitably equipped and organized to carry out, to the satisfaction of the Secretary, such program;

"(B) authorize political subdivisions of the State to carry out local highway safety programs within their jurisdictions as a part of the State highway safety program if such local highway safety programs are approved by the Governor and are in accordance with the uniform guidelines promulgated by the Secretary under this section;

"(C) except as provided in paragraph (2), provide that at least 40 percent of all Federal funds apportioned under this section to the State for any fiscal year will be expended by the political subdivisions of the State, including Indian tribal governments, in carrying out local highway safety programs authorized in accordance with subparagraph (B); and

"(D) provide adequate and reasonable access for the safe and convenient movement of individuals with disabilities, including those in wheelchairs, across curbs constructed or replaced on or after July 1, 1976, at all pedestrian crosswalks throughout the State.

"(2) WAIVER.—The Secretary may waive the requirement of paragraph (1)(C), in whole or in part, for a fiscal year for any State whenever the Secretary determines that there is an insufficient number of local highway safety programs to justify the expenditure in the State of such percentage of Federal funds during the fiscal year.

"(3) USE OF TECHNOLOGY FOR TRAFFIC ENFORCEMENT.—The Secretary may encourage States to use technologically advanced traffic enforcement devices (including the use of automatic speed detection devices such as photoradar) by law enforcement officers.

"(d) DATA COLLECTION AND REPORTING PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary shall establish a highway safety program for the collection and reporting of data on traffic-related deaths and injuries by the States. Under such program, the States shall collect and report to the Secretary such data as the Secretary may require.

"(2) PURPOSES.—The purposes of the program under this subsection are to ensure national uniform data on such deaths and injuries and to allow the Secretary to make determinations for use in developing programs to reduce such deaths and injuries and making recommendations to Congress concerning legislation necessary to implement such programs.

"(3) PROGRAM REQUIREMENTS.—The program under this subsection shall include information obtained by the Secretary under section 4004 of the Intermodal Surface Transportation Efficiency Act of 1991 and provide for annual reports to the Secretary on the efforts being made by the States in reducing deaths and injuries occurring at highway construction sites and the effectiveness and results of such efforts.

"(4) REPORTING CRITERIA.—The Secretary shall establish minimum reporting criteria for the program under this subsection. Such criteria shall include, but not be limited to, criteria on deaths and injuries resulting from police pursuits, school bus accidents, and speeding, on traffic-related deaths and injuries at highway construction sites and on the configuration of commercial motor vehicles involved in motor vehicle accidents.

"(e) USE OF FUNDS.—

"(1) FOR HIGHWAY SAFETY PROGRAMS.—Funds authorized to be appropriated to carry out this section shall be used to aid the States to conduct the highway safety programs approved in accordance with subsection (a), including development and implementation of manpower training programs, and of demonstration programs that the Secretary determines will contribute directly to the reduction of traffic accidents and deaths and injuries resulting therefrom.

"(2) ADMINISTRATIVE EXPENSES.—Funds authorized to be appropriated to carry out this section shall be subject to a deduction not to exceed 5 percent for the necessary costs of administering the provisions of this section, and the remainder shall be apportioned among the several States under subsection (f).

"(3) LIMITATION.—Nothing in this section authorizes the appropriation or expenditure of funds—

"(A) for highway construction, maintenance, or design (other than design of safety features of highways to be incorporated into guidelines); or

"(B) for any purpose for which funds are authorized by section 403 of this title.

"(f) APPORTIONMENT OF FUNDS.—

"(1) FORMULA.—After the deduction under subsection (e)(2), the remainder of the funds authorized to be appropriated to carry out this section shall be apportioned 75 percent in the ratio which the population of each State bears to the total population of all the States, as shown by the latest available Federal census, and 25 percent in the ratio which the public road mileage in each State bears to the total public road mileage in all States.

"(2) MINIMUM PERCENTAGE.—The annual apportionment to each State shall not be less than ½ of 1 percent of the total apportionment; except that the apportionments to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not be less than ¼ of 1 percent of the total apportionment.

"(3) APPROVED HIGHWAY SAFETY PROGRAM.—The Secretary shall not apportion any funds under this subsection to any State which is not implementing a highway safety program approved by the Secretary in accordance with this section.

"(4) REDUCTION OF APPORTIONMENT.—Funds apportioned under this section to any State, that does not have a highway safety program approved by the Secretary or that is not implementing an approved program, shall be reduced by amounts equal to not less than 50 percent of the amounts that would otherwise be apportioned to the State under this section, until such time as the Secretary approves such program or determines that the State is implementing an approved program, as appropriate. The Secretary shall consider the gravity of the State's failure to have or implement an approved program in determining the amount of the reduction.

"(5) APPORTIONMENT OF WITHHELD FUNDS.—The Secretary shall promptly apportion to the State the funds withheld from its apportionment if the Secretary approves the State's highway safety program or determines that the State has begun implementing an approved program, as appropriate, prior to the end of the fiscal year for which the funds were withheld. If the Secretary determines that the State did not correct its failure within such period, the Secretary shall reapportion the withheld funds to the other States in accordance with the formula specified in this subsection not later than 30 days after such determination.

"(6) DETERMINATION OF PUBLIC ROAD MILEAGE.—For the purposes of this subsection, a "public road" means any road under the jurisdiction of, and maintained by, a public authority and open to public travel. Public road mileage as used in this subsection shall be determined as of the end of the calendar year preceding the year in which the funds are apportioned and shall be certified to by the Governor of the State and subject to approval by the Secretary.

"(g) APPLICABILITY OF CHAPTER 1.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, all provisions of chap-

ter 1 of this title that are applicable to National Highway System highway funds, other than provisions relating to the apportionment formula and provisions limiting the expenditure of such funds to the Federal-aid systems, shall apply to the highway safety funds authorized to be appropriated to carry out this section.

"(2) INCONSISTENT PROVISIONS.—If the Secretary determines that a provision of chapter 1 of this title is inconsistent with this section, such provision shall not apply to funds authorized to be appropriated to carry out this section.

"(3) CREDIT FOR STATE AND LOCAL EXPENDITURES.—The aggregate of all expenditures made during any fiscal year by a State and its political subdivisions (exclusive of Federal funds) for carrying out the State highway safety program (other than planning and administration) shall be available for the purpose of crediting such State during such fiscal year for the non-Federal share of the cost of any project under this section (other than one for planning or administration) without regard to whether such expenditures were actually made in connection with such project.

"(4) INCREASED FEDERAL SHARE FOR CERTAIN INDIAN TRIBE PROGRAMS.—In the case of a local highway safety program carried out by an Indian tribe, if the Secretary is satisfied that an Indian tribe does not have sufficient funds available to meet the non-Federal share of the cost of such program, the Secretary may increase the Federal share of the cost thereof payable under this title to the extent necessary.

"(5) TREATMENT OF TERM 'STATE HIGHWAY DEPARTMENT'.—In applying the provisions of chapter 1 of this title in carrying out this section, the term 'State highway department' as used in such provisions shall mean the Governor of a State for the purposes of this section.

"(h) APPLICATION IN INDIAN COUNTRY.—

"(1) IN GENERAL.—For the purpose of the application of this section in Indian country, the terms 'State' and 'Governor of a State' include the Secretary of the Interior and the term 'political subdivision of a State' includes an Indian tribe. Notwithstanding the provisions of subsection (c)(1)(C), 95 percent of the funds transferred to the Secretary of the Interior under this section shall be expended by Indian tribes to carry out highway safety programs within their jurisdictions. The provisions of subsection (c)(1)(D) shall be applicable to Indian tribes, except to those tribes with respect to which the Secretary determines that application of such provisions would not be practicable.

"(2) INDIAN COUNTRY DEFINED.—For the purpose of this subsection, the term 'Indian country' means—

"(A) all land within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;

"(B) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof and whether within or without the limits of a State; and

"(C) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.

"(i) RULEMAKING PROCESS.—The Secretary may from time to time conduct a rulemaking process to determine those highway safety programs that are most effective in reducing traffic accidents, injuries, and deaths. Any rule under this subsection shall be promulgated taking into account consideration of the views of the States having a major role in establishing such programs. When a rule promulgated in accordance with this subsection takes effect, only those programs established by such rule as most effective in reducing traffic accidents, injuries, and deaths shall be eligible to receive Federal financial assistance under this section.".

(b) SECTION 2005.—Section 2005(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2079) is amended by striking "and $171,000,000 for each of fiscal years 1993, 1994," and inserting ", $126,000,000 for each of fiscal years 1993 and 1994, and $146,000,000 for each of fiscal years".

SEC. 143. ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES.

(a) IN GENERAL.—Section 410 of title 23, United States Code, is amended to read as follows:

"§410. Alcohol-impaired driving countermeasures

"(a) GENERAL AUTHORITY.—Subject to the provisions of this section, the Secretary shall make grants to those States which adopt and implement effective programs to reduce traffic safety problems resulting from persons driving while under the influence of alcohol or a controlled substance. Such grants may only be used by recipient States to implement and enforce such programs.

"(b) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless such 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 alcohol traffic safety programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991.

"(c) MAXIMUM PERIOD OF ELIGIBILITY; FEDERAL SHARE FOR GRANTS.—No State may receive grants under this section in more than 5 fiscal years beginning after September 30, 1992. The Federal share payable for any basic or supplemental grant under this section shall not exceed—

"(1) in the first fiscal year the State receives a basic or supplemental grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year the program adopted by the State pursuant to subsection (a);

"(2) in the second fiscal year the State receives a basic or supplemental grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third, fourth, and fifth fiscal years the State receives a basic or supplemental grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.

"(d) BASIC GRANT ELIGIBILITY.—A State is eligible for a basic grant under this section in a fiscal year only if such State provides for 5 or more of the following:

"(1) DRIVER'S LICENSE SUSPENSION SYSTEM.—Establishment of an expedited driver's license suspension or revocation system for persons who operate motor vehicles while under the influence of alcohol which requires that—

"(A) when a law enforcement officer has probable cause under State law to believe a person has committed an alcohol-related traffic offense and such person is determined, on the basis of a chemical test, to have been under the influence of alcohol while operating the motor vehicle or refuses to submit to such a test as proposed by the officer, the officer serve such person with a written notice of suspension or revocation of the driver's license of such person and take possession of such driver's license;

"(B) the notice of suspension or revocation referred to in subparagraph (A) provide information on the administrative procedures under which the State may suspend or revoke in accordance with the objectives of this section a driver's license of a person for operating a motor vehicle while under the influence of alcohol and specify any rights of the operator under such procedures;

"(C) the State provide, in the administrative procedures referred to in subparagraph (B), for due process of law, including the right to an administrative review of a driver's license suspension or revocation;

"(D) after serving notice and taking possession of a driver's license in accordance with subparagraph (A), the law enforcement officer immediately report to the State entity responsible for administering drivers' licenses all information relevant to the action taken in accordance with this paragraph;

"(E) in the case of a person who, in any 5-year period beginning after November 18, 1988, is determined on the basis of a chemical test to have been operating a motor vehicle under the influence of alcohol or is determined to have refused to submit to such a test as proposed by the law enforcement officer, the State entity responsible for administering drivers' licenses, upon receipt of the report of the law enforcement officer—

"(i) suspend the driver's license of such person for a period of not less than 90 days if such person is a first offender in such 5-year period; and

"(ii) suspend the driver's license of such person for a period of not less than 1 year, or revoke such license, if such person is a repeat offender in such 5-year period; and

"(F) the suspension and revocation referred to under subparagraph (E) take effect not later than 30 days after the day on which the person first received notice of the suspension or revocation in accordance with subparagraph (A).

"(2) DRIVING WHILE INTOXICATED.—

"(A) FIRST 3 FISCAL YEARS.—In each of the first 3 fiscal years in which a State is to receive a basic grant, any person with a blood alcohol concentration of 0.10 percent or greater when driving a motor vehicle be deemed to be driving while intoxicated.

"(B) THEREAFTER.—In each fiscal year thereafter in which the State is to receive a basic grant, any person with a blood alcohol concentration of 0.08 percent or greater when driving a motor vehicle be deemed to be driving while intoxicated.

"(3) PROGRAM FOR STOPPING VEHICLES.—Establishment of a statewide program for stopping motor vehicles on a nondiscriminatory, lawful basis for the purpose of determining whether or not the operators of such motor vehicles are driving while under the influence of alcohol.

"(4) SELF-SUSTAINING PREVENTION PROGRAM.—Establishment of a self-sustaining drunk driving prevention program under which a significant portion of the fines or surcharges collected from individuals apprehended and fined for operating a motor vehicle while under the influence of alcohol are returned, or an equivalent amount of non-Federal funds are provided, to those communities which have comprehensive programs for the prevention of such operations of motor vehicles.

"(5) UNDERAGE PREVENTION PROGRAM.—Establishment of an effective system for preventing operators of motor vehicles under age 21 from obtaining alcoholic beverages. Such system may include the issuance of drivers' licenses to individuals under age 21 that are easily distinguishable in appearance from drivers' licenses issued to individuals age 21 years of age or older.

"(6) MANDATORY SENTENCE FOR REPEAT OFFENDERS.—Establishment of a mandatory sentence, which shall not be subject to suspension or probation, of (A) imprisonment for not less than 48 consecutive hours, or (B) not less than 10 days of community service, of any person convicted of driving while intoxicated more than once in any 5-year period.

"(e) AMOUNT OF BASIC GRANT.—Subject to subsection (c), the amount of a basic grant made

under this section for any fiscal year to any State which is eligible for such a grant under subsection (d) shall equal 30 percent of the amount apportioned to such State for fiscal year 1992 under section 402 of this title.

"(f) SUPPLEMENTAL GRANTS.—

"(1) BLOOD ALCOHOL CONCENTRATION FOR PERSONS UNDER AGE 21.—Subject to subsection (c), a State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in fiscal year 1992 under section 402 of this title if the State is eligible for a basic grant in the fiscal year and has in effect a law which provides that any person under age 21 with a blood alcohol concentration of 0.02 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated.

"(2) OPEN CONTAINER LAWS.—Subject to subsection (c), a State shall be eligible to receive a supplemental grant in a fiscal year of 10 percent of the amount apportioned to the State in fiscal year 1992 under section 402 of this title if the State is eligible for a basic grant in the fiscal year and makes unlawful the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle located on a public highway or the right-of-way of a public highway, except—

"(A) as allowed in the passenger area, by persons (other than the driver), of any motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers; or

"(B) as otherwise specifically allowed by such State, with the approval of the Secretary, but in no event may the driver of such motor vehicle be allowed to possess or consume an alcoholic beverage in the passenger area.

"(3) SUSPENSION OF REGISTRATION AND RETURN OF LICENSE PLATES.—Subject to subsection (c), a State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in fiscal year 1992 under section 402 of this title if the State is eligible for a basic grant in the fiscal year and has in effect a law which provides for the suspension of the registration of, and the return to such State of the license plates for an individual who—

"(A) has been convicted on more than 1 occasion of an alcohol-related traffic offense within any 5-year period beginning after November 18, 1988; or

"(B) has been convicted of driving while his or her driver's license is suspended or revoked by reason of a conviction for such an offense.

A State may provide limited exceptions to such suspension of registration or return of license plates on an individual basis to avoid undue hardship to any individual (including any family member of the convicted individual and any co-owner of the motor vehicle) who is completely dependent on the motor vehicle for the necessities of life. Such exceptions may not result in unrestricted reinstatement of the registration of the motor vehicle, unrestricted return of the license plates of the motor vehicle, or unrestricted return of the motor vehicle.

"(4) MANDATORY BLOOD ALCOHOL CONCENTRATION TESTING PROGRAMS.—Subject to subsection (c), a State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in fiscal year 1992 under section 402 of this title if the State is eligible for a basic grant in the fiscal year and has in effect a law which provides for mandatory blood alcohol concentration testing whenever a law enforcement officer has probable cause under State law to believe that a driver of a motor vehicle involved in an accident resulting in the loss of human life or, as determined by the Secretary, serious bodily injury, has committed an alcohol-related traffic offense.

"(5) DRUGGED DRIVING PREVENTION.—Subject to subsection (c), a State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in fiscal year 1992 under section 402 of this title if the State is eligible for a basic grant in the fiscal year and—

"(A) has in effect laws concerning drugged driving under which—

"(i) a person shall not drive or be in actual physical control of a motor vehicle while under the influence of alcohol, a controlled substance, a combination of controlled substances, or any combination of alcohol and controlled substances;

"(ii) any person who operates a motor vehicle upon the highways of the State shall be deemed to have given consent to a test or tests of his or her blood, breath, or urine for the purpose of determining the blood alcohol concentration or the presence of controlled substances in his or her body; and

"(iii) the driver's license of a person shall be suspended promptly, for a period of not less than 90 days in the case of a first offender and not less than 1 year in the case of any repeat offender, when a law enforcement officer has probable cause under State law to believe such person has committed a traffic offense relating to controlled substances use, and such person (I) is determined, on the basis of 1 or more chemical tests, to have been under the influence of controlled substances while operating a motor vehicle, or (II) refuses to submit to such a test as proposed by the officer;

"(B) has in effect a law which provides that—

"(i) any person convicted of a first violation of driving under the influence of controlled substances or alcohol, or both, shall receive—

"(I) a mandatory license suspension for a period of not less than 90 days; and

"(II) either an assignment of 100 hours of community service or a minimum sentence of imprisonment for 48 consecutive hours;

"(ii) any person convicted of a second violation of driving under the influence of controlled substances or alcohol, or both, within 5 years after a conviction for the same offense shall receive a mandatory minimum sentence of imprisonment for 10 days and license revocation for not less than 1 year;

"(iii) any person convicted of a third or subsequent violation of driving under the influence of controlled substances or alcohol, or both, within 5 years after a prior conviction for the same offense shall—

"(I) receive a mandatory minimum sentence of imprisonment for 120 days; and

"(II) have his or her license revoked for not less than 3 years; and

"(iv) any person convicted of driving with a suspended or revoked license or in violation of a restriction imposed as a result of a conviction for driving under the influence of controlled substances or alcohol, or both, shall receive a mandatory sentence of imprisonment for at least 30 days and shall upon release from imprisonment receive an additional period of license suspension or revocation of not less than the period of suspension or revocation remaining in effect at the time of commission of the offense of driving with a suspended or revoked license;

"(C) establishes an effective system, as determined by the Secretary, for—

"(i) the detection of driving under the influence of controlled substances;

"(ii) the administration of a chemical test or tests to any driver who a law enforcement officer has probable cause under State law to believe has committed a traffic offense relating to controlled substances use; and

"(iii) in instances where such probable cause exists, the prosecution of (I) those persons who are determined, on the basis of 1 or more chemical tests, to have been operating a motor vehicle while under the influence of controlled substances, and (II) those persons who refuse to submit to such a test as proposed by a law enforcement officer; and

"(D) has in effect at least 2 of the following programs:

"(i) an effective educational program, as determined by the Secretary, for the prevention of driving under the influence of controlled substances;

"(ii) an effective program, as determined by the Secretary, for training law enforcement officers to detect driving under the influence of controlled substances;

"(iii) an effective program, as determined by the Secretary, for the rehabilitation and treatment of those convicted of driving under the influence of controlled substances.

"(6) BLOOD ALCOHOL CONCENTRATION.—Subject to subsection (c), in each of the first 3 fiscal years in which a State receives a basic grant, the State shall be eligible to receive a supplemental grant in such fiscal year of 5 percent of the amount apportioned to the State in fiscal year 1992 under section 402 of this title if the State has in effect a law which provides that any person with a blood alcohol concentration of .08 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated.

"(7) VIDEO EQUIPMENT FOR DETECTION OF DRUNK AND DRUGGED DRIVERS.—Subject to subsection (c), a State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in fiscal year 1992 under section 402 of this title if the State is eligible for a basic grant in the fiscal year and provides for the establishment of a program to acquire video equipment to be used in detecting persons who operate motor vehicles while under the influence of alcohol or a controlled substance and in effectively prosecuting those persons, and to train personnel in the use of that equipment.

"(g) SPECIAL GRANT PROGRAM.—

"(1) IN GENERAL.—Subject to the provisions of this subsection, the Secretary shall establish a special grant program under which grants are awarded to Indian tribal governments and other tribal organizations which adopt and implement effective programs to reduce traffic safety problems in Indian country involving persons under the influence of alcohol or a controlled substance. In developing such a special grant program, the Secretary shall consult with the Secretary of the Interior, the Secretary of Health and Human Services, Indian tribal governments, and other tribal organizations as the Secretary deems appropriate. Grants received may only be used by recipient Indian tribal governments or tribal organizations to implement and enforce such effective programs.

"(2) GRANT QUALIFICATIONS.—The Secretary shall establish criteria for effective programs to reduce traffic safety problems in Indian country involving persons under the influence of alcohol or a controlled substance and procedures for the award of special grants under this subsection. In establishing such criteria and procedures, the Secretary shall consult with the Secretary of the Interior, the Secretary of Health and Human Services, Indian tribal governments, and other tribal organizations as the Secretary deems appropriate. The Secretary shall administer this special grant program and approve all special grants. The Secretary may make arrangements with the Department of the Interior, the Department of Health and Human Services, or other Federal departments and agencies for assistance in the implementation of the program, and such departments and agencies are directed to provide such assistance, on a reimbursable basis.

Such departments and agencies will only be reimbursed for assistance provided under this paragraph and technical assistance provided under paragraph (5) of this subsection based on written documentation.

"(3) APPROVAL REQUIREMENTS.—For purposes of this subsection, an Indian tribal government or tribal organization is eligible for a special grant if such tribal government or organization meets the criteria and procedures established by the Secretary under this subsection. The amount of each grant shall be determined based on factors the Secretary deems appropriate, which may include the magnitude of the problem, the scope of the effort, and the proportion of the population affected.

"(4) AMOUNT AVAILABLE FOR SPECIAL GRANTS.—From amounts appropriated to carry out this section for a fiscal year, there shall be available for special grants under this subsection for such fiscal year an amount equal to the lesser of—

"(A) 5 percent of the funds appropriated to carry out this section for such fiscal year, or

"(B) 70 percent of the amount of funds transferred to the Secretary of the Interior for fiscal year 1992 under section 402 of this title.

"(5) ADMINISTRATIVE EXPENSES.—Funds available to carry out this subsection shall be subject to a deduction not to exceed 5 percent for the necessary costs of administering the provisions of this subsection; except that the Secretary may deduct more than 5 percent in a fiscal year whenever the Secretary determines that such additional funds are necessary to provide technical assistance to Indian tribal governments or other tribal organizations in developing effective programs.

"(h) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out this section, there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) $25,000,000 for each of fiscal years 1993 through 1997. Amounts made available to carry out this section shall remain available until expended and shall not be subject to any obligation limitation for State and community highway safety programs.

"(i) ADMINISTRATIVE EXPENSES.—Funds authorized to be appropriated to carry out this section shall be subject to a deduction not to exceed 5 percent for the necessary costs of administering the provisions of this section.

"(j) APPLICABILITY OF CHAPTER 1.—

"(1) IN GENERAL.—Except as otherwise provided in this section, all provisions of chapter 1 of this title that are applicable to National Highway System funds, other than provisions relating to the apportionment formula and provisions limiting the expenditure of such funds to the Federal-aid systems, shall apply to the funds authorized to be appropriated to carry out this section.

"(2) INCONSISTENT PROVISIONS.—If the Secretary determines that a provision of chapter 1 of this title is inconsistent with this section, such provision shall not apply to funds authorized to be appropriated to carry out this section.

"(3) CREDIT FOR STATE AND LOCAL EXPENDITURES.—The aggregate of all expenditures made during any fiscal year by a State and its political subdivisions (exclusive of Federal funds) for carrying out the State highway safety program (other than planning and administration) shall be available for the purpose of crediting such State during such fiscal year for the non-Federal share of the cost of any project under this section (other than one for planning or administration) without regard to whether such expenditures were actually made in connection with such project.

"(4) TREATMENT OF TERM 'STATE HIGHWAY DEPARTMENT'.—In applying provisions of chapter 1 in carrying out this section, the term 'State highway department' as used in such provisions shall mean the Governor of a State.

"(k) DEFINITIONS.—For the purposes of this section, the following definitions apply:

"(1) ALCOHOLIC BEVERAGE.—The term 'alcoholic beverage' has the meaning such term has under section 158(c) of this title.

"(2) CONTROLLED SUBSTANCES.—The term 'controlled substances' has the meaning such term has under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

"(3) INDIAN COUNTRY.—The term 'Indian country' means—

"(A) all land within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;

"(B) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof and whether within or without the limits of a State; and

"(C) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.

"(4) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning such term has under section 154(b) of this title.

"(5) OPEN ALCOHOLIC BEVERAGE CONTAINER.—The term 'open alcoholic beverage container' means any bottle, can, or other receptacle—

"(A) which contains any amount of an alcoholic beverage; and

"(B)(i) which is open or has a broken seal, or

"(ii) the contents of which are partially removed.".

(b) EFFECTIVE DATE.—

(1) GENERAL RULE.—Subject to paragraph (2) of this section, the amendment made by subsection (a) shall take effect October 1, 1992.

(2) SPECIAL RULES FOR FISCAL YEAR 1992 PROGRAM.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, section 410 of title 23, United States Code, as in effect on September 30, 1992, shall continue to be in effect until September 30, 1993, but only with respect to those States that received a grant under such section in fiscal year 1992. Such a State may not receive an apportionment of funds in fiscal year 1993 under such section but, subject to subparagraph (B), may receive a reapportionment of funds in fiscal year 1993 under subsection (g)(4) of such section. Such State may receive grants after September 30, 1992, under section 410 of title 23, United States Code, as amended by subsection (a).

(B) LIMITATION ON REAPPORTIONMENT OF FUNDS.—The maximum amount of funds which a State described in subparagraph (A) may receive from funds reapportioned on October 1, 1992, under subsection (g)(4) of section 410 of title 23, United States Code, as in effect on September 30, 1992, shall equal, when added to the amount of any grants received in fiscal year 1992 under such section 410, 70 percent of the amount apportioned to the State in fiscal year 1992 under section 402 of such title.

(C) TRANSFER OF REMAINING FUNDS TO NEW PROGRAM.—Funds apportioned or reapportioned in fiscal years 1992 and 1993 to States but not received by any State under section 410 of title 23, United States Code, as in effect on September 30, 1992, shall be available, on and after October 1, 1992, for carrying out section 410 of title 23, United States Code, as amended by subsection (a).

SEC. 144. USE OF RECYCLED PAVING MATERIAL.

Section 1038(e) of such Act is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; and"; and

(3) by adding at the end the following:

"(3) the term 'State' has the meaning such term has under section 101 of title 23, United States Code.".

SEC. 145. ROADSIDE BARRIER TECHNOLOGY.

Section 1058(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 109 note; 105 Stat. 2003) is amended by striking "classified by" and all that follows through the period at the end and inserting "that meets the testing and evaluation criteria of National Cooperative Highway Research Program 230 (or its update) as accepted by the Federal Highway Administration Office of Engineering and classified by the Federal Highway Administration as 'experimental' or that was classified as 'operational' after January 1, 1985.".

SEC. 146. HIGH COST BRIDGE PROJECTS.

The table contained in section 1103(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2027–2028) is amended—

(1) in item number 3, relating to Beaver County, Pennsylvania, by inserting after "of Beaver County, Pennsylvania" the following: ", and construction of Crow's Run Expressway from I-79 to PA Rt. 60 Beaver/Butler Counties, PA (of which $200,000 shall be available for site assessment, including environmental assessments, necessary for redevelopment in the vicinity of the Aliquippa Ambridge Bridge)"; and

(2) in item number 5, relating to Gloucester Point, Virginia, by inserting after "York River" the following: "and for repair, strengthening, and rehabilitation of the existing bridge".

SEC. 147. CONGESTION RELIEF PROJECTS.

The table contained in section 1104(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2029–2031) is amended—

(1) in item number 10, relating to San Diego, California, by striking "1 block of Cut and Cover Tunnel on Rt. 15" and inserting "2 decks on University Avenue bridge"; and

(2) in item number 17, relating to Murfreesbro, Tennessee, by striking "Conduct a feasibility study" and all that follows through "recreation" and inserting "Study and construction of a bicycle system to serve as an alternative form of commuter transportation, to reduce air pollution, and to enhance recreation".

SEC. 148. HIGH PRIORITY CORRIDOR PROJECTS.

Section 1105(e)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2033) is amended by adding at the end the following new sentences: "A study may be conducted under this subsection to determine the feasibility of constructing a more direct limited access highway between Peoria and Chicago, Illinois. A study may be conducted under this subsection to determine the feasibility of constructing an Ohio State Route 33 bypass of Lancaster, Ohio. A study may be conducted under this subsection to determine the need for a high-priority 4-lane highway in the U.S. 67 corridor from Milan, Illinois to I-270 south of Alton, Illinois.".

SEC. 149. RURAL ACCESS PROJECTS.

The table contained in section 1106(a)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2037–2042) is amended—

(1) in item number 16, relating to southern Missouri, by striking the comma following "Southern" and by striking "14.1" and inserting "6.5";

(2) in item number 34, relating to Illinois, by striking "Resurfacing" and all that follows through "Omaha" and inserting "Bel-Air Road improvement from south of Carmi to State Route 141 in southeastern White County";

(3) in item number 52, relating to Bedford Springs, Pennsylvania—

(A) by striking "Bedford Springs,";

(B) by inserting "in Bedford Springs, Pennsylvania," after "access road"; and

(C) by inserting "or other projects in the counties of Bedford, Blair, Fulton, and Huntington, as selected by the State of Pennsylvania" after "therewith";

(4) in item number 56, relating to Louisiana, by striking "I–55" and inserting "I–59";

(5) in item number 61, relating to Lubbock, Texas, by striking "with" and inserting "with Interstate 10 through";

(6) in item number 69, relating to Rutherford County, Tennessee, is amended by inserting after "walkway" the following: "plan, design, and construct related, adjacent, or interlocking facilities, preserve any related historical remnants, and acquire the necessary lands or interests in lands for such facilities";

(7) in item number 75, relating to Pennsylvania, by striking "Widen" and all that follows through "lanes" and inserting "Road improvements on a 14-mile segment of U.S. Route 15 in Tioga County, Pennsylvania";

(8) in item number 92, relating to Ohio, by striking "Minerva, Ohio" and insert "Lisbon, Ohio";

(9) in item number 93, relating to New Mexico, by striking "Raton-Clayton Rd., Clayton, New Mexico" and inserting "U.S. Rt. 64/87 from Raton, New Mexico, through Clayton to the Texas-New Mexico State line";

(10) in item number 111, relating to Parker County, Texas (SH199)—

(A) by striking "Parker County" and inserting "Parker and Tarrant Counties"; and

(B) by striking "to four-" and inserting "in Tarrant County, to freeway standards and in Parker County to a 4-"; and

(11) by adding at the end the following new item:

119. Taney County, Missouri.	*For the development of a new 4-lane Highway 65 loop, to be known as Highway 765 (From Route F, in Taney County, West around Branson to Route 265) and connecting routes*	*7.6*

SEC. 150. URBAN ACCESS AND MOBILITY PROJECTS.

The table contained in section 1106(b)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2043–2047) is amended—

(1) in item number 13, relating to Joliet, Illinois, by striking "and construction and interchange at Houbolt Road and I–80"; and

(2) in item number 36, relating to Compton, California, by striking "For a grade" and all that follows through "Corridor" and inserting "For grade separations and other improvements in the city of Compton, California".

SEC. 151. INNOVATIVE PROJECTS.

The table contained in section 1107(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2048–2059) is amended—

(1) in item number 29, relating to Blacksburg, Virginia, by inserting "methods of facilitating public and private participation in" after "demonstrate";

(2) in item number 35, relating to Alabama, by striking "to bypass" and all that follows through "I–85" and inserting "beginning on U.S. Route 80 west of Montgomery, Alabama, and connecting to I–65 south of Montgomery and I–85 east of Montgomery";

(3) in item number 52, relating to Pennsylvania, strike "off Interstate" and all that follows through "Mountaintop," and insert "and related improvements off Interstate 81 between Wilkes-Barre and Hazleton,";

(4) in item number 61, relating to Mojave, California, by striking "Mojave" and inserting "Victorville" and by inserting "Mojave" after "reconstruct";

(5) in item number 70, relating to Brook Park, Ohio, strike "14.2" and insert "6.2";

(6) in item number 73, relating to New Jersey, strike "14.8" and insert "11.8";

(7) in item number 87, relating to Santa Fe Springs, California, by striking "Norwalk" and all that follows through "Springs" and inserting "Construction of Carmenita/Interstate Route 5 Overpass, Santa Fe Springs";

(8) in item number 100, relating to Arkansas, by striking "Thornton" and inserting "Little Rock";

(9) in item number 114, relating to Corpus Christi to Angleton, Texas, by striking "Construct new multi-lane freeway" and inserting "Construct a 4-lane divided highway"; and

(10) by adding at the end the following new item:

205. Newark, New Jersey.	*For construction of an interchange providing access to and from the Jackson Street Bridge in Newark, New Jersey*	*3.0*
206. Strongsville, Ohio.	*For construction of an interchange at Boston Road and Interstate I–71 in Strongsville and Brunswick, Ohio*	*4.5*
207. Berea, Ohio	*For construction of West Bagley Access Road in Berea, Ohio*	*2.0*
208. Cleveland, Ohio.	*For construction of the following highway segments (including related curb, sidewalk, and other safety improvements) in Cleveland Ohio: Prospect Avenue from Ontario Street to East 55th Street; East Ninth Street from the Shoreway to Ontario Street; and Ontario Street from Lakeside Avenue to East Ninth Street*	*1.5*

SEC. 152. INTERMODAL PROJECTS.

The table contained in section 1108(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2060–2063) is amended—

(1) in item number 5, relating to Pennsylvania, by striking "Upgrading" and inserting "To study the need to upgrade" and by inserting "to a 4-lane limited access highway" after "Airport";

(2) in item number 9, relating to E. Haven/Wallingford, Connecticut—

(A) by striking "$8.8" and inserting "$7.5";

(B) by striking "$2.4" and inserting "$2.0"; and

(C) by striking "$0.7" and inserting "$0.6".

(3) in item number 49, relating to Louisiana, insert "(including acquisition of lands)" after "Construction"; and

(4) in item number 51, relating to Long Beach, California, by inserting "(including a grade separation project for the Los Alamitos traffic circle at Lakewood Boulevard and Pacific Coast Highway)" after "Access".

SEC. 153. CORRECTED PROJECTS.

(a) IN GENERAL.—The purpose of this section is to provide assistance for certain highway projects in order to correct errors and omissions in the Intermodal Surface Transportation Efficiency Act of 1991.

(b) AUTHORIZATION OF PROJECTS.—The Secretary is authorized to carry out the projects described in this subsection. Subject to subsection (c), there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 1993 through 1997 to carry out each such project the amount listed for each such project:

City/State	*Projects*	*Amount in millions*
1. North Minnesota.	*Construction and reconstruction of Forest Highway 11 connecting Aurora-Hoyt Lakes and Silver Bay, MN*	*8.5*
2. Altoona, Pennsylvania.	*Pedestrian crossover at 13th Street*	*1.6*
3. Pennsylvania.	*To widen U.S. Rt. 202 from King of Prussia to Montgomeryville, Pennsylvania*	*6.1*
4. Philadelphia, Pennsylvania.	*Reconstruction of the Old Delaware Avenue Service Road*	*1.6*
5. Adams County, Colorado.	*Construction of phase I of 120th Avenue improvements*	*5.5*

(c) ALLOCATION PERCENTAGES.—20 percent of the amount allocated by subsection (b) for each project authorized by subsection (b) shall be available for obligation in each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(d) FEDERAL SHARE.—The Federal share payable on account of any project under this section shall be 80 percent of the cost thereof.

(e) DELEGATION TO STATES.—Subject to the provisions of title 23, United States Code, the Secretary shall delegate responsibility for construction of a project or projects under this section to the State in which such project or projects are located upon request of such State.

(f) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for construction of a project under this section—

(1) has obligated all funds allocated under this section for construction of such project; and

(2) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this section.

(g) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall be determined in accordance with this section and such funds shall remain available until expended. Funds authorized by this section shall not be subject to any obligation limitation.

SEC. 154. INFRASTRUCTURE AWARENESS PROGRAM.

(a) IN GENERAL.—Section 1109(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2064) is amended—

(1) by inserting "(1)" after "is authorized"; and

(2) by striking the period at the end and inserting ", and (2) to fund the production of a documentary in cooperation with a not-for-profit national public television station and the National Academy of Engineering.".

(b) FUNDING.—Section 1109(b) of such Act is amended—

(1) by striking "this section" the first place it appears and inserting "subsection (a)(1)"; and

(2) by striking "Account), which shall" and inserting "Account). The Secretary shall expend, out of amounts deducted under section 104(a) of title 23, United States Code, for fiscal year 1993, $2,000,000 in fiscal year 1993 to carry out subsection (a)(2). The funds made available to carry out this section shall".

SEC. 155. MISCELLANEOUS INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT AMENDMENTS.

(a) CROSS REFERENCE IN HIGHWAY USE TAX EVASION PROGRAM.—Section 1040(a) of the

Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 1992) is amended by striking "(e)" and inserting "(f)".

(b) MISCELLANEOUS BUSWAY PROJECT.—Section 1069(e) of such Act (105 Stat. 2008) is amended by inserting before the period at the end of the first sentence the following: ", together with the design and construction of a high occupancy vehicle facility utilizing the existing Wabash Tunnel and the design and construction of a new bridge into downtown Pittsburgh to be jointly used with the Airport Busway".

(c) PERIOD OF AVAILABILITY OF FUNDS FOR MISCELLANEOUS PROJECTS.—Section 1069 of such Act is amended by adding at the end the following new subsection:

"(ii) PERIOD OF AVAILABILITY.—Funds provided to carry out this section shall remain available until expended.".

(d) FINAL RULE FOR ROADSIDE BARRIERS AND SAFETY APPURTENANCES.—Section 1073(b) of such Act (105 Stat. 2012) is amended by striking "1 year" and inserting "2 years".

(e) INTERSTATE STUDY COMMISSION.—Section 1099 of such Act (105 Stat. 2026) is amended—

(1) by striking "bill" and inserting "Act";

(2) by striking "passage of this legislation" and inserting "the enactment of this Act";

(3) by inserting after "Columbia" the second place it appears the following: "appointed by the Governors of the States of Maryland and Virginia and the Mayor of the District of Columbia, respectively"; and

(4) by striking "appointed by the Governors and the Mayor" and inserting ", 1 each for Maryland, Virginia, and the District of Columbia appointed by the Governors and the Mayor, respectively".

(f) DRUG RECOGNITION EXPERT TRAINING PROGRAM.—Section 2006 of such Act (23 U.S.C. 403 note; 105 Stat. 2080) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) CONTRACT AUTHORITY.—Approval by the Secretary of a grant or contract with funds made available under subsection (c) for any fiscal year beginning after September 30, 1992, shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project.".

(g) APPLICABILITY OF OBLIGATION CEILING TO CERTAIN HIGHWAY SAFETY PROGRAMS.—Section 2009 of such Act (105 Stat. 2080) is amended—

(1) by striking "(a) IN GENERAL.—";

(2) by striking "211(b)" the first place it appears and inserting "211";

(3) by striking "102" and inserting "1002"; and

(4) by striking subsection (b).

SEC. 156. DISADVANTAGED BUSINESS ENTERPRISE PROGRAM.

In administering section 1003(b) of the Intermodal Surface Transportation Efficiency Act of 1991, the limitation on annual gross receipts of a small business concern set forth in paragraph (2)(A) of such section shall be the only limitation on annual gross receipts which applies to small business concerns.

SEC. 157. AMENDMENTS TO SURFACE TRANSPORTATION AND UNIFORM RELOCATION ASSISTANCE ACT OF 1987.

(a) NEW RIVER, WEST VIRGINIA.—Section 149(a)(62) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 191) is amended by striking "in the vicinity of" and inserting "on the west side of".

(b) BURBANK-GLENDALE-PASADENA AIRPORT, CALIFORNIA.—Section 149(a)(69) of such Act (101 Stat. 191) is amended—

(1) in the first sentence by striking "highway";

(2) in the first sentence by striking "and construction of terminal and parking facilities at such airport"; and

(3) by striking "by making" in the second sentence and all that follows through the period at the end of such sentence and inserting : "by preparing a feasibility study and conducting preliminary engineering, design, and construction of a link between such airport and the commuter rail system that is being developed by the Los Angeles County Transportation Commission.".

(c) DOVER TOWNSHIP, NEW JERSEY.—Funds made available by section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 for the project described in subsection (a)(37) of such section and not obligated for such project shall be available for carrying out the project described in item number 26 of the table contained in section 1106(b)(2) of the Intermodal Surface Transportation Efficiency Act of 1991, relating to northeastern New Jersey.

SEC. 158. FREEWAY SERVICE PATROLS.

(a) GENERAL RULE.—Except to the extent that the Secretary shall find that it is not feasible, any funds expended in a fiscal year directly or indirectly for freeway service patrols from amounts made available to a State under titles I and III of the Intermodal Surface Transportation Efficiency Act of 1991 shall be expended with privately owned or privately operated business concerns. The preceding sentence shall not apply to any publicly owned or operated freeway service patrol that was in operation before the date of the enactment of this Act.

(b) DEFINITION.—For purposes of this section, the term "freeway service patrol" means automotive road service vehicles and automotive towing vehicles operated in a continuous, dedicated service as part of an incident management program.

SEC. 159. TRAFFIC CONTROL STANDARDS.

(a) REVISION OF MANUAL.—The Secretary shall revise the Manual of Uniform Traffic Control Devices to include—

(1) a standard for a minimum level of retroreflectivity that must be maintained for pavement markings and signs; and

(2) a standard to define the roads that must have a center line or edge lines or both.

(b) APPLICABILITY OF RETROREFLECTIVITY STANDARD.—The standard developed under subsection (a)(1) shall apply to all roads open to public travel.

(c) FACTORS TO CONSIDER IN DEVELOPING LINES STANDARD.—In developing the standard under subsection (a)(2), the Secretary shall consider the functional classification of roads, traffic volumes, and the number and width of lanes.

SEC. 160. CONSTRUCTION OF INTERSTATE ROUTE 287.

(a) GENERAL RULE.—Notwithstanding any other provision of law, the Army Corps of Engineers, the Environmental Protection Agency, and the Federal Highway Administration shall suspend, for a period of 5 years from the date of completion of Interstate Route 287 in New Jersey, the enforcement or implementation of the requirement of the Army Corps' section 404 permit (number 14667) with respect to the construction of Interstate Route 287 in New Jersey that a wetland mitigation site in Wayne, New Jersey, be in place prior to the opening of such route.

(b) LIMITATION ON STATUTORY CONSTRUCTION.—Subsection (a) shall not be construed to require any additional or future requirements, actions, or reviews under section 404 of the Federal Water Pollution Control Act on the part of the State of New Jersey, the Army Corps of Engineers, the Environmental Protection Agency, or the Federal Highway Administration.

(c) APPLICABILITY OF OTHER LAWS.—Wetland mitigation referred to in subsection (a) shall be in compliance with existing Federal statutes and regulations.

SEC. 161. CENTER FOR TRAUMA AND MOTOR VEHICLE SAFETY STUDIES.

Out of administrative funds deducted under section 104(a) of title 23, United States Code, the Secretary shall use $1,500,000 per fiscal year for fiscal years beginning after September 30, 1992, and ending before October 1, 1997, to make grants to the University of Medicine and Dentistry of New Jersey in Newark, New Jersey, for the establishment and operation of a center for trauma and motor vehicle safety studies.

SEC. 162. SIGNS DESIGNATING LOCATION OF DEPARTMENT OF VETERANS AFFAIRS' FACILITIES.

(a) STUDY.—The Secretary, in consultation with the Secretary of Veterans Affairs, shall conduct a study to determine the design and placement of standardized signs at exits along Federal-aid highways to designate the location of facilities of the Department of Veterans Affairs.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a).

SEC. 163. PAN AMERICAN HIGHWAY.

(a) STUDY.—The Secretary shall conduct a study on the adequacy of and the need for improvements to the Pan American Highway.

(b) ELEMENTS.—The study to be conducted under subsection (a) shall at a minimum include the following elements:

(1) Findings on the benefits of constructing a highway at Darien Gap, Panama and Colombia.

(2) Recommendations for a self-financing arrangement for completion and maintenance of the Pan American Highway.

(3) Recommendations for establishing a Pan American highway authority to monitor financing, construction, maintenance, and operations of the Pan American Highway.

(4) Findings on the benefits to trade and prosperity of a more efficient Pan American Highway.

(5) Findings on the benefits to United States industry through the use of United States technology and equipment in construction of improvements to the Pan American Highway.

(6) Findings on environmental considerations, including environmental considerations relating to the Darien Gap.

(c) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this section.

SEC. 164. REOPENING OF TEMPORARY RAMP IN BIRMINGHAM, ALABAMA.

The Alabama State Highway Department shall reopen the temporary ramp on the Elton B. Stephens Expressway from First Avenue North in Birmingham, Alabama, if all safety concerns can be resolved. The temporary ramp installment shall be completed as expeditiously as possible to coincide with the closing of the 24th Street viaduct for replacement and shall remain open until completion of such replacement.

SEC. 165. PRIORITY PROJECTS.

(a) ALABAMA.—In selecting projects to be carried out with funds apportioned to it under section 104 of title 23, United States Code, the State of Alabama shall give priority consideration to the following projects:

(1) Construction of I-759 from United States Route 411 to United States Route 431.

(2) Construction of I-759 from I-59 to United States Route 431.

(3) Construction of the College Parkway from its present terminus to I-759.

(b) ILLINOIS.—In selecting projects to be carried out with funds apportioned to it under section 104 of title 23, United States Code, the State of Illinois shall give priority consideration to reconstruction of Meridian and Glen Crossing Roads in Madison County, Illinois.

(c) MARYLAND.—In selecting projects to be carried out with funds apportioned to it under section 104 of title 23, United States Code, the State of Maryland shall give priority consideration to improvements to Interstate Route I-695 in Baltimore County, Maryland.

(d) NEW YORK.—In selecting projects to be carried out with funds apportioned to it under section 104 of title 23, United States Code, the State of New York shall give priority consideration to reconstruction of the Whitehall Ferry Terminal, New York, New York.

(e) OHIO.—In selecting projects to be carried out with funds apportioned to it under section 104 of title 23, United States Code, the State of Ohio shall give priority consideration to improvement of United States Route 250 from Cadiz, Ohio, to Uhrichsville, Ohio.

SEC. 166. CONNECTOR ROAD, MASSACHUSETTS.

Out of funds apportioned to it under section 104(b)(5)(A) of title 23, United States Code, in fiscal year 1993, the State of Massachusetts shall obligate $1,000,000 in such fiscal year for construction of a connector road between Route 9 and Interstate Route I-290 in the State of Massachusetts.

SEC. 167. REVISION OF MANUAL-CROSSBUCKS.

Not later than 90 days after the completion of the Ohio Department of Transportation study of highly reflectorized devices known as "Buckeye Crossbucks", if the Secretary determines that the study demonstrates that such devices have a positive safety benefit, the Secretary shall revise the Manual on Uniform Traffic Control Devices and such other regulations and agreements of the Federal Highway Administration as may be necessary, to authorize States and local governments, at their discretion, to install such devices at any rail-highway grade crossing without automatic traffic control devices with 2 or more trains operating across the rail-highway grade crossing per day.

SEC. 168. USE OF TOURIST ORIENTED DIRECTIONAL SIGNS.

Section 1059 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 131 note; 105 Stat. 2003) is amended by adding at the end the following new subsection:

"(c) NEW YORK PILOT PROJECT.—

"(1) IN GENERAL.—The New York State Thruway Authority shall conduct a pilot project designed to assess the benefits to attractions along the Thruway provided by the use of 'logo' signs specific to such attractions.

"(2) NUMBER OF SIGNS.—The 'logo' signs to be utilized in the project under this subsection shall be in addition to signs presently permitted on the New York State Thruway. The number of 'logo' signs at any given exit shall not exceed the present number permitted. In the absence of a camping, gas, food, or lodging 'logo' sign at an exit, an attraction 'logo' sign may be erected.

"(3) MONITORING AND REPORT TO THE SECRETARY.—The New York State Thruway Authority shall monitor the benefits of the pilot project to local attractions in terms of travelers' convenience, use of attractions, and economic benefits generated, and report these findings annually to the Secretary.

"(4) REPORT TO CONGRESS.—The Secretary shall report to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate the results of the monitoring of the pilot project conducted under this subsection no later than October 1, 1994.".

SEC. 169. TEMPORARY MATCHING FUND WAIVER.

Section 1054 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 120 note; 105 Stat. 2001-2002) is amended to read as follows:

"SEC. 1054. TEMPORARY MATCHING FUND WAIVER.

"(a) WAIVER OF MATCHING SHARE.—Notwithstanding any other provision of law, the Federal share—

"(1) of any qualifying project approved by the Secretary—

"(A) for payment with funds apportioned under title 23, United States Code, or

"(B) for payment with funds apportioned or allocated under section 3, 9, or 18 of the Federal Transit Act, and

"(2) of any qualifying project for which the United States becomes obligated to pay under title 23, United States Code, or under section 3, 9, or 18 of the Federal Transit Act,

during the period beginning on October 1, 1991, and ending September 30, 1993, shall be, at the discretion of the Secretary, the percentage of the construction cost as the recipient of such funds requests, up to and including 100 percent.

"(b) REPAYMENT.—The total amount of increases in the Federal share made pursuant to subsection (a) for any recipient of funds described in subsection (a) shall be repaid to the United States by the recipient on or before August 1, 1994. Payments shall be deposited in the Highway Trust Fund or the General Fund of the Treasury, as appropriate, and repaid amounts shall be credited to the appropriate apportionment or allocation accounts of the recipient.

"(c) DEDUCTION FROM APPORTIONMENTS.—If a recipient of funds described in subsection (a) has not made the repayment as required by subsection (b), the Secretary shall deduct from funds apportioned to the recipient under title 23, United States Code, or from funds apportioned or allocated to the recipient under section 3, 9, or 18 of the Federal Transit Act, as appropriate, in each of the fiscal years 1995 and 1996, a pro rata share of each category of apportioned funds under title 23, United States Code, or a pro rata share of apportioned or allocated funds under section 3, 9, or 18 of the Federal Transit Act, as appropriate. The amount which shall be deducted in each fiscal year shall be equal to 50 percent of the amount needed for repayment. Any amount deducted under this subsection shall be reapportioned for fiscal years 1995 and 1996 in accordance with title 23, United States Code, or reapportioned or reallocated under section 3, 9, or 18 of the Federal Transit Act, as appropriate, to those recipients which have not received a higher Federal share under this section and to those recipients which have made the repayment required by subsection (b).

"(d) QUALIFYING PROJECT DEFINED.—For purposes of this section, the term 'qualifying project' means a project approved by the Secretary after the effective date of this title, or a project for which the United States becomes obligated to pay after such effective date, and for which the recipient of funds described in subsection (a) submitting the project has certified, in accordance with regulations established by the Secretary, that sufficient funds are not available to pay the cost of the non-Federal share of the project.

"(e) APPROVAL OF WAIVER REQUESTS.—The Secretary shall approve any request submitted to the Secretary under this section for an increase in the Federal share of the cost of a project on or before the 45th day after the date of receipt of such request.

"(f) MAXIMUM AMOUNT WAIVED.—The total amount of funds waived under this section for any recipient in fiscal years 1992 and 1993 may not exceed—

"(1) for highway projects, the Secretary's estimate of amounts to be apportioned to the recipient under title 23, United States Code, in fiscal years 1995 and 1996; and

"(2) for transit projects, the Secretary's estimate of amounts to be apportioned or allocated to the recipient under sections 3, 9, and 18 of the Federal Transit Act in fiscal years 1995 and 1996.".

SEC. 170. REAFFIRMATION OF POLICIES AND PRIORITIES OF ISTEA.

Congress reaffirms the policies and priorities of the Intermodal Surface Transportation Efficiency Act of 1991, including the policies and priorities established by sections 1002, 3025, and 3030 through 3035.

TITLE II—FEDERAL TRANSIT PROGRAMS

SEC. 201. SECTION 3 PROGRAM AMENDMENTS.

(a) ASSURED TIMETABLE FOR FINAL DESIGN STAGE.—Section 3(a)(6)(C) of the Federal Transit Act (49 U.S.C. App. 1602(a)(6)(C)) is amended by inserting before the period at the end the following: "or, if an environmental impact statement is not required for such project, the date of completion of an environmental assessment for such project or of a finding of no significant impact".

(b) PERIOD OF AVAILABILITY FOR RAIL MODERNIZATION.—Section 3(h) of such Act is amended—

(1) in paragraph (6) by striking "paragraph" and inserting "subsection"; and

(2) by adding at the end the following new paragraph:

"(7) Sums apportioned under this subsection shall be available for obligation by the recipient for a period of 3 years following the close of the fiscal year for which sums are apportioned. Any amounts so apportioned remaining unobligated at the end of such period shall be added to the amount available for apportionment under this subsection for the succeeding fiscal year not later than 30 days after the end of such period.".

(c) NONAPPLICABILITY OF NEW START CRITERIA REQUIREMENTS TO HAWTHORNE-WARWICK TRANSIT PROJECT.—Section 3(i)(5)(C) of such Act is amended by inserting after "1991" the following: "and the project to provide commuter rail service from Hawthorne, New Jersey, to Warwick, New York, described in section 3035(a) of the Intermodal Surface Transportation Efficiency Act of 1991".

(d) ENTREPRENEURIAL TRANSPORTATION SERVICES PROGRAM.—Section 3 of such Act is amended by adding at the end the following new subsection:

"(n) ENTREPRENEURIAL TRANSPORTATION SERVICES PROGRAM.—

"(1) ESTABLISHMENT.—Of the amounts made available for replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus related facilities by subsection (k)(1)(C), the Secretary shall make available $3,000,000 annually to establish an entrepreneurial transportation services program to provide grants and loans to assist in the development of private transportation services to meet new transportation needs and complement public transportation services funded under this Act.

"(2) ELIGIBILITY.—Public bodies and nonprofit entities shall be eligible to receive assistance under this subsection to assist private entrepreneurs in the provision of transportation services. Any grant or loan made under this subsection shall be available to such entrepreneurs for a period of not more than 2 years. A recipient is authorized to retain funds returned to it in connection with such a grant or loan and such funds shall continue to be used for the purposes of paragraph (1).

"(3) USE OF GRANTS AND LOANS.—Grants and loans made under this subsection may be used to fund capital, planning, and operating costs and shall be equitably distributed between urban and rural areas.".

(e) TRANSITIONAL PROVISION FOR PROGRAMS OF INTERRELATED PROJECTS.—Section 3011(b) of the Intermodal Surface Transportation Effi-

ciency Act of 1991 (49 U.S.C. App. 1602 note; 105 Stat. 2098) is amended by inserting after "interrelated projects" the following: "but excluding any project for which a timetable for project review or for Federal funding is provided for by a provision of law other than section 3(a)(6) of the Federal Transit Act and for which such timetable is different than the timetable established by such section".

(f) CONFORMING AMENDMENTS.—Section 3007 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2091) is amended—

(1) in paragraph (5)(B) by striking the comma which precedes the closing quotation marks and the semicolon; and

(2) in paragraph (6) by striking the comma which precedes the closing quotation marks and the final period.

SEC. 202. METROPOLITAN PLANNING.

(a) TECHNICAL AMENDMENTS.—Section 8 of the Federal Transit Act (49 U.S.C. App. 1607) is amended—

(1) in subsection (g)(5), by redesignating subparagraphs (i) and (ii) as subparagraphs (A) and (B), respectively; and

(2) in subsection (f)(11) by inserting "passengers and" before "freight".

(b) MAJOR CAPITAL INVESTMENTS.—Section 8(h)(4) of such Act is amended by inserting before the period at the end of the last sentence the following: "; except that any project which entails using a new rail line of less than ½ mile in length to connect 2 existing rail lines shall be exempt from complying with highway noise requirements of such Act".

(c) NONATTAINMENT AREA REQUIREMENTS.—Section 8(l) of such Act is amended by striking "that will result in a significant increase in carrying capacity for single occupant vehicles".

(d) PERIOD OF AVAILABILITY TO RECIPIENTS.—Section 8(p) of such Act is amended—

(1) by striking "section 8" each place it appears and inserting "this section";

(2) in paragraph (5) by striking "paragraph" and inserting "section"; and

(3) by adding at the end the following new paragraph:

"(6) PERIOD OF AVAILABILITY; REAPPORTIONMENT.—Sums apportioned under this subsection shall be available for obligation by the recipient for a period of 2 years following the close of the fiscal year for which the sums are apportioned and any amounts remaining unobligated at the end of such period shall be reapportioned among the recipients for the succeeding fiscal year.".

SEC. 203. FORMULA GRANT PROGRAM.

(a) TRANSIT SECURITY SYSTEMS.—Section 9(e)(3)(I) of the Federal Transit Act (49 U.S.C. App. 1607a(e)(3)(I)) is amended by inserting before "and any other" the following: "employing law enforcement or security personnel in areas within or adjacent to such systems;".

(b) LIMITATION ON FUNDING OF OPERATING ASSISTANCE.—Section 9(k)(2)(A) of such Act is amended by adding at the end the following new sentence: "If an urbanized area had a population under the 1980 decennial census of the United States of more than 1,000,000 and has a population under the 1990 decennial census of less than 1,000,000, the maximum percentage of funds which may be used for operating assistance for purposes of the first sentence shall be 90 percent of the amount of funds apportioned in fiscal year 1982 under such paragraphs (1)(A), (2)(A), and (3)(A) to such area.".

(c) GRANDFATHER OF CERTAIN URBANIZED AREAS.—Section 9(s) of such Act is amended by striking "1990 census" and all that follows through the period at the end and inserting the following: "1990 census, for fiscal years 1992, 1993, and 1994, shall be treated as an urbanized area for purposes of section 12(c)(11) of this Act.".

(d) TREATMENT OF CERTAIN BUS REVENUE MILEAGE.—For purposes of the apportionment of funds under section 9 of the Federal Transit Act for fiscal year 1993, the total bus revenue vehicle miles provided by the Duke Power Company in the year ending June 30, 1990, shall be treated as having been provided by the City of Durham, North Carolina.

(e) FERRYBOAT OPERATIONS.—For purposes of calculating apportionments under section 9 of the Federal Transit Act for fiscal years beginning after September 30, 1992, 50 percent of the ferryboat revenue vehicle miles and 50 percent of the ferryboat route miles operated by the city of Avalon, California, shall be included in the calculation of "fixed guideway vehicle revenue miles" and "fixed guideway route miles" attributable to the Los Angeles urbanized area under sections 9(b)(2) and 15 of such Act.

SEC. 204. MASS TRANSIT ACCOUNT BLOCK GRANTS.

Section 9B(a) of the Federal Transit Act (49 U.S.C. App. 1607a-2(a)) is amended by striking "subsections (b) and (c) of".

SEC. 205. GRANTS FOR RESEARCH AND TRAINING.

(a) APPLICABILITY OF OBLIGATION CEILING TO FUNDING FOR UNIVERSITY TRANSPORTATION CENTERS.—Section 11(b)(12) of the Federal Transit Act (49 U.S.C. 1607c(b)(12)) is amended by striking "102" and inserting "1002".

(b) INTERNATIONAL INSTITUTE FOR SURFACE TRANSPORTATION POLICY STUDIES.—Section 11(c) of such Act is amended—

(1) in the heading to paragraph (1) by striking "INSTITUTE FOR NATIONAL" and inserting "INTERNATIONAL INSTITUTE FOR"; and

(2) in paragraph (1) by striking "an institute for national" and inserting "an international institute for".

(c) UNIVERSITY RESEARCH INSTITUTE.—Section 11(c) of such Act is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (9) and (10), respectively; and

(2) by inserting after paragraph (5) the following new paragraphs:

"(6) INSTITUTE FOR TRANSPORTATION POLICY AND MANAGEMENT.—

"(A) GRANTS.—The Massachusetts State highway department shall make grants under this section jointly to the Massachusetts Institute of Technology, Harvard University, and the University of Massachusetts to establish and operate an interdisciplinary institute to carry out research on issues and operations in urban transportation policy and on strategies for the improvement of urban transportation management and to disseminate the findings thereof.

"(B) FUNDING.—The Massachusetts State highway department shall expend, from amounts made available to it for each of the fiscal years 1993 through 1997 under section 307(c) of title 23, United States Code, $1,000,000 per fiscal year to carry out the purposes of this paragraph.

"(7) URBAN TRANSIT INSTITUTE, NORTH CAROLINA.—

"(A) GRANTS.—The Secretary shall make grants under this section to North Carolina A. and T. State University through the Institute for Transportation Research and Education to establish and operate an interdisciplinary institute for the study and dissemination of techniques to address the diverse transportation problems of urban areas experiencing significant and rapid growth.

"(B) FUNDING.—Out of administrative funds deducted under section 104(a) of title 23, United States Code, for each of fiscal years 1993 through 1997, the Secretary shall make available $1,000,000 for making grants under this paragraph.

"(8) STEVENS INSTITUTE OF TECHNOLOGY CONSORTIUM.—

"(A) GRANTS.—The Secretary shall make grants under this section to the Stevens Institute of Technology in Hoboken, New Jersey, the Florida Institute of Technology, and the University of Limerick in Ireland to establish and operate an international consortium for the development and testing of innovative transportation technology which shall be known as the 'Stevens Institute of Technology Consortium'.

"(B) FUNDING.—Out of administrative funds deducted under section 104(a) of title 23, United States Code, for each of fiscal years 1993 through 1997, the Secretary shall make available $1,000,000 for making grants under this paragraph.".

(d) CONFORMING AMENDMENTS.—Section 11(c)(3) of such Act is amended—

(1) in the paragraph heading by inserting ", FLORIDA" after "INSTITUTE"; and

(2) by striking "North Carolina A. and T. State University through the Institute for Transportation Research and Education and".

SEC. 206. GENERAL PROVISIONS.

(a) CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.—Section 12(b) of the Federal Transit Act (49 U.S.C. App. 1608(b)) is amended by adding at the end the following new paragraph:

"(5) SPECIAL RULES FOR ENGINEERING AND DESIGN CONTRACTS.—

"(A) PERFORMANCE AND AUDITS.—Any contract or subcontract awarded in accordance with paragraph (4), whether funded in whole or in part with Federal transit funds, shall be performed and audited in compliance with cost principles contained in the Federal acquisition regulations of part 31 of title 48 of the Code of Federal Regulations.

"(B) INDIRECT COST RATES.—In lieu of performing its own audits, a recipient of funds under a contract or subcontract awarded in accordance with paragraph (4) shall accept indirect cost rates established in accordance with the Federal acquisition regulations for 1-year applicable accounting periods by a cognizant government agency or independent certified public accountant if such rates are not currently under dispute. Once a firm's indirect cost rates are accepted, the recipient of such funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment and shall not be limited by administrative or de facto ceilings in accordance with section 15.901(c) of such title 48. A recipient of such funds requesting or using the cost and rate data described in this subparagraph shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided, in whole or in part, to any other firm or to any government agency which is not part of the group of agencies sharing cost data under this subparagraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.".

(b) RAIL TRACKAGE RIGHTS AGREEMENTS.—Section 12(c)(1) of such Act is amended by inserting "payments for the capital portions of rail trackage rights agreements," after "rights-of-way,".

(c) SALE OF CAPITAL ASSETS.—Section 12 of such Act is further amended by adding at the end the following new subsection:

"(n) SALE OF CAPITAL ASSETS.—

"(1) IN GENERAL.—If a recipient of assistance under this Act determines that facilities and equipment and other assets (including land) acquired, in whole or in part, with such assistance are no longer needed for the purposes for which they were acquired, the Secretary shall authorize the sale of the assets with no further obligation to the Federal Government if the Secretary determines that—

"(A) there are no purposes eligible for assistance under this Act for which the asset should be used; and

"(B) the proceeds from the sale of the asset will be used by the recipient to procure items eligible for capital assistance under this Act.

"(2) RELATIONSHIP TO OTHER LAWS.—The provisions of this subsection shall be in addition to and not in lieu of any other provision of law governing use and disposition of facilities and equipment under an assistance agreement.".

SEC. 207. PERIOD OF AVAILABILITY AND REAPPORTIONMENT OF SECTION 16 FUNDS.

Section 16 of the Federal Transit Act (49 U.S.C. App. 1612) is amended—

(1) in subsection (b) by striking "21(a)(2)" and inserting "21(a)"; and

(2) by adding at the end of subsection (c) the following new paragraph:

"(5) PERIOD OF AVAILABILITY.—Sums apportioned under this subsection shall be available for obligation by the State for a period of 2 years following the close of the fiscal year for which the sums are apportioned and any amounts remaining unobligated at the end of such period shall be reapportioned among the States for the succeeding fiscal year.".

SEC. 208. RURAL TRANSIT PROGRAM.

The second sentence of section 18(a) of the Federal Transit Act (49 U.S.C. App. 1614(a)) is amended by striking the final period.

SEC. 209. AUTHORIZATIONS.

(a) FORMULA GRANT PROGRAM FROM TRUST FUND.—Section 21(a)(1) of the Federal Transit Act (49 U.S.C. App. 1617(a)(1)) is amended—

(1) by striking "9B," and inserting "6, 8, 9B, 10,"; and

(2) by inserting "20," after "18,".

(b) FORMULA GRANT PROGRAM FROM GENERAL FUND.—Section 21(a)(2) of such Act is amended—

(1) by striking "9," and inserting "6, 8, 9, 10,";

(2) by inserting "20," after "18,"; and

(3) by inserting after "Code," the following: "$1,867,000,000 for fiscal year 1992,".

(c) FISCAL YEAR 1992.—Section 21(b)(3) of such Act is amended by redesignating subparagraph (F) as subparagraph (G) and by striking subparagraph (E) and inserting the following new subparagraphs:

"(E) $8,050,000 to carry out section 26(b) of this Act;

"(F) $12,000,000 to carry out part C of title VI of the Intermodal Surface Transportation Efficiency Act of 1991; and".

(d) SETASIDE FOR PLANNING, PROGRAMMING, AND RESEARCH.—Section 21(c) of such Act is amended—

(1) by inserting "beginning after September 30, 1992," after "each fiscal year";

(2) by striking "or appropriated" each place it appears;

(3) by striking "8(p)" and inserting "(a)";

(4) in paragraph (1) by striking "(f)";

(5) in paragraph (3) by striking "the State program under"; and

(6) in paragraph (4) by striking "the national program under".

(e) OTHER SETASIDES.—Section 21(d) of such Act is amended—

(1) by striking "or appropriated" each place it appears; and

(2) by striking "1996" and inserting "1997".

(f) PERMANENT ANNUAL PERCENTAGE TAKEDOWN FOR PLANNING, PROGRAMMING, AND RESEARCH.—Section 21 of such Act is further amended by adding at the end the following new subsection:

"(h) PERMANENT ANNUAL PERCENTAGE TAKEDOWN FOR PLANNING, PROGRAMMING, AND RESEARCH.—Notwithstanding any other provision of law, in any fiscal year in which the appropriation for the Transit Planning, Programming, and Research Program is less than an amount equivalent to the percentage specified in subsection (c) of the transit program level made available in the appropriations Act for the Department of Transportation, the Secretary shall transfer to the Transit Planning, Programming, and Research Program account funds sufficient to make available an amount equivalent to the percentage specified in subsection (c). Such increase shall be derived from a corresponding pro rata reduction of those other accounts in such appropriations Act which provide new obligation authority for the Federal Transit Administration.".

SEC. 210. PLANNING AND RESEARCH PROGRAM.

(a) STATE PROGRAM.—Section 26(a) of the Federal Transit Act (49 U.S.C. App. 1622(a)) is amended to read as follows:

"(a) ALLOCATION OF PLANNING FUNDS.—

"(1) TRANSIT COOPERATIVE RESEARCH PROGRAM.—The funds made available under sections 21(b)(3)(D) and 21(c)(3) shall be available for the transit cooperative research program to be administered as follows:

"(A) INDEPENDENT GOVERNING BOARD.—The Secretary shall establish an independent governing board for such program to recommend transit research, development, and technology transfer activities as the Secretary deems appropriate. The members of the board shall include 1 representative from the national trade association representing the taxicab-paratransit industry and 1 representative from the national association that represents the intercity, regular route, private, over-the-road bus service industry.

"(B) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities as the Secretary determines are appropriate.

"(2) STATE PLANNING AND RESEARCH.—The remaining 50 percent of funds made available under sections 21(b)(3)(D) and 21(c)(3) shall be apportioned to the States for grants and contracts consistent with the purposes of sections 6, 8, 10, 11, and 20 of this Act in the ratio which the population in urbanized areas in each State bears to the total population in urbanized areas in all the States, as shown by the latest available decennial census, except that no State shall receive less than ½ of 1 percent of the amount apportioned under this section. In any case in which a statewide transit agency is responsible under State law for the financing, construction, and operation, directly, by lease, contract, or otherwise, of statewide public transportation services, such agency shall be the recipient for receiving and dispensing funds under this subparagraph.

"(3) ALLOCATION WITHIN A STATE.—A State may authorize a portion of its funds made available under paragraph (2) to be used to supplement funds available under paragraph (1), as the State deems appropriate.".

(b) NATIONAL PROGRAM.—Section 26(b) of such Act is amended—

(1) in paragraph (1) by striking "section 21(c)(4)" and inserting "sections 21(b)(3)(E) and 21(c)(4)"; and

(2) in paragraph (2) by inserting "annually" after "$2,000,000".

(c) SUSPENDED LIGHT RAIL SYSTEM TECHNOLOGY PILOT PROJECT.—Section 26(c)(4) of such Act is amended by adding at the end the following new subparagraph:

"(G) ADEQUATE COMPETITION.—If the Secretary determines at any time during the selection process under this paragraph that there has been insufficient competition among public entities or vendors, the Secretary may terminate such process and take such action as may be necessary to carry out the intent of this subsection.".

SEC. 211. STATE RESPONSIBILITY FOR RAIL FIXED GUIDEWAY SYSTEM.

Section 28 of the Federal Transit Act (49 U.S.C. App. 1624(b)) is amended—

*(1) in the section heading by inserting "**rail**" before "**fixed guideway**"; and*

(2) in subsection (b)(1) by inserting "rail" before "fixed guideway".

SEC. 212. NATIONAL TRANSIT INSTITUTE.

Section 29 of the Federal Transit Act (49 U.S.C. App. 1625) is amended—

(1) in the heading to subsection (b) by striking "FUNDING" and inserting "TRAINING OF STATE AND LOCAL GOVERNMENT TRANSPORTATION PERSONNEL"; and

(2) subsection (d) is amended to read as follows:

"(d) FUNDING.—

"(1) FISCAL YEAR 1992.—The Secretary shall make available in equal amounts from funds provided under section 21(c)(3) and 21(c)(4) $3,000,000 for fiscal year 1992 for carrying out this section. Notwithstanding any other provision of law, approval by the Secretary of a grant with funds made available under this paragraph shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project.

"(2) THEREAFTER.—The Secretary shall make available for carrying out this section—

"(A) from amounts made available by section 21(a)(1), $1,500,000 per fiscal year for each of fiscal years 1993, 1994, 1995, 1996, and 1997; and

"(B) from amounts made available by section 21(b)(1), $1,500,000 per fiscal year for each of such fiscal years.".

SEC. 213. INCREASED FEDERAL SHARE.

The Federal Transit Act (49 U.S.C. App. 1601–1625) is amended by adding at the end the following new section:

"SEC. 30. INCREASED FEDERAL SHARE.

"(a) STATES WITH LARGE AREAS OF INDIAN AND CERTAIN PUBLIC DOMAIN LANDS.—In the 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 area of all lands in the State, the Federal share which, but for this subsection, would be applicable for any construction project under this Act shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in the State is of its total area.

"(b) STATES WITH LARGE AREAS OF INDIAN AND PUBLIC DOMAIN LANDS AND NATIONAL FORESTS, PARKS, AND MONUMENTS.—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 which, but for this subsection, would be applicable for any construction project under this Act 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.

"(c) MAXIMUM SHARE.—Notwithstanding subsections (a) and (b) of this section, the Federal share for any construction project under this Act shall not exceed 95 percent of the total cost of such project.

"(d) GRANT RECIPIENT AGREEMENT.—In any case where a grant recipient elects to have the Federal share provided in subsection (b) of this section, the grant recipient must enter into an agreement with the Secretary covering a period of not less than 1 year, requiring grant recipient to use solely for purposes eligible for assistance (other than operating assistance) under this Act (other than paying its share of projects approved under this Act) during the period covered by such agreement the difference between the grant recipient's share as provided in subsection (b) and what its share would be if it elected to pay the share provided in subsection (a) for all projects subject to such agreement.".

SEC. 214. COMPLETION OF MOS-1 PROJECT.

(a) REPLACEMENT OF GRANTEE.—Effective on the date of the enactment of this Act, the Commission shall replace SCRTD as the Federal grantee for Minimum Operable Segment One of the Los Angeles Metro Rail Project (hereinafter in this section referred to as "MOS-1"). The MOS-1 Full Funding Grant Agreement dated August 27, 1986, and all other MOS-1 grant documents required under Federal law, shall be deemed to be amended, effective on the date of the enactment of this Act, to designate the Commission as MOS-1 grantee; and all rights and obligations as MOS-1 grantee shall be transferred to the Commission on that date in accordance with the Memorandum of Understanding for the Transfer of MOS-1 Project, entered into by and between the Commission and SCRTD on June 24, 1992. No action by the Secretary of Transportation or other administrative action shall be required in order for the Commission to proceed to act in its capacity as MOS-1 grantee pursuant to this section.

(b) OBLIGATIONS OF COMMISSION.—Upon becoming the MOS-1 grantee under this section, the Commission shall be responsible for completion of the MOS-1 Project in accordance with the terms and conditions of the MOS-1 Full Funding Grant Agreement and other applicable grant agreements and in compliance with all applicable Federal laws and regulations. In addition, the Commission shall remain responsible for all MOS-1 obligations arising before the date of the enactment of this Act, in accordance with the Commission's Guarantee of Performance to the United States dated April 3, 1990.

(c) AVAILABILITY OF FUNDS.—All funds previously obligated to SCRTD under section 3 and section 9 of the Federal Transit Act, and unexpended on the date of the enactment of this Act, shall be transferred to the Commission on such date and shall be available to the Commission to pay costs associated with the completion of MOS-1. Notwithstanding any other provision of law, neither the replacement of grantees under subsection (a) nor the transfer of funds under this subsection shall be considered to be a change in project scope or otherwise result in the deobligation of prior year funds, and all funds transferred to the Commission under this subsection shall be charged to the original appropriation and shall remain available until expended.

(d) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) COMMISSION.—The term "Commission" means the Los Angeles County Transportation Commission or any successor to the Commission that is established by or pursuant to State law; and

(2) SCRTD.—The term "SCRTD" means the Southern California Rapid Transit District or any successor to the District that is established by or pursuant to State law.

SEC. 215. MISCELLANEOUS MULTIYEAR CONTRACTS.

(a) NEW JERSEY URBAN CORE PROJECT.—Section 3031(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2122–2123) is amended by inserting after "Hudson River Waterfront Transportation System" the following: "(including corridor connections to and within the city of Bayonne)".

(b) HILLSBORO EXTENSION.—Section 3035(b) of such Act (105 Stat. 2129) is amended by adding at the end the following new sentence: "With regard to the project review of the Hillsboro extension by the Federal Transit Administration, such extension shall not be subject to the requirements of section 3(i) of the Federal Transit Act.".

(c) ADDITIONAL TRACKAGE RIGHTS AND RIGHT-OF-WAY PURCHASE FOR GILROY SERVICE.—Section 3035(h) of such Act (105 Stat. 2130) is amended by striking the second sentence and inserting the following: "No later than August 1, 1994, the Secretary shall negotiate and sign an agreement with the Santa Clara County Transit District which includes, from funds made available under such section 3(k)(1)(B) for fiscal year 1992, $8,000,000 for the purpose of purchasing of additional trackage rights or purchasing of right-of-way between the existing termini in San Jose and Gilroy, California, or both. In connection with such purchase, the Secretary shall either approve a finding of no significant impact or approve a final environmental impact statement and issue a record of decision no later than July 1, 1994.".

(d) DALLAS LIGHT RAIL PROJECT.—Section 3035(i) of such Act (105 Stat. 2130) is amended—

(1) by striking "6.4 miles" and inserting "9.6 miles";

(2) by striking "10 stations" and inserting "14 stations";

(3) by striking "such light rail line" and inserting "the light rail system"; and

(4) by striking "construction of any of such" and inserting "any project".

(e) SOUTH BOSTON.—Section 3035(j) of such Act (105 Stat. 2130–2131) is amended by inserting "the second place it appears" after "striking '—' ".

(f) ORLANDO STREETCAR DOWNTOWN TROLLEY PROJECT.—Section 3035(l) of such Act (105 Stat. 2131) is amended by inserting after "engineering" the following: "and the initiation of final design, construction, land and equipment acquisition, and related activities".

(g) UTILIZATION OF AEROSPACE TECHNOLOGY ON TRANSIT VEHICLES.—Section 3035 of such Act (105 Stat. 2129–2137) is amended by striking subsection (o) and inserting the following:

"(o) UTILIZATION OF AEROSPACE TECHNOLOGY ON TRANSIT VEHICLES.—No later than the 90th day following the date of the enactment of the Intermodal Surface Transportation Technical Corrections Act, the Secretary shall negotiate and sign a multiyear grant agreement with the Los Angeles County Transportation Commission, or its successor agency, which provides $4,000,000 from the funds made available under section 3(k)(1)(C) of the Federal Transit Act for the purposes of research on the design and development of lightweight, composite transit vehicles. Such funds shall be distributed as follows:

"(1) Not less than $2,000,000 shall be provided to the Southern California Rapid Transit District through the Commission for the District's research, design, testing, and construction program on the utilization of composites and other advanced technology in the development of a lightweight bus to be constructed domestically.

"(2) The remaining funds shall be provided to the Commission for research and development of composite and other aerospace technology for application in the design, testing, and construction of lightweight rail transit vehicles and buses that can be produced domestically.".

(h) SAN DIEGO MID COAST FIXED GUIDEWAY PROJECT.—Section 3035(u) of such Act (105 Stat. 2132) is amended—

(1) in the subsection heading by striking "LIGHT RAIL" and inserting "FIXED GUIDEWAY"; and

(2) by striking "Light Rail" and inserting "Fixed Guideway".

(i) EUREKA SPRINGS, ARKANSAS.—Section 3035(z) of such Act (105 Stat. 2133) is amended by striking "1992" each place it appears and inserting "1993" and by striking "electrically powered bus" and inserting "alternatively fueled vehicle".

(j) BALTIMORE-WASHINGTON TRANSPORTATION IMPROVEMENTS PROGRAM.—Section 3035(nn)(2) of such Act (105 Stat. 2135) is amended—

(1) by striking "Waldorf" and inserting "mass transportation improvements to the Waldorf area"; and

(2) by adding after the first sentence the following new sentence: "The transit improvements in the corridor from the Waldorf area to the Washington, D.C. area shall be based on the locally preferred alternatives that result from the Southern Maryland Mass Transportation Alternatives Study of the Tri-County Council for Southern Maryland and shall include any additional work needed on that study, detailed planning and engineering to be carried out by the Maryland Department of Transportation in conjunction with the Tri-County Council, advanced land acquisition in the transit corridor, and implementation of interim and long-range transit improvements in the transit corridor.".

(k) ALTOONA PEDESTRIAN CROSSOVER.—Section 3035(ddd) of such Act (105 Stat. 2137) is amended—

(1) by striking "city of Altoona," and inserting "Commonwealth of"; and

(2) by inserting "for fiscal year 1993" after "$3,200,000".

(l) METRO LINK LIGHT RAIL EXTENSIONS.—Such section is further amended by adding at the end the following new subsection:

"(ggg) METRO LINK LIGHT RAIL EXTENSIONS.—No later than the 90th day following the date of the enactment of this subsection, the Secretary shall negotiate and sign a multiyear grant agreement with the East-West Gateway Coordinating Council in St. Louis, Missiouri, which includes not less than (1) $16,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to complete preliminary engineering and final design for the St. Clair extension to the Metro Link light rail system, (2) $450,000 to complete alternatives analysis for the Cross-County extension to the Metro Link system, and (3) $450,000 to complete alternatives analysis for the St. Charles extension to the Metro Link system.".

SEC. 216. WORLD UNIVERSITY GAMES.

Section 3042 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2139) is amended by striking "without limitation" and inserting "and shall not be subject to any limitation on operating assistance".

TITLE III—MISCELLANEOUS SURFACE TRANSPORTATION PROGRAMS

SEC. 301. PARTICIPATION IN INTERNATIONAL REGISTRATION PLAN AND INTERNATIONAL FUEL TAX AGREEMENT.

Section 4008(j) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2155) is amended—

(1) in the first sentence by striking "for fiscal year 1992" and inserting "for each of fiscal years 1992 through 1997";

(2) in the second sentence by striking "102" and inserting "1002"; and

(3) by striking the third sentence.

SEC. 302. STUDY OF RADIO AND MICROWAVE TECHNOLOGY FOR COMMERCIAL AND OTHER MOTOR VEHICLES.

(a) IN GENERAL.—Section 6057 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2194) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) STUDY OF RADIO AND MICROWAVE TECHNOLOGY FOR COMMERCIAL AND OTHER MOTOR VEHICLES.—

"(1) IN GENERAL.—The Secretary shall conduct a research study to develop and evaluate radio and microwave technology for furtherance of safety in commercial and other motor vehicles.

"(2) EQUIPMENT.—Equipment developed under the study to be conducted under paragraph (1) shall be directed toward, but not limited to, warning drivers of obstructions in a highway or limited visibility conditions caused by snow, rain, fog, or dust.

"(3) SAFETY APPLICATIONS.—In conducting the study under paragraph (1), the Secretary shall determine whether the technology described in paragraph (1) has other safety applications consistent with the goals of this Act.".

(b) FUNDING.—Such section is further amended by adding at the end the following new subsection:

"(d) FUNDING.—Of the funds made available in fiscal year 1993 to carry out section 6058(b), $750,000 shall be used to conduct the study under subsection (b).".

(c) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in the section heading by inserting "**AND OTHER**" after "**COMMERCIAL**"; and

(2) in the heading to subsection (a) by inserting "OF SAFETY TECHNOLOGY FOR COMMERCIAL MOTOR VEHICLES" after "STUDY".

SEC. 303. INTELLIGENT VEHICLE-HIGHWAY SYSTEMS.

Section 6058 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2194–2195) is amended—

(1) in the second sentence of subsection (d) by striking "projects undertaken pursuant to subsection (c) of this section" and inserting "activities undertaken with funds made available under subsection (b) and activities undertaken with funds subject to subsection (c)";

(2) in subsection (e) by striking "102" and inserting "1002"; and

(3) by adding at the end the following new subsection:

"(f) NONAPPLICABILITY OF OTHER REQUIREMENTS OF LAW.—A person (including a public agency) that does not receive assistance under title 23, United States Code, the Federal Transit Act, or any provision of this Act (other than the Intelligent Vehicle-Highway Systems Act of 1991) shall not be subject to any Federal design standard, law, or regulation applicable to persons receiving such assistance solely by reason of such person receiving assistance under this section.".

SEC. 304. TITLE 49, UNITED STATES CODE, AMENDMENTS.

The analysis for chapter 1 of title 49, United States Code, is amended—

(1) by striking "Sec. 110. Saint Lawrence Seaway Development Corporation."; and

(2) by striking "Sec. 111." and inserting "111.".

SEC. 305. SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982 AMENDMENTS.

Section 411(j)(5)(D) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2311(j)(5)(D)) is amended by striking "prohibited under" and inserting "subject to".

SEC. 306. COMMERCIAL MOTOR VEHICLE SAFETY ACT OF 1986 AMENDMENTS.

(a) SECTION 12011.—Section 12011 of the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2710) is amended—

(1) in each of subsections (a) and (b) by striking "104(b)(5), and 104(b)(6)" and inserting "104(b)(3), and 104(b)(5)"; and

(2) in subsection (c)(1)(A)(ii) by striking "104(b)(6)" and inserting "104(b)(3)".

(b) SECTION NUMBER REDESIGNATION.—Such Act is further amended by redesignating the second section 12020, relating to violation of out-of-service orders, as 12021.

SEC. 307. NATIONAL DRIVER REGISTER ACT OF 1982 AMENDMENTS.

(a) ACCESSIBILITY OF REGISTER INFORMATION.—Section 206 of the National Driver Register Act of 1982 (23 U.S.C. 401 note) is amended to read as follows:

"SEC. 206. ACCESSIBILITY OF REGISTER INFORMATION.

"(a) ACCESSIBILITY BY STATES.—

"(1) REQUEST FOR INFORMATION THROUGH SECRETARY.—For the purposes of fulfilling duties with respect to driver licensing, driver improvement, or transportation safety, the chief driver licensing official of any participating State may request the Secretary to refer, electronically or through the United States mails, any request for information regarding the motor vehicle driving record of any individual to the chief driver licensing official of any State of record.

"(2) RELAY OF INFORMATION BY SECRETARY.—The Secretary shall relay, electronically or through the United States mails, to any chief driver licensing official of a participating State who requests information under paragraph (1) of this subsection any information received from the chief driver licensing official of any State of record regarding an individual in accordance with paragraph (1) of this subsection; except that the Secretary may refuse to relay any information to any chief driver licensing official of a participating State that is not in compliance with the provisions of section 205 of this title.

"(b) ACCESSIBILITY BY OTHER PERSONS.—

"(1) INDIVIDUAL OBTAINING INFORMATION ABOUT HIM OR HERSELF.—Any individual, in order (A) to determine whether the Register is providing any data regarding him or her or the accuracy of any such data, or (B) to obtain a certified copy of data provided through the Register regarding him or her, may request the chief driver licensing official of a State to obtain information regarding him or her under subsection (a)(1) of this section. The individual may receive any such information.

"(2) NTSB AND FHWA.—The Chairman of the National Transportation Safety Board and the Administrator of the Federal Highway Administration, for purposes of requesting information regarding any individual who is the subject of any crash investigation conducted by the Board or the Federal Highway Administration, may request and receive Register information from the Secretary.

"(3) INDIVIDUAL EMPLOYED AS DRIVER.—

"(A) IN GENERAL.—Any individual who is employed, or seeks employment, as a driver of a motor vehicle may request the chief driver licensing official of the State in which the individual is employed or seeks employment to transmit information under subsection (a)(1) of this section to his or her employer or prospective employer. An employer or prospective employer may receive such information regarding any such individual and shall make that information available to the affected individual.

"(B) SPECIAL RULE REGARDING FEDERAL EMPLOYEES.—If the individual is employed by, or seeks employment with, a Federal department or agency, the individual may request the Secretary to transmit Register information regarding such individual to the head of the Federal department or agency. The head of the Federal department or agency may receive such information regarding any such individual and shall make that information available to the affected individual.

"(4) INDIVIDUAL WITH AIRMAN'S CERTIFICATE.—

"(A) IN GENERAL.—Any individual who has applied for or received an airman's certificate may request the Secretary to transmit Register information regarding such individual to the Administrator of the Federal Aviation Administration. The Administrator of the Federal Aviation Administration may receive such information regarding any such individual and shall make such information available to the individual for review and written comment.

"(B) LIMITATION ON USE OF INFORMATION BY FAA.—The Administrator shall not otherwise divulge or use such information, except to verify information required to be reported to the Administrator by an airman applying for an airman medical certificate and to evaluate whether the airman meets the minimum standards as prescribed by the Administrator to be issued an airman medical certificate.

"(5) INDIVIDUAL EMPLOYED AS LOCOMOTIVE OPERATOR.—Any individual who is employed by a railroad as an operator of a locomotive, or who seeks employment with a railroad as an operator of a locomotive, may request the chief driver licensing official of a State to transmit information regarding the individual under subsection (a)(1) of this section to his or her employer or prospective employer or may request the Secretary to transmit Register information regarding such individual to the Administrator of the Federal Railroad Administration. An employer, prospective employer, or the Administrator of the Federal Railroad Administration may receive such information regarding any such individual and shall make that information available to the individual.

"(6) INDIVIDUAL HOLDING CERTIFICATE OF REGISTRY OR MERCHANT MARINER'S DOCUMENT.—

"(A) INFORMATION TO COAST GUARD.—Any individual who holds or who has applied for a license or certificate of registry under section 7101 of title 46, United States Code, or a merchant mariner's document under section 7302 of title 46, United States Code, may request the Secretary to transmit Register information regarding such individual to the head of the department in which the Coast Guard is operating. The head of the department may receive such information regarding any such individual and shall make the information available to the individual for review and written comment before denying the license, certificate, or document or before suspending or revoking the license, certificate of registry, or merchant mariner's document of the individual based on the information in any action taken under chapter 77 of title 46, United States Code.

"(B) LIMITATION ON USE OF INFORMATION BY COAST GUARD.—The head of the department in which the Coast Guard is operating may not otherwise divulge or use any information received under this paragraph, except for the purposes of section 7101, 7302, or 7703 of title 46, United States Code.

"(7) INDIVIDUAL EMPLOYED AS OPERATOR OF TRANSIT RAIL VEHICLE.—Any individual who is employed, or seeks employment, as an operator of a rail vehicle on a rail fixed guideway transit system (not including a commuter railroad subject to the Federal railroad safety laws, as defined in section 212(e) of the Federal Railroad Safety Act of 1970, 45 U.S.C. 441(e)) may request the chief driver licensing official of the State in which the individual is employed or seeks employment to transmit information regarding the individual under subsection (a)(1) of this section to his or her employer or prospective employer or may request the Secretary to transmit Register information regarding such individual to the Administrator of the Federal Transit Administration. An employer, prospective employer, or the Administrator of the Federal Transit Administration may receive such information regarding any such individual and shall make that information available to the individual.

"(8) LIMITATION REGARDING DATED INFORMATION.—There shall be no access to information in the Register under paragraph (3), (4), (5), (6), or (7) of this subsection which was entered in the Register more than 3 years before the date of such request, unless such information relates to revocations or suspensions that are still in effect on the date of the request.

"(c) APPLICABILITY OF FREEDOM OF INFORMATION AND PRIVACY ACTS.—Any request for, or receipt of, information by means of the Register shall be subject to the provisions of sections 552 and 552a of title 5, United States Code, and any other applicable Federal and State law, except that—

"(1) the Secretary shall not relay, or otherwise transmit, information specified in section 205(b)(1) or 205(b)(3) of this title to any person not authorized by this section to receive such information;

"(2) any request for, or receipt of, information by any chief driver licensing official, or by any person authorized by subsection (b) of this section to request and receive information, shall be considered to be a routine use for purposes of section 552a(b) of title 5, United States Code; and

"(3) any receipt of information by any person authorized by this subsection to receive information shall be considered to be a disclosure for purposes of section 552a(c) of title 5, United States Code, except that the Secretary shall not be required to retain the accounting made under paragraph (1) of such section for more than a 7-year period after the date of such disclosure.

"(d) TRANSITION PERIOD.—Information submitted to the Register by States under the Act of July 14, 1960 (74 Stat. 526), and under this section shall be subject to access for the purpose of this subsection during the transition to the Register established under section 203(a) of this title.

"(e) REGULATIONS REGARDING FORM AND PROCEDURES FOR REQUESTS.—Any request made under this section shall be made in such form, and according to such procedures, as the Secretary shall establish by regulation.".

(b) FUNDING.—Section 211 of such Act is amended to read as follows:

"SEC. 211. FUNDING.

"(a) FROM HIGHWAY TRUST FUND.—There shall be available, from the Highway Trust Fund (other than the Mass Transit Account) $4,000,000, for each of fiscal years 1992 through 1994 for carrying out the provisions of this title and Public Law 86-660 (74 Stat. 526).

"(b) CONTRACT AUTHORITY.—Approval by the Secretary of a grant or contract with funds made available under subsection (a) for any fiscal year beginning after September 30, 1992, shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project.

"(c) PERIOD OF AVAILABILITY.—Funds made available under this section shall remain available until expended.".

SEC. 308. CLEVELAND HARBOR, OHIO.

The description of a portion of Cleveland Harbor, Ohio, contained in section 1079(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2018-2019) is amended—

(1) by striking "279.31 feet" and inserting "269.31 feet";

(2) by striking "127.28 feet" and inserting "137.28 feet";

(3) by striking "33°-53'-08" east" the first place it appears and inserting "33°-53'-08" west"; and

(4) by striking "174,764 square feet (4.012 acres)" and inserting "175,143 (4.020 acres)".

SEC. 309. DEAUTHORIZATION OF A PORTION OF THE CANAVERAL HARBOR, FLORIDA, PROJECT.

Section 1080 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2020) is amended by inserting "thence north 00°-18'-51" west, a distance of 764.43 feet;" after "551.30 feet;".

SEC. 310. INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT TECHNICAL AMENDMENTS.

(a) NATIONAL RECREATIONAL TRAILS.—Section 1302 of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1261; 105 Stat. 2064-2068) is amended—

(1) in subsection (c) by striking "Act" each place it appears and inserting "part";

(2) in subsection (c)(2)(B) by inserting after "reserves" the following: "an amount equivalent to";

(3) in subsection (d) by inserting after paragraph (3) the following new paragraph:

"(4) ADDITIONAL FUNDING FOR NATIONAL SURVEY.—In addition to amounts which may be used under paragraph (1), the Secretary may use up to $3,000,000 from the Fund to pay the cost of conducting a 1-time national survey described in paragraph (1)(C).";

(4) in subsection (e)(8)(B) by inserting "the State" before "may be exempted"; and

(5) in subsection (e)(8)(B) by inserting "funds may be" before "expended or committed".

(b) SOUTHERN FLORIDA COMMUTER RAIL.—Section 3014 of such Act (105 Stat. 2108) is amended by striking "(49 U.S.C. 1607a)".

(c) NATIONAL COMMISSION ON INTERMODAL TRANSPORTATION.—Section 5005 of such Act (105 Stat. 2160-2162) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) FUNDING.—Of amounts deducted under section 104(a) of title 23, United States Code, the Secretary shall expend $1,500,000 in fiscal year 1993 to carry out this section.".

(d) SECTION 6017.—Section 6017 of such Act (105 Stat. 2183) is amended by striking "502(a)" and inserting "5002(a)".

SEC. 311. IMPROVED BUS SAFETY.

(a) APPLICABILITY OF FEDERAL MOTOR CARRIER SAFETY REGULATIONS TO BUS OPERATIONS OF PRIVATE MOTOR CARRIERS OF PASSENGERS.—Section 206 of the Motor Carrier Safety Act of 1984 (49 U.S.C. App. 2505) is amended by striking subsection (h) and inserting the following new subsection:

"(h) APPLICABILITY TO BUS OPERATIONS OF PRIVATE MOTOR CARRIER OF PASSENGERS.—Not later than 6 months after the date of the enactment of this subsection, the Secretary shall issue regulations making the relevant commercial motor carrier safety regulations issued under subsection (a) applicable to all operations by private motor carriers of commercial motor vehicles providing transportation of passengers in interstate commerce.".

(b) EDUCATION PROGRAM.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Transportation shall develop and implement an education program to inform all private motor carriers of passengers that they must comply with the Federal commercial motor vehicle safety regulations issued under section 206 of the Motor Carrier Safety Act of 1984 when providing commercial motor vehicle transportation of passengers in interstate commerce.

(c) REPORTS.—

(1) INITIAL REPORT.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Transportation shall submit to Congress a report describing in detail the regulations that have been issued pursuant to subsection (a) and the status of the education program being developed and implemented under subsection (b).

(2) SUBSEQUENT REPORTS.—Each year for a period of 4 years on the annual anniversary date of the report submitted to Congress under paragraph (1), the Secretary of Transportation shall submit to Congress a report describing in detail the status of enforcement of the Federal commercial motor vehicle safety regulations issued under section 206 of the Motor Carrier Safety Act of 1984 to operations by private motor carriers of commercial motor vehicles providing transportation of passengers in interstate commerce.

SEC. 312. MOTOR CARRIER SAFETY GRANT PROGRAM.

Section 402(d) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2302(d)) is amended by striking "3" and inserting "5".

SEC. 313. REDESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.

(a) REQUESTS TO REDESIGNATE UNDER TITLE 23, U.S.C.—Section 134(b)(5)(B) of title 23, United States Code, is amended to read as follows:

"(B) CERTAIN REQUESTS TO REDESIGNATE.—

"(i) POPULATIONS OF 5,000,000 TO 10,000,000.—A metropolitan planning organization shall be redesignated in any urbanized area whose population is more than 5,000,000 but less than 10,000,000, upon request of a unit or units of general purpose local government representing at least 25 percent of the affected population (including the central city or cities as defined by the Bureau of the Census). A redesignation under this clause shall be made using procedures established by subparagraph (A).

"(ii) EXTREME NONATTAINMENT AREAS.—A metropolitan planning organization shall be redesignated in an extreme nonattainment area for ozone or carbon monoxide as defined under the Clean Air Act, upon request of a unit or units of general purpose local government representing at least 25 percent of the existing metropolitan planning organization population. A redesignation under this clause shall be by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population (including the central city or cities as determined by the Bureau of the Census) within the boundaries of the existing metropolitan planning organization.".

(b) REQUESTS TO REDESIGNATE UNDER FEDERAL TRANSIT ACT.—Section 8(b)(5)(B) of the Federal Transit Act (49 U.S.C. App. 1607(b)(5)(B)) is amended to read as follows:

"(B) CERTAIN REQUESTS TO REDESIGNATE.—

"(i) POPULATIONS OF 5,000,000 TO 10,000,000.—A metropolitan planning organization shall be redesignated in any urbanized area whose population is more than 5,000,000 but less than 10,000,000, upon request of a unit or units of general purpose local government representing at least 25 percent of the affected population (including the central city or cities as defined by the Bureau of the Census). A redesignation under this clause shall be made using procedures established by subparagraph (A).

"(ii) EXTREME NONATTAINMENT AREAS.—A metropolitan planning organization shall be redesignated in an extreme nonattainment area for ozone or carbon monoxide as defined under the Clean Air Act, upon request of a unit or units of general purpose local government representing 25 percent of the existing metropolitan planning organization population. A redesignation under this clause shall be by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population (including the central city or cities as determined by the Bureau of the Census) within the boundaries of the existing metropolitan planning organization.".

SEC. 314. USE OF HOV LANES BY MOTORCYCLISTS.

Section 163 of the Surface Transportation Assistance Act of 1982 is amended by adding at the end the following: "Until such time as a new certification is accepted by the Secretary after December 18, 1991, all high occupancy vehicle lanes shall be open to use by motorcyclists."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. ROE] will be recognized for 20 minutes, and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5753, the Intermodal Surface Transportation Technical Corrections Act, will make our Nation's surface transportation programs work more effectively and efficiently.

ISTEA was a high tribute to all of our colleagues—the members of the conference and the staff—who worked so diligently on the landmark ISTEA legislation on a bipartisan basis to revolutionize the intermodal transportation system of our Nation. For a 6-year, $151 billion bill with a conference report of 484 pages, the mistakes were remarkably few and far between. Nevertheless, with the complexity of this legislation, there are improvements, corrections, and modifications that must be made.

In the bill before us today, we have extended every effort, again on a strong bipartisan basis, to address every concern raised by the members of the Committee on Public Works and Transportation, the Members of the House, State and Local Transportation Agencies, and others. The committee has included numerous technical provisions to correct, improve, and clarify the language of ISTEA.

First, and most important of all, these include correction of errors and omissions in ISTEA and conforming changes to bring the law into conformity with changes made by ISTEA. These changes conform the legislative language of ISTEA to the intention of the conferees. For example, H.R. 5753 includes provisions agreed to in conference and in the conference report, but inadvertently dropped in the statutory language.

The bill also contains some minor policy adjustments which reflect the original intent of ISTEA, such as changes in project descriptions.

Lastly, some policy changes that were originally addressed in ISTEA, such as adding uniform audit procedures for architectural, engineering, and design, are included.

It is important to emphasize that the bill does not include any new money for any purpose with one exception. There is an authorization of $23.3 million for five projects on which there is abundant documented, written verification of mistakes in the funding levels. Otherwise, there is no new money despite nearly $1 billion in requests.

Finally, I want to say what a great experience and pleasure it has been working with the gentleman from Arkansas, JOHN PAUL HAMMERSCHMIDT, the gentleman from California, NORMAN MINETA, and the gentleman from Pennsylvania, BUD SHUSTER, on this critically important legislative initiative.

H.R. 5753 builds on, and substantially improves, the good work begun last year by the Intermodal Surface Transportation Efficiency Act of 1991. I urge strong support for the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 5753, the Intermodal Surface Transportation Technical Corrections Act. Last December, the Intermodal Surface Transportation Efficiency Act of 1991 was signed into law. This legislation known as ISTEA, made historic changes to the important surface transportation programs which are so integral to our country's economic well-being and quality of life. The ISTEA authorized $151 billion over 6 years; money which is already at work creating jobs, improving our productivity, and making transportation more efficient for America.

Inevitably, a bill of its magnitude contains some errors and omissions. We are here today with legislation to make those technical corrections to ensure that our highway, transit, and safety programs function smoothly and in the manner Congress intended.

H.R. 5753 also contains a number of provisions which address issues Members of this body have raised with the Public Works and Transportation Committee. Many were raised by your own State departments of transportation: Those who implement these programs on the frontlines every day of the week. These minor programmatic adjustments and policy changes are intended to resolve concerns where we believed a modification would make an improvement to the overall surface transportation program.

I want to stress one very important point. This bill does not contain any new funding. The only exception to this is a section making funding corrections to five projects which were inadvertently omitted or were included with incorrect funding levels in the original legislation. The errors can all be verified with written documentation. We believe it is only fair to those Members and their constituents who were promised funding, and by an error in drafting did not receive it, that they be made whole. Though we received many requests from our colleagues for new funding for projects, we regret that we are unable to accommodate them.

H.R. 5753 will ensure that the progress that was made last year with enactment of ISTEA is not hindered by obstacles to implementation. This legislation was marked up in the Public Works and Transportation Committee last week with unanimous support. I congratulate our chairman, Mr. ROE; the subcommittee chairman, Mr. MINETA, and the ranking member, Mr. SHUSTER for their leadership and diligent attention to this technical correction bill. I urge my colleagues to give the bill that same level of support here on the House floor today.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MINETA], the distinguished chairman of the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation, who has done outstanding work on this legislation.

Mr. MINETA. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in strong support of H.R. 5753 to make technical corrections to title 23, United States Code, the Federal Transit Act and the Intermodal Surface Transportation Efficiency Act of 1991.

The legislation will make essential corrections to the Intermodal Surface Transportation Efficiency Act of 1991 [ISTEA], the landmark legislation, passed overwhelmingly last session. While ISTEA will serve as a springboard for the rebuilding of our Nation's infrastructure and economy for decades to come, there is a need to correct certain problems that have emerged in working with the U.S. Department of Transportation and others to implement the legislation.

In developing this legislation, the Committee on Public Works and Transportation has carefully reviewed requests for amendments to limit them to purely technical and minor policy changes. This will permit us to stay within the spending levels set last year for the legislation and avoid adding to the deficit. It will also enable us to preserve the major policy changes, incorporated in ISTEA, that will redirect the Nation's surface transportation programs to meet the challenges of the 1990's and the 21st century.

The amendments included in H.R. 5753 fall into three categories. The first includes amendments that correct mistakes and omissions in ISTEA to bring the law into conformity with the policy changes and funding levels agreed to by the conferees. For example, some provisions were inadvertently dropped, though they had been part of the conference agreement. These are incorporated into the legislation along with several changes, conforming previous surface transportation legislation, to ISTEA's new policies. Mistakes in the funding levels, agreed to by the conferees, have also been corrected and represent the only funding items included in the bill.

Some minor adjustments to ISTEA provisions and new provisions with minor policy implications have been included in H.R. 5753. This includes, for example, changes in project descriptions, granting the territories the same flexibility to transfer National Highway System funds as States have, and adding Indian tribal governments to the statewide planning process.

Also, the committee corrected a mistake in ISTEA regarding the ability to trigger a redesignation of the metro-

politan planning organization in southern California. I am hopeful that the local parties involved in this redesignation process will reach an amicable solution; but if they do not, the committee will have to revisit this issue in future legislation.

The third and smallest category of technical corrections in H.R. 5753 includes new initiatives and program changes. None of these require additional funding nor do they violate the policy directions established by ISTEA conferees. The same sliding scale for the Federal match applied to highway projects is also extended to transit projects. The pilot program for uniform audit procedures for architectural, engineering and design services is repealed in favor of a general State requirement to implement the procedures.

Mr. Speaker, the Committee on Public Works and Transportation has crafted a lean and technical and conforming piece of legislation in H.R. 5753. It remains within the policy guidelines established last year by the conferees for ISTEA, and makes primarily technical and conforming changes to this landmark legislation. The few minor policy adjustments and new initiatives included do not violate the surface transportation policies established by ISTEA. This legislation is noncontroversial and I urge its adoption under suspension of the rules.

□ 1700

Again I applaud the great efforts of our Committee on Public Works and Transportation chairman, the gentleman from New Jersey [Mr. ROE], for his diligence and hard-working efforts again have proven to be the result of this legislation. And of course our ranking Republican member, the gentleman from Arkansas [Mr. HAMMERSCHMIDT], who again has added his weight to this legislation. I am also grateful for the working relationship that our committee has, working on a bipartisan basis, and wish to acknowledge the hard work and the assistance given by the gentleman from Pennsylvania [Mr. SHUSTER], the ranking Republican member of the subcommittee I have the privilege to chair, the Subcommittee on Surface Transportation.

Mr. Speaker, again I would also like to thank the staff of the subcommittee and the full committee on both sides of the aisle for their continued professionalism and dedication in looking out for the best public policy interests of the United States of America.

Again I thank the chairman of our committee for yielding me the time.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Pennsylvania [Mr. SHUSTER], the ranking member of the Subcommittee on Surface Transportation.

Mr. SHUSTER. Mr. Speaker, I thank the gentleman for yielding me the time and rise in strong support of this legislation. It indeed is a technical corrections bill, and it is significant to emphasize that once again this legislation coming from the Committee on Public Works and Transportation passed the committee with unanimous bipartisan support.

It indeed is a technical corrections bill and it deserves strong support on both sides of the aisle, and it should not be controversial.

Mr. Speaker, I rise in strong support of H.R. 5753, the Intermodal Surface Transportation Technical Correction Act. One of the most significant acts of this Congress was passage of the Intermodal Surface Transportation Efficiency Act. We took bold action to restructure our surface transportation programs, create new jobs, improve access in rural America, and improve safety on our Nation's highways. We give States more flexibility to address their top transportation priorities and funded research to make our infrastructure more safe, durable, and efficient.

H.R. 5753 makes technical corrections to the ISTEA that will help us reach these important objectives. Members of Congress and State officials have highlighted problems in the drafting of the ISTEA which need clarification or pose specific problems in its implementation, and we have tried to iron these out in this bill. We also include provisions which clearly were agreed to in conference and documented but were inadvertently left out of the conference report.

I want to underscore the fact that we have not provided new funding for programs or projects in this legislation that were not agreed to by the conference on the ISTEA.

The Public Works and Transportation Committee is keenly aware of its budget responsibilities, and despite the fact that a number of very worthwhile projects were brought to the committee's attention, we could not accommodate member's new project requests.

The changes in this bill will give us a better Surface Transportation Program—one that functions as smoothly and efficiently as possible. It will help States reach the goals Congress set out in passing the ISTEA. I urge my colleagues to give this bill their full support.

Mr. ROE. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. EVANS].

Mr. EVANS. Mr. Speaker, I thank the gentleman for yielding me the time, and I rise to enter into a colloquy with the distinguished chairman of the full committee.

Mr. Speaker, as the gentleman is well aware, ISTEA contains provisions that specify required suballocations between States and metropolitan areas. Section 137 of H.R. 5753 seems to allow for the possibility that a State could avoid ISTEA's suballocation requirements by putting its apportioned funds directly into the revolving fund, rather than suballocating the MPO's share. It also seems to provide for the possibility that MPO's would not remain involved in the project selection process as specified in ISTEA. Would the chairman please explain the intent of section 137 as it relates to there two issues?

Mr. ROE, Mr. Speaker, if the gentleman will yield, section 137 is intended to give States, if they choose, the flexibility to leverage Federal funds to undertake needed infrastructure projects. It is not intended to change funding usage, the project approval process, suballocation requirements, or other policies we included in the ISTEA legislation.

In addition, I would be pleased to work with the gentleman from Illinois as we will be working with others to refine the language of section 137, if necessary, as we proceed through the legislative process.

Mr. EVANS. Mr. Speaker, I thank the gentleman for his explanation and commitment to working with the Illinois delegation to insure that our concerns are addressed.

Mr. ROE. Mr. Speaker, I yield myself 1 additional minute.

Mr. Speaker, I just want to express on my behalf, and I know the members of the committee, and take up a bit from what the gentleman from California [Mr. MINETA] has said here today in thanking the staff for their outstanding work that they have done on this legislation and all of the other legislation we work on. I think around here the members of committees and our colleagues get credit for a great deal of the work that is achieved, and I know that sometimes our staff people, as we read in some periodicals, are said to be too many. But I tell the people of the United States and our colleagues here that it fundamentally would not be possible to do the work of this House without particularly the staff of the Public Works and Transportation Committee. So I want to extend my good will to them.

Mr. HAMMERSCHMIDT. Mr. Speaker, if the gentleman will yield, I just want to add my remarks and associate myself with the remarks of those just made by the chairman in commending our wonderful, dedicated, professional staff members.

Mr. MILLER of California. Mr. Speaker, I rise in strong support of H.R. 5753, the Intermodal Surface Transportation Technical Corrections Act.

H.R. 5753 includes a provision which will establish a special grant program to assist Indian tribes in adopting and implementing programs to address and reduce traffic safety incidents related to the use of alcohol or other controlled substances. These programs can include a number of components addressing this problem such as education, training, and law enforcement.

A very compelling case can be made for including this grant program in this legislation. The Indian Health Service reports that alcoholism is 332 percent higher and accidents 139 percent higher among native Americans than among all other races combined in the United

States today. All of us here know that when alcohol or other controlled substances are mixed with driving the results are too often deadly. This important message is not getting out to Indian country and especially to Indian youth.

A recent study on native American adolescents conducted by the University of Minnesota found that 44 percent of Indian youths admitted never wearing seat belts, 37.9 percent of 10th through 12th graders reported that they drink alcohol and drive, and more than one in five—21.8 percent—reported that they often or sometimes ride with someone who has been drinking. This behavior is most often imitative of what teenagers see around them. Some 50 percent of teens who have seen their parents drive after drinking reported doing the same, while 69 percent of teens who reported never seeing a parent drink and drive said they would also never mix alcohol and driving.

I believe that the National Highway Traffic Safety Administration is best equipped to administer this program and assist tribes in setting up appropriate tribally run programs.

Mr. Speaker, I ask my colleagues to join me in supporting H.R. 5753.

Mr. CLEMENT. Mr. Speaker, I am pleased to join Chairmen ROE and MINETA and my other colleagues on the Public Works and Transportation Committee in urging passage of H.R. 5753, the Intermodal Surface Transportation Technical Corrections Act.

This bill makes a number of technical changes to last year's historic Intermodal Surface Transportation Efficiency Act. The bill also makes a number of small policy changes, one of which I proposed to reduce traffic noise from existing highways and interstates. Currently, retrofitting existing highways with noise barriers is not separately funded under Federal guidelines.

Noise is one of the more serious impacts that existing highways have on their neighbors. while Federal law requires that noise impacts of proposed highway projects be studied and mitigation efforts undertaken, no specific requirement exists to study and mitigate existing noise situations.

Transportation experts at Vanderbilt University brought this issue to my attention and I commend them for their foresight and careful reading of the 1991 act.

As my colleagues know, the act established a new category of funding for transportation enhancement activities and set aside 10 percent of funds for the States to undertake a number of listed activities, including acquisition of scenic or historic sites, highway landscaping and beautification, and archaeological planning and research. But the act failed to include noise abatement activities, an important type of project for people residing near existing interstates and highways.

In a recent study by Dr. William Bowlby of the Vanderbilt Engineering Center for Transportation Operations and Research [VECTOR], only 14 States planned to construct noise abatement barriers on existing highways in the next 5 years. Other States would like to, but have no funds to do so. Bowlby found that one of the recurring comments from noise analysts in State departments of transportation is that while citizen demand for noise abatement is increasing, that demand has gone unmet because noise abatement projects typically compete with highway construction and repair projects.

This change will end that competition between projects and encourage States to study and retrofit existing highways with noise barriers. It is a much-needed change and I thank my committee colleagues for accepting it as a provision of H.R. 5753.

Mr. MINETA. Mr. Speaker, I rise in strong support of H.R. 5753 to make technical corrections to title 23, United States Code, the Federal Transit Act and the Intermodal Surface Transportation Efficiency Act of 1991.

The legislation will make essential corrections to the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), the landmark legislation, passed overwhelmingly last session. While ISTEA will serve as a springboard for the rebuilding of our Nation's infrastructure and economy for decades to come, there is a need to correct certain problems that have emerged in working with the U.S. Department of Transportation and others to implement the legislation.

In developing this legislation, the Committee on Public Works and Transportation has carefully reviewed requests for amendments to limit them to purely technical and minor policy changes. This will permit us to stay within the spending levels set last year for the legislation and avoid adding to the deficit. It will also enable us to preserve the major policy changes, incorporated in ISTEA, that will redirect the nation's surface transportation programs to meet the challenges of the 1990's and the 21st century.

The amendments included in H.R. 5753 fall into three categories. The first includes amendments that correct mistakes and omissions in ISTEA to bring the law into conformity with the policy changes and funding levels agreed to by the conferees. For example, some provisions were inadvertently dropped, though they had been part of the conference agreement. These are incorporated into the legislation along with several changes, conforming previous surface transportation legislation, to ISTEA's new policies. Mistakes in the funding levels, agreed to by the conferees, have also been recorrected and represent the only "funding" items included in the bill.

Some minor adjustments to ISTEA provisions and new provisions with minor policy implications have been included in H.R. 5753. This includes, for example, changes in project descriptions, granting the territories the same flexibility to transfer National Highway System funds as States have, and adding Indian tribal governments to the statewide planning process.

Also, the committee corrected a mistake in ISTEA regarding the ability to trigger a redesignation of the metropolitan planning organization in southern California. I am hopeful that the local parties involved in this redesignation process will reach an amicable solution; but if they do not, the committee will have to revisit this issue in future legislation.

The third and smallest category of technical corrections in H.R. 5753 includes new initiatives and program changes. None of these require additional funding nor do they violate the policy directions established by ISTEA conferees. The same sliding scale for the Federal match applied to highway projects is also extended to transit projects. The pilot program for uniform audit procedures for architectural, engineering and design services is repealed in favor of a general State requirement to implement the procedures.

There is also a provision amending section 140(b) of title 23, United States Code, to include comprehensive training and employment programs. As the author of this provision, it was my intent to include youth corps programs as an eligible activity. The Secretary is authorized to use up to $10 million per fiscal year for highway skill training and improvement programs from the Secretary's administrative expenses. States are also permitted to use ¼ of 1 percent of their surface transportation program funds and bridge funds for carrying highway training and skill improvement programs. I intend to work with the other body to further clarify youth corps eligibility during the House-Senate Conference.

Mr. Speaker, the Committee on Public Works and Transportation has crafted a lean and technical and conforming piece of legislation in H.R. 5753. It remains within the policy guidelines established last year by the conferees for ISTEA, and makes primarily technical and conforming changes to this landmark legislation. The few minor policy adjustments and new initiatives included do not violate the surface transportation policies established by ISTEA.

I again applaud the efforts of our Public Works and Transportation Committee Chair, Mr. ROE of New Jersey, and our ranking Republican member, Mr. HAMMERSCHMIDT of Arkansas. I am also grateful to the working relationship our committee has of working on a bipartisan basis and wish to acknowledge the hard work and assistance given by Mr. SHUSTER of Pennsylvania, the ranking Republican member of the subcommittee I have the privilege to chair, the Subcommittee on Surface Transportation. I would also like to thank the staff of the Subcommittee and the full committee, on both sides of the aisle, of their continued professionalism and dedication.

This legislation is noncontroversial and I urge its adoption under suspension of the rules.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New Jersey [Mr. ROE] that the House suspend the rules and pass the bill, H.R. 5753, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may

the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

THE PENSION FUNDING IMPROVEMENT ACT OF 1992

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, since the 1974 enactment of the Employee Retirement Income Security Act [ERISA], Congress has sought to ensure that employers properly fund their pension promises. This effort has been largely successful. However, a number of very large pension plans remain severely underfunded. Many of the employers sponsoring these plans have decided not to fund their pension plans while repeatedly increasing pension promises to their workers. As a result, their retirees, the Pension Benefit Guaranty Corporation [PBGC], and taxpayers are put at serious financial risk.

These employers sponsor plans with total underfunding in excess of $40 billion. PBGC expects another $13 billion of this amount will become its responsibility in the near future. Past plan failures have already led to a PBGC deficit of $2.5 billion as of 1991. We cannot afford these large losses, nor should we tolerate these irresponsible pension practices.

Under proposed legislation H.R. 5800, which Senator JEFFORDS and I are introducing today, employers sponsoring significantly underfunded pension plans will be required to more quickly fund their current pension promises and to immediately fund or collateralize any future benefit increases.

I urge my colleages to join this effort to better protect the retirement security of millions of American workers. Tomorrow our oversight subcommittee will hold a hearing on pension reform in room 1100, Longworth House Office Building, starting at 9 a.m. The public is invited, as well as many of the sponsors of large underfunded plans, who, thus far, have declined the invitation to testify.

COMMUNITY ENVIRONMENTAL RESPONSE FACILITATION ACT

Mr. SWIFT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4016) to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to require the Federal Government, before termination of Federal activities on any real property owned by the Government, to identify real property where no hazardous substance was stored, released, or disposed of, as amended.

The Clerk read as follows:

H.R. 4016

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 "Community Environmental Response Facilitation Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The closure of certain Federal facilities is having adverse effects on the economies of local communities by eliminating jobs associated with such facilities, and delay in remediation of environmental contamination of real property at such facilities is preventing transfer and private development of such property.

(2) Each department, agency, or instrumentality of the United States, in cooperation with local communities, should expeditiously identify real property that offers the greatest opportunity for reuse and redevelopment on each facility under the jurisdiction of the department, agency, or instrumentality where operations are terminating.

(3) Remedial actions, including remedial investigations and feasibility studies, and corrective actions at such Federal facilities should be expedited in a manner to facilitate environmental protection and the sale or transfer of such excess real property for the purpose of mitigating adverse economic effects on the surrounding community.

(4) Each department, agency, or instrumentality of the United States, in accordance with applicable law, should make available without delay such excess real property.

(5) In the case of any real property owned by the United States and transferred to another person, the United States Government should remain responsible for conducting any remedial action or corrective action necessary to protect human health and the environment with respect to any hazardous substance or petroleum product or its derivatives, including aviation fuel and motor oil, that was present on such real property at the time of transfer.

SEC. 3. REQUIREMENT FOR IDENTIFICATION OF LAND ON WHICH NO HAZARDOUS SUBSTANCES OR PETROLEUM PRODUCTS OR THEIR DERIVATIVES WERE STORED, RELEASED, OR DISPOSED OF.

Section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)) is amended by adding at the end the following new paragraph:

"(4) IDENTIFICATION OF UNCONTAMINATED PROPERTY.—(A) In the case of real property owned by the United States and on which the United States plans to terminate Federal Government operations, the head of the department, agency, or instrumentality of the United States with jurisdiction over the property shall identify the real property on which no hazardous substances and no petroleum products or their derivatives were stored for one year or more, known to have been released, or disposed of. Such identification shall be based on an investigation of the real property to determine or discover the obviousness of the presence or likely presence of a release or threatened release of any hazardous substance or any petroleum product or its derivatives, including aviation fuel and motor oil, on the real property. The identification shall consist, at a minimum, of a review of each of the following sources of information concerning the current and previous uses of the real property:

"(i) A detailed search of Federal Government records pertaining to the property.

"(ii) Recorded chain of title documents regarding the real property.

"(iii) Aerial photographs that may reflect prior uses of the real property and that are reasonably obtainable through State or local government agencies.

"(iv) A visual inspection of the real property and any buildings, structures, equipment, pipe, pipeline, or other improvements on the real property, and a visual inspection of properties immediately adjacent to the real property.

"(v) A physical inspection of property adjacent to the real property, to the extent permitted by owners or operators of such property.

"(vi) Reasonably obtainable Federal, State, and local government records of each adjacent facility where there has been a release of any hazardous substance or any petroleum product or its derivatives, including aviation fuel and motor oil, and which is likely to cause or contribute to a release or threatened release of any hazardous substance or any petroleum product or its derivatives, including aviation fuel and motor oil, on the real property.

"(vii) Interviews with current or former employees involved in operations on the real property.

Such identification shall also be based on sampling, if appropriate under the circumstances. The results of the identification shall be provided immediately to the Administrator and State and local government officials and made available to the public.

"(B) The identification required under subparagraph (A) is not complete until concurrence in the results of the identification is obtained, in the case of real property that is part of a facility on the National Priorities List, from the Administrator, or, in the case of real property that is not part of a facility on the National Priorities List, from the appropriate State official.

"(C) The identification and concurrence required under subparagraphs (A) and (B), respectively, shall be made at least 6 months before the termination of operations on the real property. In the case of a concurrence under subparagraph (B) which is required from a State official, the concurrence is deemed to be obtained if, within 90 days after receiving a request for the concurrence, the State official has not acted (by either concurring or declining to concur) on the request for concurrence.

"(D) In the case of the sale or other transfer of any parcel of real property identified under subparagraph (A), the deed entered into for the sale or transfer of such property by the United States to any other person or entity shall contain—

"(i) a covenant warranting that any response action or corrective action found to be necessary after the date of such sale or transfer shall be conducted by the United States; and

"(ii) a clause granting the United States access to the property in any case in which a response action or corrective action is

found to be necessary after such date at such property, or such access is necessary to carry out a response action or corrective action on adjoining property.

"(E) Nothing in this paragraph shall affect, preclude, or otherwise impair the termination of Federal Government operations on real property owned by the United States.".

SEC. 4. CLARIFICATION OF COVENANT WARRANTING THAT REMEDIAL ACTION HAS BEEN TAKEN.

(a) CLARIFICATION.—Paragraph (3) of section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)(3)) is amended by adding after the last sentence of such paragraph the following: "For purposes of subparagraph (B)(i), all remedial action described in such subparagraph has been taken if the construction and installation of an approved remedial design has been completed, and the remedy has been demonstrated to the Administrator to be operating properly and successfully. The carrying out of long-term pumping and treating, or operation and maintenance, after the remedy has been demonstrated to the Administrator to be operating properly and successfully does not preclude the transfer of the property.".

(b) ACCESS TO PROPERTY.—Paragraph (3) of such section is further amended—

(1) by striking out ", and" at the end of subparagraph (A)(iii) and inserting lieu thereof a simicolon;

(2) by striking out the period at the end of subparagraph (B)(ii) and inserting in lieu thereof "; and"; and

(3) by adding after subparagraph (B) the following new subparagraph:

"(C) a clause granting the United States access to the property in any case in which remedial action or corrective action is found to be necessary after the date of such transfer.".

SEC. 5. REQUIREMENT TO NOTIFY STATES OF CERTAIN LEASES.

Section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)), as amended by section 3, is further amended by adding at the end the following new paragraph:

"(5) NOTIFICATION OF STATES REGARDING CERTAIN LEASES.—In the case of real property owned by the United States, on which any hazardous substance or any petroleum product or its derivatives (including aviation fuel and motor oil) was stored for one year or more, known to have been released, or disposed of, and on which the United States plans to terminate Federal Government operations, the head of the department, agency, or instrumentality of the United States with jurisdiction over the property shall notify the State in which the property is located of any lease entered into by the United States that will encumber the property beyond the date of termination of operations on the property. Such notification shall be made before entering into the lease and shall include the length of the lease, the name of person to whom the property is leased, and a description of the uses that will be allowed under the lease of the property and buildings and other structures on the property.".

□ 1701

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the rule, the gentleman from Washington [Mr. SWIFT] will be recognized for 20 minutes, and the gentleman from California [Mr. DANNEMEYER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington [Mr. SWIFT].

GENERAL LEAVE

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on H.R. 4016, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. SWIFT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the House considers the bill H.R. 4016, the Community Environmental Response Facilitation Act. This bill was introduced by the honorable LEON PANETTA of California to address troubling situations that are occurring with increasing regularity as more Federal facilities are closed due to budget constraints. One need not look far to see the economic pain that results when a DOE plant or a military base closes. Likewise, it is very evident that such closures will become more numerous as the Department of Defense builds down, the Nuclear Energy Program is downsized, and the budget deficit further constricts the breadth of Government activities.

The problem facing us is twofold. First, as Federal facilities close, communities nearby are subjected to economic dislocation. Base closures lead to lost jobs, failed businesses, and diminished tax bases for local government. In response to these dislocations, State and local governments are focusing economic growth initiatives on redevelopment of the property on which the Federal Government previously carried out its activities.

This approach is constructive, and should be pursued. However, it leads to the second problem, which is that many Federal facilities slated for closure are contaminated by hazardous substances or petroleum products and require environmental response actions.

Thus, we are faced with a dilemma: Closed or soon-to-be closed Federal facilities could supply inexpensive land for future development; but environmental and public health concerns brought on by preexisting contamination will have to be addressed before that can happen.

H.R. 4016 steps into the breech to provide a sensible mechanism to allow State and local government to pursue economic growth measures where Federal facilities have closed their doors. It amends the Comprehensive Environmental Response, Compensation and Liability Act [CERCLA] Superfund to expedite the identification of uncontaminated Federal land so it can be transferred for non-Federal uses.

This bill sets up a process within CERCLA by which Federal agencies with jurisdiction over property slated for closure can evaluate and identify uncontaminated property within a facility. When this is done, the agency involved shall seek the concurrence in this identification from regulatory officials. For properties listed on the National Priorities List [NPL], concurrence must be rendered by the Administrator of EPA; for properties not on the NPL, concurrence must be given by the appropriate State official. Once concurrence is given, or deemed given, the property may be transferred and redeveloped for the benefit of the community.

H.R. 4016 does one other thing. Perhaps most importantly, the bill provides that any cleanup action found necessary after the date such property is transferred shall remain the responsibility of the United States.

This is a sensible, bipartisan, good-government bill. It is procommunity and proenvironment. It protects the integrity of the environmental statutes while providing a vehicle for responding to economic problems in communities resulting from Federal facilities closures. We have worked very long and hard on this bill. The subcommittee has held a hearing and constructed a very detailed record on the issue. And I am happy to say H.R. 4016 is supported by environmental groups; the National Association of Attorneys General; the State of California; the attorney general of Texas; the U.S. Conference of Mayors; and many others.

I appreciate and commend the constructive efforts of the ranking member of the subcommittee and his staff in crafting a work product that addresses a critical issue in a timely fashion. I also wish to commend the good work of the sponsor, Mr. PANETTA, and thank him for his assistance in this process. This is a good bill, and also a timely one. I urge my colleagues' strong support for H.R. 4016.

Mr. Speaker, I reserve the balance of my time.

Mr. DANNEMEYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation.

Mr. Speaker, there is a concern on the part of the administration about whether or not this bill will make more difficult the transfer of property currently in the title of the Federal Government, but I think that the concern of the administration that that would result is misplaced.

Existing law provides for concurrence between EPA, or, rather, there be consultation between the EPA and the State of California, and I think insofar as the ability to transfer the real property in concern to the State or a local area, that this bill will expedite rather than delay it.

For these reasons, I support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr SWIFT. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. PANETTA], the author of this legislation.

Mr. PANETTA. Mr. Speaker, I want to pay particular thanks to the gentleman from Washington [Mr. SWIFT], the chairman, and also the chairman, the gentleman from Michigan [Mr. DINGELL], and their staffs for their invaluable cooperation on both sides on working on this legislation. I would also like to pay tribute to the gentleman from New Jersey [Mr. ROE], chairman of the Committee on Public Works and Transportation, who has recognized the urgency of this bill and allowed it to proceed to the floor without delay.

Mr. Speaker, we all understand that we are now going through a situation as a result of defense reductions, facing a number of base closures throughout this country. There are something like 122 facilities that are in the process of being closed, and we anticipate that that number could go as high as 300 over the next year as a result of additional recommendations on base closures.

Obviously those closures are devastating to a community, but what could even be more devastating to a community is the inability to reuse that land and to be able to develop it. Part of the problem right now is that as a result of the Superfund law, as a result of the current laws that are in place, it is required that the entire base be cleaned up in order to reuse any of the parcels on the land. Obviously that would just further devastate the communities that face this kind of situation.

So the purpose of this legislation is to do what everyone agrees needs to be done, to try to identify those parcels that are clean and allow them to proceed to be able to reuse those properties. That is the basic intent of this legislation. It was designed with the help, as I said, of the staffs on all of the committees. It is supported by a number of communities, the Conference of Mayors, a number of States facing this issue, all of them waiting for this legislation to pass so that we can expedite the reuse of this property.

I again want to express my thanks for the cooperation that I have received on this legislation from all of the parties involved here, but most importantly I want to say to those communities that are facing this kind of situation, as my own is, that this legislation will give us the opportunity hopefully to turn what could be an economic devastation into a great economic opportunity.

Mr. Speaker, I introduced H.R. 4016 last fall after careful analysis of a clear and growing problem afflicting communities grappling with the loss of Federal installations. The Community Environmental Response Facilitation Act [CERFA] is a tailored response to that defined problem, and its passage here today in the House of Representatives is absolutely required. I appreciate the chance to urge my colleagues in the strongest terms to join our colleagues on the Energy and Commerce Committee in approving H.R. 4016 by voice vote.

Mr. Speaker, I cannot exaggerate the urgency of this bill. Cities and towns around the Nation are waiting to develop and implement the reuse of closing Federal facilities. Municipalities across the Nation have contacted me again and again, asking when this measure will pass the Congress. They are literally waiting for this vote of approval, knowing that CERFA's passage this week would assist them within several months as they struggle to mitigate the devastating economic losses suffered when a Federal installation closes. Senator MITCHELL has sponsored the companion measure and is likewise committed to the expeditious passage of H.R. 4016. Tonight we have the last opportunity to approve the bill before the Congress adjourns for the district work period. We would greatly appreciate your support, therefore; let me tell you why.

Existing Federal property transfer practices exacerbate rather than overcome the difficulties our communities face as they attempt to reuse Federal facilities. Current law and regulations do not facilitate studies to confirm which areas of closing installations are free of hazardous waste, needlessly delaying their transfer to State, local, or private interests. Our communities' losses are doubled in this process; they are unable to reap the potential of closed Federal facilities even as they continue to suffer losses stemming from the original closure.

The Community Environmental Response Facilitation Act would require the Federal Government to identify property free of contamination for sale to non-Federal interests at closing Federal facilities at the earliest opportunity. H.R. 4016 has wide and deep support in every State. In a comprehensive hearing held by the Subcommittee on Transportation and Hazardous Materials on April 9, 1992, and in subsequent letters of support, the National Association of Attorneys General, the attorney general of the State of Texas, the U.S. Conference of Mayors, the counties of Monterey and Alameda in California, Friends of the Earth, and the Natural Resources Defense Council have expressed unreserved support for the legislation. In testimony before the subcommittee, the Department of Defense said H.R. 4016 "hits the mark." Finally, as Chairman SWIFT has noted, the Subcommittee on Transportation and Hazardous Materials and the Committee on Energy and Commerce each reported H.R. 4016 by a voice vote with bipartisan support.

Under the bill, identifications of waste-free property would be made at least 6 months before the termination of operations at the facility. Once such an identification had been made, the Federal Government would be empowered to declare the property excess and allow its transfer for redevelopment.

The Government's liability for hazardous substances remaining in lands formerly owned by the Federal Government is a related community concern. Accordingly, the legislation mandates that deeds entered into for the sale or transfer of Federal property to a non-Federal interest contain a covenant warranting that the Federal Government must conduct any remediation of waste for which it is responsible, even after transfer of the property.

H.R. 4016 also clarifies congressional intent with respect to environmental restoration efforts at closing Federal facilities. The bill includes the criterion that environmental cleanups at Federal facilities must be undertaken with a view to facilitating and advancing both environmental protection and the prompt transfer of excess property in order to mitigate the ill economic effects of closures. Importantly, the bill allows us to address community concerns without sacrificing the quality of environmental restoration.

Finally, the bill contains a very important provision that I want to mention. During our discussion of the bill's draft, the question was, who should make the determination that areas of Federal facilities are not contaminated? The obvious answer is the Environmental Protection Agency [EPA]. Thus, CERFA mandates that the EPA must concur in any agency's determination that property is free of contamination on Superfund facilities and, in the case of non-Superfund sites, States must concur in that determination. The EPA is the one Federal agency whose mission it is to safeguard and monitor environmental standards. Clearly, the Agency with the expertise to make findings of contamination ought to have the power to concur or not to concur in these important determinations. Too much is at risk not to involve the EPA or a State's environmental agency. The impetus for this bill is the need to expedite the transfer of clean property to communities, but we should not do so at the risk of transferring properties that turn out to be contaminated.

I want to thank Chairmen SWIFT and DINGELL, for their invaluable expertise and assistance in moving this legislation forward and in making several constructive changes. I would also pay tribute to Chairman ROE of the Public Works and Transportation Committee, who, despite his committee's jurisdiction over this issue, recognized the urgency of the bill's passage and allowed it to proceed to the floor without delay.

My friends, the passage of this bill will not receive much notice, but it is yet another example of the Congress taking a proactive step to address a defined problem with a carefully designed, widely supported, solution. This bill represents a responsible government at work and we can all be proud of its passage.

Mr. MATSUI. Mr. Speaker, I rise today in strong support of H.R. 4016, which will promote the smooth conversion and transfer of excess Federal property for other economically productive uses.

This legislation is absolutely essential for making effective use of property and capital now being used for defense purposes. I have two military bases in my congressional district. One, Mather Air Force Base, is scheduled to close late in 1993. The other, the Sacramento Army Depot, will be closing at the end of 1996. Areas which have been contaminated by toxic chemicals exist at both facilities, but I would like to focus on the situation at Mather Air Force Base for purposes of illustrating the problem that will be addressed by H.R. 4016.

Of the 6,300 acres of land at the Mather facility, only 200 acres are currently known to be contaminated. While there are ongoing studies to determine whether there are other contaminated sites on the base, the majority of the acreage at Mather is uncontaminated and is ready to be converted to productive use. Without the help offered by Mr. PANETTA's legislation, the entire 6,300 acres of land will remain off limits for purposes of conversion, and will sit idle while the hot spots await cleanup.

H.R. 4016 provides a commonsense approach to the conversion of Federal property without impeding environmental cleanup. It is important to note that this legislation in no way absolves agencies of responsibility for the cleanup and proper disposal of toxics located on excess Federal property, nor does it abridge the laws regulating standards and procedures for environmental remediation. This bill in no way compromises comprehensive, safe, and prompt cleanup efforts. Under this legislation, only that property on which no hazardous substances were stored, released, or disposed of can be investigated and submitted for approval by an appropriate State official to be sold or transferred. Contaminated facilities and other specific hot spots will be held in possession by the Federal agency in possession of the property until they are properly cleaned up.

This legislation serves the advantageous duel goals of cleaning up environmentally hazardous areas and allowing for the rapid disposition of unused but valuable property which might otherwise lie wasted for years until isolated sites, perhaps great distances from the useful and environmentally sound acreage, are cleaned up. I congratulate my friend, Congressman LEON PANETTA, for his hard work and leadership on this issue, and I urge my colleagues to support H.R. 4016.

Mr. LENT. Mr. Speaker, I rise in support of H.R. 4016, a bill to amend the Comprehensive Environmental Response, Compensation and Liability Act [CERCLA].

I think all of us understand the difficulties that the closing of a Federal facility can create for nearby communities. This legislation attempts to provide some relief for those communities by speeding up the transfer of clean, uncontaminated property.

I think there is a general consensus among Members of Congress and the Administration on the goals and approach of this bill. It is in everyone's interest to make available for transfer as much property as possible, as quickly as possible.

I note that the Administration's opposition to this bill is based upon its concerns that property transfers at sites on the National Priorities List [NPL] receive the concurrence of the Environmental Protection Agency. It is concerned that this requirement will delay transfers.

I believe this concern is misplaced. First, this requirement only applies to property located within the boundaries of the NPL site. If property is outside the actual NPL site, EPA concurrence is not required, even if the property is within the Federal facility that contains the NPL site. If the boundaries of the NPL site are drawn to accurately reflect the extent of the contamination, this requirement would never be triggered.

In addition, the language of the legislation leaves the President great flexibility in developing the process of concurrence between the agency transferring the property and the EPA. While the process is legislatively defined for non-NPL sites, no such limitation is made for the NPL sites. Thus, the President is free to develop any reasonable method of establishing the concurrence of the EPA.

I would note that the EPA and the Department of Defense [DOD] are currently working on these same issues. In particular, they are working together to clarify what property is included within the term "Facility" as applied to military bases listed on the Superfund National Priorities List. They are also developing a process by which EPA can raise any concerns it has with proposed land transfers by DOD. Nothing in this legislation should be construed as interfering with that process.

Finally, I would like to commend the chairman of the committee and subcommittee, Mr. DINGELL and Mr. SWIFT of Washington and the ranking Republican member on the subcommittee, Mr. RITTER, for moving expeditiously on this legislation.

Mr. RITTER. Mr. Speaker, I rise in support of H.R. 4016, a bill to amend the Comprehensive Environmental Response Compensation and Liability Act [CERCLA].

We hear a lot these days about gridlock on Capitol Hill and about the inability of Congress to act on real issues. I think this legislation is a good example of Congress working well. I think it shows that when we clearly define a problem, tailor legislation to narrowly fit the problem, and avoid casting issues in terms designed to highlight partisan differences, we can get things done.

Land transfers at closing federal facilities may not be a flashy issue, but this is important legislation, particularly for the people in communities near these facilities. Many communities frequently see their best hope for economic survival in quickly converting a closed facility to productive new uses.

However, under existing law, the presence of chemical contamination anywhere on the facility can cause significant delay in the transfer of facility property. This delay can mean years of hardship before the community gets back on its feet.

Part of the problem is probably unavoidable. Local communities want this property now, they want it clean and they want it at minimal cost. In some cases, many years will be required to analyze and remediate the environmental contamination, and the hard reality is that there is probably no way to quickly clean and transfer highly contaminated land.

But other sources of delay clearly are avoidable. One very important source of delay is excessive cleanup standards. When cleanup levels go far beyond what is necessary to protect human health and the environment and hunt down every last molecule of these chemicals, our economy loses, our competitiveness suffers and, most tragically, local communities suffer needlessly. While this is clearly part of the problem, I realize that a solution will have to wait for another day, perhaps when we reauthorize Superfund.

But we can try to solve some of these other delays. Section 120(h) of CERCLA applies to any property transferred by a federal agency where a hazardous substance has been stored for more than 1 year, released or disposed of. The agency must notify the buyer and include a covenant in the deed to the land warranting that all remedial action necessary to protect human health and the environment has been taken before the date of transfer and that the Government will take any additional remedial action found to be necessary after the date of transfer.

Unfortunately, several issues are left ambiguous by existing law, and these ambiguities lead to bureaucratic delay. First, it is not clear who decides that a particular parcel of a closing facility has not been contaminated. Moreover, it is not clear what information is needed to make the decision. Also, it is not clear when a remedial action is considered to be complete.

This legislation seeks to speed up the transfer of uncontaminated land, removing these ambiguities by establishing procedures for determining when a parcel of land is uncontaminated. The process of obtaining State concurrence at sites not on the national priorities list is set in the statute. The process for obtaining the concurrence of the EPA is not fixed by the statute and should be determined by the implementing agencies. I believe this flexibility provides the means to avoid delays in transferring land and should address the concerns raised by the administration.

The pace of transfers should also be quickened by clarifying that when the remedial action requires long term pump-and-treating of contaminated ground water, the property can be transferred as soon as the pumping is operating.

I want to commend the committee and subcommittee chairmen for their efforts and those of their staff in working with the minority in drafting this legislation. I hope this process continues in the same workmanlike fashion. Finally, I would urge all of my colleagues to support the bill.

Mrs. LLOYD. Mr. Speaker, and colleagues, I rise in strong support of the Community Environmental Response Facilitation Act of 1992. There is an incredible need for quick and safe transfer of waste-free Federal property to cities and towns. I would like to commend the gentleman from California [Mr. PANETTA] on his legislation that addresses the transfer process.

Mr. Speaker, I represent the third district of Tennessee which includes the city of Oak Ridge. Oak Ridge, as many of you know, is the original atomic city. When the first bombs of World War II were dropped, the city did not have a name. By the time the bombs dropped on Hiroshima and Nagasaki, it was the atomic city, with a population of 75,000. The Federal Government built the city quickly and secretly and controlled its fate until 1959, when Oak Ridgers voted to incorporate. While the Federal Government no longer administers the city, the amount of land still held on to by the Government, in particular the Department of Energy, is significant.

Approximately 75 percent of all land in Oak Ridge is owned by the Federal Government, TVA, or the University of Tennessee. The Department of Energy controls the major portion of the property. Although a certain amount of land has been transferred by DOE to the community over the past 50 years, the dramatic increase of companies in the commercial and

industrial sector over the last 5 years has made the need for additional land for future development a major issue.

The city of Oak Ridge has been talking with DOE officials for years over the possible transfer of certain federally owned properties to the community. Oak Ridge officials already have several development prospects lined up for portions of the land when, and if, it is turned over to the city.

In reference to one large plot of land, parcel A, an area encompassing 700 acres, DOE has said that they cannot transfer it to the city without first offering it around to other Government departments to see if they have any use for it. To this date, there are no takers. Oak Ridge has a desperate need for commercial, office, and industrial land. Transfer of parcel A could satisfy this need. Development of this land for any of these needs means much needed jobs to Oak Ridgers. With the shrinking of our nuclear weapons complex, the fate of many jobs in Oak Ridge is in question. Efforts must be made to keep the local workers employed.

Another much smaller, but nonetheless important area of land, parcel 412, has also given the city much grief. A developer purchased the land in 1989. When development began in the fall of that year, leaking underground petroleum storage tanks were found. Up until recently, the city was engaged in a battle with the Department of energy over responsibility for cleanup of the contaminated property. I am pleased to report that remediation has begun and the issue is near complete resolution. If there was a responsible land transfer system in place, I sincerely believe that many of the problems could have been avoided and the land could be fully developed by now.

The legislation offered by Mr. PANETTA is the most comprehensive approach to the problems associated with land transfer. It is a responsible bill that addresses the needs of everyone involved. H.R. 4016 develops a policy for land that is both free of contamination and land that is in need of remediation. It addresses the issue of accountability for cleanup and places the necessary mechanisms in place for oversight. In this way, those who are receiving the property are getting a fair deal from the Federal Government. In the case of parcel 412 described above, where contamination was discovered after the sale of the land, H.R. 4012 would make the Government, the original owner, responsible for the cleanup. This, I believe, is an important provision.

Mr. Speaker, let us act now to get the mechanisms in place for successful and needed land transfer. Vote "yes" on H.R. 4016.

Mr. FAZIO. Mr. Speaker, I rise in support of H.R. 4016. I want to congratulate and commend my colleague from California, Mr. PANETTA, and my colleague from Washington, Chairman SWIFT, for their efforts to bring this measure before us today.

I support this legislation because it achieves three major goals. First, it requires the Defense Department to identify property on closing bases that is not contaminated with hazardous substances in order to facilitate the transfer of this clean property to local communities. Second, the bill makes it clear that cleanup of closing bases should be expedited. Third, the bill protects potential buyers of base property from any liability associated with the cleanup of previously unknown contamination on sold property that resulted from Defense Department activities.

As we all know, environmental cleanup is essential if we are going to enable affected communities to convert these installations to civilian use in an expeditious manner. The enormity of environmental restoration work needed at these sites is already presenting significant barriers to this process. We must continue to encourage the Defense Department to find ways to expedite and streamline the cleanup process.

At the same time, however, we can take steps today to give communities an immediate opportunity to heal the economic damage caused by a base closure. With passage of H.R. 4016, we will grant communities this opportunity. H.R. 4016 will give communities a chance to buy land and facilities on a base and use them to attract new businesses.

I know of these problems first-hand because over the next 5 years, two bases will be closed in Sacramento. However, for both bases, there is increasing interest at the local level for use of these facilities by various businesses, governmental agencies, and private citizens. I know that if the clean property on these bases were transferred, the community would realize almost immediate benefits from the creation of new enterprises. These enterprises include new businesses, ball fields and parks for public use, housing for low-income families and the homeless, a new airport, and a whole host of other opportunities.

We owe it to the people impacted by defense cuts to do what we can to ensure that communities have the tools they need to recover from base closures. H.R. 4016 will help expedite the transfer of base property and facilities to local communities, and I strongly urge my colleagues to support this measure.

Mr. RAY. Mr. Speaker, as chairman of the Environmental Restoration Panel of the Armed Service Committee, I have been monitoring the impact of environmental laws and regulations upon the base closure process for the past 4 years. Over that period, the panel and the Military Installations and Facilities Subcommittee provided the most sustained oversight of base closure environmental activities.

On the basis of that oversight and my visits to many base closure installations, I believe that H.R. 4016 represents a good news-bad news proposition.

The good news is that it represents the first time an environmental committee in Congress has reported legislation to address the statutory environmental obstacles to the timely transfer and economic reuse of base closure property.

This is real progress when you consider how far things have come since my visit to Pease Air Force Base in February of last year. Peace Air Force Base was the first installation to be closed under the 1988 Base Closure law and has been placed on the national priorities list because of environmental contamination there. At the time of my visit, the community was facing the prospect of not being able to reuse property at Pease until the final cleanup had taken place—even though only about 150 acres of the over 4,000-acre base were contaminated. The problem was that section 120(h) of the Superfund Amendments and Reauthorization Act imposed this requirement on all Federal property land transfers.

State and local leaders felt that this situation was intolerable. For one thing, such land transfer restrictions did not apply to any other private or public land—contaminated or not. Second, and most important, was the fact that the economic disruption caused by the closure of Pease Air Force Base made the expedited transfer and reuse of the property imperative. Like most base closure communities, the local economy could not tolerate uncertainty and delays in efforts to attract new businesses and jobs in the wake of the military's departure.

Finally, since the problem was statutory in nature, community reuse efforts faced the prospect of lengthy legal challenges from virtually any dissatisfied party. In fact, a legal challenge by a Boston-based group citing the Clean Air Act requirements continues to complicate reuse efforts at Pease.

When I first brought this matter to the attention of the Committee on Energy and Commerce, the initial response was to question the nature and extent of the problem. Once they recognized the problem, the next 6 months were devoted to trying to find administrative fixes to a statutory problem. In the meantime, I introduced legislation, H.R. 2179, in April 1991, to address the problem by amending section 120(h). Conversely, the committee's bill was not introduced until late November 1991.

Although it has taken over a year and a half to get legislation before the House, it is gratifying that the Committee on Energy and Commerce now fully recognizes the need to adjust environmental statutory requirements to meet the needs of base closure communities.

Unfortunately, the bad news is that H.R. 4016 does not go nearly far enough to fully address community concerns and needs.

Commuity organizations are concerned by the level of statutory detail and lack of flexibility in this legislation.

Just to identify clean parcels could require additional studies that would significantly increase costs and further delay transfer. Mind you, we are talking about the only property in this country that has already been screened for environmental contamination in accordance with superfund. Today these communities know more about the nature and extent of contamination on the local closing base than they do about surrounding public, commercial, and residential properties.

Most of the communities we have heard from also question the wisdom of requiring U.S. Environmental Protection Agency concurrence for all transfers of clean parcels of base closure property. EPA concurrence is not required for any other property transactions by or within the community involving clean or contaminated property. Moreover, they are concerned about placing their economic future in the hands of Federal bureaucrats.

Likewise, there is community concern about the requirement that parcels where contamination is present cannot be transferred before the remedy is constructed and demonstrated. First of all, few of these remedies have been selected, let along constructed or demonstrated, so there will be a significant delay

prior to land transfer. Second, this requirement is likely to drive the remedy selection process toward the remedy easiest to construct and demonstrate, not the best or most cost-effective ones.

While the supposed rationale behind these requirements in H.R. 4016 is that they are more protective of human health, it is hard for base closure communities to square this with reality. What communities see are bases where thousands of DOD and civilian personnel work and live every day. While in Federal hands, work continues while fully complying with all environmental requirements. But once the base closes, environmental laws impose a number of serious obstacles to timely economic reuse and job generation. In effect, the same workers who had jobs on the base prior to closure are being told that after base closure they cannot work there because their health would be threatened. The only difference is the status of the base, not the status of the environmental threat.

It seems to me, we should apply these requirements everywhere or not at all. If we want EPA to concur on all property transactions in the United States—or even all property where contamination is present—we should make that a statutory requirement for everyone. If there are serious health hazards at military bases undergoing environmental cleanup, we should terminate or modify activities accordingly. it makes no sense to single out base closure communities for such treatment. After all, these communities did not create environmental problems on the bases, they did not ask to close them, and they are supposed to be the people we are trying to help recover from the resulting trauma and economic dislocation.

H.R. 4016 also fails to address a number of other issues that would facilitate the transfer and economic reuse of base closure property.

It does not provide for the indemnification of entities seeking to buy or control base closure property against claims and injuries associated with DOD contamination. This is a serious shortcoming, because environmental liability issues are becoming one of the most serious obstacles in attracting businesses and lenders interested in the reuse of base closure property.

It does not clarify the statute on whether national priority listed base closure sites can be subdivided to facilitate timely transfer and reuse of property. Absent such clarification, legal challenges are inevitable.

It does not clarify that removal actions should be used wherever possible to facilitate transfer and reuse of base closure property. Everyone seems to recognize that removal actions or emergency cleanups represent a powerful tool in expediting this process, but there has been no clear regulatory commitment as yet.

In view of these shortcomings, if H.R. 4016 had been considered under regular order and amendments could have been offered, I would have offered the following amendment in the nature of a substitute. I believe that it is more responsive to community concerns and the needs of the base closure process, without sacrificing environmental quality. It is supported by the National League of Cities and the National Association of Counties. I am also including a side-by-side analysis of the major provisions of my proposed amendment and H.R. 4016.

I would also like to mention why I and my colleagues on the Armed Services Committee have a legitimate concern about environmental legislation affecting the base closure process.

First, we have an obligation to the Federal taxpayer where environmental requirements affect base closure funding and projected savings. Regulatory definitions characterizing entire bases as Resource Conservation and Recovery Act facilities and NPL sites have placed a cloud over such property that diminishes its resale value and attractiveness for reuse. Although the projected revenues from base closure land sales were grossly over-optimistic, environmental regulatory actions make it far more difficult for the taxpayer to get anything near fair market value from sale parcels. Instead of offsetting the cost of base closure through land sales, more taxpayer dollars are going to be required to compensate for these lost savings and pay for increased environmental cleanup costs.

Second, we have a strong interest in the continued success of the base closure process. With the ongoing build-down of U.S. forces to meet the needs of our Nation's defense requirements, base closure is imperative and inevitable. The operations and maintenance funding to support current infrastructure is already being reduced and future budget plans assume the closure of many more bases. Up until now, we have been fairly successful in muting resistance to base closure by assuring the communities that the economic transitions would be temporary and things would be better in the long run. We have based these assurances on the experience of base closure communities in the 1960's. Largely due to environmental laws and regulations, it is apparent that the experience in the 1960's is not very relevant to the 1990's.

I am not questioning the need for greater environmental regulation and protection, but we have to make sure that base closure communities understand the new realities. At the same time, however, we don't want to send a message that they are going to be subject to greater environmental regulation than anyone else which will unduly complicate and delay the transfer and economic reuse of base closure property. Otherwise, we are going to be faced with greatly intensified resistance to base closure and targeted communities are going to conclude that the only way to preserve economic well-being and jobs is to avoid closure altogether. Thus, base closure could become a real hard sell in 1993 and 1995 if Congress is not more responsive to community concerns and expectations.

The final reason why we are concerned about base closure environmental legislation is that we cannot avoid getting involved. Any responsive and effective base closure environmental legislation must involve the balancing of environmental, community, and base closure requirements. Two of these areas fall within our jurisdiction. In addition, virtually all recent base closure environmental legislation has been included in the annual Defense Authorization Act and there is no indication that the situation will change. Furthermore, we have been very responsive in adopting every base closure environmental initiative and providing adequate authorization for base closure cleanups. The committee's vested interest in a successful and well-balanced base closure process provides a great incentive for affected communities to seek and welcome our involvement.

While an improvement over existing law, H.R. 4016 falls short of a comprehensive and responsive fix for base closure communities and the continued integrity of the base closure process. I fear that the message the House is sending today is: "Nothing is too good for base closure communities and nothing is what they'll get—if it involves changes in environmental law". Congress can and must do better for these communities, and the sooner the better.

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 4016

Strike out all after the enacting clause and insert the following:

SECTION 1. NOTICE OF TRANSFERS OF CERTAIN FEDERAL PROPERTY.

Section 120(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)(1)) is amended—

(1) by striking out "any contract for the sale or other transfer of real property" and inserting in lieu thereof the following: "any contract for the sale of, any lease of, any grant of easement on, or any written agreement for other transfer of, real property"; and

(2) by striking out "such contract" and inserting in lieu thereof "such contract, lease, grant, or agreement".

SEC. 2. TRANSFER BY DEED OF CERTAIN REAL PROPERTY AT MILITARY INSTALLATIONS TO BE CLOSED.

Section 120(h) of such Act if further amended by adding at the end the following new paragraph:

"(4) TRANSFER BY DEED OF REAL PROPERTY AT MILITARY INSTALLATIONS TO BE CLOSED.—

"(A) PROPERTY CONTAINING NO HAZARDOUS SUBSTANCES.—

"(i) IDENTIFICATION.—In the case of Federal real property located on a military installation to be closed under the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 102 Stat. 2623) and the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1485) (hereinafter in this section referred to as the "base closure laws"), the Secretary of Defense shall, as promptly as possible, identify the real property on which no hazardous substance was stored for one year or more, known to have been released, or disposed of. Such identification shall be based on pertinent documents, and where appropriate, on an on-site investigation of the real property to determine or discover obvious evidence of the presence or likely presence of a release or threatened release of hazardous substances on the real property. The identification shall consist, at a minimum, of a request by the Department of Defense to appropriate Federal, State, and local regulatory officials and the public for pertinent information and a review of each of the following sources of information concerning the current and previous uses of the real property:

"(I) All pertinent existing documentation within the control of the Department of Defense and any information received from the Environmental Protection Agency, State or

local regulatory officials, or the public in response to such request, and the record of title to the real property.

"(II) When there is any evidence that hazardous substances have been stored or used on the property, an on-site investigation of the property to determine whether there have been any releases of such substances contaminating the property to a level exceeding any Federal, State, or local standard for such materials.

"(ii) NOTIFICATION.—The results of the identification required under clause (i) shall be provided immediately to appropriate State and local government officials and made available to the public before the Secretary makes a decision to transfer the property by deed.

"(iii) CONSULTATION.—The identification required under clause (i) shall be in consultation with the Administrator (or in the case of real property that is not part of a site on the National Priorities List, in consultation with the appropriate State official).

"(iv) TRANSFER BY DEED.—The Secretary of Defense shall consult with the Administrator (or in the case of real property that is not part of a site on the National Priorities List, with the appropriate State official) before the Secretary of Defense makes a decision to transfer the property identified under clause (i) by deed.

"(B) OTHER REAL PROPERTY ON WHICH REMEDIAL ACTION IS UNNECESSARY.—The Secretary of Defense shall consult with the Administrator (or in the case of property that is not part of a site on the National Priorities List, with the appropriate State official) before the Secretary of Defense makes a decision to transfer by deed Federal real property located on a military installation to be closed under the base closure laws and with respect to which no determination has been made by the appropriate Federal or State regulatory official that remedial action is necessary to protect human health and the environment.

"(C) REAL PROPERTY ON WHICH REMEDIAL ACTION IS NECESSARY AND HAS BEEN DEMONSTRATED.—The Secretary of Defense shall obtain the concurrence of the Administrator (or in the case of property that is not part of a site on the National Priorities List, of the appropriate State official) before the Secretary transfers by deed Federal real property located on a military installation to be closed under the base closure laws and with respect to which a determination has been made by the appropriate Federal or State regulatory official that remedial action is necessary to protect human health and the environment, the construction and installation on the property of an approved remedial action design has been completed and treatment under it has commenced, and the remedy has been demonstrated to be operating properly and successfully. The carrying out of long-term pumping and treating or other ongoing remedial actions, or operation and maintenance of such actions, after the remedy has been demonstrated to be operating properly and successfully does not preclude the immediate transfer of the property by deed after such concurrence has been obtained.

"(D) REAL PROPERTY ON WHICH REMEDIAL ACTION IS NECESSARY AND HAS NOT BEEN DEMONSTRATED.—The Secretary of Defense shall obtain the concurrence of the Administrator (or in the case of property that is not part of a site on the National Priorities List, of the appropriate State official) before the Secretary transfers by deed Federal real property located on a military installation to be closed under the base closure laws and with respect to which a determination has been made by the appropriate Federal or State regulatory official that remedial action is necessary to protect human health and the environment and a remedial action design has not been demonstrated. Such property may not be so transferred unless adequate methods of protection to prevent harm to human health as a result of any release or threat of release are in place and the use of such methods and any other remediation required for the property is the subject of an enforceable agreement with the Administrator (or, in the case of real property that is not part of a site on the National Priorities List, with the appropriate State official).".

SEC. 3. CLARIFICATION OF COVENANT WARRANTING THAT REMEDIAL ACTION HAS BEEN TAKEN.

(a) CLARIFICATION.—Section 120(h)(3) of such Act is amended by adding after the last sentence the following: "For the purposes of subparagraph (B)(i), all remedial action described in such subparagraph with respect to real property located on a military installation to be closed under the base closure laws has been taken if there occurs any of the following:

"(1) No determination has been made by the appropriate Federal or State regulatory official that remedial action is necessary on the property to protect human health and the environment.

"(2) A determination has been made by the appropriate Federal or State regulatory official that remedial action is necessary on the property to protect human health and the environment, the construction and installation on the property of an approved remedial action design has been completed and treatment under it has commenced, and the remedy has been demonstrated to be operating properly and successfully.

"(3) A determination has been made by the appropriate Federal or State regulatory official that remedial action is necessary on the property to protect human health and the environment, a remedial action design has not been demonstrated on the property, adequate methods of protection to prevent harm to human health as a result of any release or threat of release are in place, and the use of such methods and any other remediation required for the property is the subject of an enforceable federal facility agreement with the Administrator (or, in the case of real property that is not part of a site on the National Priorities List, with the appropriate State official).".

(b) ACCESS TO PROPERTY.—Section 120(h)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is further amended—

(1) by striking out "CONTENTS OF CERTAIN DEEDS.—" and inserting in lieu thereof "CONTENTS OF CERTAIN DEEDS FOR THE SALE OF REAL PROPERTY.—";

(2) by striking out ", and" at the end of subparagraph (A)(iii) and inserting in lieu thereof a semicolon;

(3) by striking out the period at the end of subparagraph (B)(ii) and inserting in lieu thereof "; and"; and

(4) by adding after subparagraph (B) the following new subparagraph:

"(C) a clause granting the United States and State and local regulatory authorities and their agents, contractors, or other designees access to property in any case in which remedial action is found to be necessary after the date of such transfer.".

SEC. 4. AUTHORITY TO REMOVE HAZARDOUS SUBSTANCES.

Section 120(h) of such Act is further amended by adding at the end the following new paragraph:

"(5) REMOVAL.—For purposes of facilitating a transfer of real property located at a military installation to be closed under the base closure laws, the President may, pursuant to section 104(a)(1), remove, or arrange for the removal of, any hazardous substance on real property located on such facility regardless of whether an imminent and substantial danger to the public health or welfare or the environment exists.".

SEC. 5. AUTHORITY TO SUBDIVIDE AND TRANSFER FEDERAL PROPERTY.

Section 120(h) of such Act is further amended by adding at the end the following new paragraph:

"(6) AUTHORITY TO SUBDIVIDE AND TRANSFER FEDERAL PROPERTY.—For purposes of this subsection, in the case of real property located on a military installation to be closed under the base closure laws, the Secretary of Defense may subdivide the property for purposes of disposal by sale, lease, grant of easement, or other transfer in accordance with this paragraph. Such real property may be subdivided and disposed of regardless of whether the property is or has been listed as a site on the National Priorities List.".

SEC. 6. INDEMNIFICATION OF TRANSFEREES OF PROPERTY AT MILITARY INSTALLATIONS TO BE CLOSED.

(a) INDEMNIFICATION.—(1) Notwithstanding any other provision of law, and except as provided in subsection (b), the Secretary of Defense shall hold harmless, defend, and indemnify in full the entities referred to in paragraph (2) from and against all suits, claims, demands, or actions, liabilities, judgments, and costs and other fees arising out of, or in any manner predicated upon, the release or threatened release of any hazardous substance or pollutant or contaminant as a result of Department of Defense activities at any military installation (or portion thereof) that is closed pursuant to the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 102 Stat. 2623) and the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1485).

(2) The Secretary of Defense shall hold harmless, defend, and indemnify under paragraph (1) the following entities:

(A) Any State (including its officers, agents, or employees) that acquires ownership or control of any facility at a military installation referred to in that paragraph.

(B) Any political subdivision of a State (including its officers, agents, or employees) that acquires such ownership or control.

(C) Any person or entity that acquires such ownership or control.

(D) Any successor, assignee, transferee, lender, or lessee of a person or entity referred to in subparagraphs (A) through (C).

(b) EXCEPTION.—The Secretary of Defense shall not hold harmless, defend, or indemnify any entity referred to in paragraph (2) of subsection (a) from any suit, claim, demand or action, liability, judgment, or cost or other fee arising out of a release or threatened release referred to in paragraph (1) of such subsection to the extent that such entity (or any officer, agent, or employee of such entity)—

(1) caused or contributed to such release or threatened release; or

(2) otherwise deviated from a pertinent term or condition of the deed, lease, or other agreement under which the entity acquired ownership or control of the facility.

(c) DUTY OF THE ENTITY.—Each entity under this section shall—

(1) promptly notify the Department of Defense of any claim or action against, or any loss by, the entity that may be reasonably expected to involve indemnification under this section;

(2) immediately furnish to the Department of Defense copies of all pertinent papers the entity receives;

(3) furnish evidence or proof of any claim, loss, or damage covered by this section in the manner and form the Department of Defense requires;

(4) comply with the directions of the Department of Defense and execute any authorizations in connection with the settlement or defense of the claim or action; and

(5) cooperate fully and completely with the Department of Defense, and provide to the Department of Defense, upon request, all manner of assistance, including access to the records and personnel of the entity, in defense or settlement of the claim or action.

COMPARISON OF MAJOR PROVISIONS BETWEEN H.R. 4016 AND RAY AMENDMENT

Provision	H.R. 4016	Ray amendment	Reason for difference
Applicability	Applies to all Federal Property Transfers.	Base Closure Property Transfers Only.	Base Closure Property Transfers are the vast majority and the focus of attention.
Identification and Transfer of Clean Parcels.	Provides for a very detailed process for identifying clean parcels. Sec. 2(4)(A).	Provides comprehensive but less detailed process for identifying clean parcels. Sec. 2(4)(A).	1. Greater specificity in H.R. 4016 could invite litigation by expanding the ground for legal challenges. 2. Creates the perception that an additional study must be performed instead of refining and validating existing PA/SI data that the taxpayer has already paid for. 3. Litigation on an additional study would further delay transfer.
	Parcels meeting this criteria could be transferred. Sec. 2(4)(C).	Parcels meeting this criteria could be transferred. Sec. 2(4)(A)(iv).	
Identification and Transfer of Clean Parcels.	Transfer requires concurrence by EPA or State regulators. Sec. 2(4)(B).	Transfer requires consultation with and notification of all interested parties. Sec. 2(4)(A)(ii) and (iii).	1. EPA concurrence is likely to delay transfer. 2. Consultation is adequate as any serious regulatory objection would delay or block transfer. 3. EPA has testified that it does not want concurrence and it would be a drain on its limited resources. 4. DOD has testified opposing concurrence and has committed to its consultation with all interested parties prior to any decision to transfer parcels of base closure property. 5. Concurrence under H.R. 4016 would apply to all Federal land transfers, not just to those relating to base closure.
Transfer of Parcels where Contamination Exists in a Fashion that does not Jeopardize Human Health or the Environment.	Transfer of such parcels may take place only after the construction and installation of an approved remedial design and the demonstration that the remedy is operating properly and successfully. Sec. 3(a).	Transfer of such parcels may take place, subject to the concurrence of EPA (for NPL sites) and State regulators (for non-NPL sites) under two conditions: (1) That an approved remedy has been constructed, installed, and demonstrated to be operating properly and successfully; or (2) that adequate methods of protection to prevent harm to human health are in place and that any other remediation required for the property is subject to an enforceable agreement. Sec. 2(4)(C) and (D). Sec. 3(a)(2) and (3).	1. Would provide flexibility for the expedited and safe transfer of parcels of contaminated base closure property where the construction, installation and demonstration or an approved remedial action might be delayed pending the development and approval of specialized remedial technology. 2. In no case would any such transfer take place without the concurrence of EPA or State regulatory authorities. 3. EPA and DOD have testified that they would like to have the flexibility to consider earlier transfer points for base closure property, if it can be done safely.
Use of Removal authority to Facilitate the Transfer of Base Closure Property.	No Provision	Authorizes the use of removal actions to expedite the cleanup of "hot spots" to facilitate the early transfer of base closure property. Sec. 4.	1. Although EPA has testified that current regulations will allow the use of removal actions to facilitate base closure land transfers, we have not been able to get a clear commitment on its use. There appears to be a lack of agreement among the EPA Regions on this issue.

COMPARISON OF MAJOR PROVISIONS BETWEEN H.R. 4016 AND RAY AMENDMENT—Continued

Provision	H.R. 4016	Ray amendment	Reason for difference
			2. Statutory clarification on the use of removal actions to facilitate the transfer of base closure property would avoid bureaucratic disputes and put Congress clearly on record in support of this policy. 3. Removal actions represent a very powerful and flexible tool to deal with localized contamination at base closure sites.
Authority to Subdivide and Transfer Base Closure Property.	No Provision	Authorizes the Secretary of Defense to subdivide base closure property—regardless if it is part of an NPL site—consistent with foregoing requirements for transfer.	1. Although it has been argued that EPA can use its listing authority to subdivide NPL base closure sites, public perception and the likelihood of litigation would seriously hamper this administrative approach. 2. Clear statutory authority to subdivide base closure property—especially NPL sites—would put Congress clearly on record and dramatically reduce administrative complications and likelihood of legal challenges. 3. Clear statutory authority to subdivide base closure would significantly assist the expedited transfer and economic reuse of such property.
Authority to Subdivide and Transfer Base Closure Property.	No Provision	Authorizes the Secretary of Defense to subdivide base closure property—regardless if it is part of an NPL site—consistent with foregoing requirements for transfer. Sec. 5.	1. Although it has been argued that EPA can use its listing authority to subdivide NPL base closure sites, public perception and the likelihood of litigation would seriously hamper this administrative approach. 2. Clear statutory authority to subdivide base closure property—especially NPL sites—would put Congress clearly on record and dramatically reduce administrative complications and likelihood of legal challenges. 3. Clear statutory authority to subdivide base closure would significantly assist the expedited transfer and economic reuse of such property.
To Have the Government Indemnify Future Owners and Users of Base Closure Property Against Injuries Arising from DOD Contamination.	No Provision	Require the Secretary of Defense to "hold harmless, defend, and indemnify" entities who own or control base closure property against "all suits, claims, demands, or actions, liabilities, judgments, costs and other fees" arising from contamination from DOD activities. (DOD does not indemnify such entities if they have created or contributed to the contamination on the base closure property. Sec. 6.	1. Concern about toxic tort actions arising from future injuries associated with DOD contamination is a major obstacle to the timely transfer and reuse of base closure property. This is especially true for prospective lenders. 2. Such concerns led Congress to enact similar language for Pease Air Force Base as part of the 1991 Defense Appropriations Act. 3. It is not reasonable nor fair to ask future owners or users of closure property to act on the Government's assurances that such property is "clean" or "safe" prior to final cleanup without such indemnification.

Mr. DANNEMEYER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SWIFT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington [Mr. SWIFT] that the House suspend the

rules and pass the bill, H.R. 4016, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1720

COMMUNICATION FROM HON. AUSTIN J. MURPHY, MEMBER OF CONGRESS

The SPEAKER pro tempore [Mr. BENNETT] laid before the House the following communication from Hon. AUSTIN J. MURPHY, Member of Congress.

WASHINGTON, DC,
August 10, 1992.

Hon. THOMAS S. FOLEY, Speaker, House of Representatives, Washington, DC

DEAR MR. SPEAKER: This is to notify you pursuant to Rule L (50) of the Rules of the House that I have been served with a subpoena issued by the United States District Court for the District of Columbia.

Very truly yours,
AUSTIN J. MURPHY,
Member of Congress.

COMMUNICATION FROM HON. DAVE McCURDY, MEMBER OF CONGRESS

The Speaker pro tempore laid before the House the following communication from Hon. DAVE MCCURDY, Member of Congress.

WASHINGTON, DC,
August 6, 1992.

Hon. THOMAS S. FOLEY, Speaker, House of Representatives, Washington, DC

DEAR MR. SPEAKER: On August 4, 1992, I notified you, pursuant to Rule L of the Rules of the House, that the Permanent Select Committee on Intelligence had been served with a subpoena issued by the United States District Court for the District of Columbia. After consultation with the General Counsel to the Clerk of the House it has been determined that compliance with this subpoena would be consistent with the privileges and precedents of the House.

Sincerely,
DAVE MCCURDY,
Chairman.

COMMUNICATIONS FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives.

WASHINGTON, DC, *August 7, 1992.*

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to notify you pursuant to Rule L (50) of the Rules of the House that a member of my staff has been served with a subpoena issued by the United States District Court for the District of Columbia.

After consultation with my General Counsel I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

With great respect, I am
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. OBEY] is recognized for 60 minutes.

[Mr. OBEY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

DETAILS ON IRAQ'S PROCUREMENT NETWORK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, for many years I have been concerned that the U.S. financial system is vulnerable to abuse. I have said that for some 27 years. Though much attention has rightly been paid to the savings and loan scandal, foreign bank supervision has been almost nonexistent. Therefore, since becoming chairman I set course on exploring the inadequacies of supervision and regulation of foreign banks. As a result, the committee has had considerable success in tightening up the laws governing foreign banking operations in the United States. My main concern has been, and continues to be that foreign banks, which command well over three-quarters of a trillion dollars in assets in the United States, can easily abuse the U.S. financial system for nefarious purposes.

Exhibit A is the BNL scandal. Poor bank supervision allowed BNL's small Atlanta branch to loan over $4 billion to Iraq between 1986 and 1990 without reporting the loans to bank regulators or the bank's headquarters in Rome. What is worse, over $2 billion of the BNL loans went to Iraq's Ministry of Industry and Military Industrialization otherwise known as MIMI. MIMI used this illicit supply of cash to fund its secret military technology procurement network and to purchase technology for Iraqi weapons projects including the Condor II ballistic missile, Gerald Bull's super gun and Iraq's clandestine nuclear, biological, and chemical weapons programs.

The story of the Banca Nazionale del Lavoro affair is complicated in its details, but very simple in its outlines. Caught up in the costs of a protracted and ghastly war with Iran, Iraq needed food and military equipment. After the war, Iraq was determined to build its own military capability—both because Saddam Hussein wanted to remain the biggest military power in the Arab world, and because he wanted to build weapons of mass destruction, which he could not buy.

BNL was one of the key elements of Saddam Hussein's efforts to buy food and military know-how. this bank provided the most important financial link. But to accomplish his aims, Saddam Hussein had to operate in secret—and so he set up an elaborate clandestine military procurement network that operated in this country and throughout Europe.

Our Government knew about the network, and as I have shown before, decided to tolerate its activity. The policy was designed to see if Saddam Hussein could be turned into a reliable ally, according to the President, Secretary of State, and other officialdom of this Government, and therefore to let him borrow with U.S. taxpayer assistance, and also let him operate his secret military procurement apparatus.

Today, among other things, I will show that our Government has yet to do anything to shut down Iraqi front companies operating in France, Germany, Switzerland, and the United States. And I will show that a subsidiary of one of these Iraqi companies was—and may very well be today—a contractor supplying components for 155 millimeter artillery shells to the United States military.

Before I go on, I just wanted to make a couple of comments regarding the Attorney General's decision not to appoint an independent counsel. I feel that Attorney General William Barr is attempting to lock any door that might lead to a full exposition of the Bush administration's involvement in the buildup of Iraq prior to the invasion of Kuwait. First, the Attorney General denounced and obstructed congressional investigations, and now he blocks inquiries by a special counsel.

Mr. Barr is playing a dangerous political game in a desperate effort to protect the Bush administration. On May 15, the Attorney General informed me in writing that the agencies and departments of the executive branch would henceforth refuse to provide classified documents requested by the committee in its investigation of the Banca Nazionale del Lavoro and its involvement in financing the Iraqi operations. Using the Barr edict, numerous agencies have now fallen silent and are completely stonewalling the committee.

□ 1730

Clearly, Attorney General Barr has become the point man for the administration in blocking the disclosures of the Iraqi affair. The Attorney General is the giant boulder holding the administration's stonewall together against further revelations about the damaging and mysterious policies in the Persian Gulf.

The American people—who have sent troops and billions of dollars into the Persian Gulf—have every right to know the facts about the policies and the aid and comfort provided Saddam Hussein by the administration. Attorney General Barr is misusing his office and

damaging the integrity of the Justice Department in blocking both congressional and independent investigations. He may well regard himself as the President's lawyer, but his oath of office requires that he also protect the public's interest—and in this case the interests of the President and the public do not coincide. When such a conflict exists, it is the clear duty of the Attorney General to choose the public's interest above political considerations just as some of his more distinguished predecessors did.

IRAQ'S AMBITIOUS MILITARY INDUSTRIALIZATION PLAN

As I showed in my July 21 and 27 reports, from the very beginning the Bush administration had plentiful information on Iraq's ambitious military industrialization program.

Intelligence reports in 1988, 1989, and 1990 contain vast details on Iraq's postwar military industrialization plans and schemes to build weapons of mass destruction. The essence of Iraq's ambitions is captured in a July 1990 CIA report which clearly outlined an ambitious expansion of its defense industries as a prime Iraqi goal. The report showed that Saddam Hussein wanted greater security and the prestige he would gain from having his own ability to produce arms.

The organization assigned primary responsibility for Iraq's ambitious military industrialization plan was the Ministry of Industry and Military Industrialization, commonly referred to as MIMI.

ORGANIZATION OF THE MILITARY INDUSTRIALIZATION EFFORT

Under MIMI, Iraq established a complex defense industrial plan that encompassed not only military related production facilities but also government enterprises primarily devoted to civilian production. MIMI can be thought of as a dual structure holding company divided between civilian and defense components. Roughly a holding company. MIMI controlled about 40 civilian agencies that were assigned responsibility for building commercial ventures such as the Badush Dam, petrochemical complex two (PC-2), and fertilizer factories and truck assembly factories.

MIMI often used civilian activity as a front for procuring equipment used to produce weapons of mass destruction. A July 1990 intelligence report entitled, "Iraq's Growing Arsenal: Programs and Facilities" shows that many Iraqi entities passed the materials from foreign suppliers directly to military projects.

For example, Iraq used the Badush Dam as a front for purchasing equipment for the Condor II ballistic missile program. And PC-2 was used as a front to purchase components for Gerald Bull's super gun. Lastly, petrochemical complex three (PC-3) was the code name for Iraq's clandestine nuclear weapons program.

The military side of MIMI, which was comprised of roughly 25 organizations, had responsibility for producing products ranging from military supplies to complete weapons systems. Large Iraqi industrial complexes often contained both civilian and military production facilities. MIMI used the civilian and military nature of these mixed-use factories to mask the ultimate end-user of technology shipped to these complexes.

The intelligence community had abundant information showing that Iraq used many ostensibly civilian factories as fronts to procure equipment for military use. A July 1990 CIA report entitled "Beating Plowshares into Swords" discusses how MIMI used 25-30 Iraqi establishments primarily to produce military supplies, spares or weapons. The Agency knew that civilian entities worked alongside military organizations to procure equipment and technology needed for the weapons program.

The CIA had information showing the location and many of the activities of these entities. A July 1990 CIA report entitled "Iraq's Growing Arsenal: Programs and Facilities" contains a section called "Defense Industrial Facilities." Among others the report identified: Nassr State Establishment and Mechanical Industries [NASSR]; Badr General Establishment—Badr; Saddam State Establishment—Saddam; Al Kindi Research Complex—formerly Saad 16; Salah Al Din State Establishment; Al QaQaa State Establishment—Al Qaqaa; and, Hutteen State Establishment—Hutteen or Huttin.

The CIA had information showing that these MIMI controlled entities were involved in Iraq's clandestine nuclear, chemical, and biological weapons programs and missile programs. U.N. inspectors have subsequently verified the military nature of these entities.

Despite knowledge of the nature of these entities, the Bush administration approved dozens of export licenses that allowed United States and foreign firms to ship sophisticated U.S. dual-use equipment to MIMI-controlled weapons factories.

Iraq's ambitious military industrialization plan was personified by MIMI's increasing prominence which is illustrated by a July 1990 CIA report on the rapidly growing MIMI and its bureaucratic and industrial components after the cease-fire with Iran clearly showed the prime importance Saddam Hussein placed on his arms effort. In other words, the administration knew what Saddam Hussein was doing, and how he was doing it, and why he was doing it.

HUSSEIN KAMIL IN CHARGE OF PROCUREMENT NETWORKS

Saddam Hussein entrusted the achievement of Iraq's ambitious military industrialization program to his son-in-law, Hussein Kamil. Hussein Kamil was placed in charge of MIMI in 1988. The CIA believed that Kamil was probably the second most powerful man in Iraq.

Well, that is news, is it? Every single other state entity, intelligence or otherwise, called Hussein Kamil the second most powerful man in Iraq. What is secret about that? Big intelligence from our so-called vaunted CIA. There are dozens of other public sources that we obtained this same assessment of Hussein Kamil, all over the Middle East, Europe, England, France, Germany, and as a matter of fact I will detail later on that, as I explained in the earlier statements when the Attorney General, the first Attorney General, Thornburgh, blocked and kept the Federal Reserve Board, of all agencies, from providing information we requested and in fact had subpoenaed by the committee. Well, we then got some of that information, if not most of it, from our allies; the Italian Senate investigating committee. And it is the same way with intelligence agencies. My Lord, I have even indirectly and without attribution, of course, several countries' intelligence groups that have provided, even if indirectly, information that we are being told cannot be reported to us, all the way from Britain's G-16 to Israel's Mossad to Korea's Central Intelligence Agency, which, incidentally, the KCIA, the Korean CIA, not only invaded and penetrated our great Congress in the 1970's, early 1970's and late 1960's, but literally, literally suborned it with money from CIA and funneled through some people as the newly announced savior, Sun Myung Moon, who is still in the United States. Maybe his Moonies are inactive, but he now owns the newspaper in Washington known as the Washington Times, and it is still funded and he is still funded through the Korean CIA.

□ 1740

So, my colleagues, what is the news here? Who is trying to kid whom? It is ridiculous.

But the thing that gets me is that entities like the CIA; who do they think they are? The Federal Reserve Board? And even the Federal Reserve Board, they are creatures of the Congress. We in the Congress created them. Since when have they become the Frankenstein monsters that would tell the Congress what it ought to know, and should not know, and what will be allowed to be known?

Thank the Lord though for these other more enlightened countries throughout the world, including the German intelligence. As a matter of fact, later on I will make allusion to the first document that I am placing in the RECORD today. It is from German intelligence, the German intelligence agency.

Since the CIA is almost paranoiac, certainly sensitive, our good brethren in the German community have been

forthcoming, and that will be the first document that I will place in the RECORD today.

Saddam Hussein entrusted the achievements, as I said, to his son-in-law for this great purpose. He was placed in charge in 1988, and there is no question that he immediately embarked on a very, very imaginative and very successful program.

In May 1989, the determined Kamil publicly stated that Iraq was "implementing a defense industrial program to cover all its armed forces needs for weapons and equipment by 1991."

Hussein Kamil's roots can be traced back to the Secret Security Organization or SSO. During the 1980's, Kamil wrestled control of the SSO which had responsibility for protecting Saddam Hussein and for keeping track of other Iraq intelligence organizations. Kamil retained control of the SSO after he moved to MIMI. Not surprisingly, the convert techniques Kamil learned at the SSO would become valuable tools in his quest to obtain sophisticated Western technology despite growing obstacles.

As it emerged form its almost decade-long war with Iraq, the cornerstone of Iraq's growing influence in Middle East affairs was its military prowess. With its million uniformed troops, Iraq emerged from the Iran-Iraq war with the fourth largest standing army in the world. Saddam Hussein was proud of the fact that Iraq could produce, or was learning how to produce, many of the wares needed to supply this vast army. In fact, Iraq held an annual military fair, attended by United States Government officials, where it proudly displayed for the West its indigenously produced conventional military wares.

Despite the size of his army, Saddam Hussein concluded that Iraq had to develop weapons of mass destruction in order to maintain its position as the Middle East's military power and to counter its huge neighbor Iran as well as the sophisticated arms of Israel. To achieve that goal, Iraq had to rely on foreign technology and know-how.

Multinational efforts such as the Nuclear Nonproliferation Treaty, the missile technology control regime, and restrictions on the sale of many chemical weapons precursors helped to slow Iraqi efforts to develop weapons of mass destruction. But Iraq was determined not be to be denied sophisticated western technology. It adjusted to what it perceived as meddlesome interference by the United States and its allies by setting up secret procurement networks.

As early as June 1989, the CIA reported on Iraqi procurements networks. This report discusses how intricate the Iraqi operation had become. American intelligence knew that nations like Iraq go to great lengths in order to acquire necessary technologies, specific components, and manufacturing capability—even purchasing entire companies and setting up others as fronts. The report warned that secret networks would become even more complex and would make it difficult to halt or control the spread of key military technologies.

IRAQI PROCUREMENT NETWORKS

U.N. inspections after the gulf war proved how accurate the forecast was—Iraq had massive covert programs to develop weapons of mass destruction. The big surprise was not that Iraq had the secret programs, but the depth and progress Iraq had made in developing weapons such as nuclear warheads. One of the prime reasons Iraq had progressed so rapidly in building nuclear weapons was precisely its procurement networks.

But as I have said, our Government knew about it. A late summer 1989 CIA report states:

> Baghdad uses aggressive covert techniques to acquire technology. The nuclear network—controlled by MIMI—uses Iraqi public sector enterprises, front companies, foreign agents and even civilian organizations to procure technology.

NASSR ONE OF MAIN BENEFICIARIES OF PROCUREMENT NETWORKS

One of the main beneficiaries of Iraq's procurement networks was the Nassr State Enterprise for Mechanical Industries [NASSR] with headquarters in Baghdad, and a sprawling industrial complex southwest of Baghdad. NASSR contained dozens of state-of-the-art major manufacturing facilities such as steel and aluminum production facilities, steel and aluminum casting facilities, numerous machine shops, huge presses and high-temperature furnaces and sophisticated welding equipment used to work with very high strength steel and aluminum, and a research and development center.

Various NASSR factories were used to produce components and to produce conventional weapons such as cannon barrels and aerial bombs. NASSR was also a primary location for the production of components for Gerald Bull's 1,000-millimeter super gun often referred to as the Babylon Project.

NASSR also provided critical assistance to Iraq's nuclear and missile programs. NASSR was probably the most important facility for production of modified Scud missiles and also played a key role in the development of other Iraqi antimissile and ballistic missile programs including the Condor II.

The heavily guarded NASSR complex also produced components for Iraq's nuclear centrifuge program and was the site of a centrifuge manufacturing plant. NASSR also contributed to Iraq's chemical and biological weapons programs. Much of the equipment at the NASSR complex was obtained through Iraqi procurement fronts operating in Europe and the United States. NASSR was a prime target for allied bombing during the gulf war—so ironically, we destroyed at great expense the complex our Government had watched and helped to build.

ORGANIZATION OF PROCUREMENT ACTIVITIES

To say the least, MIMI's ambitious military industrialization program required detailed planning and coordination among literally hundreds of different Iraqi entitles. As with all other aspects of Iraqi society, this task was highly centralized. Based on documents acquired from several Iraqi front companies in the Al-Arabi Trading Co. network, and interviews with persons working with these front companies, I will now provide an example describing how Iraq's procurement apparatus supported Iraq's weapons programs.

MILITARY INDUSTRIALIZATION BOARD

MIMI used a modern programming-planning process to coordinate the complex task of meeting the foreign technology needs of the various military industrial facilities. The key organization within MIMI responsible for meeting the foreign equipment needs of the various Iraqi establishments was the Military Industrialization Board [MIB]. This Board or Commission had a division of research and development and a division of planning, continuity, and technology.

The MIB gathered equipment orders from various Iraqi factories and compiled a list of the needed equipment into a lengthy document or shopping list. For example a typical list would contain equipment and raw materials orders from several Iraqi weapons factories.

The list was then forwarded via diplomatic pouch, to Ali Mutalib Ali the commercial attaché at the Iraqi Embassy in Germany. German and United States intelligence agencies identify Mr. Ali as a key operative in Iraq's procurement networks as well as an Iraqi intelligence agent.

Upon receipt of the equipment list, Mr. Ali forwarded the list of the United Kingdom-based front company called the Technology Development Group [TDG]. TDG then would send a copy of the equipment list of Matrix-Churchill Corp. in Cleveland, OH. Employees at TDG and Matrix-Churchill were then responsible for finding the needed equipment, gathering technical specifications, getting price quotes, and sending that information back to the Iraqi end user.

If needed, TDG and Matrix-Churchill would arrange meetings between representatives of the Iraqi end user and the potential supplier. Sometimes the front companies like TDG and Matrix-Churchill would purchase the technology directly from the supplier and ship it to Iraq. On other occasions the Iraqi end user would purchase the technology directly from the supplier, and sometimes financing from one of Iraq's banks here or in Europe was arranged to pay for the equipment.

IRAQI EMBASSIES PLAY KEY ROLE

Iraqi Embassies around the globe played a key role in the procurement network.

Just like in the case of the Korean Central Intelligence Agency and old Tongsun Park and the scandals of that day, they used their Embassies. In fact, they did pretty much the same thing that Iraq has done. It was Mr. Moon sent here and, working in cooperation with the Korean CIA, bringing some beautiful Korean girls to dance and wanting to establish a beachhead in the United States. They reached former President Eisenhower in Pennsylvania and took the girls to have a private dance with him. That gave him the prestige, which is what they were seeking as in the case with the use of all of these over 85 principal American corporations, once President Reagan in 1983 removed Iraq from the list of terrorist nations. So that if needed, TDG and Matrix-Churchill would arrange meetings with these representatives, and sometimes they would just directly go ahead and purchase.

The Iraqi Embassies were throughout the whole world the bases or the key base of operation. Iraq's diplomatic pouch, like all others, is inspection-free, and was often used to distribute documents such as blueprints and contracts. This safe system provided Iraq with the ability to avoid electronic interception that could occur if telex or facsimile was used. Embassies in Germany, the United Kingdom, and the United States were often used as the site of negotiations between foreign firms and Iraqi officials attempting to purchase sensitive foreign technology. Again, secrecy was the main goal.

Embassy staff often participated directly in obtaining technology for Iraq's weapons programs. For example, documents obtained from Matrix-Churchill show that the Iraqi Embassy in Washington purchased special high-strength steel for a ballistic missile program from a Youngstown, OH, steel producer.

Another example is the Iraqi Embassy in London. Money used to pay for U.S. origin capacitors with nuclear and missile applications was traced to that Embassy. Iraqi Embassy staff also helped network personnel to obtain passports, visas, and work permits that allowed the network personnel to travel freely throughout the West.

Iraqi intelligence agents working for the network frequently visited the United States. Safa Al Habobi is a case in point. The CIA believed that Al Habobi was a member of Hussein Kamil's SSO. They knew that Al Habobi was a key operative in Iraq's military technology procurement network. Even so, Al Habobi was allowed to enter the United States. In fact, in 1988 and 1989 he traveled to the United States on extended visits—he even brought his family of all places to Disney Land.

Amazingly, law enforcement officials were not permitted to monitor Al Habobi's activities when he came to the United States because Iraq was not an enemy and the law prohibited monitoring in such cases, unlike the British in London, who did put a stop to it. Persons such as Safa Al Habobi never listed on immigration reviews that the Iraqi military was their employer, yet when they were in Iraq they wore uniforms and worked for military establishments under MIMI's control.

IRAQI AIRWAYS

Iraq's commercial airline, Iraqi Airways, was a key component of Iraq's technology procurement network. Iraqi Air locations around the world, including the United States, were often staffed with intelligence agents that played an active role in transferring Western technology to Baghdad. Germany was a particularly busy transport point.

Goods from around Europe were shipped to Frankfurt, Germany, and then flown nonstop to Iraq. Several illegal shipments of Western technology were stopped as they were about to leave Germany on Iraqi Air. The United Kingdom customs expelled an employee of Iraqi Air for his role in attempting to smuggle nuclear triggers from the United States through the United Kingdom to Iraq.

MANY PROJECTS ASSIGNED TO NETWORK FIRMS

Network firms like TDG and Matrix-Churchill were assigned responsibility for identifying and procuring equipment, manufacturing processes, and whatever else was needed for Iraqi military industrial facilities such as NASSR.

For example, Matrix-Churchill Corp. in Cleveland, OH, was assigned over 200 projects. These ranged in variety from obtaining glass fiber technology and erecting a glass fiber factory at NASSR, to procuring books on rocket propulsion and gyroscopes and sending them to a rocket scientist employed by NASSR. An Iraqi working at Matrix-Churchill was asked to obtain Albert Einstein's research thesis and even a photo of the famous scientist. Notes from the procurement file included the telephone number of the physics department at MIT.

One of the London-based firms in the network, Technology Management Group Ltd. [TMG], provided the Iraqi Ministry of Housing and Construction with a quote for the stainless steel swords contained in the famous Arches of Victory monument erected at the entrance to Baghdad. The arches often frame the background of Iraqi military parades. In fact, we even have in our notes the cost of that stainless steel.

LARGE LONG-DISTANCE PHONE BILLS

The network companies were in constant contact with Iraqi end users. For example, the records of Matrix-Churchill contain thousands of telexes and facsimile messages directed at, or received from Iraqi entities. In addition, several of the Iraqis working at Matrix-Churchill had frequent phone contact with Iraq. To preserve security, when sensitive topics were discussed at Matrix-Churchill, the Iraqis would often speak in Arabic in front of the American employees.

What do you know about that? I do not think it goes that far for these English-only exponents.

In addition, telexes and facsimiles often were written in Arabic. Saalim Naman, the Iraqi head of procurement at Matrix-Churchill often used the privacy of his home to make phone calls to Iraq.

Employees of Iraqi weapons factories were frequently permitted to travel to the United States to evaluate technology, equipment, and receive training at United States factories even though our Government knew what they were up to.

For example, a firm in Topeka, IN, called CarbiTech, trained dozens of Iraqis on how to manufacture carbide-tipped inserts for machine tools. CarbiTech was owned by XYZ Options of Tuscaloosa, AL, which had a $15 million BNL-financed contract to build a carbide factory in Iraq. A recent L.A. Times article on XYZ Options stated that well before the Iraqi invasion of Kuwait, the CIA visited the CarbiTech factory to determine what type of training the Iraqis were receiving.

In 1989 XYZ Options offered to sell CarbiTech to Safa Al Habobi so that the Iraqis could reduce their cost of training their employees.

□ 1800

The carbide factory was recently destroyed by U.N. inspectors who found it at the secret Al Atheer nuclear weapons plant.

AL-ARABI NETWORK

I will now provide a brief overview of the Al-Arabi network. In later floor statements I will provide more detail on how the Al-Arabi network operated including its U.S. operations.

XYZ Options, like hundreds of other U.S. companies was first contacted by Matrix-Churchill Corp. located in Cleveland, OH. Matrix-Churchill was the United States base for the state-controlled Al-Arabi Trading Co. network, one of Iraq's largest and most prominent procurement networks. While Al-Arabi was set up as a private company in Baghdad, in reality it was the mechanism MIMI used to acquire other front companies to procure Western technology.

Al-Arabi was controlled by a subordinate of MIMI called the Technical Corps for Special Projects [TECO or Techcorp]. Techcorp was in charge of Iraq's highest priority weapons projects like the Condor II ballistic missile, the Big Gun and Iraq's clandestine nuclear weapons program.

Al-Arabi acted as a holding company for over a dozen front companies in Europe and the United States. These firms appear to have been the main supplier of Western equipment and know-how for NASSR's weapons production activities. The Al-Arabi network also sought out and obtained equipment and know-how for other Iraqi military industrial complexes that I mentioned above including Al-QaQaa, Badr, Hutteen, Saddam, and Salah al Din.

A June 1989 CIA report identified the Al-Arabi network as a major European military procurement network for Iraq's defense industries and discussed how the network connected Iraq to suppliers of precision machine tools, uranium gas centrifuges, and all kinds of other technologies for weapons development projects that included chemical, missile, biological, and nuclear programs.

It appears that the day-to-day operations of the Al-Arabi network were under the control of one of Hussein Kamil's former Secret Security Organization [SSO] cronies, Dr. Safa Al Habobi. Al Habobi was also a director general of the NASSR weapons complex. Dr. Safa, as he is warmly referred to by his colleagues, was indicted for his role in the BNL scandal. Over a billion dollars in BNL funds can be traced directly to NASSR projects and the Al-Arabi procurement network.

MUCH OF AL-ARABI NETWORK IN EUROPE

Al-Arabi owned front companies in Italy, France, Switzerland, Germany, the United Kingdom, and the United States. The Italian firm was called European Manufacturing Center or Euromac. Euromac was staffed by two brothers called Hussein and Kassim Abbas. Euromac also owned a shipping company in Italy as well as having an affiliate in England called Euromac. In 1990, the United Kingdom-based Euromac was indicted for attempting to smuggle capacitors from the United States that could be used in nuclear bombs and missiles.

Before Matrix-Churchill was established as the primary U.S. arm of the Al-Arabi network, the Abbas brothers had frequent contact with U.S. firms. For example, the Abbas brothers sent a firm in New Jersey dozens of inquiries for equipment and raw materials.

In France is another arm of the network, a firm called Babil International, located in Paris. The committee recently received the most up-to-date corporate papers on Babil and the listed owner of the firm is none other than Safa Al Habobi. To this day the French Government allows Babil International to operate, but then the United States Government has not yet placed Babil on the list of Iraqi owned front companies, so United States firms can still conduct business with Babil.

My offer to my buddies in the CIA is, if you do not have any information that you need in order to place these companies on this list, please see us. Just be nice enough to talk to us and humble yourself enough to ask. We will give you that information so you can list them.

A 1990 German intelligence report identifies Pierre Drogoul as a consultant to Babil. Oh, Pierre Drogoul.

Well, now, this is the father of Chris Drogoul, who the committee just subpoenaed last Thursday and is indicted and awaiting sentencing in Atlanta, and a big, big Atlanta BNL official. Here is his father in Paris, France, the notorious former manager of BNL's Atlanta branch.

The German arm of the network is called TDG/SEG in Krefeld, Germany. The United States Government had not placed this firm on its list of Iraqi-owned front companies either. The committee found a business card in the records of Matrix-Churchill that contained the TDG/SEG logo, address, and phone number.

The Swiss arm of the network is a firm called Schmiedemeccanica or SMB. The committee has documents showing that the Iraqis bought 18 percent of SMB in June 1990 and another 12 percent 6 months later, giving the Iraqis a 30-percent stake in SMB. And, surprise, surprise—the United States has yet to list SMB as an Iraqi front company.

SMB is one of Switzerland's finest forging companies and a good deal of SMB's work is for the armaments industry. For example, SMB helped to set up a 155mm artillery shell factory in Iraq and it has done similar work for the Swiss Government. But SMB also was involved in Iraq's illicit nuclear weapons program.

United Nation inspectors have identified SMB as having provided key technology for Iraq's secret nuclear program. SMB provided forging for the manufacture of uranium enrichment centrifuges.

In 1989, Safa Al Habobi tried to buy a United Kingdom firm called Forging Developments International along with its United States affiliate of the same name located in Cleveland, OH. Just months after Forging Developments turned down Safa Al Habobi's offer, SMB tried to buy Forging Developments International.

When that deal fell through, SMB set up a firm in Selma, NC, called SMB North America, Inc. which is still in operation today. The committee has been informed that one of SMB North America's first contracts was to supply the U.S. military with base plates for 155mm artillery shells.

Let me summarize the SMB debacle. Iraq owns at least 30 percent of SMB, which in turn set up an affiliate in North Carolina which supplies the United States military with components for 155mm artillery shells. In other words, Iraq is helping to supply the United States military with artillery shell components. So here we have an Iraqi front that supplied artillery components we used against Iraq, and they used against us. And, incredibly enough, SMB is not listed as Iraqi owned. Maybe this should not surprise anybody, since the fronts in France and Germany still haven't been fingered yet.

I repeat my offer to my friends at the CIA or whatever other intelligence community is around. Americans have lapsed.

Eternal vigilance is still the price of liberty. We have gone along, and Congress, a long way in threatening these basic liberties.

It is said that power tends to corrupt, and absolute power corrupts absolutely. And this can be said of all of the secret agencies from the CIA, and others. The Congress has not been wanting, after it created and after it departed from its charter, when it was founded by Congress in the 1947 so-called security or, rather, Defense Security Act, and it has strict limitations in that original act.

□ 1810

I am sure the Members of Congress then, were they to be here today, would be absolutely unbelieving that Congresses would have let this agency just run amok and go around carrying out foreign policy to the extent that it has endangered the good name and the virtue of our people and country, helping to assassinate foreign leaders that it decides are a risk to the national security.

I do not discharge Congress from our responsibility. It has done this same thing with others, like the Federal Reserve Board. The Federal Reserve Board is answerable to nobody, President or the Congress, yet we created it in 1913. All I have been saying all the time I have been in Congress is, it is about time the Congress lived up to its constitutional commitments, which it cannot delegate, contrary to all the opinions that have been advanced.

Here, is a good example. Absolute power corrupts absolutely. All power tends to corrupt, even our meager power, so eternal vigilance is still the price we must pay for the preservation of our democracy and our basic liberties, which I say are at far greater risk than the average American wants to realize.

A majority of the firms in the Al-Arabi network, which was established in 1987, were located in the United Kingdom. Arcane and outmoded laws made the United Kingdom a perfect nesting place for Iraq's procurement activities. The fact that the United States and United Kingdom have agreed not to spy on each other provided an added incentive for Iraq to establish its Western procurement base in the United Kingdom.

I say that decision not to spy on each other, and I do not know the date, but it must have been some time after the war, because all during the war we were spied upon. In fact, we had people knocked off in New York that were considered dangerous to the United Kingdom.

Iraq used United Kingdom holding companies to branch out and gain control of other firms. The primary fronts were London-based holding companies called Technology Development Group [TDG] and Technology Engineering Group [TEG]. Through these holding companies Iraq controlled over a dozen United Kingdom firms and several United States firms. The United Kingdom firms included TMG Engineering, Matrix-Churchill Ltd., AWA Engineering, Admincheck Ltd., Investacast Precision Casting, Atlas Equipment Co., Atlas Air-Conditioning Co., and others.

Besides SMB North America, the U.S. arms of the network include Matrix-Churchill Corp. in Cleveland, OH; Bay Industries in Santa Monica, CA; METECH in Torrance, CA; and Tigris Trading Co., in Pittsburgh, PA. The United States Government has blocked the assets of Matrix-Churchill and Bay Industries because they have been identified as Iraqi front companies. METECH, which was not identified as an Iraqi front, is now out of business.

The Tigris Trading Co. has a bank account at Pittsburgh National Bank, and it leased an office in a Pittsburgh high-rise office building. Interviews with Americans that worked at Matrix-Churchill revealed that Saalim Naman, the head of procurement for Matrix-Churchill, frequently visited Pittsburgh. The committee has uncovered additional Tigris Trading Co. addresses in Baghdad, London, and Cleveland. This suggests that Tigris Trading Co. was the beginning of a new Iraqi procurement network.

In future statements I will provide additional information on several other United States firms with close ties to the network that may have been Iraqi fronts. In addition, I will show that Iraq considered purchasing a half dozen or so United States firms. The committee is still investigating to see if Iraq gained control of those firms which are located in Pennsylvania, Connecticut, Ohio, Texas, Alabama, California, and North Carolina.

The Bush administration has devoted woefully inadequate resources to the task of identifying Iraqi front companies.

Here again, I repeat to my friends and the CIA this offer. We will give you the information. You should be able to raid them after that.

The Office of Foreign Assets Control [OFAC] in the Treasury Department is responsible for identifying Iraqi and Kuwaiti assets. OFAC must do the same for Cuba, Libya, and Yugoslavia because of various economic sanctions in place against those nations.

OFAC has not identified several of the firms I mentioned above because limited funds enable them to assign only a handful of investigators to the task of identifying Iraqi assets. I cannot understand why the President did not place a high priority on finding Iraqi front companies when he knew of their extensive activities in this country. Of course time and resources spent on the Rostow Gang, our old buddies, the lawyers group which screened executive branch documents, shows that the President did place a high priority on hindering and blocking congressional investigations on several committee fronts, not just ours.

Intelligence reports as far back as June 1989 reveal that Matrix-Churchill Corp. was part of Iraq's military technology procurement network, yet the Bush administration allowed it to operate despite knowing that the network was responsible for procuring technology for Iraq's covert nuclear, biological, and chemical weapons programs as well as various long-range missile programs.

Customs Service testimony provides still more insight into our Government's knowledge of Iraq's procurement activities. In 1991 the Customs Service testified before the Ways and Means Committee:

> In the two years prior to Desert Storm the Customs Service detected a marked increase in the activity levels of Iraq's procurement networks. These increased levels of activity were particularly noticeable in the areas of missile technology, chemical-biological warfare and fuse technology.

The following is taken from a question and answer period with the Customs Service:

> Question. How many cases did the Customs Service investigate prior to the Iraqi invasion involving the illegal exportation of goods to Iraq?
>
> Customs. Approximately 21 investigations involving Iraq were opened prior to the invasion of Kuwait.
>
> Question. Did the Customs Service ever raise any concerns to Commerce or State Departments regarding the increased activities of the Iraqi procurement network prior to the August invasion of Kuwait?
>
> Customs. The Customs Service on a monthly basis furnishes the Commerce and State Departments with a list of open investigations. Additionally, the increased levels of activity were particularly noticeable in the area of missile, nuclear technology, chemical and biological warfare and fuse technology, and were discussed with various interagency working groups. Customs, Commerce and State all participated in the groups.

The United States, British, and Israeli intelligence communities closely monitored many Iraqi entities that had numerous, almost daily contacts with BNL in Atlanta and Matrix-Churchill in Cleveland. The CIA had legal authority to intercept these communications abroad as well as in the United States because BNL and Matrix-Churchill were foreign owned entities. There is no doubt that the administration was aware that Iraq had established procurement fronts in the United States.

BAKER AND EAGLEBURGER APPROVE MCC BAGHDAD BRANCH

The case of the Baghdad office of Matrix-Churchill symbolizes the Bush administration's indifference toward Iraq's procurement activities in the United States.

Shortly after taking control of Matrix-Churchill Corp. in late 1988, the Iraqis began efforts to set up a Matrix-Churchill office in Baghdad. At the time, Iraqi law required United States corporations to go through a certification process before they could establish a branch in Iraq.

Here is the point I have been making all along, ad nauseam, that we are the only country that has no kind of screening or certification processes. It is unbelievable, and particularly on the banking front. We are mightily vulnerable. The near $1 trillion drug-narcotic-money laundering scheme is all bent. How can we get behind it until we have the regulatory defenses that the national interest demands for the safety and soundness of our banking and financial institutions.

□ 1820

We are far from that. What is it going to take? My colleagues, for how long, for how long must we be exposed on a daily basis when no one who is charged with the responsibility of safeguarding these interests on the regulatory front are able to tell us?

In Baghdad at the time Iraqi law required that United States firms be certified.

Unwittingly, in 1989 both James Baker and Lawrence Eagleburge helped Matrix-Churchill establish its Baghdad branch. Pretty good.

One step in the process of establishing a Baghdad branch was a requirement that the State Department authenticate documents indicating that the firm in question was a valid U.S. chartered firm. On March 14, 1989, Secretary of State James Baker's signature was placed on State Department documents to confirm that Matrix-Churchill was a valid Ohio company. On May 10, 1989, Acting Secretary of State Lawrence Eagleburger's signature was placed on similar documents. We have those here for the RECORD so my colleagues can see them, with a big seal and everything.

Thus, even though the State Department had intelligence information showing that Matrix-Churchill was an Iraqi front company, it helped Matrix-Churchill establish a Baghdad branch. Was this deliberate or was it carelessness? Maybe it was a little of both.

The Bush administration had extensive knowledge of Iraq's military technology procurement network, including the fact that the network operated a United States-based affiliate called Matrix-Churchill Corp. The adminis-

tration also knew that many of the Iraqi employees assigned to the procurement network were intelligence operatives, yet they allowed them to visit and work in the United States without being monitored.

I cannot imagine why the Bush administration could tolerate this knowing that Iraq was using the network to gather technology for weapons of mass destruction. In part deliberately, in part through sheer neglect, the Bush administration did little or nothing to stop Saddam Hussein's ambitious efforts.

The documents previously referred to are as follows:

MATRIX-CHURCHILL,
Cleveland, OH, May 18, 1988.

Al-Arabi Trading Co. Ltd.,
Alwiyan, Baghdad, Iraq.

Gentlemen: We have pleasure in confirming cooperation of our two companies for the market areas of Iraq, Jordan and the Arab-Gulf states.

It is confirmed that Matrix Churchill Corporation agrees to pay a commission or finders fee on any contract signed through a project sourced from Al-Arabi Trading Co. Ltd., or direct from Iraq where Matrix Churchill Corporation receives renumeration from that contract according to the agreed commission or finders fee.

The commission or finders fee will vary according to the project, services and contract value. It will amount to 2.5% to 10%. The amounts of commissions or finders fees for both Al-Arabi Trading Co. Ltd. and Matrix Churchill Corporation will be agreed prior to the presentation of Matrix Churchill quotation.

Payment of these commissions or finders fees will be on a pro-rata basis to the contractual payment terms and after the renumeration for Matrix Churchill Corporation has been received.

Yours truly,

GORDON COOPER,
Vice President.

AL-ARABI TRADING CO. LTD.,
Alwiyah, Baghdad, August 29, 1989.

Att: MR. SAM NAMAN, MATRIX CHURCHILL CORP.,
Cleveland, Ohio, U.S.A.

DEAR MR. NAMAN: As discussed and as per our letter of August, 1989, please find below new bank detail of payment of Invoice No. 1/BRASS/MCC:

Al-Arabi Trading Co. Ltd.

Account No.: 100100671.

Rafidian Bank, 7/10 Leadenhall Street, London EC3V 1NL.

We await confirmation by return.

Yours faithfully,

FAROUK TAHA,
(On behalf of Al-Arabi Trading Co. Ltd.)

AL-ARABI TRADING CO. LTD.,
Alwiyah, Baghdad, June 26, 1989.

Subject: Brass Plant Project Ref. U043.

Att: Mr. Gordon Cooper, Matrix Churchill Corp.,
Solon, Ohio U.S.A.

DEAR MR. COOPER: Reference your letter of July 11, 1988 and the agreement, and letter dated June 14, 1989. Please find duly executed and signed, one copy of "Agreement U043" returned to you together with amendment dated June 14, 1989. We are retaining the other copies in our files.

Yours truly,

FAROUK TAHA,
(For Al-Arabi Trading Co. Ltd.)

MATRIX-CHURCHILL,
Cleveland, OH, June 14, 1989.

Subject: Brass Plant Project Ref. U043.

Al-Arabi Trading Co. Ltd.,
Alwiyah, Baghdad, Iraq.

Gentlemen: Further to our letter of July 11, 1988 and subsequent agreement dated June 14, 1989, please find attached a copy of "Agreement ref. U043" and the schedule dated June 7, 1989, agreed and accepted by MCC with SerVass Incorporated.

With reference to "item 2" of the agreement, negotiations between our two companies has resulted in our amendment the payment schedule between MCC and Al-Arabi from the agreed 10 days after receipt to:

Payment #1—End October 1989 or earlier.
Payment #2—End December 1989 or earler.
Payment #3—End March 1990 or earlier.
Payment #4—End June 1990 or earlier.
Payment #5—To remain as agreement.
Payment #6—To remain as agreement.
Payment #7—To remain as agreement.

This letter is written in two copies and shall constitute an amendment of the agreement per item 4 of the agreement. Please sign both copies, and retain one copy for your files and return the other to MCC.

Matrix Churchill Corporation, By: Gordon Cooper—CEO.

Al-Arabi Trading Co. Ltd., By: Farouk Taha.

"AGREEMENT REF. U043"

This Agreement dated June 14, 1989 is made Between Matrix-Churchill Corp. ("MCC") whose address is 5903 Harper Road, Cleveland, 44139 and Al-Arabi Trading Co. Ltd ("Al-Arabi") whose address is P.O. Box 2337, Alwiyah, Baghdad, Iraq, regarding MCC's contract with SerVass Incorporated ("Customer") concerning the Brass Plant ref. U043 project ("Project").

1. The contract with Customer requires MCC or Al-Arabi to perform services for Customer some of which services will be performed by Al-Arabi and Al-Arabi agrees to perform services to Customer under the contract.

2. In exchange for its services, MCC and Al-Arabi agree Al-Arabi will receive 80% of the payments MCC receives from the Customer for the Project. The amount due from MCC to Al-Arabi is payable within ten (10) days of MCC's receipt of payment from the Customer, unless otherwise agreed.

3. MCC's payment schedule dated June 7, 1989 from the Customer is attached and incorporated by reference as if fully set forth in this Agreement. Al-Arabi agrees to abide by the terms and conditions of MCC's payments schedule from the Customer and those terms and conditions, where applicable, shall govern this Agreement.

4. This Agreement shall constitute the entire agreement between MCC and Al-Arabi and its provisions shall not be modified, amended or waived except in writing, executed by MCC and Al-Arabi. MCC and the Al-Arabi may, subject to the provisions of this paragraph, from time to time, enter into written supplemental agreements for the purpose of adding any provisions to this Agreement.

5. This Agreement shall be construed in accordance with the laws of the United States of America.

6. This Agreement shall inure to the benefit of, and shall be binding upon, the respective affiliates or associated companies, nominees, agents, successors and assigns of MCC and Al-Arabi.

In witness whereof, the parties have executed this Agreement the day and year first above written.

Matrix-Churchill Corporation, By: Gordon Cooper—CEO.

Al-Arabi Trading Co. Ltd., By: Farouk Taha.

SERVASS, INCORPORATED,
Indianapolis, June 7, 1989.

Mr. SAM NAMAN, Matrix-Churchill Corporation,
Solon, OH.

DEAR SAM: This will confirm our conservation of June 7, regarding the payment schedule:

PAYMENT NO., DATE, AMOUNT, AND EXPLANATION

No. 1, ——, $70,000, At time of signing of agreement on the sale of the contract with Izane estimated to be in ten days to two weeks.

No. 2, July 31, 1989, 130,000.

No. 3, Oct. 31, 1989, 100,000.

No. 4, Dec. 31, 1989, 200,000.

No. 5, Mar. 31, 1990, 300,000.

No. 6, ——, 200,000, Completion of Certificate of Commissioning and Taking Over Certificate for complete contract.

No. 7, ——, 1,030,100, Final Acceptance Certificate.

Total: $2,030,100.

These payments shall be made to you by Izane Engineering, Ltd. (London Bank) to your London office.

Best Regards,

CLARENCE C. ORMSBY,
Vice President.

AL-ARABI TRADING CO. LTD.,
Alwiyah, Baghdad, July 25, 1988.

Att: Mr. Gordon Cooper, Matrix Churchill Corp.,
Solon, OH, U.S.A.

SUBJECT: BRASS PLANT PROJECT REF. U043

DEAR MR. COOPER: We thank you for your commitment letter of July 11, 1988. At the time the contract is signed and an agreement between yourselves and Bridgeport Brass/Servass is completed we should formalize an agreement between our two, companies reference assignment of proceeds between us. We agree that our fee will constitute an 80% portion of the total fee's received by M.C.C. from Bridgeport Brass/Servass.

Yours Truly,

FAROUK TAHA.

JUNE 15, 1990.

Re: Third and Final Report on SMB.

To: Dr. Safa

From: R.K. Khoshaba

1. VISIT

1.1. On 7th June I travelled to Lugano and on 8th June at 9 o'clock in the morning I had a meeting with Mr. Nessi, the lawyer, and Mr. Romano of SMB: as arranged.

1.2. In the afternoon on 8th June we visited Banca Del Sampione to complete the transfer of shares and signing of the loan agreement.

1.3. All the original documents which were legalised at the Swiss Council in Zapeb, Yugoslavia were handed over to the lawyer.

2. FARTRADE HOLDING S.A.

2.1. The shareholding in SMB is in the name of Fartrade Holding S.A., a Swiss Company incorporated in the District of Fribourg. This company was incorporated on 14-12-89 with share capital of S.F. 200,000.—.

2.2. The lawyer has obtained from the previous owners declarations to the effect that the company has not traded and that it is free from any liabilities except the capital.

2.3. Formation expenses and stamp duty are S.F. 10,000.—.

2.4. The company has only one director who is now the lawyer Mr. Nessi.

2.5. The Company's shares are divided into units of S.F. 100 each. Issued shares are 2000 divided into two certificates:

No. 1 for 1 share.

No. 2 for 1999 shares.

Both certificates are held with the lawyer.

2.6. The company has applied to increase the shares by 800,000 and change the unit from S.F. 200 to S.F. 1000.

2.7. The company is incorporated in Fribourg and this apparently should give no capital gains tax when the shares are sold. I was informed that each district has different rules regarding the gains.

2.8. I have obtained a declaration from the lawyer that he holds the shares in trust for Dr. Safa and I have prepared a similar declaration from you that you hold the shares in trust for Durand Properties Ltd.

3. BEARER SHARES

3.1. As explained above, the shares in Fartrade Holding S.A. are to the bearer.

3.2. Due to recent restrictions in Switzerland and in order to ensure that lawyers are dealing with genuine people. Mr. Nessi insisted that the original certificates stay in his possession. In theory, he argued, bearer shares if given to us could be passed on to other people for whom he may not wish to contact. Being the sole director, he would be fully responsible for all the results of the company. This point was checked by myself with Mr. Zurmuller of the bank and with Mr. Romano. For the same reasons, lawyers are now insisting on dealing on behalf of individuals and not offshore companies.

3.3. The declaration of trust signed by Mr. Nessi acquires the importance of the shares. In a way, the declaration is a better document in the sense that it has the names of the beneficial owner shown in writing but if it were lost, it would not be critical as a bearer share certificate.

4. CMD SHARES

4.1. As phase 1, we have acquired 1000 shares out of issued capital shares of 5500, i.e. 13.18% at a price of S.F. $3,400 each.

4.2. The share are financed by:

Ourselves	2,400,000
Bank	1,000,000
Total	3,049,000

4.3. Within 6 months we will acquire another 650 shares at the same price, to be financed again by:

Ourselves	1,565,850
Bank	650,000
Total	2,215,850

This would give us a total hold of 1650 shares i.e. 30%.

4.4. Bank loan is at 10% interest repayable at S.F. 500,000 every 6 months, first repayment starting 30-6-1991.

4.5. The Bank will hold the shares as security but it has given Mr. Nessi confirmation that the shares have been transferred to the name of Fartrade Holding S.A.

4.6. Duty and commission on transfer of shares totalling about S.F. 23,000 has been avoided by making an "Agreement to sell and purchases" back dated to December, 1989. This was recommended by a tax adviser. However, I checked independently with the bank that it was in order. This was confirmed and proved by issuing a document to say that the shares are now registered in Fartrade Holding's name.

5. OTHER MATTERS

5.1. Finance for our share of S.F. 2,409,000 and the anticipated expenses were provided for as follows:

	S.F.
Al-Arabi from UBAF: Sterling £472,403	1,135,029
Al-Arabi from UBAB: Swiss Francs	120,655
Total	1,255,684
Al-Arabi from Rafidian: Sterling £400,000	965,016
Al-Arabi via TDG: Sterling £130,000	310,500
Total	1,255,684
Sterling £400,000	965,016
Sterling £130,000	310,500
	2,522,200

5.2. Expenses were expected to be:

Lawyers fees	10,000
Stamp duty on increased capital 3%	24,000
Acquisition of company expenses including stamp duty	10,000
Notary charges Re-Increase in capital	4,000
Various other taxes	5,000
Total	53,000

5.3. After payment of 5.1 and 5.2 above, there should be about S.F. 60,000 left in the account which is the figure required to be made available to pay the loan interest and annual administrative fees.

5.4. Documents to be signed—

5.4.1. Declaration of trust to increase capital by S.F. Properties Ltd.

5.4.2. Fiduciary * * * to buy and sell dated December 1989.

5.5. Offshore Company.

I discussed with Mr. Nessi the possibility of his acting for us to form companies in Luxembourg and Liechtenstein. He confirmed that he would be able to do so. I have asked him to form one in each of these two countries with the minimum capital possible.

5.6. Bank Del Sampione.

I discussed with Mr. Zurmuller the possibility of opening accounts with the bank in Locarno. The bank is reluctant to do so for offshore companies unless they have all the bank ground of such companies. However, they now know you and would be pleased to open accounts in your name. I have obtained a number of forms for this purpose.

6. DOCUMENTS ATTACHED (ALL COPIES)

6.1. Certificate of Incorporation of Fartrade Holding S.A.

6.2. Balance Sheet and declarations.

6.3. Share Certificates 200 with the lawyer.

6.4. Declaration of Trust by the lawyer to Dr. Safa.

6.5. Declaration of Trust from Dr. Safa to Durand Properties.

6.6. Confirmation by the lawyer that SMB shares of 1000 are held by him for Fartrade Holding.

6.7. Confirmation by the Bank's that they are holding the shares of SMB in Fartrade's name as security for their loan.

6.8. Bank facility letter.

6.9. Fiduciary Contracts.

6.10. Mandate Agreement.

6.11. Loan Agreement for S.F. 2,300,000 Fartrade Holding from Durand.

6.12. Bank opening forms for Fartrade Holding.

6.13. Letter for Romano of SMB giving Mr. Nessi. * * * reference on the lawyer.

SUMMARY

I visited Switzerland on 9th June and completed the acquisition of phase I 18.18 percent of the equity in SMB.

7.2. The holding is via a Swiss Company, named Fartrade Holding S.A. incorporated in Fribourg.

7.3. Costing is as follows:

	Phase I (18.18%)	Phase II (11.82%)	Total 30%
Our funds	2,409,000	1,565,850	3,974,850
Bank lending	1,000,000	650,000	1,650,000
Total	3,409,000	2,215,850	5,624,850

7.4. Shares in Fartrade Holding S.A. are via bearer shares kept by the lawyer, Mr. Nessi who is the sole director. However, a declaration of trust is held by us stating that the shares are for our benefit.

7.5. Recent changes in Switzerland means that the lawyer should only act for Dr. Safa and insists that he holds the shares in his office.

7.6. Fartrade has at present share capital of S.F. 200,000 which is being increased to S.F. 1,000,000.

7.7. Arrangements are made through the lawyer to establish for us a company in Luxembourg and another in Liechtenstein.

7.8. There are 3 documents to be signed by you:

* * * * *

[United States of America No. 89/3648-2]

DEPARTMENT OF STATE

To all to whom these presents shall come, Greeting: I certify That the document hereunto annexed is under the Seal of the Secretary of State of Ohio, and that such Seal is entitled to * * * and credit.

In testimony whereof, I, James A. Baker III, Secretary of State, have hereunto caused the seal of the Department of State to be affixed and my name subscribed by the Authentication Officer of the said Department, at the city of Washington, in the District of Columbia, this fourteenth day of March 1989.

James A. Baker III, Secretary of State.

By Annie R. Maddux, Authentication Officer, Department of State.

MATRIX-CHURCHILL CORP.,

Cleveland, OH, February 24, 1989.

To Whom it may concern:

I hereby certify that the information contained within the attached document is true and correct.

GORDON COOPER,

Chief Executive Officer.

Sworn to before me and subscribed in my presence by said Gordon Cooper on February 24, AD 1989.

_____.

Sworn to before me and subscribed in my presence this 28th day of February 1989.

_____.

UNITED STATES OF AMERICA, STATE OF OHIO, OFFICE OF THE SECRETARY OF STATE.

I, Sherrod Brown, Secretary of State, do hereby certify that I am the duly elected, qualified and acting Secretary of State of the State of Ohio, and I further certify that Gerald E. Fuerst whose signature and official seal are affixed to the attestation hereto attached, was at the date hereof, the duly elected, commissioned and qualified clerk of the court of common pleas of Cuyahoga

County, Ohio, and that he is the proper official to make said attestation, which is in due form; and that his official acts are entitled to full faith and credit.

In testimony whereof, I have hereunto subscribed my name and affixed the official Seal of the Secretary of State of Ohio, at Columbus, Ohio, this 2nd day of March 1989.

SHERROD BROWN,
Secretary of State.

[United States of America No. 89/6535]

DEPARTMENT OF STATE

To all to whom these presents shall come, Greeting: I Certify That the document hereunto annexed is under the Seal of the Secretary of State of Ohio, and that such Seal is entitled to and credit.

In testimony whereof, I, Lawrence S. Eagleburger, Acting Secretary of State, have hereunto caused the seal of the Department of State to be affixed and my name subscribed by the Authentication Officer of the said Department, at the city of Washington, in the District of Columbia, this tenth day of May, 1989.

Lawrence S. Eagleburger, Acting Secretary of State.

By Annie R. Maddup, Authentication Officer, Department of State.

UNITED STATES OF AMERICA, STATE OF OHIO, OFFICE OF THE SECRETARY OF STATE.

I, Sherrod Brown, Secretary of State, do hereby certify that I am the duly elected, qualified and acting Secretary of State of the State of Ohio, and I further certify that Gerald E. Fuerst whose signature and official seal are affixed to the attestation hereto attached, was at the date hereof, the duly elected, commissioned and qualified clerk of the court of common pleas of Cuyahoga County, Ohio, and that he is the proper official to make said attestation, which is in due form; and that his official acts are entitled to full faith and credit.

In testimony whereof, I have hereunto subscribed my name and affixed the official Seal of the Secretary of State of Ohio, at Columbus, Ohio, this 3rd day of May 1989.

SHERROD BROWN,
Secretary of State.

RECIPROCITY CERTIFICATE

The undersigned, being the duly elected Vice President of Matrix Churchill Corporation, an Ohio, U.S.A. corporation, does hereby certify as follows:

We confirm that the reciprocity conditions for registration of similar branches of Iraqi companies is valid according to the laws of this country and Iraqi persons are allowed to manage these branches.

In Witness Whereof, the undersigned has subscribed his name hereunto as of this 28th day of April, 1989.

GORDON COOPER,
Vice President,
Matrix Churchill Corp.

I, the undersigned, hereby certify that the above English text is a true and accurate translation of the Arabic text.

SAM NAMAN.

AUTHENTICATION OF SIGNATURES BY NOTARY

State of Ohio
County of Cuyahoga, ss:

On this 28th day of April, 1989, before me personally came Gordon Cooper, to me know, who being by me duly sworn, did depose and say that he is the Vice President of Matrix Churchill Corporation, the corporation described above and which executed the above instrument; and before me personally came Sam Naman, who being duly sworn, did depose and say that he is able to fluently read the Arabic language and translate such language into English; and that each of Mr. Cooper and Mr. Naman signed his name as set forth above.

DAVID FLESHLER,
Notary Public.

FORGING DEVELOPMENTS [INTERNATIONAL] INC.,
Cleveland, OH, September 21, 1989.

Re FDI Shares.
Dr. GIANNI MARTINELLI
Schmiedemeccanica, S.A.,
Switzerland.

DEAR GIANNI: I do hope you have recovered from your flu bout. Thank you and Romano for your time on Monday. I am sure it was tiring for you. I thought I would write and confirm my basic understanding of our discussions and offer some suggestions as to some of the, as yet, unresolved items as follows:

SMB will pay me 150,000 U.S. dollars for a 30% share of Forging Developments Corporation and FDI limited. New shares will be issued from each company equivalent to 30% of the total shares issued. My shareholding will remain the same. A nominal price will be established for purchase of the shares.

I will provide you with an invoice for engineering services for the 150,000 U.S. dollars.

You will contract FDI Ltd. for engineering services for a minimum fee of 36,000 pounds sterling per year for a period of two years for consulting work to be defined later at a discounted rate from the current fee structure. The current fee structure in the U.K. is:

Manager—350 pounds sterling/day, i.e., 280.

Project Engineer—210 pounds sterling/day, i.e., 188.

Designer—175 pounds sterling/day, i.e., 140.

Please note these rates apply for local office work. Rates for overseas assignments are increased to reflect local conditions, length of stay and extra compensation paid to the employee. Expenses are also extra.

Purchase of further shares—you requested the option of buying up to 20% more shares of FDI at the agreed price of 5,000 U.S. dollars per percent.

Comment: I would like to consider this question together with the new company, Medform.

I am not sure of your motive to start a new company in the U.S. Perhaps you want to own 60%, perhaps you believe that the purpose of this company should be kept separate from FDI. As I understand it, the purpose of the company will be to market and manufacture hot shears and provide a training school for the use of Catia and perhaps others as they arise. Perhaps the training is not compatible with hot shearing however the marketing of them has to be considered separately.

As Eumuco, Lasco and many others have found, marketing in the USA is the most difficult and competitive in the world. Credibility is everything together with track record. A permanent presence is definitely necessary and so the formation of a company in the USA is vital.

However, it will be one to two years before we are likely to be able to sell a machine. It would therefore be unnecessary to establish a manufacturing facility until the first machines are in and operating. Prior to that we have to decide if the USA is the correct base for such a manufacturing venture. In other words, do I/we really want to be in manufacturing, particularly in the US?

I believe that there are sufficient questions in my mind to wonder why all these opportunities cannot be incorportated within an expanded FDI Inc. organization and if the percent ownership is the reason for you wanting to make it separate. If so, I am very willing to discuss a compromise.

Either way, I assume the success of an organization will depend to a large degree on me. I should therefore either be the majority shareholder or be compensated for the sale of shares when I lose that majority at a rate commensurate with the value of the company.

I suggest therefore that another 19 percent can be purchased during a three-year period at a cost of $5,000 per percent plus 10 percent for each year, i.e., second year, $5,500, third year, $6,050. During this period the remaining 51 percent can be acquired by negotiation. Thereafter the balance of my shares can be purchased at a rate equal to the valuation of the company based on X times earnings. If I want to sell, I will offer them to SMB. If SMB does not want to buy, I am free to sell them to the highest bidder. In the event of my premature death all my shares will be purchased by SMB and funded by a life insurance policy.

The policy payments for this policy are not deductible for the company. The proceeds of the policy to the company are not taxable as revenue however if the money is used to purchase my shares from my wife, she is liable for capital gains tax.

I have enclosed a copy of our old contract for your information.

Buyback—if I want to buy the shares back or you decide you want to sell, I should be allowed to repurchase the shares at a rate equal to $1,000 per percent in the first year, $2,500 per percent in the second and $5,000 per percent in the third. Thereafter by negotiation.

Territories—while we should identify specific markets, I believe the most important part of this topic is to share and maintain our information to avoid competition. In addition to this I would suggest we offer each others services, albeit not directly, in areas where the other is to date, not established.

Gianni, I am sure there are other points and for my part, I intend to bring them up as they occur to me. I hope you will do the same.

My next trip to Europe is planned for the week commencing October 22. On October 26 is the annual BFIA banquet at the National Exhibition Center. You are welcome to be our guest if you have not already been invited officially or by somebody else. Perhaps during this visit we can conclude our agreement by resolving the outstanding issues. Romano is, of course, also welcome.

Kind regards,

IAN R. WILLIAMSON,
President.

SCHMIEDEMECCANICA S.A.,
Switzerland, October 17, 1989.

To: Ian R. Williamson.
Company: Forging Developments, Inc.,
Location: Cleveland, USA.
From: G. Martinelli.

DEAR IAN, I recovered well from my flu and hope you are also in best health.

I was absent until yesterday. Therefore I do apologize for my delay, in sending you my reply.

I thank you for your letter of September 21, 1989, the content of which came to me as an unexpected surprise.

From the previous talks and correspondence you surely have seen that I did not have

the easiest task in persuading the shareholders of SMB to buy 30% of FDI for US dollars 150,000.

I could only overcome the problem by overstressing the impact that SMB ENGINEERING would have in sharing some efforts with FDI. Furthermore the fact that FDI could buy 40% of METFOR USA was a decisive point.

This was stated very clearly in my Fax of August 31, 1989 and was not put into any question or discussion during your visit in * * * of September 11, 1989. Therefore, all what you write on page 2 of your letter is very strange to us.

Personally I do not agree with most of your statements. I can assure you that before deciding to open a company in the U.S. we did our homeworks. We know it will not be easy but we are entrepreneurs and we know that every beginning is difficult. In any case we already have some interesting european companies who asked us to represent them in U.S.A.

After all, in our conversations I clearly explained to you that we were not interested in being the major shareholders (see the case of F.D.I.) but in participating, even on a minority base, of sound companies. Hence, if we would be the major shareholders of Metfor is not because we pretend to own the company but because this is an idea which was originated from our side and because we are willing to pay for it.

I also do not understand at this point, what are the policies of F.D.I. How can you be a neutral consultant and, in the same time, be agent of some plant manufacturers? This would automatically exclude FDI from having a formal relationship with other plant producers.

Would it not be more convenient for F.D.I. to be a "non evident shareholder" of a company which is established with the specific objectives of selling plant items and perhaps some kind of sofeware?

In any case, I am sorry but at this point I cannot defend anymore our participation into F.D.I. For sure, you and me share very similar feelings and interests for forgoing technology but we see the business world with different eyes.

I am now persuaded that if we both would buy each other's shares, we would encounter a lot of complications to which I am not used. Of course this decision does not have to affect our friendly relationship. We can always exchange points of view and, why not, if opportunities arise, we could do some business together. For instance, we are prepared to buy engineering services from F.D.I. in the same way as F.D.I. may intend to buy tooling or any kind of Hardware from SMB.

Despite the fact that our discussions did not lead to a formal agreement, I think that these were fair and constructive and, for sure, we know better the capabilities of our companies.

Looking forward to meeting you again soon, I meanwhile remain with my best personal regards.

G. MARTINELLI,
SMB BIASCA.

Council of the Revolutionary Leadership, Military Industrialization Board, People's Iron and Steel Mills.

"Planning, Continuity, Technology;
No. 268—Date July 22, 1988.
(Confidential and Urgent):
To: Military Industrialization Board.
Re: Used machine and tools.

With reference to your letter No. 1881/1/4 of June 19, 1988 we enclose a file indicating our itemized needs in individual machines and tools with their spare parts to satisfy the plan for the year 1989.

With best wishes,

Sincerely yours

[Signature illegible] General Director,
Sahi Hammadi Sakr.

A copy to: Division of Planning, Follow-up and Technology, and this with the highest priority please!

JANAN/ZAKI, *July* 17[?]

DEAR MR. RA'D: Get in touch with Mr. Janan in Nasar Facility, to assure the transfer of the copy to the office of Dr. Safa in London.

JANAN GEORGE HAMAMA.

AUGUST 2, 1988.

A copy to London and another to the United States.

To: Mr. Janan George Hamama, Nasar People's Mills.

Concerns: Used Machines and tools.

DEAR SIR: We convey this request to you from the People's Iron and Steel Mills for individual machines and tools with the appropriate spare parts. They will satisfy the needs of the aforementioned mills as expressed in their production plan.

We hope that you get in touch as soon as possible with Dr. Safa' at his office and with our best wishes and appreciation we remain

Sincerely yours

RA'D NUR AL-DIN AL-RIFA'I,
Research and Development Military Industrialization Board.

Enclosures: requests (five pages).

Additional copies: to London; to the United States.

[Translator's note: the date indicated in English is August 3, 1991 and not August 2, 1991 as it is in Arabic].

BONN, *August 16, 1988.*

The Embassy of Iraq, Trade Section, Duererstrasse 33, 5300 Bonn 2, Germany, Telephone (0228) 82031.

To: TDG—Technology and Development Group, LTd.: [Duke House, 37, Duke Street, London W1M 5DF].

DEAR PROFESSOR DR. SAFA' AL-HABBUBI:

I am enclosing a file with 45 lists and hope that you submit a bid on behalf of Technology and Development Group, Ltd. with respect to the contents of the enclosure.

With my best wishes I remain,

Sincerely yours,

Engineer HANNA SALIH.

[Marginal note]:

DEAR ENGINEER HANNA: Please send a copy to M.C.C. and keep another one with you! August 18, 1988 [?].

To: Ministry of Housing and Construction.
Fr: SICA Rue du Paradis, 9 5960 Orp Belgium
Ph: (+32) 19 63 32 17.
Att. Mrs. Amal Abdul Zahra.
Yr/Ref: Archs of Victory.
Or/Ref: PI No 88 05 09 10.

DEAR SIRS, We have the pleasure to forward you hereafter our best offer for the realisation on base of your drawings of the Archs of Victory.

Price:

4 Stainless steel swords approx. weight 19.8 tons 4 = 79.2 tons.

4 Structures work of arch approx. weight 14.1 tons 4 = 56.4 tons.

Total 135.6 tons.

FOB any European Port: Belgian Francis 1,450.000 bf/tons for completely finished work ready for erection, including all the required material to complete erection of archs and swords. (bolts, nuts, flags. .)

We would like to reserve the right to review our price if, in case of order when receiving the definitive drawings going more deeply in details, we have to adjust our weight estimation or our project of manufacture.

Technical specifications:

We have followed your indications and we stick to your drawings. Of course we would have to come back to you for approval in case we would like to bring any modification in realisation of works.

Material will be in accordance with ASTM norms or equivalent surface as ASTM A 480–81. For inside 7.1.2; outside 7.1.4, polishing with grain of 180, RA = 0,8 to 1 nm.

Conditions: Delivery time: to be discussed in case of order.

Origin: EEC

Payment terms: As we will have to buy the steel and make some special tools for the shaping of the swords we would appreciate to receive: With the order 35%; at the delivery 65% by a letter of credit opened with the placing of the order, letter of credit opened exclusively on our account in the Middland, 3 lower thames street London OK.

Remark: This quotation does not include any engineering and consequently we have not undertaken any study of resistance to wind etc. . . . And we cannot assume any responsibility in the finished work. Our responsibility will cover the realisation of your drawings. Of course if we receive your order, when we will receive the definitive drawings we will check the engineering and perhaps make some suggestions from this end.

We hope we will have the honour to participate to the erection of this magnificent historical monument, and awaiting your prompt reactions we are dear sirs.

Sincerely yours.

GERMAN INTELLIGENCE REPORT

Enclosure, 5 April 1990.

Re: Iraqi activities in the area of nuclear technology and missile development.

I. IRAQ; NUCLEAR ACTIVITIES

1. Introduction

Although Iraq ratified the Non-Proliferation Treaty in 1969, there are indications that it has been striving to possess nuclear weapons for a long time.

According to the findings to date, however, it is in possession neither of weapons-grade fission material (highly enriched uranium or plutonium) nor of installations for its production (uranium-enrichment installations, plutonium producing reactors, reprocessing equipment).

2. On the military use of nuclear technology

To date there has been little evidence of an Iraqi military nuclear program or information concerning the transfer of nuclear weapon-related technology or equipment to Iraq.

The attempt that was discovered in March to obtain [illegible] condensers specially designed for defense-technology applications-not [illegible]-the press was falsely told [illegible] on account of a number of application possibilities in defense technology (fuse systems for conventional warheads, military laser systems) [illegible] no unambiguous proof of an Iraqi nuclear weapons development program.

However, Iraqi activities in the area of uranium enrichment must be viewed as mounting evidence that such a program, or preparations for, one exists.

It is certain that Iraq intends to build a secret uranium enrichment plant that uses the

gas-centrifuge process. Since there is no recognizable civil need for a uranium-enrichment plant-Iraq does not have any nuclear energy plants either in operation or under construction-one must conclude that Iraq is attempting to produce weapons-grade, highly enriched uranium.

However, Iraq is still in the early stages of developing gas centrifuges.

There are indications that the Iraqi armaments firm AL Qaqa state establishment, which has experience with modern high explosives and high-velocity measurement techniques, is involved in the development of the non-nuclear components of a nuclear weapon. The armaments firm Nassr state enterprise for mechanical industries in TAII near Baghdad is probably involved in the development and production of gas centrifuges.

In light of the state of affairs in Iraqi nuclear technology, the implementation of a possible nuclear-weapons development program is unlikely to succeed within the next five years without significant support from abroad. To date there has been no evidence of direct support of Iraq in its development of nuclear weapons.

2.1 Procurement activities

Since 1987, increased Iraqi efforts have been observed to acquire modern technology for the construction of its own armaments industry from the industrialized nations through a network of organizations in Iraq and cover companies and subsidiaries abroad. Apart from projectile and chemical-weapons technology, one of the main obstacles in the way of Iraqi efforts is nuclear technology.

Since no later than the middle of 1988 Iraq has been trying to acquire the components and technology for uranium enrichment by means of the gas-centrifuge process in Great Britain, the Federal Republic of Germany, Holland, and France. These efforts have been only partially successful.

From the information gathered in connection with these procurement efforts in the countries names it has become apparent that technical data and construction documents classified as confidential pertaining to German centrifuge types have already made their way to Iraq. To what extent and in what ways this occurred is not yet known with any certainty.

2.2 On the recruitment of German centrifuge experts by Iraq

In 1988–89 Iraq moreover endeavored within the Federal Republic of Germany to obtain experts on the development and construction of gas centrifuges for a cooperative effort in Iraq. The extent to which these efforts were successful could not be definitely ascertained.

2.3 On the Iraqi procurement network

The following organizations in Iraq and Iraqi-controlled firms in Western Europe have emerged in connection with procurement activities:

Al Arabi Trading Corporation, Baghdad, Iraq, Director: Faruk TAHA.

Lahib Nari Import/Export Corporation, Baghdad, Iraq.

Technical Corporation for Special Projects (TECO), Baghdad, Iraq, Director: Abdulahad Aboodi ABLAHAD.

Industrial Projects Company, Baghdad, Iraq, Company Members: Ali Abdul Mutalib Ali, Dr. Mahdi F. Muhammad, Dr. Adil Mahir Jassim, Dr. Ford Nadhim Hakee.

Nassr State Enterprise for Mechanical Industries, Taji near Baghdad, Iraq.

Al Qaqa State Establishment, Iskandariya near Baghdad, Iraq.

Technology Development Group (TDG), London, Great Britain, Director: Dr. Safa Al Haboobi; Company Members: Hana Paulus Jon Odisho, Saad Tahir, Adnan Al Ameiri, Dr. Fadel Kadhum, Nassir A. Nainsi.

Technology Engineering Group (TEG), Kent, Great Britain, Director: Anees Mansour Wadi.

RWR International, London & Kent, Great Britain, Director: Roy Ricks.

Euromac London Ltd. and Atlas Equipment Ltd., London, Great Britain, Director: Ali Ashour Dahgir; Company Members: Ted Amyuni, Jeanine Speckman.

Euromac SRL, Monza, Italy, Company Members: Hussein Abbas Al Khafaji, Kassom Abbas Al Khafaji, Mohammed Samir.

Babil International Sarl, Neuilly-sur-Seine, France, Company Members: Al Khafaji Saban, Pierre Dragoul.

Matrix Churchill, Coventry, Great Britain.

Matrix Churchill Corporation, Solon, Ohio, USA.

II. IRAQ: THE STATE OF PROJECTILE DEVELOPMENT

1. Introduction

Projectile development in Iraq was once again thrust into public view with the launch of a space rocket on 12/5/89. Iraq further made known that apart from the space rocket it had also developed two surface-to-surface rockets with a range of 2,000 kilometers. Below is a survey of the state of Iraqi rocket development:

2. Rocket Technology

Iraq is following two parallel lines in its development of projectiles. The one involves the liquid-fuel technology of the Soviet SCUD–B; the other involves the solid-fuel technology of the Argentinean CONDOR–II.

2.1 Liquid-fuel technology

All projectiles used or tested by Iraq to date are based on SCUD technology according to our present view of the situation. Work on these projectiles is supposedly being carried out within the parameters of projects 144 and 1728.

2.1.1 Surface-to-surface rockets

The SCUD–B technology used by Iraq was developed in the Soviet Union in the fifties and early sixties. This rocket, also designated as the SS–IC, had a range of 300 kilometers with a payload of one ton.

This rocket was modified according to available evidence so that the range was increased to approximately 650 kilometers through a reduction of the payload to approximately 300 to 350 kilograms. The projectile, designated the Al Hussein, was then used against Teheran in the war with Iran.

According to our evidence, its range was further increased to approximately 900 kilometers by an extension of the fuel tank. The rocket, designated Al Abbas, was first tested according to Iraqi statements in April of 1988. The payload is supposedly some 400 kilograms.

11.20 meters in length and 0.90 meters in diameter, the AL HUSSEIN corresponds more or less to the SCUD–B (length: 11.50 meters; diameter: 0.88 meters). Of the same diameter, the AL ABBAS is supposedly some 14.50 meters in length.

There is also evidence that Iraq is working on the development of other projectiles with ranges of up to 2,000 kilometers. These are supposedly liquid-fuel rockets. They may be those two systems mentioned by Iraq (range: 2,000 kilometers). One system is called TAMMUZ I.

2.1.2 Space delivery vehicle

Iraq launched a space delivery vehicle for the first time on 12/5/89. This three-stage projectile is called AL ABID, and it is 25 meters long and weighs 48 tons. The thrust of the first stage is supposedly 70 tons.

The launch presumably took place at the newly-erected Rufhah testing grounds (32–13–32 North, 42–56–25 East). This installation is not yet fully completed.

There is evidence that the first stage is composed of five linked and modified SCUD boosters. The second stage is likewise supposedly a modified SCUD with a larger diameter; the third stage may be earmarked for a solid-fuel engine. During the test only the first stage was ignited. It is possible that the second and third stages were dummies.

2.2 Solid-fuel technology (Project 395)

Project 395 has been conducted under the general management of the Technical Corps for Special Projects (TCSP). This project involves an ambitious projectile development program based on the Argentinean CONDOR–II technology. The program is supposed to be realized in close cooperation with the special organization, the Arab League Industrial Development Organization (ALIDO), with its headquarters in Baghdad.

2.2.1. Projectiles

The two-stage projectile is 10.30 meters in length and 0.80 meters in diameter; it weighs approximately 4,800 kilograms. Unlike the Argentinean CONDOR–II, which has a solid-fuel engine in the first stage and a liquid-fuel engine in the second stage, Iraq favors solid fuel engines in both stages. With this configuration, the payload is supposedly 350 kilograms, and the range approximately 1,000 kilometers.

The further development and future production of the liquid-fuel engine of the second stage is being pursued in tandem with this, however. There is evidence that the two-stage projectile could be equipped with this engine as a third stage. Such a rocket would then be intended as a space delivery vehicle for limited payloads.

2.2.2 Production sites

Three production sites for project 395 have been under construction southwest of Baghdad since late 1987–early 1988. The construction of the infrastructure is known under the terms of the DOT treaty. The installations have supposedly been provided with materiel; no production has yet been observed there, however.

3. Concluding remark

Iraq sees itself as the technological leader within the Arab camp. One can therefore expect that the country will make every effort to move forward with its rocket development program.

The activities in this regard encompass the aforementioned lines of development. We are assuming that the country fell back on the "older" SCUD technology because the modern CONDOR–II technology was not or has not been available.

OFFICE OF FOREIGN ASSETS CONTROL, MARCH 27, 1992

Front Companies and Foreign Representatives of the Government of Iraq

Front Company/ Representatives and Address:

A.T.E. International Ltd. (f/k/a RWR International Commodities), 3 Mandeville Place, London, England.

A.W.A. Engineering Limited; 3 Mandeville Place, London, England.

Abbas, Abdul Hussein, Italy.

Abbas, Kassim, Italy.

Abraham, Trevor, England.

Admincheck Limited, 1 Old Burlington Street, London, England.

Advance Electronics Development Ltd., 3 Mandeville Place, London, England.

Ahmad, Rasem, P.O. Box 1318, Amman, Jordan.
Ahmad, Walid Issa, Iraq.
Al-Amiri, Adnan Talib Hassim, 43 Palace Mansions, Hammersmith, London, England.
Al-Arabi Trading Company Limited, Lane 11, Hai, Babil, Baghdad District 929, Iraq.
Al-Azawi, Dafir, Iraq.
Al-Dajani, Leila N.S., P.O. Box 1318, Amman, Jordan.
Al-Dajani, Nadim S., P.O. Box 1318, Amman, Jordan.
Al-Dajani, Sa'ad, P.O. Box 1318, Amman, Jordan.
Al-Habobi, Dr. Safa Haji J., Flat 4D Thomey Court, Palace Gate, Kensington, England.
Al-Majid, Ali Hassan, Baghdad, Iraq.
Al-Majid, Hussein Kamel Hassan, Baghdad, Iraq.
Al-Ogaily, Akram H., Flat 2, St. Ronons Court, 63 Putney Hill, London, England.
Al-Rafidain Trading Company, Bombay, India.
Al-Takriti, Barzan Ibrahim Hassan, Geneva, Switzerland.
Al-Takriti, Sabawi Ibrahim Hassan, Baghdad, Iraq.
Al-Takriti, Watban, Baghdad, Iraq.
Ali, Ali Abdul Mutalib, Germany.
Allen, Peter Francis, "Greys", 36 Stoughton Lane, Stoughton, Leicersterschire, England.
Amaro, Joaquim Ferreira, Praca Pio X, 54-10o Andar CEP 20091, Rio de Janeiro, Brazil.
Arab Petroleum Engineering Company, Amman, Jordan.
Arab Projects Company, S.A. Ltd., P.O. Box 1318, Amman, Jordan; P.O. Box 7939, Beirut, Lebanon; P.O. Box 1972, Riyadh, Saudi Arabia.
Archi Centre I.C.E. Limited, 3 Mandeville Place, London, England.
Archiconsult Limited, 12 Buckingham Palace, London 5, England.
Armoush, Ahmad, White Star Bldg., P.O. Box 8362, Amman, Jordan.
Armoush, Ali, White Star Bldg., P.O. Box 8362, Amman, Jordan.
Associated Engineers, England.
Atlas Air Conditioning Company Limited, 55 Roebuck House, Palace Street, London, England.
Atlas Equipment Company Limited, 55 Roebuck House, Palace Street, London, England.
Aziz, Fouad Hamza, Praca Rio X, 54-10o, Andar, CEP 20091, Rio de Janeiro, Brazil.
Banco Brasileiro-Iraquiano S.A., Praca Rio X, 54-10o, Andar, CEP 20091, Rio de Janeiro, Brazil (Head Office and City Branch).
Bay Industries, 10100 Santa Monica Boulevard, Santa Monica, California.
Daghir, Ali Ashour, 2 Western Road, Western Green, Thames Ditton, Surrey, England.
Dominion International, England.
Endshire Export Marketing, England.
Euromac European Manufacturer Center SRL, Via Ampere 5, 20052, Monza, Italy.
Euromac Ltd., 4 Bishops Avenue, Northwood, Middlesex, England.
Euromac Tansporti International SRL, Via Ampere 5, 20052, Monza, Italy.
Falcon Systems, England.
Fattah, Jum's Abdul, P.O. Box 1318, Amman, Jordan.
Geodesigns, England.
Hand, Michael Brian, England.
Henderson, Paul, 4 Copt Oak Close, Tile Mill Conventry, Warwickshire, England.
Hussein, Udai Saddam, Baghdad, Iraq.
I.P.C. International Limited, England.
I.P.C. Marketing Limited, England.
Investacast Precision Castings Ltd., 112 City Road, London, England.
Iraqi Airways, Baghdad, Iraq; Vienna, Austria; Dhaka, Bangladesh; Rio de Janeiro, Brazil; Beijing, China; Prague, Czechoslovakia; Copenhagen, Denmark; Frankfurt, Germany; Rome, Italy; Tokyo, Japan; Casablanca, Morocco; Netherlands; Warsaw, Poland; Moscow Russia; Tunis, Tunisia; Ankara, Turkey; Abu Dhabi, UAE; London, England; Los Angeles, California; Southfield, Michigan; New York, New York; Sanaa, Yemen; Belgrade, Yugoslavia.
Iraqi Allied Services, England.
Iraqi Freight Services Limited, England.
Iraqi Reinsurance Company, 31-35 Frenchurch Street, London EC3M 3D.
Iraqi State Enterprise for Foodstuffs, P.O. Box 1308; Colombo 3, Sri Lanka; P.O. Box 2839, Calcutta 700.001 India.
Iraqi State Enterprise for Maritime Transport, Bremen, Germany; Amman, Jordan.
Iraqi Trade Center, Dubai, United Arab Emirates.
Jasim, Latif Nussayyif, Baghdad, Iraq.
Jon, Hana Paul, 19 Tudor House, Windsor Way, Brook Green, London.
Jume'an, George, P.O. Box 1318, Amman, Jordan.
Kadhum, Dr. Fadel Jawad, Alvaney Court, 250 Finchley Road, London, England.
Keencloud Limited, 11 Catherine Place, Westminster, London, England.
Koshaba, Robert Kambar, 15 Harefield Road, Maidenhead, Berkshire, England.
Matrix Churchill Corporation, 5903 Harper Road, Cleveland, Ohio 44139.
Meed International Limited, 3 Mandeville Place, London, England.
Mohamed, Abdul Kader Ibrahim, Jianguomenwai Diplomatic Housing Compound, Building 7-1 5th Floor, Apartment 4, Beijing, China.
Omran, Karim Dhaidad, Iraq.
Pandora Shipping Co. S.A., Honduras.
Petra Navigation & International Trading Co. Ltd., White Star Building, P.O. Box 8362, Amman, Jordan; Armoush Bldg., P.O. Box 485, Aqaba, Jordan; 18 Hude Sharawi Street, Cairo, Egypt; Hai Al Wahda Mahalat 906, 906 Zulak 50, House 14, Baghdad, Iraq.
Rafidain Bank, Baghdad, Iraq; Manama, Bahrain; Cairo, Egypt; Amman, Jordan; Aqaba, Jordan; Beirut, Lebanon; Abu Dhabi, UAE; London, England; Sanaa, Yemen.
Rajbrook Limited, England.
Raouf, Khalid Mohammed, Praça Pio X, 54-10º Andar, CEP 20091, Rio de Janeiro, Brazil.
Reynolds and Wilson, Ltd., 21 Victoria Road, Surbiton, Surrey KT6 4LK, England.
Ricks, Roy, 87 St. Mary's Frice, Benfleet, Essex, England.
Schmitt, Rogerio Eduardo, Praça Pio X, 54-10º Andar, CEP 20091, Rio de Janeiro, Brazil.
Sim, Gilberto F., Praça Pio X, 54-10º Andar, CEP 20091, Rio de Janeiro, Brazil.
S.M.I. Sewing Machines Italy S.P.A., Italy.
Souza, Francisco Antonio, Praça Pio X, 54-10º Andar, CEP 20091, Rio de Janeiro, Brazil.
Speckman, Janine, England.
Tall, Aktham, P.O. Box 1318, Amman, Jordan.
Taveira, A. Arnaldo G., Praca Pio X, 54-100 Andar, CEP 20091, Rio de Janeiro, Brazil.
T.D.G. (a.k.a. Technology Development Group), Centric House 390/391, Strand, London, England.
T.E.G. Limited, 3 Mandeville Place, London, England.
T.M.G. Engineering Limited, Castle Row, Horticultural Place, Chiswick, London.
TNK Fabrics Limited, England.
Trading & Marine Investments, San Lorenzo, Honduras.
U.I. International, England.
Whale Shipping Ltd., Government of Iraq, State Organization of Ports, Maqal, Basrah, Iraq.
Zahran, Yousuf, P.O. Box 1318, Amman, Jordan.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DANNEMEYER) to revise and extend their remarks and include extraneous material:)

Mr. RIGGS, for 5 minutes, on August 12.

Mr. WOLF, for 5 minutes, on August 12.

Mr. BROOMFIELD, for 60 minutes, on August 12.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. PEASE, for 5 minutes, today.
Mr. ANNUNIZO, for 5 minutes, today.
Ms. NORTON, for 60 minutes, today.
Mr. WISE, for 60 minutes each day, on August 11 and 12.
Ms. NORTON, for 60 minutes each day, on August 11 and 12.
Ms. DELAURO, for 60 minutes each day, on August 11 and 12.
Mr. OWENS of New York, for 60 minutes each day, on September 9, 10, 11, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 28, 29, and 30.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DANNEMEYER) and to include extraneous matter:)

Mr. SCHIFF.
Mr. LEWIS of California.
Mr. BROOMFIELD.
Mr. ROHRABACHER.
Mr. MICHEL.
Mr. WELDON.
Mr. FRANKS of Connecticut.
Mr. GINGRICH.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.
Mr. GONZALEZ in 10 instances.
Mr. BROWN in 10 instances.
Mr. ANNUNZIO in six instances.
Mr. SISISKY.
Mr. SCHUMER.
Mr. FALEOMAVAEGA in five instances.
Mr. APPLEGATE.
Mr. KANJORSKI.
Mr. ECKART.
Mr. OBEY.
Mr. MAZZOLI in four instances.
Mr. EDWARDS of California.
Mr. DORGAN of North Dakota.
Mr. NEAL of Massachusetts.
Mr. REED.

Mr. CLEMENT.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1578. An act to recognize and grant a Federal Charter to the Military Order of World Wars; to the Committee on the Judiciary.

S. 1607. An act to provide for the settlement of the water rights claims of the Northern Cheyenne Tribe, and for other purposes; to the Committee on Interior and Insular Affairs.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 23 minutes p.m.) the House adjourned until tomorrow, Tuesday, August 11, 1992, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4075. A letter from Director, Office of Management and Budget, transmitting notification of the President's intent to exempt all military personnel accounts from sequester for fiscal year 1993, pursuant to Public Law 101-508, section 13101(c)(4) (104 Stat. 1388-589); to the Committee on Appropriations.

4076. A letter from the Under Secretary of Defense for Acquisition, transmitting certification, on behalf of the Secretary of Defense, that the current Future Years Defense Program fully funds the support costs associated with the GPS Navstar Satellite Program; to the Committee on Armed Services.

4077. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Navy's proposed lease of defense articles to Greece (Transmittal No. 18-92), pursuant to 22 U.S.C. 2796a(a); to the Committee on Foreign Affairs.

4078. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions of Roland Karl Kuchel, of Florida, to be Ambassador to the Republic of Haiti, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

4079. A letter from the Comptroller General of the United States, transmitting a report presenting the results of the audit of the Army's principal statements for fiscal year 1991 (GAO/AFMD-92-83, August 1992); to the Committee on Government Operations.

4080. A letter from the Comptroller General of the United States, transmitting a report on the results of their review of the Department of the Army's financial management operations for fiscal year 1991 (GAO/AFMD-92-82, August 1992); to the Committee on Government Operations.

4081. A letter from the Chairman, Federal Election Commission, transmitting proposed regulations governing the transfers of funds from State to Federal campaigns, pursuant to 2 U.S.C. 438(d); to the Committee on House Administration.

4082. A letter from the Administrator, General Services Administration, transmitting informational copies of various lease prospectuses, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

4083. A letter from the Acting General Sales Manager, Foreign Agricultural Service, Department of Agriculture, transmitting an amendment to the Secretary of Agriculture's determination of the agriculture commodities and quantities thereof available for programming, pursuant to 7 U.S.C. 1736b(a); jointly, to the Committees on Agriculture and Foreign Affairs.

4084. A letter from the Administrator, U.S. Agency for International Development, transmitting a draft of proposed legislation to amend the Foreign Service Act of 1980 to allow additional deductions by the Agency for International Development from the salaries of Inspector General Foreign Service criminal investigators for retirement purposes, to increase the mandatory retirement age of Foreign Service criminal investigators from 55 to 57 years of age and to include administratively uncontrollable overtime as basic pay in computing the annuity of a noncommissioned Foreign Service criminal investigator; jointly, to the Committees on Foreign Affairs and Post Office and Civil Service.

4085. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a draft of proposed legislation to implement the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries; jointly, to the Committees on Merchant Marine and Fisheries and the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Submitted August 7, 1992]

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4731. A bill to require the Secretary of the Treasury to conduct a study and report to the Congress regarding the insurance industry in the United States; with an amendment (Rept. 102-666, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

[Submitted August 10, 1992]

Mr. ROE: Committee on Public Works and Transportation. H.R. 3360. A bill to amend the Federal Fire Prevention and Control Act of 1974 to promote the use of automatic sprinklers, or an equivalent level of fire safety, and for other purposes; with an amendment (Rept. 102-509, Pt. 2). Ordered to be printed.

Mr. MILLER of California: Committee on Interior and Insular Affairs: H.R. 4404. A bill to withdraw and reserve certain public lands and minerals within the State of Colorado for military uses, and for other purposes; with amendments (Rept. 102-813, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. CLAY: Committee of Conference. Conference report on S. 5 (Rept. 102-816). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4178. A bill to amend the Public Health Service Act to provide for a program to carry out research on the drug known as diethylstilbestrol, to educate health professionals and the public on the drug, and to provide for certain longitudinal studies regarding individuals who have been exposed to the drug; with an amendment (Rept. 102-817). Referred to the Committee of the Whole House on the State of the Union.

Mr. FORD of Michigan: Committee on Education and Labor. H.R. 5483. A bill to modify the provisions of the Education of the Deaf Act of 1986, and for other purposes; with an amendment (Rept. 102-818). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 5021. A bill to amend the Wild and Scenic Rivers Act for the purposes of determining the eligibility and suitability of designating a segment of the New River as a national wild and scenic river; with an amendment (Rept. 102-819). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 5061. A bill to establish Dry Tortugas National Park in the State of Florida; with an amendment (Rept. 102-820). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. S. 807. An act to permit Mount Olivet Cemetery Association of Salt Lake City, UT, to lease a certain tract of land for a period of not more than 70 years. (Rept. 102-821). Referred to the Committee of the Whole House on the State of the Union.

Mr. FORD of Michigan: Committee on Education and Labor. H.R. 5482. A bill to revise and extend the programs of the Rehabilitation Act of 1973, and for other purposes; with an amendment (Rept. 102-822). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 3591. A bill to amend the Public Health Service Act to provide protections from legal liability for certain health care professionals providing services pursuant to such act; with an amendment (Rep. 102-823, Pt. 1). Ordered to be printed.

Mr. BROOKS: Committee on the Judiciary. H.R. 4776. A bill to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to provide additional authorizations of appropriations (Rep. 102-824). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 5688. A bill to amend title 28, United States Code, to authorize the appointment of additional bankruptcy judges, and for other purposes; with an amendment (Rep. 102-825). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. S. 1216. An act to provide for the adjustment of status under the Immigration and Nationality Act of certain nationals of the People's Republic of China unless conditions permit their return in safety to that foreign state; with an amendment (Rep. 102-826). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. S. 1963. An act to amend section 992 of title 28, United States Code, to provide a member of the U.S. Sentencing Commission whose term has expired may continue to serve until a successor is appointed or until the expiration of the next session of Congress (Report No. 102-827). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 2832. A bill to amend Public Law 97-360; with an amendment (Rep. 102-828). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 3036. A bill to direct the Secretary of Transportation to convey certain vessels to Assistance, International, Inc.; with amendments (Rept. 102-829). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 5319. A bill to authorize the Secretary of Transportation to convey for scrapping by the National Maritime Museum Association a vessel in the National Defense Reserve Fleet that is scheduled to be scrapped; with an amendment (Rept. 102-830). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 5763. A bill to provide equitable relief to producers of sugarcane subject to proportionate shares; with an amendment (Rept. 102-831). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 5764. A bill to amend the U.S. Warehouse Act to provide for the use of electronic cotton warehouse receipts; with an amendment (Rept. 102-832). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE: Committee on Public Works and Transportation. H.R. 5753. A bill to make technical corrections to title 23, United States Code, the Federal Transit Act, and the Intermodal Surface Transportation Efficiency Act of 1991, and for other purposes; with an amendment (Report No. 102-833). Referred to the Committee of the Whole House on the State of the Union.

SUBSEQUENT ACTION ON REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

[Submitted Aug. 7, 1992]

H.R. 3927. Referral to the Committee on Banking, Finance and Urban Affairs extended for a period ending not later than August 12, 1992.

H.R. 5008. The Committee on Armed Services discharged from further consideration of H.R. 5008. H.R. 5008 referred to the Committee of the Whole House on the State of the Union.

H.R. 5087. The Committee on Armed Services discharged from further consideration of H.R. 5087. H.R. 5087 referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CONYERS:

H.R. 5798. A bill to authorize payments to units of general local government for fiscal years 1992 and 1993; to the Committee on Government Operations.

By Mr. BOUCHER:

H.R. 5799. A bill to amend the act of March 3, 1863, incorporating the National Academy of Sciences, to authorize the Federal Government to indemnify the Academy against liability for certain pecuniary losses to third persons arising from reports prepared by the Academy; to the Committee on the Judiciary.

By Mr. PICKLE:

H.R. 5800. A bill to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to improve pension plan funding; jointly, to the Committees on Ways and Means and Education and Labor.

By Mr. BOUCHER (for himself and Mr. BROWN):

H.R. 5801. A bill to implement the Protocol on Environmental Protection to the Antarctic Treaty, with annexes, done at Madrid, October 4, 1991, and an additional annex done at Bonn, October 17, 1991, enact a prohibition against Antarctic mineral resource activities, amend the Antarctic Conservation Act of 1978, and repeal the Antarctic Protection Act of 1990; jointly, to the Committees on Merchant Marine and Fisheries, Science, Space, and Technology, and Interior and Insular Affairs.

By Mr. EDWARDS of California (for himself, Mr. EVANS, and Mr. NAGLE):

H.R. 5802. A bill to amend title 38, United States Code, to permit class actions in proceedings before the U.S. Court of Veterans Appeals; to the Committee on Veterans' Affairs.

H.R. 5803. A bill to amend title 38, United States Code, to make the Equal Access to Justice Act applicable to the U.S. Court of Veterans Appeals; to the Committee on Veterans' Affairs.

By Mr. EDWARDS of Oklahoma:

H.R. 5804. A bill to limit the number of years that a person may serve consecutively in certain congressional committee staff positions, in the Senior Executive Service, and in certain other executive branch positions; jointly, to the Committees on House Administration and Post Office and Civil Service.

By Mr. JOHNSON of South Dakota:

H.R. 5805. A bill to amend chapter 84 of title 5, United States Code, to provide that the basic annuity under the Federal Employees' Retirement System for a Member of Congress be computed using the formula generally applicable under such chapter for Federal employees; to the Committee on Post Office and Civil Service.

By Mr. PALLONE:

H.R. 5806. A bill to extend the Gateway National Recreation Area Advisory Commission; to the Committee on Interior and Insular Affairs.

By Mr. SCHUMER:

H.R. 5807. A bill to impose criminal penalties upon the failure of a Federal firearms licensee to report to appropriate authorities the loss or theft of a firearm from the inventory or collection of the licensee; to the Committee on the Judiciary.

By Mr. THOMAS of California:

H.R. 5808. A bill to amend title 10, United States Code, to provide for jurisdiction, apprehension, and detention of certain civilians accompanying the Armed Forces outside the United States, and for other purposes; jointly, to the Committee on Armed Services and the Judiciary.

By Mrs. UNSOELD:

H.R. 5809. A bill to authorize the Secretary of the Interior to construct and operate an interpretive center for the Ridgefield National Wildlife Refuge in Clark County, WA; to the Committee on Merchant Marine and Fisheries.

By Mr. EDWARDS of Oklahoma:

H.J. Res. 537. Joint resolution proposing an amendment to the Constitution of the United States to limit the number of years that a person may serve consecutively in the Senate, in the House of Representatives, and in ambassadorships; to the Committee on the Judiciary.

By Mr. FASCELL (for himself, Mr. BROOMFIELD, Mr. HAMILTON, Mr. GILMAN, Mr. GEPHARDT, Mr. MICHEL, Mr. YATRON, Mr. SOLARZ, Mr. WOLPE, Mr. GEJDENSON, Mr. TORRICELLI, Mr. BERMAN, Mr. LEVINE of California, Mr. FEIGHAN, Mr. WEISS, Mr. ACKERMAN, Mr. OWENS of Utah, Mr. JOHNSTON of Florida, Mr. FALEOMAVAEGA, Mr. MURPHY, Mr. KOSTMAYER, Mr. FOGLIETTA, Mr. MCCLOSKEY, Mr. SAWYER, Mr. PAYNE of New Jersey, Mr. ENGEL, Mr. LAGOMARSINO, Mr. GOODLING, Mr. LEACH, Mr. HYDE, Mr. BEREUTER, Mr. SMITH of New Jersey, Mr. BURTON of Indiana, Mrs. MEYERS of Kansas, Mr. MILLER of Washington, Mr. HOUGHTON, Mr. GOSS, Ms. ROS-LEHTINEN, and Mr. MAZZOLI).

H. Con. Res. 355. Concurrent resolution concerning Israel's recent elections and the visit by Israeli Prime Minister Yitzhak Rabin to the United States; to the Committee on Foreign Affairs.

By Mr. JONES of North Carolina:

H. Res 548. Resolution to provide for the consideration of the Senate amendment to H.R. 2152; considered under suspension of the rules, and agreed to.

MEMORIALS

Under clause 4 of rule XXII,

513. The SPEAKER presented a memorial of the Assembly of the State of California, relative to the protection of pension and health benefits; to the Committee on Education and Labor.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. COUGHLIN introduced a bill (H.R. 5810) for the relief of Elham Ghandour Cicippio; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 75: Mrs. BENTLEY.

H.R. 446: Mr. RICHARDSON.

H.R. 608: Mr. ESPY, Mr. SOLOMON, Mr. REGULA, and Mr. ROTH.

H.R. 609: Mr. JOHNSON of South Dakota, Mr. WEISS, and Mr. JONTZ.

H.R. 856: Mr. FROST, Mr. WELDON, and Mr. TORRICELLI.

H.R. 918: Mr. GORDON.

H.R. 1300: Mr. MANTON.

H.R. 1310: Mr. BILBRAY, Mr. EMERSON, Mr. HAMMERSCHMIDT, Mr. LANCASTER, Mr. TORRES, Mr. PASTOR, and Mr. GONZALEZ.

H.R. 1311: Mr. HAYES of Illinois and Mr. SKEEN.

H.R. 1312: Mr. HAYES of Illinois, Mr. HOAGLAND, and Mr. SKEEN.

H.R. 1502: Mr. BORSKI.

H.R. 1692: Mr. HAYES of Illinois.

H.R. 2126: Mr. BLACKWELL and Mr. SCHUMER.

H.R. 2772: Mr. SMITH of New Jersey.

H.R. 3071: Mr. LANCASTER, Mr. BUNNING, and Mr. BARTON of Texas.

H.R. 3441: Mr. SCHAEFER, Mr. LIVINGSTON, and Mr. GEREN of Texas.

H.R. 3780: Mr. GEREN of Texas.

H.R. 3961: Mr. GEJDENSON and Mr. MARKEY.

H.R. 3967: Ms. ROS-LEHTINEN.

H.R. 4083: Mr. MARKEY.

H.R. 4182: Mr. SCHAEFER.

H.R. 4429: Mr. WISE and Mr. MCCANDLESS.

H.R. 4453: Mr. BUSTAMANTE, Mr. AUCOIN, and Mr. ATKINS.

H.R. 4806: Mr. TOWNS and Ms. NORTON.

H.R. 4909: Mrs. LOWEY of New York, Mr. TOWNS, Mr. MANTON, and Mr. SENSENBRENNER.

H.R. 4954: Mr. FROST.

H.R. 5003: Mr. GEREN of Texas.

H.R. 5317: Ms. KAPTUR and Mr. PARKER.

H.R. 5323: Mr. WELDON.

H.R. 5360: Ms. SLAUGHTER.

H.R. 5449: Mrs. LOWEY of New York, Mr. BACCHUS, and Mr. LANCASTER.

H.R. 5513: Mr. PACKARD.

H.R. 5531: Mr. PICKLE, Mr. STENHOLM, and Mr. LIPINSKI.

H.R. 5542: Mr. ENGLISH.

H.R. 5565: Mr. TOWNS, Mr. OWENS of New York, Mr. EVANS, Mr. HUGHES, Mr. KOLBE, Mr. KOPETSKI, and Mr. MINETA.

H.R. 5591: Mr. EMERSON, Mr. PORTER, and Mr. HOBSON.

H.R. 5703: Mr. BURTON of Indiana, Mr. SCHIFF, and Mr. HANSEN.

H.R. 5745: Mr. DARDEN and Mr. RAY.

H.J. Res. 399: Mr. FRANKS of Connecticut.

H.J. Res. 422: Mr. LAGOMARSINO and Mrs. BOXER.

H.J. Res. 478: Mr. SCHEUER, Mr. RAHALL, Mr. PETERSON of Minnesota, Mr. WALSH, Mr. BERMAN, Mr. VISCLOSKY, Mr. WELDON, Mr. MCNULTY, Mr. ROHRABACHER, Mr. PORTER, Mr. TRAFICANT, Mr. SPENCE, Mr. ROTH, Mr. CAMP, Mr. FOGLIETTA, Mr. LIPINSKI, and Mr. LAROCCO.

H.J. Res. 484: Mr. LANCASTER, Mr. CLINGER, Mr. PAYNE of New Jersey, Mr. SYNAR, Ms. SLAUGHTER, Mr. EARLY, Mrs. KENNELLY, Mr. EMERSON, Mrs. JOHNSON of Connecticut, Mr. CLEMENT, Mr. FORD of Tennessee, Mr. DINGELL, Mr. KOSTMAYER, Mrs. LOWEY of New York, Mr. YOUNG of Florida, and Mr. ENGEL.

H. Con. Res. 180: Mr. RICHARDSON.

H. Con. Res. 210: Mr. MINETA.

H. Con. Res. 223: Mr. HUGHES, Mr. MCEWEN, Mr. MCHUGH, Mr. MYERS of Indiana, Mr. PAYNE of New Jersey, Mr. RICHARDSON, and Mr. SPRATT.

SENATE—*Monday, August 10, 1992*

(Legislative day of Wednesday, August 5, 1992)

The Senate met at 8:45 a.m., on the expiration of the recess, and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

PRAYER

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

Let us pray:

Honour all people.—1 Peter 1:17.

Eternal God, infinite in all Your ways, help us in our Nation to recover the self-evident truth which inspired our Founders in framing the Constitution and the Bill of Rights. Awaken us to the infinite value of each person. We have become unthinking in our judgment of others. We have become stereotypic in our estimation of persons. We squeeze everyone into a category and label them as a stereotype; the image of which is a caricature. All politicians are the same. All lawyers. All doctors. All CEO's. All educators. All preachers. All conservatives. All liberals. And so on ad infinitum. We have forsaken discernment and become tragically indiscriminating. Forgive this mindless attitude. Grant us our forbears' wisdom in appreciating the equality of all and the glorious diversity of persons.

Deliver us gracious God from systems which contribute to this pernicious practice of pigeon-holing people. Endow us with reason in viewing each person according to individual worth and honoring each as God, in His infinite wisdom, has created each human as unique.

In the name of truth. 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, August 10, 1992.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the time for the two leaders is reserved for their use later in the day.

MORNING BUSINESS

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

There shall now be 15 minutes under the control of the Senator from Texas [Mr. BENTSEN].

TAIWAN'S MILITARY MODERNIZATION

Mr. BENTSEN. Mr. President, President Bush recently came to Texas, and he proclaimed that if there were a Clinton-Gore administration, thousands of defense workers would be laid off. It brought back a lot of memories. It brought back 1988 and the Presidential campaign then.

I can remember Chuck Yeager coming before the defense workers at General Dynamics and telling them, "if you vote for a Dukakis-Bentsen administration, thousands of defense workers, thousands in this plant will be laid off."

Well, I voted for a Dukakis-Bentsen administration and Chuck Yeager was absolutely right: Thousands of defense workers have been laid off.

I really found President Bush's statement ironic for two reasons.

First, the very day that George Bush arrived in Texas, General Dynamics announced a cut of 5,800 workers at its F-16 fighter aircraft manufacturing facility in Fort Worth—5,800 well-paid, good jobs.

Second, President Bush himself could have saved at least 3,000 of those jobs by reversing an out-of-date policy toward Taiwan.

Mr. President, the cold war's demise and subsequent disintegration of the Soviet Empire have made a substantial reduction in defense expenditures certain. We know that. And cuts in both defense spending and the defense industrial sector of our economy have been underway for some time. But the end of the cold war and the Soviet Union's exit from history also call for a reassessment of our China policy of the last 20 years.

Let us look at that policy. Beginning in 1972, and throughout most of the 1980's, mainland China was rightfully regarded as an essential geostrategic counterweight to expanding Soviet military power. We understood that. China was a checkmate.

The so-called China card, so brilliantly first played by the Nixon administration in the early 1970's, and subsequently reaffirmed by the Carter and Reagan administrations, contributed significantly to the Soviet Union's exhaustion and ultimate extinction. As long as growing Soviet military power threatened both United States and Chinese security, the two countries enjoyed a shared strategic interest in much the same way that the United States and Stalinist Russia did against Hitler in the 1940's.

For the United States, however, the price of this marriage of convenience to Beijing was acceptance of Beijing's demands vis-a-vis Taiwan; namely, that Beijing, and not Taipei, be recognized as the legitimate government of mainland and offshore China, and that the United States eventually end any military relationship with Taiwan, including the sale of armaments. Acceptance of these conditions, expressed in three major United States-Chinese communiques in 1972, 1978, and 1982, cost the United States virtually nothing strategically or commercially. Through the early 1980's, Taiwan remained a politically isolated, economically insignificant country, still ruled dictatorially by the aging leadership of the old Kuomintang.

Mr. President, a policy of coddling Communist China, while treating Taiwan as a pariah, might still make sense if the Soviet Union and its threatening military power were still around. But a world without the Soviet Union is a world in which Communist China's military strategic value to the United States is virtually nil unless we anticipate a rerun of Japanese militarism in East Asia. And we have seen, certainly, no indication of that.

There is no more reason now to accommodate Communist China than there was to continue to accommodate Saddam Hussein's Iraq once the Iran-Iraq war ended in 1988. Indeed, the administration's apparent conviction that we still require Beijing's good graces for one reason or another, and therefore that the United States should say or do nothing that might offend the last Communist empire on Earth, has become a source of embarrassment.

Let us remember, Mr. President, just who this crowd is in Beijing. This is

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

59-059 O—97 Vol. 138 (Pt. 16) 11

the same crowd that butchered hundreds of prodemocracy students in Tiananmen Square in 1989; that tortures political prisoners; that employs slave labor to manufacture products exported to the United States and that proliferates nuclear and ballistic missile technologies in the Middle East.

Why does the administration welcome communism's demise in Eastern Europe and the old Soviet Union but continues to regard the morally bankrupt Government of Communist China as an indispensable friend?

Let us also recognize, Mr. President, that the Taiwan of today is not the Taiwan of yesteryear. Taiwan has engineered an economic miracle that has transformed that country of only 21 million people into the world's 13th largest trading state, and possessor of $80 billion in foreign exchange reserves. Though Taiwan's population is less than 2 percent that of mainland China, Taiwan has put together a GNP that represents as much as 40 percent of the GNP of mainland China. Politically, Taiwan has also abandoned authoritarianism for democratic institutions, in sharp contrast to Beijing's continuing totalitarianism.

Mr. President, you may well ask what all of this has to do with defense industry jobs back in Texas and the General Dynamics layoffs in Texas. Well, I will tell you. Each year, for the past decade, Taiwan has requested United States permission to buy from 60 to 150 F-16's as a means of modernizing its obsolete tactical fighter force. The request is militarily legitimate. Taiwan's Air Force continues to rely on the now hopelessly outclassed F-5 and F-104 aircraft technologies of the 1960's and this at a time when Communist China is rapidly modernizing its huge air force and they are buying, at bargain-basement prices, such Soviet state-of-the-art combat aircraft as the SU-27 and Mig-31.

Indeed, to those who claim that a sale of F-16's to Taiwan would upset the East Asian military balance, I would simply point out that that balance, if anything, is already being threatened by Communist China's rapacious military modernization and naval expansion into the western Pacific and especially the South China Sea. Even more ludicrous is the notion that Taiwan could or would pose an offensive military threat to China. The disparity in military power between the two countries is so great—consider, for example, China's 5,000 combat aircraft versus Taiwan's less than 500—that would make any Taiwanese military action against China an invitation to suicide. Maybe they have some of the old Kuomingtang warriors still left in Taiwan who dream about restoring themselves on the mainland. But that is a dream and nothing more than that.

But I would say this is the kind of a deal that we should be looking for. This is not the kind of a deal that South Korea was talking about where they wanted to do joint production. This is paying cash. This is helping an imbalance of trade. This is continuing good-paying jobs in this country.

The Taiwanese prefer the F-16 over any other military aircraft. It is a legitimate defensive need in the modernization of their air force.

During all of this time when they have been wanting to modernize, they have deferred it as they have tried to get agreement on the sale to their country by the United States, and get an affirmative answer.

The issue is who is going to modernize the Taiwanese Air Force? We know it is going to be done in a country sitting there with $80 billion in cash in surplus reserves, with an air force that is outnumbered 10 to 1 by their old adversary, but also a country who has listened to us say "Take a hike" each time they have approached us for trying to negotiate that kind of a purchase. So what have they done? They are now negotiating with France, serious negotiations with France.

France is proposing a sale to Taiwan of 120 Mirage 2000-5's valued at up to $7.2 billion. The sale would be part of a much larger Franco-Taiwanese deal involving the sale to Taiwan of French nuclear reactors and high-speed railroad equipment valued at an additional $18 billion.

I cannot help but remember the embargo in the Reagan years put on sales from Russia, which was trying to develop a natural gas pipeline coming to export gas directly from Russia into Europe, and how that embargo hurt Caterpillar because of the prohibition on exporting earth-moving equipment to Europe, to the Germans, and to the Russians. What did they do? They went over and bought that equipment in Japan, and Japan developed economies of scale in the production of that kind of equipment, and took much of that market away from us and have continued to hold it to this day.

I cannot help but remember the embargo on the sale of soybeans to Japan in the Nixon years. What did the Japanese do? They went down to Brazil. They spent over $1.5 billion putting in soybeans, buying land, leasing land, developing land.

Who is our biggest competitor in soybeans today? It is Brazil. We did it to ourselves. And here we are talking about doing it again in the defense industry.

It does not seem to bother the French. They are not concerned about possible retaliation from the Chinese. It seems to me that Paris has shown a lot more political guts than has Washington.

Mr. President, the time has come to place our relations with the aging group of totalitarians in Beijing on a purely pragmatic basis, on a self-interest basis, and to develop a new relationship with the new Taiwan. United States courtship of mainland China is no longer a militarily strategic imperative and in Taiwan major commercial opportunities now beckon us. We must learn to "just say no," at least once, to Beijing and to "just say yes," at least once, to Taiwan. What, after all, can Beijing do? Are they going to threaten to terminate its $20 billion-a-year trade surplus with us, they have with this country? Of course, they will not do that.

We still want to get along with Communist China, but on a pragmatic basis. Self-interest governs Beijing's policy toward us, just as it does France's new and intense interest in Taiwan.

I note that the Taiwan Relations Act of 1979, which was the Congress' response to the Carter administration's severance of diplomatic recognition of Taiwan, permits the United States to provide Taiwan sufficient arms for its own self-defense. I also note that the United States has already sold hundreds of F-16's to no fewer than 15 countries overseas, including the East Asian States of Indonesia, Singapore, Thailand, and South Korea.

Mr. President, a sale of F-16's to Taiwan would threaten nothing other than the administration's outdated and economically penalizing policies toward Communist China and democratic Taiwan.

Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. There will now be 30 minutes under the control of the Senator from Idaho [Mr. SYMMS].

Mr. SYMMS. Mr. President, before I start my remarks this morning, I would like to compliment the chairman of the Finance Committee for what I think is a very important speech. I hope that all of our colleagues will read what he had to say, and I hope that they will read it down at the White House, because he is absolutely correct.

In my view, we would have better relations with the People's Republic of China if we treat our long and trusted allies in the Republic of China as the friends that they are and have been to this country, and out of that will come, as the chairman says, a pragmatic relationship based on trust and respect. And it can do nothing but to encourage our relationship with the People's Republic of China as well as with our friends on Taiwan.

I think he is exactly right. And I hope we do move forward. We should lift that. We should sell those F-16's to our friends in the Republic of China. And, frankly, my advice to them is if we will not do it, they should go buy them from the French.

Mr. BENTSEN. Will the Senator yield?

Mr. SYMMS. I am happy to yield.

Mr. BENTSEN. I thank my good friend for his very generous remarks. I think that is the pragmatic approach. I think that is the self-interest approach and that is what we should pursue particularly in the incredibly imbalanced trade we have.

I say to my friend from Idaho, who has been a good friend and a valued member of the Finance Committee, that he will be sorely missed in his decision to return to his home State.

Mr. SYMMS. I thank my colleague.

(The remarks of Mr. SYMMS pertaining to the introduction of S. 3159 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

GOODBYE TO VINCE MURPHY

Mr. BINGAMAN. Mr. President, the August recess will soon be starting and during that period my staff and I will say goodbye to the director of State operations in my office, Vince Murphy.

Vince, has called our State his home since coming to our State to attend the College of Santa Fe. He fell in love with New Mexico, and with a wonderful woman, and stayed to make his home.

He has spent most of his adult life in public service, with continuing interest and involvement in education marking his career. When he came to work for us 8½ years ago, he left his job as director of the Oil Field Training Center in Roswell to jump enthusiastically into the maze that is the Senate.

It is a job that all Senators and most of their staffs can fully appreciate. A State director needs to know legislation, both national and local; politics, both national and local; and people, both national and local and be able to speak and act for a Senator on everything under the Sun. There is outreach to do, and there are fires to put out. All of this must be done with great skill, as well as a certain sense of timing and appropriateness.

Those of my colleagues who have had occasion to deal with Vince know how difficult a time I will have in finding a successor. He has done an outstanding job for me, my staff, and most of all, for the people of New Mexico. We are all in his debt, and wish him the very best as he leaves us at the end of this month for a position in the private sector.

THE PASSING OF FORMER SENATOR McINTYRE

Mr. BYRD. Mr. President, I was saddened on Sunday to learn of the death of a former colleague, Senator Thomas J. McIntyre from New Hampshire. According to the obituary in the Washington Post, Senator McIntyre had suffered from Alzheimer's disease and died of pneumonia.

A native of New Hampshire, Senator McIntyre was elected in 1962 to fill out the unexpired term of the late Senator Styles Bridges. That was the first time in 30 years that a Democrat had won a Senate seat from New Hampshire. Subsequently, Senator McIntyre was reelected by sizable majorities for full terms in 1966 and 1972.

In 1978, however, Senator McIntyre lost his bid for reelection.

A moderate, thoughtful man, Senator McIntyre was also a man of courage and conviction, and I know that I speak for all of our colleagues who served with him in the sixties and seventies in recalling the appreciation that I felt for his friendship and my admiration for his service as a Senator, a citizen, and a patriot.

Further, I know that I speak for all our colleagues in extending to Senator McIntyre's wife of 51 years, Myrtle Ann, our sympathy on her loss of a dear husband, and our sincere respect for Senator McIntyre's conduct as a Member of this institution during his tenure here.

Mr. President, I request that the obituary from Sunday's Washington Post be printed in the RECORD in honor of Senator McIntyre's passing.

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

[From the Washington Post, Aug. 9, 1992]

T. McINTYRE DIES; SERVED IN SENATE

(By Richard Pearson)

Thomas J. McIntyre, 77, a New Hampshire Democrat who served in the Senate from November 1962 until January 1979, died of pneumonia Aug. 8 at a hospital in West Palm Beach, Fla. He had Alzheimer's disease.

He was elected to the Senate to fill the unexpired term of Sen. H. Styles Bridges (R), who had died in office. Sen. McIntyre won reelection in 1966 and 1972, then was defeated in a race for a third full term in 1978 by Republican Gordon J. Humphrey.

During his years in the Senate, Sen. McIntyre's committee assignments included Government Operations; Banking, Housing and Urban Affairs; and the District of Columbia committees. But he probably was best known for his service on the Armed Services Committee, where he was chairman of the research and development subcommittee and was regarded as a thoughtful, middle-of-the-road senator and a swing vote on crucial issues.

His election to the Senate marked the first time in 30 years that a New Hampshire Democrat had won election to the upper house. He won election with 54 percent of the vote in 1966 and 57 percent in 1972. His defeat six years later by Humphrey, a former commercial airline pilot who was regarded as a political neophyte and right-wing activist, was considered a major upset.

The race foreshadowed the upset defeats of incumbent Senate Democrats two years later and that party's loss of the Senate. Humphrey raised large sums of money, campaigned extensively on television and attacked Sen. McIntyre for his support of treaties transferring control of the Panama Canal to Panama. Humphrey also attacked Democrats in general, and "liberals" in particular. This seemed to hurt Sen. McIntyre despite the fact that he was regarded by many as one of the more conservative northern Democrats.

Sen. McIntyre, who had homes in Tequesta, Fla., and his native Laconia, N.H., was a 1937 graduate of Dartmouth College and a 1940 graduate of Boston University law school. He practiced law in Laconia before entering the Army during World War II.

During the war, he served in Europe in Gen. George S. Patton's 3rd Army and attained the rank of major. His decorations included the Combat Infantryman's Badge and the Bronze Star.

After the war, he returned to Laconia, where he practiced law and worked in real estate. He was mayor of Laconia from 1949 to 1951 and city solicitor in 1953. He was an unsuccessful candidate for the U.S. House of Representatives in 1954, losing a race with Republican Chester E. Merrow by less than 400 votes.

Survivors include his wife of 51 years, the former Myrtle Ann Clement, of Laconia and Tequesta; a daughter, Martha G. McIntyre of Gilford, N.H.; and a grandson.

DEFENSE TRANSITION

Mr. HATCH. Mr. President, I am pleased to join with Senators DODD, DOLE, RUDMAN, and PELL in supporting this effort to give our defense industries the opportunity to make a viable transition from reliance on domestic defense purchases to a mixed commercial and defense market footing.

This bill is the right way to help our defense firms and their workers and, I hasten to add, our allies.

First, DOD would be required to set up an Export Loan Guarantee Program funded at $63 million, which could yield $1 billion in sales.

Second, sales could only be made to the countries that are now our major customers and/or allies: NATO, Australia and New Zealand, Japan, and Israel.

Let me comment on each of these features of the bill.

One billion dollars of sales would create between 22,000 and 30,000 directly related jobs. Another 15,000 jobs would follow from indirect employment through subcontracting and ancilliary activities. An estimated $250 million of tax revenues would also follow. I want to add that no Export-Import Bank moneys are used, and the list of customers is clearly in keeping with our arms control policies.

This bill goes beyond that mere retraining of laid-off defense workers. It allows for continued work while the conversion to commercial operations and markets is underway. And its military arms features facilitate the takeover of military functions by NATO and other regional allies as the U.S. presence is reduced abroad. Providing U.S. equipment for this interoperability of equipment.

TODAY'S "BOXSCORE" OF THE NATIONAL DEBT

Mr. CRAIG. Mr. President, Senator HELMS is in North Carolina

recuperating following heart surgery, and he has asked me to submit for the RECORD each day the Senate is in session what the Senator calls the "Congressional Irresponsibility Boxscore."

The information is provided to me by the staff of Senator HELMS. The Senator from North Carolina instituted this daily report on February 26.

The Federal debt run up by the U.S. Congress stood at $4,003,544,666,897.24, as of the close of business on Thursday, August 6, 1992.

On a per capita basis, every man, woman, and child owes $15,586.55—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is now closed.

NATIONAL DEFENSE AUTHORIZATION ACT

The ACTING PRESIDENT pro tempore. The Senate will resume consideration of S. 3114, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 3114) to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Sasser/Bumpers/Jeffords modified amendment No. 2918, to reduce the amount provided for the Strategic Defense Initiative. (By 43 yeas to 49 nays (Vote No. 182), Senate earlier failed to table the amendment.)

(2) Bumpers modified amendment No. 2919 to amendment No. 2918, of a perfecting nature.

AMENDMENT NO. 1918, AS MODIFIED

AMENDMENT NO. 1919, AS MODIFIED

Mr. WARNER. Mr. President, parliamentary inquiry. What is the pending business within the bill that the chair has announced?

It is my understanding that it is the amendment offered by the Senator from Arkansas and the Senator from Tennessee, which was voted on in the nature of a motion to table. That motion having failed, that amendment, in the judgment of the Senator from Virginia, would be the pending business.

The ACTING PRESIDENT pro tempore. The tabling motion which failed is the pending amendment, and a second-degree amendment is pending thereto.

Mr. WARNER. Mr. President, I have been in consultation with the Republican leader and the distinguished chairman of the Armed Services Committee who, in turn, it is my understanding, has been in discussion with the Senators from Arkansas and Tennessee.

Speaking for our side of the aisle, it is absolutely essential that we have the opportunity to revisit, by way of a vote, the amendment that is the pending business, both the underlying and the second degree. The leadership will address that issue during the course of the day. I am confident that we will see the opportunity whereby the leadership of the Senate can determine a time which is mutually convenient to all.

Assuming that can be done, it is my hope that the Senator from Arkansas and the Senator from Tennessee would allow the distinguished chairman and myself to go forward with other matters—other amendments, to be specific—relating to this bill.

I see the chairman now approaching, Mr. President. I yield to the chairman.

Mr. NUNN. Mr. President, if I could get the attention of my colleagues. As I think most people who followed this debate recognize, what we have, procedurally, is an SDI amendment offered by the Senator from Tennessee and the Senator from Arkansas, which was the pending business and which has been subjected to a motion to table. The motion to table failed, therefore, indicating at this stage that the Senate is disposed toward that amendment.

That is the way I read it, and I think that vote was 49–43. The motion to table having failed, the amendment itself is pending. Procedurally, there would be a chance for reconsideration of that motion.

All of us know we have 3 days and 3 nights before we adjourn for the Republican convention. And all of us know that the majority leader and many others in the body are intending to bring up the tax bill. It makes no sense at all to me to see us sitting here for several hours today not coming to conclusions on that amendment and not having any other amendment considered.

So what I hope is that our colleagues on both sides will agree to getting a time certain to vote on the Sasser-Bumpers amendment on SDI up or down, which I think they are entitled to, a motion to table having failed. If we can get a time certain on that, as far as I am concerned, it could be 30 minutes from now or 20 minutes from now. But if that is not possible, if we can have a time certain this afternoon, or whenever both sides can agree, then I hope that both sides would agree that we would move on to other amendments.

If we can move on to other amendments, there is a real chance we can debate several amendments today and dispose of them, including the B–2 amendment, and including the amendment relating to abortion. There is an abortion provision relating to access to foreign hospitals by military personnel in the bill, and I understand the Senator from Indiana [Mr. COATS] will have an amendment relating to that subject.

We also have an amendment sponsored by the Senators from Florida [Mr. MACK and Mr. GRAHAM] on Cuban democracy. It is my understanding that they have had a discussion on that one with the Senator from Connecticut, and although there is not agreement on the amendment, there is an agreement to have some framework for debate. If that is not the right understanding, I would like to be informed. There is a possibility that amendment might come up now.

It is my hope that if we set this amendment aside temporarily and have a time certain to vote on the pending amendment, we can move to the Cuban democracy amendment, or the abortion amendment, provided they have a framework and a time limit. I see no need whatsoever to set aside this amendment, which is causing delay and get another amendment up which is also going to cause delay.

As far as I am concerned, if we have nothing but delay and cannot move amendments forward, we might as well stay right where we are now. Understanding that, it is my recommendation to the leader that if we are not going to make progress, we move to the tax bill. I would not recommend to the leader that we stay on this bill several hours today with no hope of progress. I would much prefer to move to the tax bill and let people address this bill in the next 2 days, or address it in September.

Mr. MACK. If the chairman will yield, I have discussed this matter with my colleagues on Friday evening and with my staff this morning. I am under the impression that there has been a general agreement between Senator GRAHAM and Senator DODD to limit debate on the Cuban democracy amendment to an hour and a half.

Mr. NUNN. Total hour and a half?

Mr. MACK. Total hour and a half. At that time, I think acceptance of that time agreement was pending on your part. I have not had an opportunity to speak with Senator DODD or Senator GRAHAM this morning. I am hopeful that within a few minutes we can come to some conclusion on that and be prepared to offer the amendment.

Mr. NUNN. Mr. President, I say to the Senator from Florida, that is very encouraging. I certainly recommend we accept whatever time agreement the Senators from Florida and Connecticut can agree to. That would get us off to a good start, if we can get the parties to set aside the pending amendment and move to that one. With the pending amendment recurring as the pend-

ing business once that was disposed of, then that would give us some progress and, I think, justify staying on the bill.

It is not my wish to get off the bill, but it is certainly not my wish in the 3 days remaining to stay on the bill that is bogged down because of one amendment at the expense of the Senate considering other important business. If we do not get back on this bill until September, who knows what is going to happen in August. But my experience is a lot of things happen in August around the world, and I think a lot of moods change and a lot of minds shift. It seems to me that all parties would be better off dealing with the bill now. Certainly we would.

If anyone believes we are going to get through in early October for the election, which I think everybody wants to do, but come back for an authorization bill with no time limits in September and move everything else in September, I think they have not thought through it.

So it would be my hope that we would make some progress, and I ask the Senator from Florida if he would check on that and let us know. At this stage I could not tell him that we are ready to move to the amendment, but I can tell him if he can get that kind of time agreement it would be my strong recommendation that the current amendment be set aside with a time certain to vote on it followed immediately by this amendment coming up. That would be, I think, some progress.

Mr. President, unless there are other questions, I yield the floor.

Mr. WARNER. Mr. President, I see the presence of our colleagues from Arkansas and Tennessee. Do they wish to pose a question?

Mr. SASSER. Mr. President, last Friday we voted on a motion that would table the Sasser amendment to reduce SDI funding in the bill to $3.3 billion. That motion to table failed. It failed by the margin of 43 to 49, as the distinguished chairman recounted just a moment ago.

Frankly, in this circumstance, the typical order of business when the will of the body has been so clearly expressed would be to move to the underlying question and vote on it up or down. In fact, quite often and frequently that is done by voice vote. And certainly that could be done here.

I am aware that this is a contentious issue and it is a significant issue, and I suspect there were efforts made all during the weekend to persuade Senators perhaps to change their votes or change their minds, from the way they voted Friday.

Now, we have had a vote to table the underlying Sasser amendment, and that is going to be the issue we have to resolve before we can move ahead to other matters related to the bill. We have debated this at considerable length. We debated it 4 hours Friday. There were no intervening quorum calls at that time.

The distinguished minority leader indicated Friday that we had enough debate on this issue, that enough had been said about it, and we needed to go ahead and dispose of it.

Frankly, Mr. President, that would be my view here this morning, that we ought to go ahead and dispose of the underlying Sasser amendment and then move on in the logical order to take up other amendments on this bill.

Mr. WARNER. Mr. President, if I could reply to my distinguished friend, eight of our colleagues, because of the lateness of the hour, were simply not able to vote. And it so happens there were four on each side of the aisle. So in fairness to them, and given the premise that the Senator addressed to the Senate, this is the second important vote, they would want to be recorded on this issue. So let us talk in terms of fairness of eight colleagues who, for various reasons, were not able to be in attendance at the late hour on Friday. That, to me, is sufficient reason alone to think that a vote should recur on the motion to reconsider.

So, I am perfectly willing, and I think the chairman suggests this is a leadership decision—only the chairman and I can make suggestions to our leaders that it would be a up-or down vote. But, again, that is a leadership decision. So I would suggest that we acknowledge that Senators are waiting to go forward with amendments and, in the spirit of cooperation, recognizing the leadership has to make an estimate of the time when all Senators could be present, let us go forward with amendments, recognizing that this amendment will be the pending business, it would recur at the conclusion of debate or other resolution of the amendments which intervene.

So in the spirit of fairness to the eight absentees, why do not we try to move forward on this bill and make some progress?

Mr. President, I yield for a question from the Senator from Arkansas.

Mr. BUMPERS. Mr. President, will the Senator yield for a question?

Mr. WARNER. Yes.

Mr. BUMPERS. Mr. President, the Senator from Virginia makes an interesting point. But my question would be this. He points out that a number of Senators would not be here to vote on this, and it is obviously a very important issue.

But if we were to agree to set this amendment aside, the distinguished chairman of the committee tells me that he would like to go to B-2 and abortion. Those are not inconsequential amendments either. I would assume anybody absent would also like to be here, too, and vote on those. What is the difference?

Mr. WARNER. Mr. President, I agree with the distinguished Senator. Again, the leadership will determine what time today we would vote on such issues as that, or perhaps even tomorrow. I am not going to be presumptuous enough to suggest to either of my colleagues what time the vote occur. But the chairman of the committee said we are prepared now with two amendments to go forward and have them fully debated in accordance with the practice here, stacking those votes at a time when Senators can be present.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER (Mr. BREAUX). The Chair recognizes the Senator from Arkansas [Mr. BUMPERS].

Mr. BUMPERS. Mr. President, I have always done my very best, certainly, to accommodate the majority leader and, to the extent it was consistent, also accommodate the minority leader. But I must say there is also a little underlying thing here that troubles me and that is that it seems to me this is a fairly volatile subject, I guess, but it seems to me that when we win one over here, suddenly the place is going to be brought to a halt, and if other people win, then the Lord's purpose has been served and we move onto something else.

This is not something that the Senator from Tennessee and I just conjured up overnight. This is a very important issue. I do not want to revisit the entire debate, unless we stay on the bill and we will start debating it again. But if you consider the fact that when we go to conference with the House and split the difference on my and the amendment of the Senator from Tennessee and what the House has in their bill you are talking about a 21-percent increase for SDI over 1990. And a lot of people in Government are not getting a 21-percent increase.

In addition to that, when you look at some of the things that Senator PRYOR is going to point out here in an amendment subsequent to this, you are going to find that SDIO is not the most efficiently organized and run organization in Washington, either.

I make those points—and I know a lot of arms are going to be twisted between now and the time we vote on this. That is fair game. I have no problem with that. I just want to make sure that we do not agree to something that is going to jeopardize our ability to keep this amendment. The Senator from Tennessee and I have talked about this two or three times, as I say.

Mr. WARNER. Mr. President, I am perfectly willing to be joined by the chairman to guarantee that it will be the recurring business each time an amendment is concluded either in terms of debate or the statement of a time to vote on a particular amendment. Let us be absolutely candid with one another. The Senator is in the driver's seat as it relates to this amendment. Let us continue to make

progress on this bill, recognizing every right the Senator has preserved, because it will be the recurring amendment. And let us also recognize that you could not have a vote now if you wanted it, and the Senator knows the reason why. Given the practicalities of the situation, the way the Senate operates, let us get underway and have this pending business and lay it aside.

Mr. SASSER. Mr. President, I am not convinced that we could not go forward with a vote at the present time. Indeed, this amendment could be accepted by voice vote. I do not wish to be uncooperative with my good friend from Virginia and the distinguished chairman of the committee, but we have had a vote on this particular matter and this vote that we had Friday is a culmination of a whole series of votes over the years that we have had on this particular issue.

The Senate, I thought, spoke its will clearly on Friday, and my able friend from Virginia concedes that of the eight Senators who were absent, they would be split down the middle on how they would have voted on this particular issue.

Mr. WARNER. Mr. President, I did not concede that. I simply recognized eight were absent, four for each side of the aisle. For the record one or two on the Democratic side have voted on the proposition that I and others advocate.

Mr. SASSER. Mr. President, however you slice it, I do not think the outcome would be changed if all Senators who were absent had been present and voting on Friday. As a matter of fact, I think we all know, through no fault of their own, there are going to be some Senators who cannot be present to vote today, tomorrow, or the next day, because of illness or some other pressing business.

So, if you want to move forward on this bill, and certainly I do not want to be an obstructionist on it, but if we want to move forward on this bill it appears to me that the quickest way to do it is either have an up-or-down vote on the Sasser amendment or accept it by voice vote and move on to deal with the rest of the bill.

The Senate, it appears to me, has spoken on this issue and any delay here—let us be clear about it—any delay here is going to be time used in an effort to try to change the result. And I have no fault with those who wish to do that.

But, as my able friend from Virginia said, we are in the driver's seat at this juncture. Senator BUMPERS and I have worked hard to get in the driver's seat, at least on a temporary basis here. We do not intend to voluntarily relinquish that driver's seat. We may be pushed out of the driver's seat, but we are going to stay in it here until we can get, I think, a satisfactory solution of our amendment.

Now, I would be pleased to sit down and try to work something out here with the distinguished ranking member, the chairman, the majority leader and the minority leader. But I want to be absolutely sure that all of our rights are protected here and the amendment that we succeeded with on Friday is not wallowed around here until it picks up so much hair on it that it become inconsequential and Senators' minds can be changed.

We all know what happens when you have a whole series of votes and we all know what happens when you stack votes. And I, frankly, think that if we want to move this matter forward, the way to do it, I say to my friend from Virginia, is to simply have an up or down vote on our amendment or let us just accept it by voice vote and move on. And then we can cut some hay while the sun shines.

Mr. WARNER. I can quickly respond to my friend.

A voice vote on a matter of this consequence is not in the interest of the U.S. Senate. Second, the time at which the Senate votes, out of custom, is left to the majority and minority leaders. You know the disposition of both of those Senators as of the moment we speak. The Senator is in the driver's seat, I acknowledge that. Painfully, I acknowledge it. Do you want to drive this bill into the ditch or do you want to allow us, in an orderly way, to proceed?

For that purpose, I ask unanimous consent that the present amendment be laid aside without prejudicing the rights of the proponents of the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. SASSER. I object.

Mr. President, I ask unanimous consent that the pending BUMPERS second-degree amendment be withdrawn and the Senate proceed, without intervening action, to vote on the Sasser-Bumpers first degree amendment.

Mr. WARNER. Mr. President, I object.

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

Mr. NUNN. Will the Senator withhold that?

Mr. WARNER. Yes.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I have just been informed by the Senator from Colorado [Mr. WIRTH] that there has been an understanding between the Senator from Colorado and the Senator from Indiana [Mr. COATS] on a motion to strike the abortion provision in the bill and they would be glad to have a time agreement of 1 hour. I have asked them to write that out.

So I wanted to inform my colleagues if we did set aside this amendment, we could complete the debate on one amendment, the abortion amendment, within an hour, an hour and 15 minutes, and we could come right back to this amendment and nothing would be lost.

So I hope that we could at least consider doing them one at a time so that Senators would know, and they would be protected in the sense that they would be only undertaking the unanimous consent in that respect and we would revert right back to their amendment after that. That is not the same as just setting it aside.

I have asked the Senator from Colorado and the Senator from Indiana to put that in writing so we would have a unanimous consent to be propounded, but that is the nature of the unanimous consent if it is propounded, and I ask the Senator from Tennessee and Senator from Arkansas and the Senator from Virginia to at least contemplate that.

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

Mr. NUNN. Yes.

Mr. BUMPERS. Does the Senator know that that would be agreed to on the other side of the aisle?

Mr. NUNN. I have been told that he has an understanding with the Senator from Indiana, who is the person who would be proposing the motion to strike.

What we have in the bill is a provision, sponsored by Senator from Colorado, giving overseas uniformed military members and their dependents the right to have an abortion in military facilities on a reimbursable basis where there is no other facility available in that country. That would be the subject of a motion to strike by the Senator from Indiana, to take the provision out. It is my understanding it would be agreed to on both sides and there would be 1-hour time limit, equally divided.

I am not propounding that now. I am simply discussing it and serving notice.

Mr. WARNER. Mr. President, in response to the question, that is the request in line with what I have been endeavoring to do this morning. Therefore, I would recommend it to my leader, if I can check with him momentarily.

But I draw to the attention of the Senate that the unanimous-consent request would have to be adjusted so as to allow flexibility of the respective leaders to determine if a vote would occur in 1 hour from now.

Mr. NUNN. I understand. I would have to check with Senator MITCHELL on that also.

I yield to the Senator from Maine.

Mr. COHEN. Let me indicate to the Senator from Georgia that I am prepared, some time during this morning or early afternoon, to move forward on my amendment dealing with nuclear testing. I think we could have a reasonably short debate, given the extensive time we had on that debate last week. So any time that the moment presents itself, I am prepared to move forward.

Mr. DECONCINI. Will the Senator yield?

Mr. NUNN. I will in just a minute.

It would be helpful if the Senator from Maine could check with the Senator from Oregon [Mr. HATFIELD] and maybe check with Senator MITCHELL's office to determine if there would be any objection to entering into some kind of a time agreement on that debate also.

I yield to the Senator from Arizona.

Mr. DECONCINI. I want to tell the Senator from Georgia that I regret to have to inform him, but after Friday, working about 12 hours with a number of Senators on both sides of the aisle regarding the resolution on Bosnia-Hercegovina, we have not been able to reach a time agreement nor have we finally reached the language.

So I am prepared to go after this amendment and intend to do anything I can today to get this amendment before the floor. It is not my interest to debate it forever, I would enter into any time agreement, 1 hour, 2 hours to a side and to permit it to be amended. It does not have to be just the amendment I will offer, presumably, with the Senator from Connecticut. I feel very strongly today is the last day we really have to debate this issue, amend it, and do whatever we want to do with it.

I hate to spoil the Senator's plan today for the Senator from Tennessee. I support the position of the Senator from Tennessee to go on and get a vote on this. And that is what, to me, is the best interest, to move this thing instead of having to lay it aside.

Mr. WARNER. Mr. President, if I could ask the Senator from Arizona a question. Obviously, this amendment has been the subject of a lot of attention on both sides. I originally objected to the 1-hour time agreement, I believe on Thursday, feeling that the Senate needed more time.

I would hope circumstances would permit that I, at some point, could join the distinguished Senator from Arizona, because this is an important signal the Senate would be sending.

But I wonder if he would not revisit the decision that it has to be today for the following reason: Tomorrow the Senate Armed Services Committee will have two panels of witnesses who are recognized experts worldwide. Indeed, one of the witnesses is General McKenzie, who has most recently commanded the U.N. forces in that area.

This would enable the Senate, I think, to make a better judgment as to the complexity of this situation. All of us agree, President Bush time and time again this weekend expressed the complexity of the situation. I would feel better if the Senate was given the opportunity to become fully informed on this measure, at least better informed, and that perhaps that vote could take place tomorrow after the hearing. I presume the chairman and I would then be able to acquaint the Senate with the findings—not necessarily the findings, but the evidence that is brought forth.

Mr. DECONCINI addressed the Chair.

Mr. NUNN. Mr. President, who has the floor?

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

Mr. NUNN. Mr. President, I will be glad to yield.

Mr. DECONCINI. I thank the Senator from Georgia.

Let me tell the Senator from Virginia, I appreciate that offer. There are two concerns.

One is the United Nations may move today, the Security Council of the United Nations may move today on something. I would like to do what I could to see that this body at least had a chance to debate it, hopefully to vote on some resolution.

But notwithstanding that, understanding the position of the Armed Services Committee and the sincerity of the Senator from Virginia wanting to know more about it—if in fact we got a time certain to vote tomorrow, I would certainly consider that. And the time—I guess it would also have to have a time certain for debate on our two—what have you. But not being able to get that, and I know of no other way to confront this issue, and I regret having to do that, I see no other way but attempting to find some pressure point this morning or today or tonight that we could at least get some debate on this.

If somebody wants to filibuster, we can catch on real quick. It is not my interest that we spend days on it because it defeats the purpose of the resolution.

Mr. NUNN. Mr. President, can I say to my friend from Arizona: He has been patient, he has been understanding, he was anxious to get his vote on Friday and we were not able to do that. It would be my hope that the parties on this could have a meeting off the floor, could sit down and frame some kind of time agreement on the debate, a time certain to vote—perhaps tomorrow, as the Senator from Virginia has expressed, with the right of 1 second-degree amendment.

If we could do that, you would have a time certain, you would have absolute knowledge that the parties who do not agree with the wording as it now stands on the amendment would have a right to vote on that with a limited time on the second-degree amendment and with a limited time on the amendment of the Senator from Arizona, and then we could move forward.

I would say to the Senator from Arizona I understand the desire for a pressure point. The curious thing is I am not sure whose pressure is being pushed here, in terms of an objection on the motion to set aside this amendment. Because as long as this amendment is pending the Senator from Arizona cannot get his amendment, and as long as this amendment is pending it is very likely we are not going to have any time agreement at all.

But I would say in comforting my friend from Arizona, he is in no way disrupting a well-laid plan that we have all laid out here. We do not have a plan. There is no plan agreed to. So he can comfort himself with the assurance he is not disrupting anything that would otherwise be smooth.

Mr. DECONCINI. Will the Senator yield?

Mr. NUNN. I will be glad to yield.

Mr. DECONCINI. I just want to respond to the Senator. The Senator was very helpful Friday. He did everything he could to attempt to facilitate and adopt some consideration from the Senator from Virginia and the majority leader and six or seven Senators here, ranging from myself to experts in foreign policy.

Quite frankly, everybody thought every moment around the next turn we were going to find something we could agree on. We cannot. I think that is clear, although I am never adverse and I never say never to sitting down off the floor, or on the floor, and talking about it again.

My concern is that if you proceed with the amendment of the Senator from Tennessee, that is well and good, that is what I would like to do. If you are going to set it aside, I want to be part of any setting aside. I do not say I would not agree to an abortion amendment or something but I would like to be part of that because I may be able to build in some time for the amendment of the Senator from Arizona. I thank the Senator for his consideration.

Mr. NUNN. I understand the position of the Senator. I have not propounded that unanimous-consent agreement. We are just simply discussing it. But I would say to the Senator, if he has concluded, there is not going to be an agreement on the substance. What I suggest is there be an agreement to vote on his resolution and on a second-degree. Then the body, the Senate, would be able to reflect its will on both of those—if you can get a time agreement. I do not know what can be more fair to both sides.

Mr. DECONCINI. I have no problem today. Friday I did, but today I have no problem, although I expressed that Friday also, and I believe at the point in the day I was exasperated, I have no problem having it amended. It was my hope to have a vote on everything I could agree to, or Lieberman-Dole, or anybody else who gets on it, and I am prepared to let anybody offer an amendment. What I want to do is get a resolution before this body, have some debate on it, let somebody second-degree it, water it down or toughen it up, and then have a vote on it. That is my interest.

Mr. NUNN. Perhaps the Senators from Arizona and Virginia could have discussion on that and then have some sort of framework on this matter.

Mr. WARNER. I very much appreciate the willingness to consider the importance of allowing the Senator to become better informed as a consequence of a very important hearing tomorrow morning. I then urge we focus on perhaps a specified time tomorrow afternoon, subject to other business of the Senate, at which time we would have a time agreement, get the amendment up, it would be subject to such other amendments and brought forward, and we have action here in this body.

Mr. DECONCINI. Let me say to the Senator, I am prepared today to accept a unanimous-consent agreement that we would vote on this resolution, the Lieberman-DeConcini resolution, and there would be permitted to be a second-degree amendment before we voted on it. And to vote on it at 2 o'clock tomorrow afternoon or 4 o'clock tomorrow afternoon. I am prepared to do this today as reluctant as I am with the Security Council meeting today because I think it so important we do that. So I am willing to go that far, even put it off another day. But I am not willing to stay around here all day and take up a lot of other amendments when this amendment cannot be considered or a time set tomorrow.

Mr. WARNER. Mr. President, we will work this out. But I would have to say in fairness I would not allow it to be voted on today. I want to make certain this body has the opportunity to be fully informed about the complexity of any military operations that could become involved as a consequence of our resolution, the U.N. resolution, or whatever may take place.

I want to see the American people have as full a story as they can.

Mr. DECONCINI. If the Senator will yield?

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

Mr. WARNER. That objection would be withdrawn the moment the Armed Services Committee has concluded.

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

Mr. NUNN. I yield.

Mr. DECONCINI. I just want to say if the Senator from Virginia is going to dig in his heels, we will not vote on it today, then the Senator from Arizona is put in a very difficult position. I hope he understands, and he will have to do whatever he can to attempt to get it up today or an agreement for tomorrow. I do not like doing that because I understand the interest of the Senator from Georgia in moving this bill, but I am stymied. I do not know where to go. I cannot get anybody who wants to talk about a time agreement or time certain. If the Senator from Virginia can facilitate that, I know the Senator from Georgia already attempted to do that most of the day Friday. But I am in a difficult position now, wanting to get some debate and vote and I want to do it today. I am willing to extend it to tomorrow under some time certain that we would vote on it. I will not bother the Senator anymore.

Mr. WARNER. I will work with the Senator to accommodate him.

Mr. NUNN. Mr. President, let me say to the Senate right now, forgetting the broader scope of things and world events and even the next 4 hours and even the next 12 hours; just getting down to the next 1 hour which is about the scope of our capacity here, I think at the moment, could we agree that for the next 1 hour instead of having a quorum call for an hour we would have an abortion amendment for an hour with the status quo reverting exactly where we are now, everybody would have the same rights they have right now? We would be setting aside one amendment, pending amendment, 1 hour for a limited purpose, abortion amendment, motion to strike; there would be a time agreement. It seems to me our choice is narrow. We can do nothing for an hour or we can do something for an hour.

That is not going to solve the bigger problem. This is not a major dose of medicine but it is a minor prescription for taking care of at least the next hour.

Would that be agreeable?

Several Senators addressed the Chair.

Mr. WARNER. If I might address the chairman?

Mr. NUNN. I yield to the Senator from Virginia.

Mr. WARNER. We are not entirely sure the Senator on this side who would be active on that debate is ready at this moment. I suggest to the Senator from Georgia we have a brief quorum call within which time we ascertain precisely when Senators on both sides are ready to address this issue, and precisely draw up a unanimous-consent request which protects the rights of the Senators from Arkansas and Tennessee and, indeed, begins to accommodate the important interests of the Senator from Arizona.

Mr. NUNN. I yield to the Senator from Tennessee.

Mr. SASSER. Mr. President, I believe there is a pending unanimous-consent request, is there not?

Mr. NUNN. I believe that was objected to.

The PRESIDING OFFICER. There was no formal request, the Chair would state to the Senator from Tennessee, at the moment.

Mr. WARNER. Mr. President, under those circumstances, I suggest the absence of a quorum.

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

Mr. NUNN. I believe I still have the floor. Does the Senator from Tennessee desire I yield further?

Mr. SASSER. No. Just let me say to my friend from Georgia that I would not be agreeable to setting aside the pending amendment in order to take up a subsequent amendment on the armed services bill, with no time certain having been set for a vote on the Sasser-Bumpers amendment.

I understand the majority leader is here at the present time and it might be the better part of valor to secure his counsel on this issue as to how to proceed. As I understand my friend from Arizona, he has now lodged an objection to setting aside the pending amendment, if I am correct.

Mr. DECONCINI. That is correct.

Mr. SASSER. Mr. President, it appears to me we are at an impasse. We can either move forward on the pending Sasser-Bumpers amendment or we are at a loss for business to take up.

Mr. NUNN. Mr. President, I will try one more effort in order not to simply waste the Senate's time for the next hour because that is apparently where we are heading.

The Senator from Arkansas [Mr. PRYOR] has an amendment relating to SDI. Without setting aside the amendment of the Senator from Tennessee, would it be agreeable to have the Senator from Arkansas come over and at least debate another amendment, or do we want to simply waste the next hour in an effort to preserve everybody's perfect rights?

The problem is right now everybody wants the pressure point but there is nobody being pressured. Leverage only works if you have a leveragee. And there is no leveragee except the Senate itself in terms of moving.

The Senator from Virginia has made it clear that there is going to be no vote on the amendment of the Senator from Tennessee. The Senator from Arizona understands full well there can be no vote on the resolution of the Senator from Arizona until this amendment is disposed of. We can take care of no other business until this business is disposed of.

So here we are. We can put in a quorum call or we can make speeches we made last week in case somebody out there in the United States has not heard them.

Mr. WARNER. Mr. President, we are ready on this side to go forward with the abortion amendment as of now. If the Senator so desires to have a stipulated period of time within which that amendment should be debated and then consultation with the leaders as to what time there will be a vote.

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

Mr. BUMPERS. Will the Senator withhold for just a moment?

Mr. NUNN. Yes.

Mr. BUMPERS. Mr. President, I just make this observation to my good

friend from Virginia. It would be this: If we were to vote on the Sasser-Bumpers amendment and we prevailed, that amendment is still open.

My amendment, for example, is a second-degree amendment to the Sasser amendment. If we vote on it and we prevail, that amendment is still open to amendment, and even if you set Bumpers-Sasser aside, you have all the time in the world to offer all kinds of amendments to try to dilute the effectiveness of it. But you do not have to be a rocket scientist to understand that if we start setting our amendment aside and you start doing the bill, the first thing you know is we come to the conclusion of the bill and the Sasser-Bumpers amendment is still out there and then the filibuster starts.

We do not have 60 votes to kill a filibuster. Then the pressure placed on the Senator from Tennessee and the Senator from Arkansas in almost irresistible. You either drop this whole thing or we have a continuing resolution, which is a sorry resolution.

So my whole point is, and the point the Senator from Tennessee and I have been making all morning is, we won this one fair and square. Under the Senate rules, we took a vote and the motion to table our amendment was defeated by a six-vote majority. There may be enough pressure on that side, you may get enough arms twisted out of their sockets, to reverse that. That is your prerogative.

But what we would like to see is a vote on our amendment, do it right now, and as I say, if we prevail, it is not the end of the world. You can offer all kinds of amendments to try to undo it. But I do not understand the hesitancy in voting on it, that is what the Senate is supposed to be doing: Voting to pass or defeat.

Mr. WARNER. Mr. President, I may not be a rocket scientist but I have climbed a few rocks and I know when you fall down, it is difficult to get back up and start again. We will not on this side be able to vote on the SDI amendment at this time, plain and simple.

Mr. DECONCINI. Will the Senator yield?

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

Mr. DECONCINI. Will the Senator yield?

Mr. NUNN. I will yield to the Senator.

Mr. DECONCINI. Do I interpret the position of the Senator from Virginia that we will not vote today on the Sasser-Bumpers amendment?

Mr. WARNER. Mr. President, that is the decision the leadership has to make as to when this institution will vote on that, but it is my understanding that most Senators can be accommodated with this important vote if it were to take place tomorrow sometime.

Mr. DECONCINI. Mr. President, if I still have the floor, talk about pressure points, and I am taking nothing away from what I said about pressure points. Here we have the Republican side of the aisle refusing to go ahead on a pending amendment and have a vote. Talk about shutting down this place—there is no reason that the Senator from Tennessee ought to not proceed. It is not like we are waiting for a hearing to be held in the Armed Services Committee on SDI, or there is some committee that is worried about jurisdiction. We have had all the hearings. We have had all the debate, and they won the first vote. And now the other side of the aisle says, hey, we are not going to go ahead.

The Senator from Georgia is stuck. The distinguished chairman has to try to find somebody to lay over the amendment, and the pressure is on these people. The pressure should be over there. That is what this is getting down to. There is not even a legitimate argument that we should not vote on the amendment of the Senator from Tennessee today.

On mine, though, I disagree with the argument, at least there are planned hearings on the Bosnia-Hercegovina problem. Somebody has to call it like it is, as difficult as it is, I say to my distinguished friend from Virginia. He knows how much I respect his judgment and some of that is not his doing, I suspect.

But to indicate to us that we are just not going to vote on this is really foolish. I only suggest to the Senator from Georgia, maybe we better put this whole thing aside and go to the tax bill or an appropriations bill and see what we can do because it appears to me, as long as the Republican side is saying we are just not going to vote on the pending amendment—talk about a pressure point, there it is.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I want everybody to know that I would like to get this bill passed, but I understand we will be back here in September. It is fine with me if we come back and spend a week or 10 days on it. I just hope everybody understands when we get around to the first of October, when the majority leader is under great pressure from us to go home, people will understand and look back to August. This is when we decide to get out of here. If you want to spend 10 days in September, that is fine.

I agree with the Senator from Arizona, I see no need to stay on this bill today or tomorrow if we are not going to do some business. If we are not going to have votes and if we are not going to have amendments disposed of, we are making no progress at all.

In a few minutes, when I meet the with the majority leader, it will be my recommendation that unless something changes that we go on the tax bill and we understand this bill is drawn down until the majority leader decides to bring it back. I hope he will not do that until we seem to have more cooperation on both sides than we do not.

Let me just suggest again, without looking forward to September, a week 10 days or 10 hours, that the Senator from Arkansas [Mr. PRYOR] is on the floor. He has an amendment on SDI, the very subject we are talking about.

While under the present situation it could not be the pending business because the present amendment has not been disposed of, perhaps we could begin the debate on the amendment of the Senator from Arkansas [Mr. PRYOR] and at least go ahead and begin that debate which is going to occur at some point during the course of this anyway. We, therefore, would not be wasting time. It seems to me that would be the only suggestion I have at this point.

Mr. President, I yield the floor.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, I want it to be crystal clear that the Senator from Tennessee and the Senator from Arkansas are not delaying the forward progress of this bill. We have stated this morning that we are ready to go to a rollcall vote, up or down, on the Sasser-Bumpers amendment that was adopted by a convincing margin Friday, at least the motion to table failed by a convincing margin on Friday.

The Senate has expressed its will on this particular issue. It expressed it, I thought, convincingly Friday. We are willing to go forward and finally dispose of that amendment, and then join with the distinguished chairman and the very able ranking member to try to move this bill forward as expeditiously as we can.

But I do feel, Mr. President, it is not an entirely reasonable request to ask myself and the Senator from Arkansas to set aside our amendment that we worked so long and hard on and let various and sundry amendments come up later and this very important amendment simply gets shunted aside. I would like very much to accommodate my friend from Georgia as well as my friend from Virginia, but it is very easy to move this bill along. We do it simply by disposing of the pending amendment and then taking up the subsequent amendments in order as we agreed to in the unanimous consent Friday.

Mr. President, on another matter, I am advised that today is the birthday of the distinguished staff director of the Armed Services Committee, Mr. Arnold Punaro, and on behalf of myself and his counterparts on the Senate Budget Committee, we want to wish him a happy birthday.

Mr. NUNN. Mr. President, Mr. Punaro cannot speak on the floor of the Senate, but he wanted to convey first his expression of gratitude to the

Senator from Tennessee, and certainly he would like me to express there are certain presents he would like to get from the Senator from Tennessee in terms of expediting this bill. But he does appreciate his thoughtfulness.

Mr. President, I see the Senator from Arkansas [Mr. PRYOR] on the floor, and perhaps we could take up his amendment in terms of debating it. From what I understand of the amendment, I am going to be in favor of the amendment. But I have not heard from the Senator from Virginia and others about it.

Mr. WARNER. Mr. President, we would be perfectly willing to proceed with that amendment reserving the right to have a second-degree amendment to the amendment of the Senator from Arkansas [Mr. PRYOR].

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

Mr. BUMPERS addressed the Chair.

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

Mr. NUNN. Mr. President, I will yield to the Senator from Arkansas [Mr. BUMPERS].

Mr. BUMPERS. Mr. President, I want to observe that certainly there is nothing to preclude my good friend and distinguished colleague from Arkansas from proceeding to debate his amendment.

Mr. NUNN. Mr. President, if the junior Senator from Arkansas desires to be heard, I would, of course, yield the floor so he can be recognized. If not, I will suggest the absence of a quorum, Mr. President.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I have not been privileged to listen to the debate this morning. I just got to the office, turned on the monitor, and saw basically what was happening.

I will be very glad to discuss my amendment, understanding there will be no vote until we have worked out some agreement on time or whatever. But I do not, Mr. President, I say to my distinguished friends from Georgia and from Virigina, in any way want to jeopardize the position nor the strategic concept of how the Sasser-Bumpers amendment is going to be ultimately voted up or down. I do not want to compromise their position in any way.

I would be glad to begin debate on my amendment in a few moments but, once again, I do not want to compromise my friend from Arkansas and the Senator from Tennessee.

Mr. BUMPERS. Will the Senator yield?

Mr. PRYOR. I will be glad to yield.

Mr. BUMPERS. Mr. President, we would object to our amendment being set aside so the amendment of the Senator from Arkansas could be offered, but we certainly not only would not object but encourage him to begin debate on the amendment. Frankly, I think his amendment validates the rollcall vote Friday evening on SDI. At least it goes a long way toward it. We are more than happy to hear his debate.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, also, I would like to add that I want to participate in assisting the Senator from Arizona [Mr. DECONCINI] in whatever effort he is involved in to have brought to this floor the resolution on Bosnia.

Mr. DECONCINI. Will the Senator yield.

Mr. PRYOR. I will be glad to yield.

Mr. DECONCINI. I thank the Senator from Arkansas.

I know he is a strong supporter of the amendment the Senator from Connecticut and I are trying to get before the body. As the Senator from Arkansas knows, there is a stalemate here, and we are trying to locate a pressure point so that we could move this bill along. Of course, what the Senator is suggesting in debating his amendment is a very worthy cause, but I am afraid it is not going to find the pressure point. At least it takes some time and we get the eloquence of the Senator from Arkansas and his knowledge of the amendment. I hope in the spirit here we will see some pressure put on the other side of the aisle to let the Senator from Tennessee have a vote on his amendment.

Mr. NUNN. Mr. President, if the Senator from Arkansas will yield, I think it is a good suggestion. I believe the amendment of the Senator from Arkansas is not simply taking up time, though; I believe it is an important amendment in its own right, and we should consider carefully what he has to say.

I suggest we proceed in this direction. I would also say in the search for a pressure point, I hope everyone will appreciate that in the beauty of the Senate rules, the beauty and all-encompassing nature of the Senate rules, all of these amendments are in order to the tax bill. You do not have to have a military matter up to put an SDI amendment on it. You can do that on a tax bill. We can have an abortion amendment on the tax bill. I understand the Senator from Ohio [Mr. METZENBAUM], has an amendment relating to homosexual rights and that will also be eligible for the tax bill.

We have amendments relating to Cuban democracy which would be eligible for the tax bill.

Perhaps Senator BENTSEN will be able to handle these things with more adroitness than the Senator from Georgia.

Again, if we do not make progress, it would be my recommendation to the majority leader in just a few minutes when we meet that we go off this bill and go to the tax bill and let Mr. Punaro go home and celebrate his birthday with his family. That would be my recommendation. So it is going to be up to Senators. But I can assure them I am prepared to move off this bill and on to something else.

I thank the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I have been used as a filler many times before, so I do not think I would mind being used as a filler a little bit this morning. It is kind of a nice morning in Washington. If we are looking for a pressure point, and if the distinguished chairman of the Armed Services Committee is talking about bringing up abortion and Bosnia and SDI on the tax bill, I imagine that pressure point would be walking through that door in about 4 minutes, and that would be the distinguished senior Senator from the State of Texas, who would be, of course, managing the tax bill this afternoon beginning I assume at 1 o'clock.

Mr. President, also, I am a little bit—not concerned. I am very pleased, I might say. But it also concerns me that the distinguished Senator from Georgia, the chairman of the Armed Services Committee, has just stated he is going to support my amendment. I have offered a lot of amendments on the floor, but I do not know that he has ever supported one of my amendments. I am fearful that I have not asked for a large enough cut in a particular area. So I hope something is not too badly influenced or wrong with my amendment.

Mr. NUNN. I will be glad to review it again.

Mr. PRYOR. If the Senator from Georgia would give me a few minutes, I might have brought in a couple of charts that I need. I am going to need those before I can begin the discussion of the amendment. I might say, if any Member of this body wants to interrupt me at any time during my filler period, I would certainly be glad to yield to them.

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

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

The bill clerk proceeded to call the roll.

Mr. PRYOR. 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. PRYOR. Mr. President, may I have order in the Senate Chamber, please?

The PRESIDING OFFICER. The Senate will please be in order. Conversations will cease in the Senate.

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

Mr. President, all day Friday, and again today we are debating at great

length the appropriate funding levels for star wars, SDI, for the fiscal year 1993. On Friday we heard a lengthy debate and, I must say, a very good debate on whether or not we should spend $3.3 billion or $4.3 billion on SDI. We heard debate on whether or not the threat still exists that justifies spending billions on a strategic defense program. We heard about the collapse of the Soviet Union, and our long-neglected domestic needs. We heard about Saddam Hussein's growing nuclear threat in the Middle East and elsewhere. We heard from the Senators on the floor on Friday who asked, and I think very eloquently, if we could truly today afford to build this costly star wars program. We heard from others who asked if we could afford not to build and to go forward with SDI.

Mr. President, whether we spend $3.3 billion or $4.3 billion on star wars this year, there is a simple fact remaining, that we are still going to have this program or some program at least for another year and probably in the out years to be certain.

A large sum of money is going to be spent during this next year, in the out years, and my question this morning that I raise is how is this money to be spent?

When we drive into the service station and ask the attendant to fill our gasoline tank in our automobile with gasoline, or do it ourselves, at least we know that a certain portion of that dollar we are spending—or whatever the cost of the gallon of gas might be—that at least a portion of that money we are expending for that gasoline is going toward building a highway upon which we ride and upon which we travel.

But how is the money being spend today, and how has it been spent for star wars in the past several years?

It appears that for some reason we do not have a very good monitoring system to know where those dollars are being spent, and who is the recipient of those dollars.

This is the question that was explored recently at a Governmental Affairs Committee that I chaired just a few weeks ago. This hearing explored the role of contractors, Mr. President, in the star wars program.

Specifically the hearing took a closer look at the SDI initiative organization which we will refer to and which is commonly known as SDIO, the entity that manages the star wars program, to determine who is actually running this office. Who is making the decisions as to where these billions and billions of dollars are being spent?

Very disturbingly, this hearing revealed that we have contracted out many of the most basic management functions in the support service of contractors. These are the private sector companies, Mr. President. These are the private sector individuals who provide professional, administrative, and management support services, special studies, as well as analysis.

Mr. President, I rise today to propose an amendment that would limit to $100 million the amount that SDIO, the administrative office, could spend on these support service contracts for fiscal year 1993.

You say, well, that seems like an awful lot of money to spend for private service contracts, for consultants, and for management services and administrative support. Mr. President, this is an enormous amount of money, $100 million. But should we adopt this amendment, we will be capping at $100 million. If we do not, we will be expending $160 million to $200 million for administrative support in the SDIO administrative office.

At our Governmental Affairs Committee hearing on SDI, Ambassador Henry Cooper, who is Director of SDIO, testified that it costs about one-third more to contract out for these services than if the work were performed by Government employees. His remarks, I think, were consistent with the finding by GAO and the DOE, Department of Energy, and Department of Defense Inspectors General, who indicated recently that contracting out for support services cost between 25 percent more and 40 percent more than performance by the Federal staff.

Ambassador Cooper also said something very interesting, Mr. President. He was testifying there that morning, and he testified that the monthly reports submitted by SDIO support service contractors, to justify their expenses and to justify the progress that they are making, was "puffery." This was his word, his description, not mine.

Mr. President, the American taxpayer should not have to foot the bill for "puffery" or for contracts inflated by as much as 40 percent.

Mr. President, if I might, I would like to direct your attention to this particular chart that I have on the floor of the Senate. We see the red lines, which indicate private contractors in the main general office of SDIO. The blue figures and lines represent the traditional Federal Government employee.

Our staff went out to the SDIO and spent several weeks researching how these dollars were being spent, who was making the decision, and exactly what the contractors in the SDI Office were actually doing, what work were they performing, and what mission were they challenged to accomplish.

Mr. President, first, we will see that at random days beginning January 8, January 15, on through February 26, where we just went out and did a random check, and we found that about 60 percent of all of the work force in the SDIO administrative office were not Federal employees; they were contractors. Many times, they were sitting side by side with the Federal employee. And we might just imagine what the morale factor might be, especially if that private contractor was making 25 to 40 percent more in salary than the Federal employee.

This amendment that I am offering this morning, we should realize, is not about whether we should continue or discontinue SDI. This amendment tries to get a handle, once again, on who runs the SDI program. These contracts that we are talking about are not for advanced research, they are not for technology development. The support service contractor performs a basic management responsibility that I believe should be performed by Federal employees, not necessarily or only because it would cost less, but because it would help avoid any potential conflict of interest.

Mr. President, also, we would like to state, in addition to showing, that 60 percent of the work force of SDIO is today the private contractor, the consultant. Also, we would like to demonstrate that many of these consultants are making $100 an hour, or $800 a day.

I have another amendment that I am not offering at this moment, but I will be offering it at the appropriate time, perhaps on this particular DOD authorization bill. That amendment addresses these contractors who get these millions and millions of dollars worth of private contracts from the SDIO program, and do we have a licensing system for them to find out who else they represent? How do we police the potential conflicts of interest? We have no real system except, as the Director of SDIO, Ambassador Cooper, maintains, we have a self-policing mechanism whereby the contractors themselves make certain that they have or at least state they have no conflict of interest.

Mr. President, I have another chart. This chart is somewhat, in my opinion, very alarming. I would like to pose the question to my colleagues: If we write a letter to SDIO, to the office, relative to a star wars mission or to a star wars contract, or to a star wars program of any sort, who answers the letters that Senators and Congressmen send to SDI? Answer: Contractors. Not Federal employees. Not necessarily Ambassador Cooper or his staff. But private contractors are today fielding and answering our letters.

Who is preparing the questions and answers today, Mr. President, for congressional testimony on the 1993 budget? The answer: Private contractors, who have most to gain, who have dollars to make, and who, in my opinion, have a direct conflict of interest.

Who has prepared letters for the signature of SDIO Director, Ambassador Cooper, when Ambassador Cooper writes us or other agencies of government? Answer: Private contractors.

Who represents the SDIO during a GAO audit as SDIO's corporate mem-

ory, Mr. President? Not the Federal employee who might have been there many years, but, once again, the private contractor.

Who is assisting the SDIO management staff as a stand-in during the project manager's vacation? When the Federal employee goes on a vacation, who is the stand-in, the substitute? The answer, Mr. President: It is a contractor or a consultant who many times is making $800 a day.

Mr. President, last, but certainly not least, let us look at this expenditure for a moment, the expenditure of thousands and thousands of dollars to a private consulting firm near Washington, DC, to try to look at different options on how the unobligated funds in 1990 and 1991 and through the 1997 budgets can be expended. In other words, Mr. President, we have not spent all the money in SDI programs. We have to hire a private consulting company to show us how we spend these dollars before the fiscal year ends.

Mr. President, what else do these private contractors do? These private contractors today are developing new military descriptions for the SDIO reorganization. In the SDI program today we are seeing the contractors have prepared all internal security directives such as the SDI security policy directive, foreign disclosure, foreign visits, and accreditation and information security policies.

All of this work, Mr. President, is being done not by the institutional Federal employee but once again by the consultant and the private contractor. Does that private contractor have security clearance? We are not certain. Does that private contractor have a license to operate or engage in certain missions for the Federal Government? We are not certain, Mr. President.

I do not have to have a license to be a contractor. I do not have to have a license to be a consultant for the Federal Government. To be a barber on the Air Force base in Little Rock you have to have a license. To be an architect you have to have a license. To be a physician, or a dentist, for the military, for the Government, you have to have a license, Mr. President, but to be a consultant and participate with your arm deep in this open money sack drawing money from the SDI program no license is required; no basic capability requirement is asked of you.

And very few times I would say, Mr. President, are these contracts in my opinion actually competively bid. They maintain that most of them are competitively bid, but I think to the contrary.

Mr. President, also what else do these contractors do? They are preparing congressional responses on program funding support. They have prepared a letter from the director to Congress. They have assisted SDIO in preparing a brief to the congressional overview committee on what SDIO has done in the last 6 years. In other words, Mr. President, the contractors themselves, the consultants themselves, have basically been stating to the Congress in policy directives as to what they have been doing and what their stewardship has amounted to.

We can rest assured as to the millions of dollars we are spending for these contractors they are going to give themselves an A-plus. They are going to give themselves a grade that does not require any further scrutiny, because it is going to be a perfect score on the test, because they are grading their own test results.

Now, Mr. President, what has happened here just since 1989? This is by the way 1989, when President Bush came into office and President Reagan had just left. This has nothing to do with Democratic or Republican politics or Republican Presidents, who is in or who is out. But, Mr. President, the fact is simple. It is very simple. We have seen an overall percentage change upping the percentage of private consultants and private contractors in the SDIO program for a 46-percent increase just since 1989. In 1989, $111 million of these dollars were expended for the private contractor and the private consultant. Today, Mr. President, we are seeing a request for $162 million for private consultants and contractors to help run the SDI Program and to help set the policy for the SDI Program.

Mr. President, once again my amendment would take the usage of private contractors and consultants no longer to the $162 million figure: it would take it down and cap it at the $100 million figure that we were having some time in the year perhaps of 1988.

Mr. President, there is another whole issue with regard to SDI that I would like to discuss at this time. I would like to discuss who is actually making the decisions as to how these billions of dollars are being expended, and this is not a very pretty chart. It is all in black and white. But I can tell you what it represents.

What this chart represents is something that I would very, very clearly call, and I hate to even use the word on the floor of the U.S. Senate—what this chart represents is incest. When I say "incest," Mr. President, I mean incest to the extent that this particular advisory board composed of roughly 15 individuals and individual companies who advise the Director of SDIO and the other officials of SDIO.

Mr. President, this advisory commission consists—and we have just taken some examples. Let me back up a moment, Mr. President. Who is the advisory Commission that tells the SDI Program how to expend these billions of dollars? Well, one of the participant-advisers is Booz Allen, another is Nichols Research, the other is McDonnell Douglas, and the other is Lockheed. They are members of the advisory committee. How are members of the advisory committee doing these days with SDI? Last year, one of the advisers, Lockheed, did pretty well. They got $393 million out of the deal. McDonnell Douglas did pretty well. They are on the advisory board. They are advising the SDIO staff how to spend the money. They advised themselves to get $308 million.

Nichols Research, I do not know who Nichols Research is, but they have done pretty well. They are sitting here on the advisory committee, and last year they pocketed a nifty $68 million from their activity. Here is Booz, Allen & Hamilton, they are throughout the entire system of Government. And you think, well, they did not get all that much out of sitting on the advisory board. They only got $6 million last year. But we are going to talk about them a little bit later, because they are going to show up down here in the other part of the chart.

Mr. President, here are the R&D contractors for SDIO. Here is McDonnell Douglas. Here they are again. They had already gotten $308 million. And now they are down here in the R&D contracting business. They advise up here as to where to expend, and here they are getting some $308 million as an R&D contractor.

SDI support contractors. Here is Booz Allen. Well, Booz Allen is getting another $2.2 million last year for their advice and consultation. Nichols Research, here they are, Mr. President, up here on the advisory committee member. Nichols Research pocketed another $9.8 million. So they are doing pretty well. They are advising how to spend the money and here they become a support contractor.

Again we find the SAIC subcontractors. Well, now here, Mr. President, is where the money really is. Booz Allen. Here is Booz Allen. They are into another $2.2 million.

Here is Nichols Research, once again an adviser, a research support contractor, and now a subcontractor for some of these other companies. Nichols Research gets another $304 million, in addition to the $68 million here and the $9.8 million. Here they are getting another $304 million as a subcontractor to these other companies here.

McDonnell Douglas. They are a fine company, Mr. President. They do a lot of good work. But they have another $100 million down here. I think that is certainly something that is worth their time and effort.

Here is Lockheed, once again. Lockheed is sitting here on the advisory panel. They have gotten $393 million here. Now they get another $115 million as a subcontractor.

So, Mr. President, when I label this whole system incestuous, it is incestuous, because the same people, the same companies that are advising how to

spend this money they are the recipients of the expenditure of that money.

I do not know why we have not brought this fact out before. I do not know why for the life of me, Mr. President, we have not been able to basically go over to the SDIO Office in the past, look at how these decisions are made, look at who these companies are recommending these dollars and how these dollars are being expended. I do not know, Mr. President, for the life of me, why we have not in the past done a better monitoring job on how the decisionmaking functions have been established within the SDIO Office.

Mr. President, also, we had another bout with the SDIO Office and that was when we talked about the travel of some of these contractors and some of the Federal officials who worked for that particular SDI Program.

I am going to put those travel figures in the RECORD. I may talk about them a little more.

As we know, I am serving as sort of the time-filler this morning until we decide what else to do here on the Senate floor.

But I am going to talk about perhaps some of these companies who travel at the Government's, the taxpayers', expense, and we are going to be discussing those as we discuss this particular amendment.

Mr. President, I see my distinguished friend, Senator COHEN from Maine. I have been talking here a lot longer than I normally talk.

Mr. President, for the moment, I am going to yield the floor and perhaps the Senator from Maine can illuminate us a little further on some of these concerns that I have expressed.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine [Mr. COHEN] is recognized.

Mr. COHEN. Mr. President, I would like to respond briefly to the charts that have been presented by my friend Senator PRYOR.

First, I submit for the RECORD a letter dated July 28, 1992, addressed to Senator PRYOR from Henry Cooper, the Director of SDIO. I believe he is referring also to the same charts that are currently placed before the Senate.

Let me summarize, if I can, what Director Cooper has stated. He suggests that the chart—and again I am assuming it is the same chart we are now looking at—he is suggesting the chart is factually wrong in that there is no current connection whatsoever between the 11 current members of the advisory committee that he appointed at the beginning of 1990, and the 4 contractors that are cited in the chart.

He indicates, for example, that "one of the current members consulted for Booz Allen in 1987 and 1989. No current member has ever been affiliated with Nichols Research. One of the current members consulted for McDonnell Douglas in 1988, and one of the current members consulted for Lockheed from 1987 to 1989. Three former members, of the advisory committee serving under other directors, also had a relationship with the named contractors."

So Director Cooper is suggesting that none of the current members of the advisory committee is in fact connected with any of the organizations laid out in that chart.

Second, he points out, even assuming they were connected—which they are not—that there are very serious conflict of interest laws and disclosure provisions that would preclude members from using their private positions to benefit these companies.

I ask unanimous consent that the letter be printed in the RECORD.

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

STRATEGIC DEFENSE INITIATIVE ORGANIZATION,
Washington, DC, July 28, 1992.

Hon. DAVID PRYOR,
Chairman, Subcommittee on Federal Services, Post Office, and Civil Service, Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR PRYOR: We appreciate your leaving the record of your July 24 hearing on SDI use of contractors open to allow us to respond to the specific issues raised in the hearing. One of the charts you presented (attached) is factually wrong and extremely misleading. While we will provide the details for the record, I felt it was important for you to understand the facts. The chart alleges a direct connection between my SDIO Advisory Committee (SDIAC) and four major SDIO contractors: Booz Allen, Nichols Research, McDonnell Douglas, and Lockheed and is clearly meant to imply that this is a bad situation.

The chart is factually wrong in that there is no current connection whatsoever between the eleven current members of the SDIAC that I appointed beginning in 1990 and the four contractors you cite in the chart. One of the current members consulted for Booz Allen in 1987 and 1989. No current member has ever been affiliated with Nichols Research. One of the current members consulted for McDonnell Douglas in 1988 and one of the current members consulted for Lockheed from 1987 through 1989. Three former members of the SDIAC, serving under other directors, also had a relationship with the named contractors.

The implication intended by the chart is also very misleading. Even if such affiliations were current, the formal strict conflict-of-interest and disclosure provisions of the formally chartered SDIAC would preclude members from using their appointment to further private interest under penalty of law. These provisions are important to allow SDIO access to critical expertise in the strategic defense arena, even when the individual is affiliated with an organization doing business with SDIO.

As I testified at the hearing, I share your concern about the level of contract support I am required to use to execute my mission. Until I am able to expand my federal manpower, which I am working to do, I will continue to do my very best to insure that contractors are not performing inherently governmental functions in my organization.

Sincerely,

HENRY F. COOPER,
Director.

[NOTE.—Chart not reproducible in the RECORD.]

Mr. COHEN. Second, addressing myself to the larger issue raised by the Senator from Arkansas, I think that the Senator from Arkansas raises a valid point in the sense that there are types of work that can in fact be performed by Government employees as opposed to the private sector.

But I would like to at least point out that there are two types of work involved. The first kind of work is general office support work, such as drafting correspondence and testimony, doing program planning, writing reports to Congress, writing congressional budget justification material. I agree—I think all of us could agree—that this type of work could be done using Government employees and it may save as much as $15 million, probably more.

So I think that we could join the Senator's amendment to that extent by pointing out we could do this by Government employees.

The difficulty is that most of the contractors doing this type of work are small contractors or disadvantaged businesses. They are not large hardware contractors, the so-called Beltway Bandits. These small contractors, many of which are operated by section 8–A businesses, owned and managed by women and other minorities, as such, would be completely excluded from this work.

But it can be done, and perhaps it should be done, and that is something that perhaps we can agree upon.

The second type of work is very specialized technical knowledge. It requires detailed and unique types of expertise. These people are needed for a relatively short period of time to support the kind of procurement work that is involved with theater missile defense or other types of programs that we are pursuing right now.

Afterward, after utilizing these personnel for this period, there would be no work left for them. So what we have to do is call upon people who have very detailed knowledge in things such as phased array radar module technology, tests of lethality on foreign threat systems, relative maturity of optical focal-plane technologies, and the list goes on and on.

So what we could do is to ask Government employees to do this work. The only downside to doing it this way is we would have to tell them they would be employed for a very short period of time and then they would be laid off, because as soon as we moved beyond the procurement stage here they would be dismissed.

So I think that we can agree with the objective of the Senator from Arkan-

sas. If he is willing, in fact, to increase the staff level at SDIO in order to accomplish this work, move it out of the private sector, move it onto the Government payroll and provide for additional employees to do the work, I think perhaps we could agree to support the amendment of the Senator from Arkansas, at least this Senator could.

So I think with some amendments perhaps saying we are going to take it out of the private sector, put it back in the government sector, add the employees to do the work, add the cost of the salaries and pensions and other types of benefits that would go with public employees, then perhaps we could agree upon this particular approach.

Mr. President, unless the Senator would like to respond, I am going to move on to a different area, because we have some time while the leaders are negotiating in the leader's office.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER (Mr. BRYAN). The Senator from Arkansas.

Mr. PRYOR. Mr. President, if I may respond to my good friend from Maine, a fellow member of the committee.

The letter of Mr. Cooper that the Senator entered into the RECORD is a letter and a position I am very familiar with.

I would like to make certain that I do not wish or desire to impugn the integrity, nor am I alleging any fraud or any legal wrongdoing, of any member of the advisory committee, the SDIO.

I have referenced this and we talked about this with Ambassador Cooper during the course of the hearings last month.

But I say to my friend, the period since the creation of the SDI program and ultimately the SDIO office, that during that period of time, whether it was 8 or 9 years, there have been some 30 members of the advisory committee. And during that time, we have taken some 30 of these members, we have looked at them. We are only pulling these 4 out during that period of 8 or 9 years' existence to show how they can be on the advisory panel and then ultimately end up being the recipients of the expenditures of SDI.

Mr. President, the Senator has basically entered his prepared statement, the letter of Admiral Cooper himself. And by the way I am going to—I do not have it with me—but I am going to place a particular page or two of testimony into the RECORD at an appropriate point. Because Ambassador Cooper said, when I was reading him off some of these justification reports and how they were paying each month all these huge contracts for these consultants, Ambassador Cooper himself looked at one of these I was reading and said, "This is puffery. This is puffery on the part of the contractors."

He did not apologize for it. He did not say we are going to straighten it out. He did not say that we are going to have the taxpayers go back and recoup some of this money that was paid due to the puffery of the contractor. He never said that.

In fact, I did not even sense any remorse. It sounded like it was just kind of a way of doing business. They are going to puff up their contracts and we are going to write them a check for it. I have seen nothing to the contrary. I have seen no cause of action against these contractors for puffery in their requests for taxpayers' expenditures—and I am appalled, as a matter of fact, at that.

Another point the distinguished Senator from Maine has talked about is the need for contractors and consultants who have a particular or a detailed expertise. I can understand in some instances we might need a contractor for a short period of time for detailed, expert testimony—experts in scientific fields, experts in research. I understand this. I have been a strong supporter of this concept.

But what we have done now, especially over the last dozen years—this did not start with any Republican President or Democratic President. It has just been a growing way, I guess you would say—a mindset that has become set in and become more and more entrenched within the Federal bureaucracy. That is, the Federal bureaucracy is saying we need more and more contractors to do our business. We need more and more consultants. We see the President getting up on the State of the Union Message and saying we are going to freeze the number of Federal employees. What he is also saying is we are going to increase the number of contractors and consultants.

One of the fastest rising expenses of the Federal Government is the cost of private contractors to do the work of the traditional Federal employee. So when we say we are going to freeze the cost of Federal employees, that means absolutely nothing except, if the past is prologue—except we are going out to hire private contractors to perform these services and these duties.

I call them the unelected government. Some call them the Beltway Bandits. Some call them the shadow government. Whatever the case may be, however we refer to them, they have done very, very well—very, very well indeed. In the past decade or so they have far outstripped what the Federal employee has been receiving in remuneration. But, more than anything else, we have drained the expertise of the traditional Federal work force and we have basically said, by our statements, if you want to make some real money, if you do not want to be under the ethics code of the Federal employee, if you do not want to be under the Hatch Act that most of these Federal workers are covered under—then you become a consultant, you be a private contractor, you get with one of these companies because you are going to make from 25 to 40 percent more. Many times you are not going to have to even competitively bid these particular jobs and these missions you want to perform for the Federal Government.

Mr. President, I have been preaching for a long time about this, in fact some 13 or so years, on the floor of the Senate, about the use of contractors and consultants. To be honest, I have not made any headway. I have seen OMB redefine the definition of what a consultant is. I have seen the departments out there and the agencies of Government time and time again try to get by the definition of what is a consultant, what is a contractor. I have seen them justify sole-source contractors to the extent today, throughout the Federal Government, over 60 percent—over 60 percent of all the private contracts that we have are no longer competitively bid. They are sole-source contracts.

We have seen time and time again this mentality that has taken hold of our federal system of Government, saying no longer do we have the capabilities and the expertise in our Federal work force to perform what are, many times, the most mundane of services and we have gone out and reached out within the beltway and we have said come in, you do this work for us. And ultimately we are seeing the expertise of our Federal work force decline.

Once again I have an amendment, another amendment, that is going to really send some shock waves, I think, through the consulting-contracting world. That is going to be an amendment that is going to require a license for all of the people that do work for the Federal Government—it is going to require a license. It is going to set up—yes, I hate to say it—another bureaucracy. I hate to call it that, but I will admit it will be restrictive. Because we should restrict the number of Federal contractors that we have in the Federal Government. We should be very selective about who we hire; do they have a conflict of interest; are they representing a country whose policy might be contrary to the policy and to the national defense and to the best interests of the United States of America? We have no checks and balance system now, Mr. President, with regard to finding out who else they work for.

I know who we are going to hear from first. We are going to hear from a lot of my good friends who are lawyers downtown. They will say, wait a minute, we do all this work for the Federal Government, we do all this work for the contractors. Do you mean to tell us that to get a license to be able to work for the Federal Government that we are going to have to reveal who our other clients are?

Mr. President, the answer is yes. We are going to require that. Because we

think under the sunshine efforts that we have been able to come forward with and be successful within in the last several years in this Federal system of ours, we think it is our business to know who else these people represent when we are hiring them to do the work of the United States of America. We think that is very basic to the integrity of our system and also to make certain the conflicts are not there.

Mr. President, I have made my statement. I think there may be others on the floor. At this point I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina [Mr. THURMOND].

Mr. THURMOND. Mr. President, the Strategic Defense Initiative Office [SDIO] is staffed by only 269 personnel, who must execute a $4.3 billion program. In order to manage contracts and oversee contract execution, SDIO must hire contract support personnel. This is sound management.

To reduce the number of contract support personnel means a reduction in the management and oversight of contracts awarded by SDIO. It would also result in increased cost due to delays in awarding contracts.

The Pryor amendment provides for no increase in SDIO personnel to offset reductions in contract support personnel. If an equal number of personnel were added to SDIO, it would be eliminated by the Pryor amendment, perhaps some savings could be achieved by reducing the need to buy the services of contract support personnel.

As a practical matter, SDIO is unlikely to ever bring into Government service all of the expertise needed to effectively manage a complex program. Furthermore, good government requires that program managers tap into the external, nongovernmental points-of-view to avoid too narrow a look at such a complex acquisition program as SDI.

Mr. President, I cannot support this amendment in its present form.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, I appreciate so much the distinguished Senator from South Carolina, my friend, Senator THURMOND, for injecting another part of this argument that I should have included. He has stated that it is very necessary, with an agency like the SDIO which has some 269 or so Federal workers, to hire outside contractors in order to complete the mission of SDIO.

The Senator from South Carolina has brought up a valid point and, just to touch on the tone and a couple of other of those points, I think it will be necessary for me to remind the Senator from South Carolina and my colleagues that today basically the contracts that are awarded by SDIO are awarded by contractors. Contractors are giving the awards to other contractors.

Then, if the SDIO says we are not certain that we need all of these numbers of consultants and contractors, how does SDI decide who should make the decision whether we have too many contractors or consultants?

Ironically, Mr. President, the SDIO hires a contractor, they hire a consultant to perform a study to determine whether or not we have too many contractors or consultants or too few. What do we think the result is going to be under that system, Mr. President? Of course, it is going to demonstrate that we have to hire more contractors, we have to hire more consultants. The reason is, it is a conflict of interest. It is a pure, unabashed, raw conflict of interest, Mr. President, that, in my opinion, we should correct. And the only way to begin this correction—and by the way there is still a lot of fat I am leaving in there, I regretfully say—is to put some cap on the number of dollars we can use for contractors outside of the Federal work force. Perhaps it will make the Federal work force and the Director of SDIO and the other officials more conscious that there cannot be just an open money sack that continues any longer without any ceiling whatsoever.

Mr. President, I yield the floor.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, if I might, I would like to move on to a different issue, at least for purposes of discussion this morning, while the leadership is continuing to negotiate—although those negotiations may have just concluded—about how we intend to proceed for the rest of the day. I would like to take a few moments to at least alert my colleagues to an issue that we discussed last week but did not fully and finally resolve.

Mr. President, the issue of nuclear testing has become so polarized and politicized that I am afraid it is all too easy to lose sight of both our objectives and some basic facts. We have made, in fact, remarkable progress in negotiating substantial reductions in nuclear arsenals. While we have made substantial reductions, we are not yet on the verge of eliminating nuclear weapons from our inventories. We are going to have to live with nuclear weapons for some time to come, so we have to ask ourselves the question: Exactly what kinds of nuclear weapons do we want to have during that time?

For years, a number of people argued that we need to stop developing new, more lethal nuclear weapons, and that the only way to do this was by imposing a ban, through congressional fiat, if necessary, on all nuclear testing. I think, given the changed security environment, most of us would agree that we do not need to develop new, more lethal nuclear weapons. The administration now agrees with that position, as well. So the argument which, for decades, has formed the cornerstone of the case for test ban, I think, now is irrelevant.

But what remains relevant is the fact that many of these nuclear weapons which we intend to keep in our stockpile for the indefinite future are dangerously unsafe. Equally relevant is the fact that we can make these weapons much safer if limited testing is allowed to be conducted. So, when crafting our policy regarding nuclear testing, this should be our principal objective: To make the weapons we retain safe. Closely tied to this should be our other priority objectives: To promote arms control negotiations and to strengthen the nonproliferation regime, most notably through the 1995 review conference of the Nuclear Nonproliferation Treaty. Proposals for a congressionally imposed moratorium on U.S. testing ought to be evaluated on the basis of whether and how well they make progress toward those goals.

The amendment that was adopted last week on the energy and water appropriations bill, while certainly far better than the measure that was originally proposed by the Senator from Oregon, does not meet this test. It does not even address the nonproliferation efforts, and it would not permit the Department of Energy to conduct the necessary testing to make our weapons safe.

What I hope to do today, assuming we can resolve the issue of time agreements and order of proceeding, is to offer an amendment that I believe will go a long way toward correcting the deficiencies in the measure that was adopted last week. I would like to take just a few moments to describe this amendment in some detail.

My amendment would impose an interim moratorium on all U.S. nuclear testing in order to put us back on a track of negotiations to achieve a strengthened nonproliferation regime and reciprocal, verifiable testing restrictions that would lead to a comprehensive test ban.

So my amendment would require the President to report on the following:

A date for resumption of the nuclear testing talks with Moscow during fiscal year 1993. Not just a vaguely worded report that they intend to proceed. This would require a specific date for the resumption of those talks in Moscow in the next fiscal year.

It would include the U.S. strategy to expand those talks to include the other nuclear weapons states with the objective of achieving a verifiable comprehensive test ban by 1998. There is some notion that, if we only deal with Moscow, that is going to be sufficient to have a comprehensive test ban. That is simply not the case. Given the fact that we have witnessed a proliferation

of nuclear weapons in the past, we are likely to see some in the future as well.

The President would also be required to report on U.S. strategy to achieve renewal and the strengthening of the Nuclear Nonproliferation Treaty at the 1995 review conference. Again, nothing really is mentioned on this in the amendment that was adopted last week.

The President also would have to report on the Test Ban Readiness Program, which is intended to improve our ability to maintain a small nuclear stockpile with only limited or even no testing.

A number of people have claimed that the administration has not been aggressive enough in pursuing negotiated restrictions on testing and really has not been focused on the tremendously important objective of extending and improving the Nonproliferation Treaty.

My amendment would force the administration to get serious on these matters by prohibiting all nuclear testing until we receive the administration's strategy for achieving these arms control and nonproliferation objectives. That ought to be one of the major goals of this Congress, to force this administration or the next administration to deal seriously with the subject of countering the proliferation of nuclear weapons and to strengthen the regime for that control.

That should be the purpose of the interim moratorium, not simply to impose a moratorium and let the clock run for 9 months or a year as, in actuality, the amendment that was adopted last week would require. We ought to be striving to impose a moratorium in order to force the administration to promote those negotiations and nonproliferation efforts.

If my amendment is adopted, after that moratorium period is over, we will have made demonstrable progress on these objectives, much more progress than would result from the Hatfield amendment that we adopted last week. Then once that initial moratorium expires, testing could resume but only under very restrictive circumstances.

My amendment would permanently prohibit testing to develop new, more lethal nuclear weapons, including so-called third-generation weapons such as new Earth-penetrating warheads and microwave weapons, which earlier this year the weapons laboratories indicated they wanted to pursue. So no new nuclear weapons. We are going to permanently prohibit the testing for any new types of weapons.

Under the amendment that I am proposing, the nuclear testing program would be focused on incorporating safety features into the existing types of weapons, with a strictly limited number of tests to be allowed to assure the reliability of those weapons and the survivability of systems against nuclear weapon effects.

My amendment would write into permanent law an annual cap on the number of nuclear tests of five per year, no more than three of which could exceed 35 kilotons. Of those five tests per year, no more than one could be used for nonsafety purposes. The total number of tests permitted before the 1998 cutoff date, as opposed to 1996, regardless of the purpose of the test, would be 20. So we are looking at a regime that would allow for five tests per year, only one of which could be for nonsafety purposes and only three of which could be in excess of 35 kilotons. And the total number of tests could not exceed 20, including the British, I might add, during that entire period of time.

Sixty days before each proposed test, the President would have to certify the nature and purpose of the test and why the test is necessary. During the time of that certification period, Congress would have an opportunity to examine the certification of the President and to express its disapproval, if it should choose to do so. So it would give us, Members of Congress, ample time to examine the certification of the President as to why we have to conduct a test and then to express our disapproval, if necessary, in order to seek to prohibit the President from pursuing that test.

Under my amendment, the U.S. testing program would conclude, as I indicated, by the fiscal year 1998. This would provide the Department of Energy with a realistic amount of time to do the research, engineering, and testing needed to incorporate into our nuclear weapons the kind of safety devices and features that I think all of us agree we need to have.

A decision to halt our testing program obviously cannot be divorced from the testing practices of potential adversaries or the negotiations on testing limits or a comprehensive test ban. The Senator from Oregon [Mr. HATFIELD] acknowledged this fact, and he wrote into his amendment a waiver that would lift the U.S. testing halt if Russia subsequently tested.

Mr. President, by limiting that waiver to Russia, we certainly are excluding a host of other potentialities. It may be that Russia, in fact, will be an ally of the United States and not an adversary as it has in the past. We might face a different threat in the future, from Kazakhstan, Iran, China, or some other nation. So the way in which the amendment was written and approved last week would simply say at the end of 1996, if Russia resumes testing, all bets are off; the United States can go forward without any restrictions.

I think that would be a critical mistake for us to make. We cannot predict what is going to take place in the future. A year ago many Members of this body voted against allowing the President to use force to intervene in Kuwait. A year later, here we are looking at an entirely different world picture. We are looking at a situation in which we have one Germany now and two Czechoslovakias. We are now looking and talking about the possibility of using military force to intervene in the civil war currently raging in what used to be Yugoslavia.

None of us can safely predict what is going to take place in this age of future shock when time is accelerated by events. So for any of us to think or profess that we somehow have the perspicacity to look 3, 4, 5, and 6 years into the future and make a determination now with absolute categorical assurance these are the circumstances that will prevail and on that basis we will mandate an absolute cut off of testing unless Russia resumes nuclear testing, I think would be a serious mistake.

Mr. President, if we want to get a comprehensive test ban, we should leave the President with some flexibility in his negotiations. It may be that at that very moment when U.S. testing is to be cut off he may be seeking and on the verge of achieving a comprehensive test ban, not just between Russia and the United States, but with many other nations, and we ought to at least leave him some flexibility.

So my amendment would allow the testing halt to be suspended for a year if the President were to certify that he was actively engaged in negotiations and that a statutory ban on testing undermined that negotiating position.

I might point out that suspending that halt for a year would not necessarily mean we were going to test, just that the statutory ban would be lifted for a year. But in either case, Congress would have an ample period of time to review and, if Members so desired, to act to reject the President's certification.

So if the President in the year 1998 certifies to Congress that "I need to have the opportunity to test, at least the flexibility to conduct that test," we would have the opportunity to say, "Mr. President, we reject that proposal and pass a resolution of disapproval."

Now, Mr. President, I believe that this procedure which would mandate a cutoff by 1998; allow a total of 20 tests, including that of the British, during that period of time; and then ultimately give the President a modicum of flexibility, which we in turn could reject, would be sufficient to protect the interests of this country and to achieve our goals of striving to end nuclear testing once and for all, to achieve a comprehensive test ban treaty, and to stop the proliferation of nuclear weapons.

So I hope that during the course of today we will have an opportunity to discuss this at some length. I wanted only to take the floor for the moment to alert my colleagues of the content of the amendment I will be offering.

I might point out that last week I did in fact represent to my colleagues that I would offer this amendment, because many people who supported the Hatfield amendment last week also indicated they would like an opportunity to further refine the testing ban that was passed last week. I believe this amendment comes very close to achieving our mutual objectives.

Mr. SEYMOUR. Mr. President, I rise in opposition to the pending Bumpers amendment because it would deeply harm the administration's ability to enforce the bipartisan Missile Defense Act of 1991. This carefully crafted bill resolved several decisions about the future of America's ability to defend itself against ballistic and intercontinental missile threats that could arise in any region of the world.

It prescribed a prudent and measured timetable for the President to determine whether the provisions of the Antiballistic Missile Treaty make the strategic defense initiative an ongoing dialog among laboratory researchers or a credible program to deter future military threats to the United States and its allies.

And it finally blended the three major components of SDI into a coherent whole by calling for a system that incorporates ground-based interceptors at home, theatre missile defense weapons abroad, and workable interceptors based in outer space.

On a larger scale, Mr. President, it cast aside the chains of the cold war in the debate over the ultimate feasibility of SDI. The Missile Defense Act no longer upheld as sacred policy a treaty that this country concluded almost 20 years ago with a very different Soviet Union.

As we debate the SDI amendments, we should no longer fear the fact that the chains of the ABM treaty have loosened. Today, the Soviets have neither the political unity nor the technological capability to keep the ABM treaty intact for all time. President Gorbachev recognized this fact in 1990 when he told the United States that he would be open to discussing changes in this document if new security threats to the superpowers warranted it.

He saw a different world unfolding before him, yet some Members of the Senate seem blind to it today. This world is now full of tyrants—both existing and potential—who did not sign the ABM Treaty and who do not conduct their foreign policies by any treaty. They are unbounded by the constraints negotiated in the halls of international diplomacy. The CIA, among other agencies, informs us that their ballistic missile capabilities—both tactical and strategic—will grow rather than diminish by the year 2000.

The Missile Defense Act opened a window on this new world by urging the President to pursue a renegotiation of the ABM Treaty with the Soviets to allow additional ground interceptors, ABM sites, and space-based interceptors.

But in looking toward this new world, the committee did not leave the one in which we now live.

The Soviet Union still stands as the only nation on Earth capable of visiting massive destruction on the United States within 30 minutes. We still have no certain idea of who will control the Soviets' modernized strategic nuclear arsenal in the long run.

Now to those who say that a robust American SDI would only prompt the Soviets to build bigger and better missiles, I reply that technology and democracy have caught up with the Russians.

They cannot afford an expensive, sophisticated arms race, and so the President was able to sign a new nuclear weapons agreement with Boris Yeltsin this June. Furthermore, Yeltsin has said time and again that the Kremlin's military expenditures must fall under control because the economic frustrations of his own people cannot be contained forever.

An amendment, therefore, that deeply cuts the SDI program would deprive us of new opportunities to stabilize the United States-Russian nuclear balance of power. It would also sap our ability to combat the emerging strength of third world dictators thirsting after a new generation of ballistic, chemical, and nuclear warheads.

I therefore urge my colleagues to reject the pending measure.

Mr. President, I yield the floor and suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

Mr. GRAHAM. 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. GRAHAM. I thank the Chair.

Mr. President, in this hiatus of Senate action, I would like to take the opportunity to indicate my intention, with my colleagues Senator MACK and others, to offer an amendment to the defense authorization bill relating to yet another of the aspects of the collapse of the Soviet Union on United States national security and defense policy.

That remaining aspect to which this amendment will be directed, Mr. President, is Fidel Castro. Fidel Castro has been maintained in power for almost a third of a century, largely through the military, economic and political support of the former Soviet Union. At one time, the former Soviet Union was providing to Cuba an amount estimated to be in excess of $5 billion a year of economic assistance, substantial military aid, and political collaboration. All of those forms of support now are beginning to wither. Thus, the question for the United States becomes what steps should we take in this post-cold war era in order to facilitate and accelerate the transition of Cuba to a democracy, Cuba to a country that respects human rights, Cuba to a country with which the United States can have normal political and economic relations, to a Cuba which will no longer be a nation which sees as its manifest destiny the export of revolution not only within this hemisphere but also around the world.

Mr. President, I have spoken previously as to legislation I have introduced which has been described as the Cuban Democracy Act. The bill that will now be offered as an amendment is essentially the same legislation. The principal changes that have been made are changes that will conform it to technical alterations that have been made in the course of the bill's consideration in the House of Representatives; also, a deletion of tax measures at the request of the Finance Committee.

I would alert the Senate of my intention to offer these tax measures as part of the comprehensive tax bill that we will shortly be considering.

Mr. President, the amendment that I will offer has broad bipartisan support. It has been cosponsored by 51 of our colleagues. President Bush has endorsed this legislation. Governor Clinton has endorsed this legislation. The House Foreign Affairs Committee, after extensive hearings and markup, has reported almost identical legislation. The Foreign Relations Committee has had a day of hearings on this bill for which I express my appreciation to Senator DODD. Indeed, the Senate itself has already expressed itself not once but three times on one of the major provisions of this amendment, a provision which would close a loophole in the current economic embargo against Cuba. The Senate last voted on this measure, Mr. President, on July 20, 1989. It passed this provision to eliminate what has become a major opportunity for the avoidance of the United States embargo against Cuba.

That loophole-closing provision passed 82 to 13. The amendment which we passed was introduced by my colleague, Senator MACK, who has continued to give strong leadership to that provision within the Cuban Democracy Act. Since then the Senate has approved this provision by a voice vote on two subsequent occasions.

Despite the Senate having been on record in support of this key provision three times since the summer of 1989, here we are still trying to enact this provision into law. Mr. President, it is my hope that this time in 1992 we will be successful. By every measure therefore this provision, the amendment of which it is a part, represents a consen-

sus view that has broad bipartisan support.

Mr. President, this Senate has provided leadership at a number of pivotal points in debating this country's relationships with authoritarian governments. From South Africa to Chile, from China to Serbia, this Senate has shown leadership and resolve. Cuba should not be an exception to the Senate's proud record in standing up to authoritarian governments that abuse their people.

Mr. President, this amendment is based on several premises. The first is that Castro is as weak today as he has ever been. This is no time to take steps, even inadvertent steps, that might strengthen his hand. Rather we continue to hear from dissidents inside Cuba to keep the pressure on, to take all possible peaceful steps to end the repression and violence once and for all.

Mr. President, I draw to the attention of the Senate a recently published book by Pulitzer Prize-winning author Andres Oppenheimer entitled: "Castro's Final Hour: The Secret Story Behind the Coming Downfall of Communist Cuba." This book, published by Simon & Schuster, provides detailed analysis of what has occurred in Cuba in the last few years, and the implications of those events on the coming downfall of Fidel Castro.

One of the events which the book suggests is the collapse of what support Fidel Castro has had around the world.

Mr. President, I ask unanimous consent to enter in the RECORD immediately after my remarks an article from the Wall Street Journal of August 7, 1992, entitled: "Cracks Appear in Cuban Government After Castro's Ill-Starred Tour of Spain."

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

(See exhibit 1.)

Mr. GRAHAM. Mr. President, this article recounts the chilly reception which Fidel Castro has just received both by the leadership of governments in this hemisphere as well as in Spain itself, and by the people of Spain. But more ominous are the implication which this reception has received in terms of future actions inside Cuba itself.

Quoting from the Wall Street Journal article:

* * * human rights activists are convinced Mr. Castro plans to oust reform-minded Cuban officials.

"There is a purge of reformers coming," says Ramon Cernuda, a Miami based human-rights activist who keeps in daily contact with activists on the island. Mr. Cernuda says Cuban state security agents have told human-rights activists to prepare for a wave of repression. "Our people are very worried about it."

"There are rumors," says Jesus Yanes Pelletier, a human-rights activist in Cuba, in a brief telephone conversation. "We don't know."

Mr. Cernuda says he's convinced Mr. Castro is preparing to jettison reform-minded officials who'd been useful to him in placating Latin American and European governments that have been pressing Mr. Castro to democratize Cuba. The reasoning, says Mr. Cernuda, is that with the debacle in Spain, Mr. Castro feels the reformers have outlived their usefulness. The possibility of political reform appears dead, so he no longer needs to keep closet reformers who oppose his policies.

Mr. President, we may be on the verge of yet another bloodbath in Cuba. We have the opportunity to take action which will demonstrate our revulsion at those types of actions, and our willingness to strengthen the economic and political isolation of Fidel Castro as a means of accelerating the demise of his regime and therefore the lifting of the people of Cuba from the siege of terror with which they have lived for better than three decades.

The second premise of this amendment, Mr. President, is that we should do all that we can to increase the flow of information to the Cuban people.

This amendment for instance would expand mail and telephone service. It will increase pressure on Castro, while humanely expanding the means for the tens of thousands of families on the island to remain in touch with their loved ones who have fled.

As we know, Mr. President, it was exactly that approach, the use of satellite television, fax machines and other means of pouring information into the former Soviet Union and its satellites in Eastern Europe, which proved such an important factor in finally toppling the authoritarian regimes in those countries.

Third, we should call on our allies to support our efforts. By no means do we try to punish countries doing business with Castro. Instead we simply state that countries which are conducting subsidized trade with Cuba should expect no help from us. After all, if it was the intention of the United States of America to subsidize Cuba we could do so more effectively directly.

We give the President discretion to make these decisions that will apply to our allies a standard that says: If you choose to engage in subsidized trade with Cuba, there will be an economic consequence in terms of your relationship with the United States.

Fourth, Mr. President, our Government's policy toward Cuba seems to be one of letting events run their natural course. I am not certain what the natural course of events are in Cuba today. What I do know is this: If we are to achieve a peaceful transition to democracy, we must have in place a coherent and comprehensive policy that will help achieve that goal.

In a real sense, the American people are being given a reprieve. We had an opportunity to play a positive role in shaping the future of the postcolonial Cuba after the Spanish-American War. From 1898 until 1905, we were heavily involved in Cuba. We exercised tremendous influence and could have laid in place foundations that would have contributed to a long-term democratization, an economically strong Cuba.

However, Mr. President, I am afraid that what we did was clumsy, ill-planned, and contributed to a series of tremors which eventually led to the earthquake of Fidel Castro. We missed our opportunity at the end of the last century and the beginning of this century. That was bad enough. To miss it twice would be an outrage.

Mr. President, specifically, the amendment which I intend to offer at the appropriate time contains the following details. It closes a critical loophole in the Cuban embargo. Under the current embargo, subsidiaries of United States companies are still allowed to trade with Cuba. This amendment would close that loophole.

I might point out that since 1989, since the fall of the Berlin Wall, the amount of trade under that loophole has increased dramatically.

Second, it will establish civil penalties for organizations engaging in illegal trade with Cuba. Currently, only criminal penalties are provided, making it unnecessarily difficult to punish violators.

A third specific of this amendment, Mr. President, will authorize United States funding for nongovernmental organizations in Cuba. We want to accomplish in Cuba what we achieved in Eastern Europe, in the former Soviet Union, and in Nicaragua. We want to support labor leaders and human rights activists.

A fourth provision would require our Government to establish strict limits on remittances to Cuba by United States citizens. These remittances, for instance, finance the travel of Cubans to the United States. The Treasury recently placed a $500 ceiling on travel remittances to Cuba. We support that level. We believe it is important enough to have it in law.

Fifth, it expands phone service between Cuba and the United States. Existing service is of very poor quality. Cuban-American families pay 5 to 10 times the normal rate to place calls through Canada or other countries which do not limit phone service to Cuba.

Next, Mr. President, this amendment would direct the United States Postal Service to provide direct mail service to and from Cuba. Although Cuba now opposes direct mail service, our Postal Service has never been encouraged to aggressively try to negotiate such an agreement. Lack of postal service causes great hardship for divided families. We hope those in power in Cuba acknowledge the interest of the Cuban people at least in this instance.

Mr. President, finally, the amendment outlines a policy toward post-Castro Cuba. I consider this to be one of the most important elements of the

amendment, because it essentially provides the open door. Yes, provisions in this legislation will increase the economic hardships in a nation that is already suffering from severe deprivation. That portion of the amendment states to the Cuban people what would be the consequence of continuing to tolerate its current authoritarian leadership.

The provision relative to United States policy toward a post-Castro Cuba represents the other path, the open door toward a new hand of friendship. If the Government of Cuba is freely and fairly elected, the United States would grant full diplomatic recognition. The United States would provide emergency relief during Cuba's transition to a viable economic system. The United States would encourage debt rescheduling or cancellation. The United States would end the embargo. These steps will be taken only after the fall of communism. Any shipments of food and medicine in the meantime will be granted for humanitarian reasons and will benefit only the Cuban people, not the Cuban authorities.

Mr. President, the day when we will be dealing with a post-Castro government is fast approaching. We must adopt a policy that hastens that day and prepares for the day after. This amendment will advance us toward that goal.

Mr. President, we are debating a defense authorization bill. Many of the changes that are the subject of the amendments and debates that will occupy our time are focused on changes in U.S. policy which have been driven by the fact that our adversary for almost a half century has largely disappeared. We are dealing with the reverberations of that collapse of the Soviet Union. I believe, as I said in the beginning, that one of those reverberations to which we should heed and pay attention is in our own neighborhood, a country which has, for 30 years, been denied the democratic wave of freedom and prosperity that has come to so much of this hemisphere. I believe, therefore, that, at an appropriate time, the Senate should turn its attention to what should be the policy in the post-cold war era in order to bring a new day of democracy and freedom and respect for individual rights to those long-suffering neighbors of ours in Cuba.

Mr. President, I look forward to that opportunity and hope that it will soon be available to us. Thank you.

EXHIBIT 1

CRACKS APPEAR IN CUBAN GOVERNMENT AFTER CASTRO'S ILL-STARRED TOUR OF SPAIN

(By Jose de Cordoba)

MIAMI.—More isolated than ever and demoralized after Fidel Castro's disastrous trip to a summit of Spanish-speaking presidents in Spain last month, Cuba's government is showing signs of strain.

For the first time in 33 years, Mr. Castro has indefinitely postponed Cuba's most important political ceremony, the 26th of July speech in which Mr. Castro traditionally gives a state-of-the-revolution address. The date marks the anniversary of Mr. Castro's attack on a military barracks in 1953 and the birth of his movement.

Officials at the Cuban Interest Section in Washington—which acts as Cuba's embassy in the absence of diplomatic relations between Cuba and the U.S.—said yesterday they don't know when the ceremony, scheduled for the city of Cienfuegos, will be held. "They don't know what to say," says Carlos Alberto Montaner, a Madrid-based leader of the Cuban Democratic Platform, a Cuban exile opposition group.

Separately, some human rights activists are convinced Mr. Castro plans to oust reform-minded Cuban officials.

"There is a purge of reformers coming," says Ramon Cernuda, a Miami-based human-rights activist who keeps in daily contact with activists on the island. Mr. Cernuda says Cuban state security agents have told human-rights activists to prepare for a wave of repression. "Our people are very worried about it."

"There are rumors," says Jesus Yanes Pelletier, a human-rights activist in Cuba, in a brief telephone conversation. "We don't know."

Mr. Cernuda says he's convinced Mr. Castro is preparing to jettison reform-minded officials who'd been useful to him in placating Latin American and European governments that have been pressing Mr. Castro to democratize Cuba. The reasoning, says Mr. Cernuda, is that with the debacle in Spain, Mr. Castro feels the reformers have outlived their usefulness. The possibility of political reform appears dead, so he no longer needs to keep closet reformers who oppose his policies.

"If they can't persuade international opinion, and are an irritant domestically, then they become a net loss," says Mr. Cernuda. He expects a number of high-ranking officials known as reformers to be accused of corruption or similar charges, and removed from their posts.

Mr. Castro's visit to Spain, Cuba's most important Western trading partner, which Mr. Castro hoped would be a triumphal tour that would gain him political breathing room and perhaps financial aid and foreign investment, turned into a fiasco. Mr. Castro was mocked in the Spanish press, which made fun of everything from the Cuban leader's concern for his security to his human-rights record.

For instance, El Pais, Spain's most influential newspaper, referred to him as a "dying star" whose trip to the region of Galicia, where Mr. Castro's father was born, "can only be understood as part of the magical surrealism of those lands."

Instead of large friendly crowds, Mr. Castro's every step, from the moment he landed in Madrid, were dogged by small groups of determined Cuban-exile demonstrators whose protests on occasion kept him from speaking. In Galicia, however, he did get a friendly reception at his father's ancestral village.

Worst was the icy treatment Mr. Castro received from his hosts. In a direct reference to Cuba, Spanish Prime Minister Felipe Gonzalez said, "We don't want either political prisoners or political exiles in our community." To underscore his alienation from Mr. Castro, Mr. Gonzalez met for almost two hours with Mr. Montaner and other Cuban exiles, the day after Mr. Castro left for home.

Mr. WARNER. Mr. President, I would like to join in continuing what I deem absolutely essential in vigorous opposition to the amendment of the junior Senator from Arkansas [Mr. PRYOR]. I was in the majority leader's office, together with the Republican leader, working on scheduling at the time my colleagues gave their important rebuttal. I wish to reinforce what they said and add a few of my own observations.

First, a major portion of the defense authorization bill, a portion that was in large measure fashioned by the distinguished Senator from Georgia, deals with defense conversion. In other words, we recognize the numbers of individuals being put out of work in the defense industry.

The Pryor amendment goes right against that whole concept of the bill, because what the Pryor amendment is designed to do is to put people in the private sector out of work and build up the numbers in Government. It has an extraordinary appeal, when we all try to sit around here working on building greater efficiencies in the Federal Government, to come to the floor and say it is now time to build up the numbers of Government employees.

It is a clever amendment, because the Senator from Arkansas recognizes full well the personnel ceilings imposed by the Department of Defense. Let me give you one example. Would the Senator put that chart up showing the numbers? I see the Senator coming back on the floor. If I understand that chart, those numbers represent some statistics that the Senator got from the guard that checks people in and out as they go to and from the SDIO offices. Is that correct?

Mr. PRYOR. I will respond to my friend from Virginia that I do not know if a guard furnished these statistics or not. I do not think any guard furnished these statistics.

Mr. WARNER. My understanding, through a staff contact, is that the——

Mr. PRYOR. I will be glad to give my friend the precise answer as to how these statistics were obtained. I have always felt that we got these statistics from the SDIO office. These are not our figures. These are figures from SDIO.

Mr. WARNER. Fine. But my understanding is that they were provided from the logs maintained by the security guards who check individuals as they come in and out the doors.

My point is that, obviously, the contractors are not resident. They do not have desks in there. They are resident in private sector offices outside, and they have to come with great frequency to and from the SDIO offices to perform the work. I urge my colleagues to look into that, because I am deeply concerned, as the Senator from Maine and the Senator from South Carolina said, that we are going to first rivet into this a reduction in the 8(a) type of contractors, which are largely owned

by women, areas where this body has, from time to time, put great emphasis to try to give them encouragement.

Let me give some statistics to my friend. My staff will provide him with the documents from which I am about to read so he has the opportunity to fully understand the point I wish to make.

Let me look at just one segment of these contracts. CTI, Inc. That is a contractor that will be hit right head on by this amendment. It does publishing and graphic support. The cost is $4.3 million a year to the Federal Government. It is an 8(a), minority owned.

Second, Harris Co. Support for program management, draft correspondence, and budget input, $3.8 million. Female or minority owned. Right into this chart right here.

CTI, Inc. Support for POM and program management agreements. Develop SDIO management. Info system. Provide briefing, meeting, graphics, publication support; $21 million, 8(a).

This is an anti-8(a) amendment. Make no mistake about this. Make no mistake about it.

SEMA, Inc.: Support Office of Technology Applications, maintain technology data base system, analyze SDI programs for technology transfer, $7 million.

RJO, Inc.: Acquisition, programmatic support, $21 million. Develop award/fee guidelines, draft proposal evaluation plans, scoring methods, independent cost estimates. Another 8(a) firm, $21 million.

We can go on.

So I would like to have an opportunity to hear my good friend from Arkansas, what is it he wishes to do about all the 8(a) contractors who are already petitioning this Senator and others for the inability of the Department of Defense to get even greater amounts of the work allocated to these very deserving people who need this type of support in order to maintain a viable part of our society and to gain that experience to go on to even greater heights?

A second type of service being performed by the outside contracting world, which is the target of this amendment—at any time I will yield for comments by my good colleague—and that is the expert advice being given by engineers who have spent their careers studying a certain type of engineering. For example, phased radar model technology, test of lethality on foreign threat systems, relative maturity of optical fulcrum technologies.

Do we want to begin to build up a whole laboratory system, with permanent Government employees, civil service, pensions? This is what we are going to have to do in order to maintain this SDI Program as a viable part of our R&D. We would have to build up a whole laboratory bringing these individuals in and recognizing when we do that it is unfair to them as professionals, because we only need them for 6, 8, 9 months or even less periods of time within which their expertise is applied to their program, the answers are resolved, and we go on to another technical problem. We have to hire a whole new group of technicians to come in and answer that series of technical problems.

Let me give you another example: Evaluation of secret performance, architecture for Middle East theater defense, test, and evaluation systems analysis for kinetic energy, develop natural test bed, analysis of natural and perturbed environments.

Why should we build up a whole civil service structure to get answers, if we are going to vote—which I hope eventually it will be—$3.3 billion or even the $3 billion that the senior Senator from Arkansas wishes, $3.3 billion? We have to have a viable program. And this effort goes right to the heart of the ability of the SDIO office, the Federal Government, and the Secretary of Defense, to perform the programs which the Senate is directing them to perform at whatever level of funding is ultimately decided upon.

When I look at that situation in contrast to the major thrust under this bill to have defense conversion to try and protect people from being thrown out of jobs in the private sector who have given so much of their lives and careers toward building up our defense, I say to myself I cannot rationalize what is the objective of the junior Senator from Arkansas. I will be happy at any time to yield, because I am very anxious to engage in a colloquy.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, first, I am a little bit flabbergasted in taking part here in just a moment by my friend from Virginia, Senator WARNER, when he said—he said it twice—this is an anti-8(a) contract amendment. The 8(a) contract, of course, we know was reserved for minority firms and minority individuals. And, Mr. President, I had absolutely no idea whatsoever that the Senator from Virginia nor any one else nor any 8(a) contractor would ever think for a moment that this particular amendment was an anti-8(a) contract amendment. It is not. That is not the purpose of it, whatsoever. And this is absolutely camouflage to throw into the debate at this time that this is some sort of amendment to keep minorities from getting Federal contracts, and I resent it, Mr. President. It has nothing to do with this amendment.

There is another point of this debate I resent, Mr. President, and that is the implication that the so-called Pryor amendment to the SDI approach is going to increase the number of Federal employees. That is the mindset around here.

Mr. President, all this amendment does is say we are going to cap at $100 million what we expend in the SDIO office for private contractings. It does not say that we are going to allow the SDIO office to increase the number from 269 Federal employees to 369 or 469, or what have you. It has nothing to do with that. They are going to take the same number of Federal employees, but at the same time going to get back with fewer dollars to run their private consulting contracts.

Mr. WARNER. How does the Senator propose to do the work that was done by these employees that would be deleted?

Mr. PRYOR. I answer my friend from Virginia, it is very simple. If the Bumpers-Sasser amendment prevails, there is going to be $1 billion fewer in contracts. Does it not stand to reason if you have a $1 billion fewer in contracts you are going to need fewer contractors to oversee the contracts, fewer Federal employees to oversee the contracts, because there are going to be fewer contracts to oversee?

In my opinion I wish we could cut it by $2 billion and then we could really make some reductions in the administrative costs of SDIO. We are going to have fewer contracts to go at.

Mr. WARNER. I ask my good friend—we will have eventually a vote, which is being decided by the distinguished majority and Republican leader at this time, on the Bumpers amendment—if that amendment fails will the Senator from Arkansas withdraw his amendment?

Mr. PRYOR. Mr. President, I did not hear the question.

Mr. WARNER. I am happy to repeat it, perhaps a little more forcefully. If the amendment from the junior Senator from Arkansas is predicated on the amendment of the senior Senator from Arkansas prevailing, when we vote once again the funding level as posed by the series of amendments from the senior Senator from Arkansas, the Senator from Tennessee, and should those amendments fail, would the junior Senator from Arkansas be prepared to withdraw his amendment?

Mr. PRYOR. Mr. President, I answer my distinguished friend with a loud and resounding "no." This amendment is not predicated on the amendment that was failed to be tabled, offered by the Senator from Tennessee and the Senator from Arkansas on Friday. This amendment stands on its own. It is an attempt to cut out the fat, the bureaucracy, the contracting bureaucracy, I might add, of the SDIO office. It is that pure and simple.

We stated here, I say to my friend from Virginia, that contractors today are awarding the contracts; contractors today are answering the letters that we send to SDIO; contractors are asserting the policy of SDIO. And I would say if I could, Mr. President, to

my friend from Virginia, we are not talking about adding to the Federal payroll; we are talking about subtracting from the consultant's and the contractor's payroll. It is that simple. It does not do any more than that. We take them back to a level of about 2 years ago and say, "Sure you can have $100 million in this one little office; $100 million in private contracts if you want to. But, you are not going to have $162 million. You are going to tighten it up. You are going to become a little leaner and you are going to make certain that these consulting and contracting dollars hit the target."

And today I think that the Senator from Virginia would actually agree with me that there is a great deal of this work being done that is not necessary and we are paying far too much for these particular services.

Mr. WARNER. Mr. President, I wonder if I might reply to my good friend by going into some detail here as to precisely what it is the employees, who are subject of this amendment, are performing. I do not wish to be redundant, even though I have not had the opportunity to be on the floor throughout the entire debate.

I am advised that I should return to the majority leader's office momentarily. But I would like to cover this one point.

Has the Senator given the details as to what these employees who would be the object of this cut, what form of work they perform?

Mr. PRYOR. I say to my friend from Virginia, I have. I have stated some of the points for the record, and I would be glad to go further.

One thing they do is they monitor congressional hearings. They write congressional statements. They write letters on behalf the SDIO Director. They are setting security policy for the SDI initiative. They are doing everything, but they are not covered under the ethics law. Most of these contracts, in my opinion, are sole-source contracts.

And I have stated to my colleagues that we have what I call an old buddy system here. There it is. That is the old buddy system. This is where the advisory committee is up here, sitting there with some 14 or 15 companies and individuals, they are the ones that are getting all the money. They are advising how the money is to be spent, and they are the ones receiving all the money.

I wish I had a deal like that, Mr. President. I would love to have a deal like that. It is foolproof.

Mr. President, I know that the distinguished Senator has to leave for a meeting possibly with the majority leader. I would be glad to engage in this discussion later if he desires to leave the floor.

Mr. WARNER. Mr. President, I desire to leave the floor, but in my absence the Senator from Maine is here and he is as familiar with this program as am I.

But I have not been satisfied with the Senator's response in how this is not an anti-8(a) program. I have given the Senator the names of a half-dozen firms. I hope at some point the Senator would address those firms as to whether or not they would be the object of this cut.

Mr. PRYOR. Mr. President, SDIO is going to have $100 million. They can hire every 8(a) contractor in the United States of America with that $100 million, should they do desire—$100 million. How many other agencies or departments of our Government have consulting contracts and consultants hired to the tune of $100 million?

I must say once again, Mr. President, I resent the accusations that this amendment is an anti-8(a) contractors' amendment. It is not. It has nothing to do with this.

I hope I can convince my good friend from Virginia of that fact as the afternoon goes on.

Mr. President, I guess the afternoon is in fact going to go on, but I am going to sit down. I see my good friend from Nevada and others desire to speak.

Mr. President, I yield the floor.

Mr. REID. Mr. President, I see the comanager of the bill now is my friend from Maine. I am wondering if anyone would have an objection to my speaking as if in morning business?

If not, I ask unanimous consent that I be allowed to do so.

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

(The remarks of Mr. REID and Mr. GRAHAM pertaining to the introduction of S. 3160 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

BOSNIA

Mr. LIEBERMAN. Mr. President, earlier this morning, I gather that my friend and colleague from Arizona, Senator DECONCINI, took the floor to indicate his continuing concern, agitation, anger about events that are occurring in the former Yugoslavia, and his impatience with the fact that the Senate has not yet scheduled the amendment that he and I and many others of both parties have cosponsored which would express our outrage at what is happening there and would support the use of military force to guarantee the delivery of humanitarian relief, as well as to enforce any decision that the Security Council may take to gain access to these detention camps to determine exactly what is happening there.

Essentially, this resolution supports what the President is already negotiating with our allies, particularly Britain and France, and which the Security Council apparently will take up later in the day. He calls on the Security Council to consider certain other actions but leaves it to them, such as suspending the arms embargo, with the hope that the civilized world may decide that it is only fair that we begin to give the Bosnians some opportunity to defend themselves; that the U.N. Security Council consider convening a war crimes tribunal for the Serbian leaders, and so on.

Mr. President, my friend and colleague from Arizona apparently indicated this morning that until there is some agreement that makes clear that there will be a time certain during which this Senate will debate our resolution or some other resolution on Bosnia before we depart from this Capitol on Wednesday evening, that he intends to deny any unanimous-consent agreement to proceed further on the bill.

I come over to the floor to indicate that I intend to stand with him in that denial of a unanimous-consent agreement because, no matter how important matters are, procedural concerns, the differences between Members in the Chamber, there is a crying need for us to speak out and to speak out with strength to support what the President is doing and support what the Security Council is doing and to give some support to the people of Bosnia and warning to the leadership of Sebria that is carrying out this horrendous onslaught.

Mr. President, I looked at this morning's New York Times. Do you want to know why there is an urgency? Front page story:

> Serbian forces are tightening a noose around northwestern corner of Bosnia and Hercegovina, cutting food deliveries and escape routes for 300,000 increasingly desperate residents.

Ibrahim Kozlica, described as a Moslem who operated a cafe in Bihac in this area says:

> They are trying to clear this area of Moslem people. I wanted to send my wife and children out, but there is no way. We are waiting for God to save us.

Further in the article, Cedric Thornberry, civilian affairs director for the U.N. peacekeeping force in former Yugoslavia says:

> It's a human and political calamity that's just waiting to happen. It will require a major change in policy on the part of the Serbs if that calamity is not to occur. Many of us have nightmares about it.

The commander of United Nations military mission here, Maj. Ziaul Haider of Ban-

gladesh, met with the local Serbian leaders. * * * They said they want to move all Moslems out of Bosnia and replace them with Serbs, he recalled. They really don't have any military objective. The shelling is directed to civilian areas to terrorize people. * * *

Evidence of the growing isolation of this region is clearly visible in the Bihac Hospital, where doctors have begun treating severely malnourished infants.

Lars Neilsen, a Danish relief worker is quoted as saying:

They looked like victims of the Ethiopian famine. Pediatricians tell us that in many cases, they don't even make it to the hospital.

Mr. President, if we, knowing what we know is happening, listening to the reports from the U.N. personnel there, eyewitness reports of the intention of the Serbs to strike at civilian populations, to remove people forcibly from their homes simply because of their religion, which in this case is Moslem, do not debate and I hope adopt resoundingly a strong statement of concern and support for the use of force, at least to bring humanitarian relief to these people, then really what are we and who are we and what is the purpose of our service here?

Leaders around the world, our allies in Europe, the President of the United States, the U.N. Security Council, responding to the evidence of what is happening in Bosnia, are all working with speed and devotion to express their outrage and make something happen. It is time, certainly before the Senate breaks this week for the rest of August and into September, that we join this chorus of moral outrage and strength.

Remember what Cedric Thornberry of the United Nations says here:

It will require a major change in policy on the part of the Serbs if that calamity is not to occur.

And what is it that can possibly bring about that change of policy on the part of the Serbs, who have been moving with recklessness, with viciousness, throughout Bosnia? We are not sure what will stop them. But one thing I know: The possible fear of allied military force against them holds a better hope than anything else we have tried up until now of getting them to stop their aggression, their brutality, and get to the peace table.

I think it is critically important that before we leave here this week, the Senate makes clear on behalf of the people of the United States we are ready to send that message of force to the Serbs. We leave it to the Commander in Chief, the Security Council, and our allies in NATO to determine exactly what form that message takes. but let us not be stymied with 101 reasons why we should not act. Let us give the President and the Security Council the power to act.

So again, finally, I am going to stand with Senator DECONCINI respectfully in objecting to any unanimous consent agreement on this bill until there is a time certain set for debate on a resolution concerning Bosnia.

I thank the Chair.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wonder if the Senator from Connecticut will remain a few minutes. Perhaps we can together have a colloquy on this important issue.

I have stated earlier today that my objection today to try to vote is that tomorrow morning the Senate Armed Services Committee, under the leadership of the Senator from Georgia and myself, is going to have a very thorough hearing by two panels of recognized military experts, and hopefully they can shed some light, in addition to some excellent articles that have been written and statements by experts particularly over this weekend, on the military implications of each type of assistance that might be rendered under a proposed U.N. resolution.

So it would be my hope that whatever vote the Senate wishes to make would take place after that hearing, so that at least that information is a matter of record before this body.

But I would like to just ask my good friend several questions. I am still searching for information as to whether or not the type of persecution we have now witnessed through the television, taking place in camps conducted by Serbian interests, is not in some manner to be found in comparable situations of internment maintained by Croatian interests, perhaps Moslem interests, perhaps Bosnian interests.

In other words, if we were to rush and bomb Belgrade, as Mrs. Thatcher, the former Prime Minister, said, cut the bridges, hit the ammo supplies, take the risk of killing innocent civilians in and around Belgrade and other places, then all of a sudden, if we do get the International Red Cross in, we might find that comparable situations, equally deplorable to the outside world, are taking place in other camps under the control of other forces.

This is a civil war, three parties fighting each other: Croatian, Moslem, and Serbian. What assurance do we have, if we launch out into some type of military action, as advocated by some—Mrs. Thatcher, notably, the former Prime Minister—what proof do we have that we do not turn and find, in due course, that same type of problem is existing in other camps?

I ask the question of my friend.

Mr. LIEBERMAN. Mr. President, in responding through the Chair to the Senator from Virginia, I am reminded of something said over the weekend, which is that we can find 101 reasons not to do something here. But we have plenty of reasons to do something. The question now is what is appropriate.

I do think there is a danger—I say this respectfully to my friend and colleague—of a certain moral neutrality as we look at what is happening. This is a complex situation. We know that there are historic conflicts between the various ethnic and religious groups there.

But if I may say so, the record is clear about where the preponderance of evil, of unacceptable behavior over the last year has rested. The record shows, from the time that Yugoslavia began to dissolve, a steady course of Serbian aggression, first into Croatia, now into Bosnia, and many fear, if we do not stop it here, into Kosova, Macedonia, and perhaps wider.

But second, and equally clear, again in testimony from U.N. officials that I have read today, the course of action by the Serbs is unacceptable and outrageous. Yes, there are historic conflicts between the Moslems and Bosnia, the Serbs, and the Croatians. But there is no evidence that the Moslems or the Croatians are doing to anyone what the Serbs are doing. They are hitting civilian populations, ethnically cleansing regions—an antiseptic term that belies what it is. It is the beginning of a genocide.

I use the term hesitantly. It is not a genocide. But it is the removal of almost 2 million refugees from Yugoslavia—not voluntary, not economic refugees. That is two-thirds of the State of Connecticut forced out of their homes by the Serbs, tightening a noose around Sarajevo.

Here is the testimony of the U.N. officials, having spoken to the Serbs, saying: "They"—the Serbs—"really do not have any military objective. The shelling is directed to civilian areas to terrorize people." They said they want to move all Moslems out of Bosnia and replace them with Serbs.

So it seems to me that the evidence is clear and justifies this statement of policy.

If I may, just for one moment more, respond to the Senator——

Mr. WARNER. Mr. President, the Senator is verifying my second point. Thus far, the resolution which I understand is being pursued in the United Nations is that all necessary means—which implies the use of military force—will be used to get relief to those injured persons in Sarajevo and into the camps, presumably, although those camps, as I pointed out the other day, are quite distant from the port where the supplies would have to be brought.

But in listening to the Senator from Connecticut, he is understandably greatly concerned about the shelling, the war. But that is a civil war. Is it the Senator's thought that we should intervene in that civil war to stop the firing of the cannons and the mortars? What is the extent to which the Senator wishes to have the United Nations participate?

The resolution, as I understand, now being drafted is narrowly crafted because of the concerns of Great Britain, France, and many other nations about getting relief in, in support of certain people being damaged in many ways, in the camps and otherwise, by this aggression but not to stop the origin of the aggression.

Mr. LIEBERMAN. Mr. President, responding to the Senator from Virginia, the resolution to which my name is attached has limited purposes, which are to ask the President to go the Security Council for an authorization by the Council for the use of force to enforce Security Council decisions to deliver humanitarian relief, and to gain access to the camps.

Those are the two limited purposes.

Now, it is quite possible——

Mr. WARNER. Mr. President, how does that stop the shelling and the civil war?

Mr. LIEBERMAN. If I may, Mr. President, it is quite possible that second purpose, with regard to the camps, will not be necessary because I gather—and it will remain to be seen whether this actually occurs—that the Serbs have said they would open the camps now to the international Red Cross for Inspection.

But I told the story because the Senator from Virginia seems to be suggesting that we should not act until we are certain that the Moslems or the Croatians are not doing acts against the Serbs that are equally as reprehensible as the Serbs. That is the kind of moral relativism or neutrality or passivism that does not relate to the facts. No one has alleged that the Moslems or the Bosnians or Croatians are running the kinds of detention camps that the Serbs are running. No one has alleged they are trying to remove Serbs from the areas of the country. So action is justified here by the uniquely horrible acts taken by the Serbs.

The direct answer to your question: The resolution, again, does not call for involvement in a civil war. I personally feel that we may come to a point where the civilized world, having tried to deliver humanitarian relief, may feel that it is necessary, as Mrs. Thatcher has said, to impose some pain on the Serbs, perhaps by hitting the military depots or the bridges or the like to show our seriousness. But we are not at that point now. That is not the point of the resolution.

Mr. WARNER. If I may ask my friend another question, because my main concern is for the American people to understand as many of the facts and the implications as we can possibly provide in the brevity of time that exists: If we are to provide all necessary means, military forces, to escort, presumably, the United Nations food trains and relief trains and medical supplies up to the camps, they are going to pass through areas in which, although not subject to confinement in camps, the people are suffering to just as great a degree as those with the misfortune of being in the camps. Along the road will be the ravaged villages and other suffering people. Do we not help them, will we proceed along these narrow paths up to the camps? What do we do? This problem is so complex, as our President has pointed out time and time again in the last 48 hours when people are critical of him for not acting more aggressively.

Well, as I look into this thing, to me there is good reason why our President has been very cautious, as have other world leaders, in reaching such decisions as they may in the next 48 hours. One of them, as the Senator promised, raise the hope that you are going to carry relief supplies using military force to drive up the narrow path to get to them. Expectations of many are raised. I want to make certain we understand what the goal is we are trying to achieve. The specific question is do we ignore the plight of the people in the villages who are not in the camp, many women and children, because of their extraordinary separation of male and female, as a part of the intrinsic baffling nature of this conflict over there? What do we do with those people as we go up through the villages on the way to the camp?

Mr. LIEBERMAN. Mr. President, the questions being raised now by the Senator from Virginia are ones that he might well raise with President Bush himself and our allies from France and Britain because the President is calling for the use of military force, all necessary means including military force, to guarantee the provision of humanitarian relief.

Again, the Senator from Virginia and I stood together here on this floor when it came to Operation Desert Storm. It is important to try to know as many of the implications of a very serious, profound act such as that and this, but ultimately, I think we understood that in that authorization resolution we adopted in January 1991 we could not deal with every potential military contingency. What we were doing was expressing a policy, which is that the Iraqi invasion of Kuwait demanded a response, which was the use of force.

Here in this resolution, we are asking for an expression of policy, which is that the suffering of these people, because of their religion and nationality, at the hands of the Serbs demands a response, probably now requires the use of force, and we will leave it to the Commander in Chief and to the generals as to what should happen, how that should be carried out.

Mr. WARNER. I say to my good friend, we simply cannot make a political judgment and then toss this into the hands of military experts unless we make quite clear what are the goals that we wish to achieve.

Let me ask another question of my friend. Indeed, we did stand side by side on this floor through one of the historic debates in this Chamber on the Iraq resolution. So I know my good friend comes with a clear conscious, and I think the root of some of his deepest concerns reflect back to the tragedies of World War II when the world did stand idle.

I am all in favor of having some type of action, but I want to make sure we understand what it is. This brings me to the question of ground forces. How do we get this supply train, this relief train up through this extraordinary terrain, mountains, valleys, where very few military forces poised on the top of the hill can hold up a very substantial military force trying to work its way up through a narrow path. If we have to deploy ground troops—and that will be brought out tomorrow in the course of our hearing in the Armed Services Committee—from whence do they come?

I find some concern in having our President take this leadership that is being clamored for by many who are criticizing, and then saying, "Oh, no, the heavy lift, the real heavy lifting of the ground troops has to be done by others." I find it somewhat inconsistent that you take the leadership, you get the United Nations resolution, and then you say, "Oh, the high-risk element of this has to be done by others." How do we answer that question?

Mr. LIEBERMAN. Mr. President, I am not here today to criticize the President. I see this resolution as an expression of support for what I gather he is doing now. And, again, let us distinguish here. The use of the term "ground forces," I do not think anyone in this Chamber, certainly not the Senator from Connecticut, wants the United States or our allies—but this is the United States Senate, let us talk about the United States—to intervene on the ground in the war that is going on in Yugoslavia. However, to be true to the goal that the President has stated and that this resolution embodies, the delivery of humanitarian relief to these people who are being chocked off may require the use of some personnel other than in the air and in the waters of that area. I think we have to acknowledge that.

But let me say directly, I am willing to acknowledge that here, and to say that I accept the responsibility that goes with that. The exact dimension——

Mr. WARNER. Excuse me. Let us define that responsibility as implicit in this operation of "all necessary means" to get relief supplies to these remote areas, ground forces of some nation or nations will be involved.

Mr. D'AMATO. If the Senator will yield——

Mr. LIEBERMAN. I will add one point and then I will yield. The Sen-

ator from Virginia referred to the clamor, the concern of many of us, and said that he thought he had an understanding of the origins of my concern going back to what happened in World War II. I want to say respectfully that is part of our concern. I presume that is part of all of our concern.

Mr. WARNER. I assure the Senator it is part of the concern of all on both sides of the aisle.

Mr. LIEBERMAN. Absolutely. Let me just add that I am motivated equally by not just the sense of moral responsibility that we all fear because we worry that this is the beginning of a genocide happening, at least a torture and forcible removal of people simply because of their religion, Moslem in this case. But I feel that this is a defining moment in the post-cold-war world, and that, if the civilized world does not get tough here with Serbian aggression, there is not going to be any order to the new world order, that the post-cold-war world in its way will be more insecure than the cold war. There we had definable lines, the conflict was clear, and we had a standoff.

(Mr. WELLSTONE assumed the Chair.)

If we turn away from this kind of aggression here in Europe, there is an enormous danger that all the other pools of ethnic hatred and national tension will break loose and there will be a wider conflict in Central and Eastern Europe. None of us want that.

Again, I fear that history tells us twice in this century that we turned away from conflict in its early stages in Europe only to be drawn in later at an enormously greater price in the blood of Americans. I do not want that to happen again. That is what motivates me to ask for this expression of force.

Mr. WARNER. Mr. President, I do not disagree with those statements. I could have easily made them myself, and I have, I think, throughout my career. Let us have a narrower question.

Look in the eye of Hometown, U.S.A., from whence our soldiers, sailors, airmen, and marines come—the men and women that will be called on to do this job. Are we implying that America will commit ground forces if we seize the high ground, seize the leadership and say, march on, and with all necessary means get those relief supplies up through the various areas of Bosnia? A simple question: How do we answer Hometown, U.S.A.? Are our troops to be involved or not on the ground?

Mr. LIEBERMAN. I think what we say to Hometown, U.S.A.—obviously, I have thought about that, because that is the moment of truth, the confrontation that we all think about and have to be prepared for. What we say is that in the interest of our stature as the moral leader of the world, in the interest of the security of a world post-cold-war, in the interest of avoiding a wider conflict in Europe in which Mr. and Mrs. America—more Americans would be drawn in, this is the time for the measured use of force.

I gather from stories that I have heard and read that what is being contemplated in the plans that are being drawn up is American involvement in air strikes and Western European involvement on the ground. I do not know that, I say, in all fairness and completeness, to the Senator from Virginia. Again, I feel very strongly that the role of the U.S. Senate is to gather as much evidence as it can and express policy. It is the role of the Commander in Chief to carry out that policy. The President did it ably in Operation Desert Storm, and I have confidence in him and the leaders of the allied nations to do the same here.

Everyone understands the complexities. Nobody reasonably will rush into a wider conflict in Yugoslavia. We are talking about limited, measured, sequential use of force. And the problem here is, What is the alternative?

The alternative is to stand by, read the stories I have read today—another 300,000 Moslems trapped, starving, babies malnourished—and simply say there is nothing we can do. We have an obligation to do whatever we can reasonably and appropriately do. I have confidence, once again, in the President as Commander in Chief to determine exactly what that use of force is.

Mr. WARNER. Mr. President, should we not be likewise willing to accept—the Senate of the United States, the Congress of the United States—the responsibility of telling our people, as does the Commander in Chief at some future time, that ground forces may be involved and they may come from Hometown, U.S.A.? Should we not accept that commensurate responsibility as we make these policy enunciations?

Mr. LIEBERMAN. Mr. President, absolutely. In proposing this resolution, I accept that responsibility. In recognizing the authority of the Commander in Chief, I do not intend to put all the responsibility on his shoulders. I do so in what I think to be the appropriate constitutional delegation of responsibility.

Mr. WARNER. Well, I thank my good friend. We have had many opportunities to debate together. I know he feels as keenly as I, that the men and women in the Armed Forces likewise need some protection in the form of making certain they understand what is involved if they are called upon, what are our goals if they are called upon, and what are the associated risks.

Only history can dictate those associated risks, the answers to that, because there is a great deal of history, not only World War II, but going back 1,000 years in this most unusual part of the world. The strife between these factions emanating from differences of religious belief has been persistent in bloody warfare for 1,000 years. And the uniqueness of this terrain renders less effective so many of our weapons which are high tech, and comes back to the simple foot soldier.

Mr. McCAIN. Will the Senator yield?

Mr. D'AMATO addressed the Chair.

Mr. WARNER. Parliamentary inquiry. Does the Senator from Virginia have the floor?

The PRESIDING OFFICER. Yes.

Mr. WARNER. I yield to the Senator from New York.

Mr. D'AMATO. I am wondering why it is—and I understand that the Senator is attempting to point out the various ramifications of how this situation could possibly deteriorate into the United States being required or committing land troops. I do not think anybody who has worked on this resolution is asking that to be the case. But I do believe what we are saying is that it is time for more than just rhetoric. It is time to demonstrate and to commit to the world community that we are ready and willing, under the leadership—yes, of the United States, because the United Nations has failed to provide the moral leadership—to do what must be done to bring about the kind of pressure that those in Belgrade will understand.

Here is Belgrade. I do not believe that we should seek out, nor that anyone would attempt to persuade a course of action, or bring about a course of action, which is a cessation of the bombing and entrapment of people in Sarajevo, and a new town that comes to our attention, Bihac, where there are 300,000 people now being besieged. How do we get Milosevic and the Serbs to stop this kind of killing? It is not just by attacking targets in the mountains, but there are economic targets close to Belgrade. There are fuel depots, there are railroads, there are powerplants; there are any number of those that, if hit—and they can be rather easily hit—will bring to the people in Belgrade a message that we are not going to allow their government to continue the slaughter and entrapment of the innocent.

Why should we look at this as if someone who proposes this amendment, or his solution, is saying to go into surrounding Sarajevo and dig these people out. We are not saying that.

Mr. WARNER. The resolution says, "use all necessary means to get relief trains up to those geographic areas" which, incidentally, I brought in that very map and pointed that out 2 days ago.

Mr. D'AMATO. Let me suggest to you that probably one of the areas is Novi Sad, which is miles away. But you knock out those gas lines, you knock out—and tell them we will continue to increase the pressure—those powerplants in Belgrade, you knock out

those rail depots, which they need to provide not only munitions, but also in terms of keeping their own industry going, and then you will begin to get the 9 million Serbs to say: What is taking place? They are hurting us; our electric does not go on; we do not have power and water; and we are going to face famine and pestilence, and the world community does not sit by; it is not just by sending troops in to dig them out of the mountain passes.

That is the absurd argument being put forth that suggests that the Senator from Connecticut and the Senator from Arizona and the Senator from New York are saying, go in and dig them out. No; we are saying use whatever means necessary and, of course, when we say that, we are not saying to have the death march into the valley, as we have heard in that famous poem over and over. We are not saying that.

We are not saying that. But we are saying hit them economically. You will have that option. You have the option to build the pressure so that finally their own people will say we have to cease, and if they cease then we can come to some terms.

Mr. WARNER. The Senator's hypothesis presupposes what we call in military parlance a clear command and control; namely, that if you were to inflict painful damage to Serbia that that government in turn controls the belligerent forces now wrecking devastation within Bosnia. It is quite clear that that command and control is a matter of great dispute among the experts who have been into that area and the U.N. forces themselves.

Mr. D'AMATO. I suggest it is naive really to think that these forces that have come from these ethnic Serbs who may have lived in Bosnia, they have not had this firepower and not had the kind of volume of weapons and supplies had it not been coming from Belgrade and coming from Bihac. It is naive. To say they have day-to-day acknowledged every act they take in the field, no. No, we cannot prove that kind of thing. But it is just not realistic to suggest that the guerrillas in the field, so to speak, are carrying this kind of activity on themselves; that there is not coordination now when they look to cut out Bihac's 300,000 people. It is not coordinated—of course coordinated to that extent—to the extent they are directing when the mortars are going to be fired; of course; no one is suggesting that. To suggest that Belgrade does not have incredible influence and has not created this and they are not part of a greater plan for greater Serbia is just not believable.

Mr. WARNER. Mr. President, I suggest that the good Senator come to a hearing tomorrow at which time the military experts will address that question of naivete, and I assure him that the testimony, credible on both sides of the issue—there is not the tight command and control that the Senator imagines between Serbia and the insurgent forces.

I yield for a question from my colleague from Arizona.

Mr. McCAIN. I ask my friend from Virginia, if in the immortal words of the famous beloved Yogi Berra, this debate may be dejà vu all over again. With all due respect to my friend from New York and my friend from Connecticut, the argument we have just heard is almost the exact same argument that was used in 1965 to commence the bombing of North Vietnam. The argument was that if we bomb those powerplants, if we destroy those bridges, they will stop supplying the Viet Cong in South Vietnam. I wonder if the Senator from Virginia does not find such an argument eerily reminiscent.

Mr. WARNER. Mr. President, I was there in the Pentagon at the very time the distinguished Senator from Arizona was on those bombing missions and later incarcerated in prison camps. He knows firsthand the answer to that question.

Mr. McCAIN. If I might follow up with another question to my friend from Virginia, does he remember that we became involved in a civil war in Vietnam, a war between the north and the south, in which we felt the use of air power could somehow decisively end the conflict? I am very pleased, by the way, that the Senator from New York does not contemplate the use of American ground troops in this effort, but also I wonder if the Senator from Virginia remembers that bombing targets in rough terrain in Vietnam, where we could not separate friend from foe or military from civilian, was very different from bombing fixed positions in the desert and Kuwait?

Does he remember the Korean war—in which the Senator from Virginia served with great distinction—where we deployed enormous amounts of air power and bombed all the supply lines, and emplacements that we knew of in both North and South Korea and failed to decide the outcome?

We all share a common concern, compassion, sorrow, anger, and frustration over the terrible tragedy that is unfolding in Bosnia and the other parts of what once was Yugoslavia.

All of us are enraged when we see these terrible atrocities taking place.

The question is what can we do to affect the outcome of this tragedy? I would suggest to the Senator from Virginia, and I have a very long statement about this at the proper time, that the Europeans are the ones who should bear the primary responsibility for solving the problem. It is our European friends who have excellent military capability and who have fine armies and air forces in place. I would suggest that to contemplate sending American young men and women into combat without a U.N. mandate for a multilateral force without Europe agreeing to provide most of the forces, and without a clear-cut strategy to determine both where we are going to begin, and what the end game is, is a recipe for failure or the kind of symbolic success that will have no long-term meaning.

Further, before we go in we must consider the cost of getting out. If American pilots are shot down and captured, how will we get them returned, much less ground troops? How are we going to combat a guerrilla war if we do halt the use of heavy weapons? How in the world, as the Senator from Virginia well knows, we are going to identify targets that we can bomb? A few scattered highly mobile artillery weapons are not only hard to target, Serbia guerrillas can easily shift to mortars, rocket launchers, anti-tank weapons and other weapons we cannot target at all? And, what good does it do to cut off the electricity in Belgrade when there are people in the mountains surrounding Sarajevo shooting children as they try to get to the airport on a bus?

Noble words and well-intentioned rhetoric are not enough. We have to deal with the reality of this situation, and focus on what we actually can accomplish and achieve here. I have heard time after time during this debate about comparisons with our success in Kuwait and the Persian Gulf war. There is another comparison I would ask my friend from Virginia about. Does he remember Beirut? The Senator from Virginia and I remember all too well when Marines were sent into the airport in Beirut in order to secure that airport. They were sent for much the same reasons as we are attempting to secure the airport in Sarajevo. Tragically, more than 200 of those young Marines gave their lives in a terrible tragedy, because we had no strategy, no end game, and no way to use military force to achieve our objective.

I would like to say to my friend from Virginia that I think that he is correct. We need to listen, and to pay close attention to General Powell, the heads of the military services, and the men and women who will be required to do the sacrificing if we become militarily engaged. I think it is of the utmost importance that we should not forget to use our heads, as our emotions react to the very real atrocities we are seeing. We will have very different emotions the first time the bombing raids that the Senator from New York contemplates cause a bomb to go astray and strike a school, a hospital, an apartment house. We will have different emotions the first time innocent civilians are killed, whether it be outside Belgrade or outside Sarajevo. We will have a different view on the efficacy of the use of air power.

Mr. WARNER. Mr. President, I congratulate the Senator, he speaks with a voice of authority and experience.

I would like to ask one question before the Senator departs the floor. Sensitive though it may be, it bears on this. But if we do not learn from the lessons of the history that the Senator has so vividly recounted we may well in the famous words of a person a lot more intelligent than I be doomed to repeat them. I do recall at the time that we intensified the bombing on Haiphong and Haiphong Harbor in the fall of 1972, and as we did so I ask the Senator, what happened to those Americans and others who were incarcerated? I find it difficult to think that if we launched the type of attacks which the Senator from New York describes as painful to the Serbian government, painful to the Serbian people that they in turn would not bring about some of that pain on the very people who are incarcerated in these camps, which is the object of so much discussion today and concern.

Mr. McCAIN. I believe that the Senator is correct in that statement. Further, we already know that the Serbians have already threatened reprisals. We cannot bow to such threats, but the recent months have proved we cannot ignore them.

I also want to emphasize what the Senator from Virginia has been saying in such a articulate fashion. Let us have our military leadership tell us how we can use force in a beneficial fashion. If they can give us a plan, as they did in Desert Storm where we can see a light at the end of the tunnel, that it is not a train, we face a different situation. If that light is the same light we saw in the Vietnam conflict, then I think the Senator from Virginia is all too correct in his warnings to the Senator from New York.

If we have expert military advice to prove military action will achieve the right, results, that is one thing. But, for us to sit here in this body and decide to bomb this place or bomb that target, et cetera, is quite another. In my view, we have no base of knowledge, background or experience to make such judgments.

I would also remind my friend from Virginia of another thing he knows all too well. If we send those young men and women into a conflict which turns into a quagmire, their military leaders will be the ones who will be held responsible, and not the Members of this body. At an absolute minimum, we ought to listen to what their views, and to how they think we can best end this tragedy in a beneficial fashion. I thank my friend from Virginia.

Mr. WARNER. I thank my friend.

Mr. PRESSLER. Will the Senator yield?

Several Senators addressed the Chair.

Mr. WARNER. Mr. President, I just want to make sure with that interruption how much I and all other Senators appreciate the insight and knowledge that the distinguished Senator from Arizona has and what thoughtful comments that he has brought to bear on an otherwise tragic situation. He has been a strong voice, strong voice of reason and patience, and a strong voice in fully informing the people of this Nation of the consequences of any action taken by the United Nations and the likelihood that it would involve men and women of the Armed Forces of United States.

I thank my friend.

I yield for a question from the Senator from South Dakota, and then I will be happy to yield for a question from the Senator from Washington.

Mr. PRESSLER. I thank my friend from Virginia.

My reason for cosponsoring this amendment and for supporting the position of the Senators from Connecticut and New York is that I think that this represents a defining moment in our foreign policy for the next 10 years. This is the same reason I voted for a similar resolution in the Foreign Relations Committee last week.

I think that in the new world order, the new order of nations that we have, the United States, Europe, and Japan, and other countries will have to be prepared on a multicountry basis to have some kind of special force or a special type of force of a limited number of highly trained volunteers who can carry out ground operations, in conjunction with the use of air power and other technologies to deal with certain situations over the next 10 to 15 years.

I think that we have a new set of circumstances facing us. If we back away from the situation in the former Yugoslavia, we will be backing away from a great many other situations that are going to happen in the next 10 years—indeed, situations that may be encouraged by the lack of a strong response here.

Let me say that this is a rather ironic debate. The two sides have traded positions, so to speak. I heard many of the same arguments used by proponents of this amendment come from this side during the Iraq debate and many of the opposite arguments coming from the other side. I guess I would not say the hawks have become doves and the doves have become hawks, because perhaps that is putting it too simply.

But I have been in Washington and in the Congress since the days of the Vietnam debate. I served in the Army in Vietnam. I was here during all the Nicaraguan debate. It is very easy for us to be carried away with accusations. And that is not my purpose. I have the highest respect for those on the other side of this issue and I shall listen to the Armed Services Committee hearing tomorrow with a great deal of interest.

However, many of the things happening today in the former Yugoslavia were foreseen. When Lawrence Eagleburger was confirmed, I predicted pretty much what was going to happen and raised questions about the future of what was then a unified Yugoslavia. I am not saying I told you so. But I believe that the State Department, mainly under Deputy Secretary Eagleburger, has done a poor job on Yugoslavian policy.

There have been warning signals from this Chamber. I know my colleague from New York has spoken many times in the last 4 or 5 years. Many others have as well. I think that we need to listen to one another and to foresee some of these things. We are no longer in a bipolar situation with two superpowers. We are in a new ball game, so to speak. I think we could have avoided the current situation in the former Yugoslavia had we taken some steps earlier.

Unfortunately, we did not act until it was too late for diplomatic means to resolve this matter peacefully. We must act now, not only in an effort to end the bloodshed, but to prevent it from expanding. For instance, I fear there is a real possibility the war could spill over into the Republic of Kosova. If that should happen, I predict three or four other countries will join the war. If war comes to Kosova, I believe Albania, Turkey, Greece, Bulgaria, and perhaps others could actively join the fighting.

So, this is not an easy question. And I respect everyone here on the floor. But it is a defining moment in the new order of world events, in a world in which we no longer have a bipolar situation. I think if we back away from this situation without taking some action with our allies we will not only lose a great opportunity to extend freedom even further, but will actually set a very bad precedent. I am not advocating—and none of us should be forced into the trap of advocating—massive ground forces. That is not what we are advocating.

Mr. WARNER. Mr. President, I say to the Senator, if we come out and support a resolution saying we are going to drive relief columns up through there, you are implying that ground forces will have to be used.

Mr. PRESSLER. I would take that responsibility.

Mr. WARNER. If I could just finish.

Twice the Senator has said this. This is a unique concept. Let us get some volunteers to do this.

Let us make sure those volunteers exist and then give us some idea how long they must train together. You cannot just gather up volunteers like mercenaries from all over the world and expect them to become a fighting force within 30 days or 2 months or 10 weeks. Give us some idea.

You drop these ideas out. It is a defining moment in history. But what I

want to define is what is involved, what is the goal, what will it take to achieve the goal, and who is going to do it, who is going to do the heavy lifting, the dying, on the ground forces getting up through those passes?

Mr. PRESSLER. First of all, I will take responsibility for advocating the use of limited ground forces.

Mr. WARNER. Does that involve U.S. ground forces?

Mr. PRESSLER. Some U.S. ground forces and those from other countries.

I cannot advocate this resolution, I feel, as a Senator, without taking responsibility for that, because I think this is what the resolution says.

I know it is easy to say we are going to do this and this and this. However, I believe that when we advocate a particular position, we must be willing to take responsibility for the outcomes in which that position may result. That being said, we do have many technological and air power options. In addition, there are in the world many people who enjoy serving in special forces from the United States and other countries. There is much a 1,000- or 2,000-manned, highly trained unit can do in terms of opening up roads. I have been part of groups in the Delta that have kept roads open.

It does not require an invasion force. There are things that can be done.

However, I say again that I will take responsibility for advocating the use of ground forces. I am mainly advocating other things, but I feel that those who vote for this resolution cannot escape the responsibility for the fact that some ground troops likely will be necessary, and I will take it.

Mr. WARNER. Mr. President, I see the Senator from Washington seeking to ask a question. I yield for a question from the Senator from Washington.

Mr. GORTON. Mr. President, I would as well like to place my comments in the form of a question, and I would like my distinguished colleague from Virginia to answer not only my question but those raised by the Senators from New York and from South Dakota, as well, on what seems to me to be three or five logical progressions of questions about this matter.

My first would be that I understand—and I hope that the Senator from Virginia will agree with me—that there is little difference among the Members of this body or, for that matter, across the United States of America with the public, or the public of most of the civilized world, over the evils, the gravity of the evils, being inflicted upon the citizens of Bosnia by Serbian forces controlled in part at least from Serbia itself but primarily made up of Serbian nationals in Bosnia itself.

I suspect though—and I solicit his opinion—that the Senator from Virginia would agree with me that this rates with Cambodia a few years ago, that it rates with the oppression imposed upon the Afghans by the Soviets and with the Soviets to send in aid, that it is comparable to the treatment of Kuwaitis by Iraq during the occupation of that country.

Mr. WARNER. The Senator is correct. I agree with exactly what he says. It weighs in, it is hard to equate or distinguish, but it is killing in the worst fashion. And I would add Somalia, I would add Armenia. I would add several other areas of the world. The Senator is correct on his first point, and I agree.

Mr. GORTON. In fact, in some respects, this is from the point of view of the announced goals of the Serbian forces, the most outrageous of all the post World War II invasions or civil wars, because it apparently seems designed to drive 2 million or more people from their ancestral homes.

Now, it seems to me, as the Senator has already answered, that there is no real disagreement in this body or elsewhere about the evil of what is taking place in Bosnia. The question, it seems to this Senator—and I solicit the comments of the Senator from Virginia—is to whether or not the natural reaction—do something; do something about this; use all necessary means to solve this challenge—is not necessarily going to lead us to appropriate public policy.

The proper questions for us to be asking ourselves seem to me, Mr. President, to be these, and on these questions I would like the views of the Senator from Virginia.

The first one for which I do not believe that I have heard a precise answer at any time during this debate—here, among the candidates for the President of the United States, or in the public as a whole—is what is the political goal of any course of action which the United States and the United Nations should take? What do we mean to accomplish?

Mr. WARNER. Mr. President, by political goal, my colleague means geopolitical vice Democrat versus Republican?

Mr. GORTON. Absolutely. I am speaking about the goals of our country in Bosnia and the remains of Yugoslavia.

Mr. WARNER. And the free world. This whole debate takes place, as the Senator from Arizona has pointed out over the weekend in his television and media appearances—it takes place against a divisive background of a political election in this Nation. And to the degree we can elevate this issue and the decisions we make to resolve it above that is the degree to which we are going to have any success.

Mr. GORTON. I fully agree with the Senator from Virginia. But to pursue that, is the goal the relief of Sarajevo? Is it limited to creating a land line by which the people of Sarajevo can be supplied with food and the other necessities of life? Is it a little more than that? Is it to secure Sarajevo by ending the artillery fire from the hills surrounding that city? I am not sure that is going to be sufficient. The pictures are of starving Bosnians in concentration camps that are outside Sarajevo, I say to the President. So, is this political goal which we are seeking to be the relief of all of these concentration camps in such fashion, either that the people who are imprisoned in them are freed to go to their own homes or to leave the country? Or simply to be fed?

Is the political goal the independence of Bosnia? After all, the justification to go to the United Nations—and I believe it is here in the first "whereas" in the resolution with which we will be dealing, "the Republic of Bosnia-Hercegovina is internationally recognized as an independent State."

OK, if it is—and it is by many countries—is our goal going to be the independence and security of Bosnia-Hercegovina? Is it going to be the disarming of all Serbs and others in that country? The restoration of everyone to the homes in which they lived before this civil war started?

Do we seriously believe that, with certain of our forces there, what had been feuds going back for 500 years will be settled and that all of these people who have been shooting one another and torturing one another will recommence their lives together in integrated communities?

Is it the partition of Bosnia and perhaps of Croatia itself? Is it the recognition of some kind of greater Serbia, which seems to be the goal of Serbia itself? Or will it require, given the brutal nature of these feuds—will it require, under our auspices, the United Nations to drive all the Serbs in arms in Bosnia out of their ancestral homes?

I do not know, I say to the Senator from Virginia. I do not know what the goals of this resolution—that of my distinguished friends from Arizona and Connecticut and New York are. They seem to be the relief of Sarajevo and of all of these camps. But by the time we have provided military relief for all of them, we will have occupied Bosnia. What is it going to require to do that?

Mr. WARNER. Mr. President, I say to my friend, that goal, for which each of the 100 Members in here I am confident would be a strong vote, is to alleviate the suffering, just the human suffering among the people of all of the various parts of the former state of Yugoslavia. That is the fundamental goal. The others, then, are secondary.

Mr. GORTON. That seems to be the goal of this resolution, simply to relieve the suffering, which we can do, presumably, by opening up a corridor to Sarajevo and to all of these camps. That implies at least that the Serbians are left in possession of 70 percent of Bosnia. But our troops, whoever is provided this relief, stay at risk on roads through mountain valleys and the like.

That does not include the independence of Bosnia itself.

The next question——

Mr. DECONCINI. Will the Senator yield?

Mr. GORTON. Not for the moment.

The next question I ask to the Senator from Virginia is, when we have defined what our goal is—and this Senator may say that anything short of allowing Bosnia to be an independent country seems to me to be a terribly intermediate goal—the next question is, what is our military strategy going to be toward attaining that goal?

The Senator from New York a few moments ago said, oh, it can be all by air. It can be all by air. We can bomb strategic points in Serbia—he was mostly talking about, in Serbia itself.

Is it not ironic, I ask the Senator from Virginia, that this specific goal in which many have shared would bomb the very city and destroy the infrastructure of the very city, the one city in Serbia in which tens of thousands of people demonstrate against their own government and its policies every week? Are we going to bomb the very Serbs who are on our side? Are we going to destroy their power plants and their bridges? In Serbia?

Mr. WARNER. Mr. President, the Senator makes a strong point and he is well taken in that observation.

Among us, I do not think, collectively is the military wisdom to explain exactly how you carry out the goals as we know them under this proposed resolution. That is the reason the Senate Armed Services Committee tomorrow is bringing together for the first time in a formalized structure two panels of witnesses to answer—not the goals, but, once the goals are set, how can they be achieved using all necessary means—which is found in all the various resolutions. That is the one thing this Senator has fought for steadfastly for days, is to try and hold the Senate in a posture so it can be fully informed before it is required to act on this resolution.

I have as much compassion for the suffering as any Member of this Chamber. I take second place to no one on that. But I steadfastly believe that having gone through the Iraq invasion and how carefully this Chamber, time after time debated that, how carefully the President consulted with the leadership of the Congress on that issue before the resolution came along—this time we are way out ahead. I think dangerously out ahead. Because whatever we do is going to send a very strong signal not only to the United Nations but all around the world. And it will be heard by the very people that are suffering, that the Americans and others are coming over here, over here. We are coming over there to help them.

I want to make certain we know how we get from here over there, to give that help. These experts will shed a great deal of light on that.

Mr. GORTON. I appreciate the wisdom of the Senator from Virginia. But I go on to remarks I have just heard from my colleague on this side of the aisle, the Senator from South Dakota—who has I think spoken perhaps with more logic than has the Senator from New York—who recognizes that what we are asked to do here is to authorize more than antiseptic air strikes. We are asked to use all necessary means, including the use of multilateral military forces, placing heavy weapons belonging to go all factions under U.N. supervision to deal with the question of war crimes and crimes against humanity, which means we have to go catch the war criminals, I suppose.

So my next question is: If we have this goal, how many troops and whose troops are we talking about? It was very easy to listen to a proposition about volunteers, apparently without nationality. But how many troops and from what countries?

It is the understanding—and I wish to be corrected by the Senator from Virginia if I am in error—that through most of World War II Serbia and Bosnia were occupied by somewhere between 30 and 45 divisions of German troops, who did not succeed in ending a civil war which was raging in Yugoslavia at that time.

We have heard a great deal from Germany, and the German Republic has been generous in taking in refugees. But does the Senator from Virginia believe Germany will provide any troops for this proposal? Does the Senator believe the Japanese will be providing these troops? Does he believe the British and French, our closest allies, will provide a sufficient number of troops to do this job? Are we going to seek Turkish troops, I ask the Senator from Virginia? Russian troops? Egyptian troops? Iraqi troops? They are all members of the United Nations.

No, I say to my friend from Virginia; if this takes place under this kind of resolution, sponsored by this Senate, they will be looking for American troops to engage in this activity.

Mr. WARNER. Mr. President, that has been my fear all along, particularly if it is the leadership of America which once again puts together this coalition that has been so often referred to in the context of the successful gulf operations.

I do not think we can suddenly say: Put together the coalition, and let us use all necessary means; and then say we will leave the heavy lifting, the foot slogging, to carry out these various goals to others.

I find that inconsistent. The Senator is correct.

Mr. GORTON. Finally, Mr. President, I ask the Senator from Virginia, how do we get out once we are in? If our goal is to relieve Sarajevo, must not our goal also be to relieve other cities with tens of hundreds of thousands of victims in them? When do we declare victory and come home? If we do this for 2 weeks, or 2 months, or 2 years, do we expect when we leave that all will be peaceful in a way that it is not been in the past history of this country?

How many casualties are we willing to suffer for this provisional relief, which presumably is something less than the complete freedom of an independent Bosnia?

If the proposals by the Senator from New York do not work, if the Serbians defy us, if we simply succeed in doing nothing more than destroying the support we have from tens of thousands, hundreds of thousands of Serbian people right now by bombing them, and by bombing their power, do we say: Well, we gave it our best; and leave and come home?

That is not the way it has happened in the past, I say to my friend from Virginia. If the first level does not work, you have to go the second level and the third level and the fourth level; and it begins to look like Vietnam, where we never were quite certain what our precise goals were in the first place.

Mr. WARNER. Mr. President, I agree again with the distinguished Senator from Washington. If we send a signal by resolution, if we get the United Nations to finally act in accordance with the resolution or in parallel, however, it may be, we are then, I think, committed for an indeterminate period.

My concern is, I want to make sure that the American people understand that, Mr. President—understand—before we march off, that we could be there for a prolonged period of time.

Mr. GORTON. Finally, Mr. President, I ask one last question of my friend from Virginia. This Senator must admit that a portion of this resolution is his own, before he listened to some of the military experts in the United States and was gripped by the same anquish which has seized every single one of us. This Senator does not understand for the life of him why we are not discussing the simplest of all solutions; and that is, allowing the Bosnians to fight for their own independence.

When Soviet troops invaded Afghanistan, we did not debate on this floor whether we should send American troops to Afghanistan to fight them. What we did was to help arm those Afghans who wished to fight for their own freedom, for their own liberty. We have done that on dozens of occasions since the end of World War II.

Now, it seems to this Senator to be a paradox that we have a United Nations resolution forbidding the sale or the importation of arms to any of these contending parties, a policy which seems to me to play totally into the hands of the Serbs. The Serbian army has armed all of the Serbian troops who are in Bosnia itself. They continue to get heavy equipment from that di-

rection. Our banning that heavy equipment from the whole area has no effect on slowing down the aggressors. But it has prohibited those who wish to defend their own homes from the effective means of doing so.

Would not the easiest of all interim solutions, in addition to a total and complete blockade, be to say that we are going to give the Bosnians the ability, the means with which to fight for their own freedom?

Mr. WARNER. On that point, Mr. President, the distinguished Senator from Washington and the Senator from Virginia may have a disagreement. I do not think it is quite as easy and simple as you point out, because if we begin to supply one side in the civil war, first, that intensifies the battle. It then begins to balance out the level of armaments on both sides, and the inclination would be and could be to fight harder and longer.

And the second point: In the middle of this civil war, namely between a reinforced, better-equipped Bosnian force and the belligerent Serbian force, are the U.N. observers who are there now trying to provide the very humanitarian relief that is desired by this Chamber, by this Senator and others, to flow to those in need.

How can you place them in greater jeopardy with an intensified battle? That is my concern.

Mr. GORTON. I must say, Mr. President, in this case, the Senator and I do disagree. I am happy that view did not prevail in Afghanistan, or we certainly would not——

Mr. WARNER. We did not have the U.N. forces in Afghanistan.

Mr. GORTON. In any event, Mr. President, I am sure that the Senator from Virginia would agree that that would risk far fewer lives than this resolution, in its present form, is going to put at risk here in the United States and among our allies.

I have essentially completed my remarks, and I really thank the Senator from Virginia for his indulgence in listening to me. But it seems to this Senator, before we get ourselves involved in a resolution like this, first, we have to know what our goals are; and second, we have to know what means we are willing to put to attaining those goals—and that means the lives of young American men and women in large numbers—how we are going to explain the inevitable casualties to our people, to the people of the United States; and how we are going to succeed in a relatively short period of time in reaching all of these goals.

Until we know what we are fighting for, how much it is going to cost us, what the responsibilities of the United States will be, and when we are going to be able to declare victory, it would seem to this Senator and, I trust, to the Senator from Virginia, as well, we would be wise to go relatively slowly into this morass.

Mr. WARNER. Mr. President, I thank my distinguished colleague. This is the very type of debate I have been endeavoring to encourage for some several days in this Chamber. It is now flowing, I think, in a very intense manner that contributes to a greater understanding of this problem.

The Senator from Washington and I agree on seven of the eight points that he makes. On the last one, I just pointed out my concerns in aiding one side in the civil war.

I yield to the Senator from Arizona.

Mr. McCAIN. Mr. President, I want to thank my friend from Washington for a very articulate depiction of the questions that this Nation faces as we proceed in our attempt to bring relief to the suffering and tragedy that is taking place in Bosnia as we speak.

I want to thank my friend from Virginia, who is taking, in my view, a courageous stand. I say that because it would be very easy for us, in light of the graphic tragedies that we have watched on television throughout the last few days, to say: Let us to in there and do something. Let us do anything to relieve this suffering, regardless of the probability of success. To say that, by golly, if we could do it during Operation Desert Storm, we can do it again.

I urge, as my friend from Virginia has urged, that we look at more than one historical aspect of U.S. military involvement. I urge that we also remember Beirut and the Vietnam war.

It is very important for us to remember what Gen. Maxwell Taylor, who was the Chairman of the Joint Chiefs of Staff under President Kennedy and later Ambassador to Saigon said: "There are several criteria that we must use before sending young Americans into combat overseas. One is that the conflict must be readily explainable to the man in the street in one or more sentences. A second is that U.S. national security interests must be clearly at stake. Third, the combat must be of short duration. And, fourth, the use of American men and women has to be extremely circumscribed."

I do not know where this scenario begins; where the middle is; what the end is, or what the result will really be. Until we can present that plan to the American people—and I think we have a profound and deep obligation to our men and women in uniform to do so—we should not act. We may need to act, but we must not do so until we have a clear plan, and a way of achieving a beneficial solution to this terrible tragedy.

I would also suggest that we must keep the events in Bosnia in perspective. As the Senator from Virginia has stated, what about Somalia? What about Ethiopia? What about several other parts of the world where tragedies are going on? Are we going to become what many of my Democratic colleagues have decried for the last 30 years? Are we now going to really become the world's policeman?

I want to point out again to my friend from Virginia that the Europeans have a much more immediate stake in these events, and much more immediate combat capability, than does the United States of America. Rather than send American troops, if troops need to be sent—or American air power, if air power needs to be sent—our European friends have excellent armies, excellent air forces, excellent navies that are deployed and ready to act. We can support them in many ways. But, we must not fall into the trap of taking the lead every time, in every contingency.

I would also remind my friend from Virginia that at the beginning of the Vietnam War, the overwhelming majority of the American people and the Congress supported United States military involvement in Vietnam. That support vanished with time. Our commitment and sacrifices did not. At the beginning of the Beirut tragedy, the overwhelming majority of the American people supported our involvement as a peacekeeping force in Beirut. Once 200-some young American marines tragically lost their lives, that support vanished overnight.

Let us not be driven by the whims of public opinion. Air power under these conditions is very imprecise, and the first time that a monastery, a school, a hospital is bombed by mistake, the public opinion could swing dramatically the other way, and we then will have no easy way out.

Mr. President, I thank my friend from Virginia again for a stimulating debate on this issue. What we are talking about now, I hope, is being discussed around every kitchen table, at every lodge, and every Rotary Club throughout America. We cannot ignore the tragedies and atrocities in Bosnia, but we must never again blunder into a military involvement where our lack of care and planning forces us to blunder out. There is nothing we can risk of more value to the American people than the lives of our young men and women, and we must not use their blood to pay for our lack of thought and caution.

I thank my friend from Virginia.

Mr. WARNER. I thank my friend from Arizona. He speaks with compassion having experienced the horrors of war himself, but he speaks also with wisdom and strength. He is quite correct. It is our obligation to the people of this country to fully explore this situation before this body is called upon to act.

I know the senior Senator from Arizona is anxious to pose a question.

Mr. DECONCINI. I wonder if the Senator will yield the floor so we could debate this a little bit.

Mr. WARNER. I am perfectly willing to respond to his question. Debate is

going on. I want to consult with my chairman before I yield the floor. Could not the Senator effect debate by——

Mr. DECONCINI. I could, but I would just as soon have the floor on my own. I do not have a sneak procedural——

Mr. NUNN. Will the Senator yield so I can give a little progress report?

I talked to the Senator from Arizona. He has been very cooperative. The Senator from Virginia, of course, has been very cooperative. I have talked to the majority leader and minority leader, and we are hoping to be able to propound in a few minutes a proposed unanimous-consent agreement.

Without getting into the details of it at this point in time, it would deal with the issues that are before us on the defense bill with a time certain to vote on the SDI amendment now pending. It would allow for a debate on the abortion motion to strike a provision in the bill today and dispose of that today. It would allow for a debate on the Graham-Mack Cuban democracy bill today with a time limit and dispose of that today. And it would also deal with the Bosnian resolution, the one sponsored by the Senator from Arizona or the one sponsored by the Foreign Relations Committee or some combination of those.

Mr. WARNER. Would the Senator also include a reference to the testing amendment which Mr. COHEN, of Maine, has been working on?

Mr. NUNN. That is certainly on the agenda, but it is not part of this initial unanimous-consent request. We do not have any time element attached to that.

Mr. WARNER. Mr. President, I would have to inform the distinguished chairman that I have a communication to the effect that the Senator from Maine is anxious to be included in this. Otherwise, he might—and I do not have exact knowledge—feel the necessity to object until such time as the situation which he has labored on very intensely for some weeks and months, as the chairman well knows, is isolated in such a way it can be resolved by the body.

Mr. BUMPERS. Will the Senator from Georgia yield?

Mr. NUNN. I will yield in just a moment. If I could finish, because I know the Senator from Arizona is interested in the Bosnian matter, what we had talked about doing—and this is not a proposal yet—would be to take the Bosnian resolution and debate it today for an hour at least and then debate it again tomorrow afternoon and then have it open to second-degree amendments and have 30 minutes of debate on any second-degree amendment, which would give the various people plenty of time to debate it and discuss it with some assurance we would have final disposition of that tomorrow afternoon. The debate on Bosnia has been taking place for about an hour, which I think is healthy, and is continuing, and until we propound this unanimous-consent request, I cannot in any way—I do not in any way object to that because I think it is healthy and perhaps everyone could take into account that debate is already started and has been making a considerable amount of progress in terms of people being able to speak on it.

So I hope we will be able to propound that kind of request later on today. I hope it will be in the next hour or so. I also want to thank all the Senators for their cooperation so far. The discussions have been fruitful so far. We have not proposed the unanimous-consent request so far. And I hope that the cooperation will continue when we do propound that. But that is where we are right now.

Mr. WARNER addressed the Chair.

Mr. BUMPERS. Will the Senator yield?

Mr. NUNN. I yield to the Senator from Arkansas.

Mr. WARNER. Mr. President, parliamentary inquiry. Does not the Senator from Virginia have the floor?

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Virginia is recognized. The Senator from Virginia.

Mr. WARNER. I thank the Chair.

Mr. President, it is the intention of the Senator from Virginia to retain the floor until such time as the chairman of the committee, myself, and others are able to resolve the unanimous-consent request. But in so doing, that is just a procedural matter, and I will accommodate this debate in any way possible, recognizing I would just like to retain the floor.

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

Mr. WARNER. Absolutely.

Mr. DECONCINI. Really, a parliamentary inquiry. No amendments are in order at this time without unanimous consent. Is the Senator from Arizona correct?

The PRESIDING OFFICER. The only amendments that are allowable at this time are the amendments that would amend language to be stricken.

Mr. DECONCINI. I thank the Chair. If I can inform the Senator from Virginia—and I do not know if the Senator from Georgia feels he cannot give up the floor for 10 minutes to talk about Bosnia on my own time—I affirm to him that I will not offer any amendment to strike or do any such thing to the pending amendment on SDI. I would just like to have a few minutes to talk about the subject matter, because the Senator from Washington and my colleague, the distinguished junior Senator from Arizona, spoke on it, and I would like to speak near this particular time in the RECORD if I could.

Mr. WARNER. Mr. President, I will accord every courtesy to my good friend. I will be patiently seated for such time as he may wish, while he propounds as long a question or series as he wishes, and I will try to be responsive.

Mr. D'AMATO. If I might, just a point of inquiry——

Mr. WARNER. Mr. President, I intend to retain the floor.

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

Mr. D'AMATO. I ask my friend from Virginia if I might have an opportunity, without his yielding the floor, to make some comments as it relates to Bosnia. I feel kind of hobbled. I know the Senator was attempting to give me that opportunity. But I really had to address it in the form of a question. I did not want to intrude too much on the generosity of the Senator from Virginia, but to be quite candid with the Senator, it has not enabled me to make the points I think should be made to rebut some of the contentions.

Mr. WARNER. Mr. President, I will be happy to accommodate the Senator from New York. I would like first to allow the distinguished senior Senator from Arizona——

Mr. DECONCINI. If the Senator will yield now for a question. I have no problem if the Senator will yield me a set amount of time. I just do not want to play the game of saying what I have to say in the form of a question to the Senator from Virginia.

Mr. WARNER. Very well. What period of time would be sufficient?

Mr. DECONCINI. Ten minutes.

Mr. WARNER. I am happy to yield the Senator 10 minutes within which, technically, he is posing a question to the Senator from Virginia.

Mr. BUMPERS. Reserving the right to object, Mr. President, and I hope I will not have to object——

The PRESIDING OFFICER. The Senator from Arkansas reserves the right to object.

Mr. BUMPERS. Mr. President, with the utmost deference and respect to my good friend from Virginia, I am reluctant for him to be a traffic cop all afternoon deciding who can speak and who cannot.

That really does not go to my question. My question is this: You mentioned a moment ago that you apparently have concerns about the test ban moratorium and is there some kind of alteration of that in the form of amendment.

I simply want to say that was not a part of the negotiation this morning between the distinguished Senator from Georgia, the majority leader, Senator SASSER and me. I thought that we were in the position, or almost in the position, as the Senator from Georgia said a moment ago, to propound this unanimous-consent request which dealt with allowing the vote on the amendment of the Senator from Colorado on abortion, the amendment by

Senator WIRTH, and an amendment by Senator GRAMM of Florida dealing with Cuban freedom. We agreed that those two items could be debated and voted upon, but that is all that would be voted upon between now and tomorrow afternoon at 4 o'clock. There were more elements to the UC request than that. But that was certainly the majority part.

I am curious to what amendment you are talking about on the test ban.

Mr. NUNN. If the Senator from Virginia would allow me to answer that question, I say to the distinguished Senator from Arkansas that we have not been discussing limitation on the test ban amendment. As we all know, Senator COHEN of Maine has an amendment on the test ban. That amendment has been subject to a considerable amount of discussion between the Senator from Maine [Mr. COHEN] and the Senator from Nebraska [Mr. EXON]. I have gotten in on some of that.

There is that kind of discussion underway. We have not propounded any kind of time agreement on that. I have been informed the Senator from Maine [Mr. COHEN] will be willing to have a time agreement on that. We have not contacted the Senator from Oregon [Mr. HATFIELD]. I have only discussed it briefly with Senator MITCHELL.

It would not be my view that we should tie that into the UC at this time. But that would not in any way prejudice the rights of the Senator from Maine [Mr. COHEN] to pose that amendment at any point in time he could get the floor. This is not a close-out unanimous-consent request. This is not a request we are going to propound that would in any way prejudice other amendments including, but not limited to, the Cohen amendment on test ban.

Mr. BUMPERS. The only thing that the test ban amendment by the Senator from Maine will amount to would be that he could certainly offer it, talk about it, but the only violation of the UC that we discussed this morning would be a vote on it, which we agreed we would not do.

Mr. NUNN. If the Senator from Virginia will further yield for me to answer the question of the Senator from Arkansas, this test ban amendment would not be covered by the UC. The UC, if we propound that UC, would permit two matters to come up today, and those matters would be the abortion amendment, and the democracy in Cuba amendment; that the further understanding, although this would not be part of the UC, that other amendments would not be subject to that, and that we would not vote on any amendment relating to SDI prior to the vote, up or down vote, on the Bumpers-Sasser or Sasser-Bumpers amendment.

Mr. BUMPERS. I believe the Senator has correctly stated that.

My final question to the Senator from Georgia is, is it going to be the procedure, and has the Senator from Georgia agreed, that the Senator from Virginia would hold the floor all afternoon and determine who can speak?

Mr. NUNN. The Senator from Georgia has not had any input into that decision. The Senator from Virginia has the floor. That is his privilege under the rule.

I think the sooner we get the UC agreement out here, the better off we are, because then that will ease the apprehension some Senators might have about the floor.

Mr. WARNER. Mr. President, I would like to yield to my colleague from Arizona.

Mr. BUMPERS. Is the Senator yielding the floor?

Mr. WARNER. I am not yielding the floor.

Mr. BUMPERS. Mr. President, I object.

Mr. WARNER. I have the perfect right to ask, does the Senator wish to ask a question? I am prepared——

Mr. BUMPERS. Is that the purpose of the Senator's yielding, to allow the Senator from Arizona to ask the question?

Mr. WARNER. Parliamentary inquiry: The Senator from Virginia has the floor. May he not yield to another Senator to ask a question?

The PRESIDING OFFICER. The Senator from Virginia may yield to the Senator to receive a question.

Mr. WARNER. I thank the Chair. That has been my understanding for 14 years while serving in the Senate.

Mr. DECONCINI. I thank the Senator for yielding for a question. Parliamentary inquiry. Can the Senator who has the floor, as the Senator from Virginia, yield to the Senator from Arizona and retain the floor without having to pose a question to the Senator?

The PRESIDING OFFICER. The Senator from Virginia may yield to Members to receive questions.

Mr. DECONCINI. I thank the Chair.

Mr. BUMPERS. Parliamentary inquiry. Is it not also true that when a person holding the floor yields for a question, that person must also be on his feet and not in his seat?

Mr. WARNER. Fine, Mr. President. I will acknowledge whatever he wishes. I would be happy to stand four square on my feet throughout, if that will make my good friend feel any better. And I will swing the chain and march in the aisles as he does. If I would take the amount of time that he took on the SDI amendment, we would be here for a good bit.

Mr. BUMPERS. The Senator was not deprived.

Mr. WARNER. That is right. The Senator from Arizona has observed an opportunity to ask a question.

Mr. DECONCINI. Only because, Mr. President, I want to say a few words—I do not know if anybody wants to listen—about Bosnia. I am propounding the question. But before that, I will ask the question. The Senator from Virginia may sit down during the period of time that the question is asked, and while the questioner is propounding the questions to the Senator from Virginia.

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

Mr. WARNER. Mr. President, I thank my good friend. I will exercise that option if I feel the need.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Is it proper in forming a question to ask the Senator, when time has been yielded to form a question, to give a little background as to what the question is going to be before the question actually comes?

Mr. WARNER. Mr. President, I would be happy to entertain that background.

I want to say in seriousness now, it is nice to have a moment or two of levity, but the senior Senator from Arizona has really been the one, together with the Senator from Michigan [Mr. LEVIN] and others, the Senator from Connecticut, steadfast in his determination to see that this Chamber focuses on this very important issue.

I hope my good friend, the senior Senator from Arizona, recognizes that this Senator, by nature of my desire to make sure that we have all the facts, is not trying to employ any dilatory tactics, nor is there any evidence of less concern on the part of the Senator from Virginia, about the plight of those suffering in this area of the world.

Mr. DECONCINI. I thank the Senator for yielding for a question. He may be seated. The question is going to take a little bit of time; it is a very lengthy question that I am putting together right now. I say that in seriousness. I want to talk about this issue.

I also want to assure the Senator from Virginia that I understand his efforts here. It is not to keep us from voting, except for today. But some time after tomorrow, I understand the Senator is agreeable we may vote on a resolution dealing with the Bosnia-Hercegovina subject to certain time agreements and other amendments.

Mr. WARNER. The Senator is correct.

Mr. DECONCINI. I appreciate that very much. I also appreciate the Senator's interest in controlling this. I have to tell him that I find that a little objectionable, that he would not yield the floor to someone who wanted to talk for 10 minutes even on a limited basis. But that is a personal opinion. I respect the Senator from Virginia as he knows.

Be that as it may, Mr. President, first some discussion here on this serious issue of the Serbian's outrageous actions toward the people in Bosnia-Hercegovina.

We cannot let this pass. I cannot let this pass as just another Vietnam, Beirut, or another military conflict. There is a moral obligation, Mr. President, for the United States to stand up, speak its piece, and to offer a suggestion; and that is what this is, whenever we get to it.

It is going to be a nonbinding—I will repeat—nonbinding resolution. And that resolution is going to state that the President, our President of the United States, should immediately call for an emergency meeting of the U.N. Security Council in order to authorize, under article 42 of the U.N. Charter, all necessary means, giving particular consideration to the possibility of demonstration of force to give effect to Security Council decisions regarding Bosnia-Hercegovina, including the use of multilateral military force under Security Council mandate to ensure the provisions of humanitarian relief and to gain access of the United Nations and International Red Cross personnel to refugee and prisoner of war camps.

That is not a mandate. It is a sense-of-the-Senate. Mr. President, it indicates that those who feel that the Senate of the United States should express some deep concern and send a message to the President of the United States; to the people across the world, if that is necessary, and certainly to the Serbian military leaders, and the civilian leaders of that country, that we in this body are prepared to authorize our President to go to the Security Council to ask for force for humanitarian purposes and in order to have access to the camps.

The distinguished Senator from Washington has asked a bunch of questions here about land forces, how many divisions, whether or not the Germans or Japanese would be involved. There is nothing in here about any troops whatsoever, as to numbers, a quantity, or capability. The U.N. Security Council, if they adopt such a resolution, may adopt something like this. If they did adopt one that authorized force, they would then have a plan, and the force would be decided upon by whoever was going to head up that force, and then, of course, Germany, the United States, Italy, all nations that wanted to participate could participate.

It seems to me that this is a real red herring to throw out here—this talk about a Vietnam war. It is not. We are not authorizing the United States to use land forces in Bosnia-Hercegovina today, or tomorrow when we vote on this. The Security Council may decide we do not want to use forces, and may decide that we do want to use forces but not the United States forces.

The argument that this is closer to Europe, and Europe should be the one that uses the force, begs the moral question: Where is the leadership of the United States, if we stand by and do not take some action? I have been debating this since last Wednesday trying to get a vote on a resolution that would authorize some military force, if necessary, if the Security Council so decided, for humanitarian purposes.

We are not talking about taking a side in this effort. We are not talking about winning territorial gains back from Serbia from Bosnia-Hercegovina. We are not talking about occupying Belgrade, or any part of the country, other than what is necessary to deliver humanitarian aid and inspect the camps.

Somebody will say: A-ha, that is the door we have to be careful of, because if you open the door to deliver humanitarian aid, you are going to have to take some territory. That may be, but who am I to judge that we are going to have to take territory, or what units might be necessary, for the delivery of humanitarian aid.

The Senator from Virginia points out very dramatically that this is going to be a message to Serbia. Indeed, it is a message to Serbia. It is the only message I can give, except what I say out on this floor. I would much rather have 80 or 90 Senators vote for this. If they vote against it, we would send that message, which would be that the United States will not stand up for a rule of order and a rule of law.

Then there is the fact that Serbia has committed itself to the Helsinki principles. And the CSCE has said: Serbia, you are suspended from the Conference on Security and Cooperation in Europe [CSCE] 3 weeks ago in Helsinki, because you are violating the principles that you agreed you would abide by. Those are security principles, nonterritorial gains, and they have reneged on that commitment. We are seeing human rights violations every day being reported on television, radio, and in the newspapers, firsthand reports. That is what Serbia is doing,

Besides that, this is an independent nation now. Bosnia-Hercegovina has been invaded by a neighbor, contrary to the Helsinki Final Act, the U.N. Charter, which all these nations now have subscribed to and signed to.

Where is the West? The West is fooling around, I must say. Hopefully, that will cease today, and the Security Council of the United Nations will indeed pass something that has some teeth in it, that may be used to bring some relief to the people of Bosnia-Hercegovina.

I said the other day that Margaret Thatcher had made some outstanding statements. And she was on television yesterday once again, and I did not get a chance to see her. But there is a leader who knows what it is to take a public position on behalf of a nation. She realizes the significance of the United Kingdom, or the United States, or any other nation, such as the former Soviet Union republics, which might want to take a position on that.

We cannot sit by and tolerate this, without some positive action from the United Nations, without some positive action from those nations who feel that too much history has gone by, too many atrocities have gone by, too many aggressive acts have gone by with nobody speaking up. If they speak up, they do it in a very timid way, which is often interpreted as acquiescence.

Mr. President, the time is here. Today we should vote on this. And because the Senator from Virginia feels so strongly about having the input from the Armed Services Committee, which I respect, and realizing the position he is in, or any Senator is in here, that he can keep us from having to vote today—I wish he would let us vote today, but I suspect there would be somebody else objecting even if he did decide to do that. I have, and others have agreed, including the Senator from Connecticut, to go ahead and do it tomorrow, if we can get a time certain. I am grateful to the Senator from Virginia, and I assure him that this Senator is not going to be making any references or inferences whatsoever during the debate of this tomorrow, or the next day, or whatever, about his not being concerned about the problem of those people. I know he is.

I went to Kuwait with the Senator from Virginia. I saw him concerned about the Palestinians that were still in Kuwait City that could not get out and were being mistreated by the Kuwaiti Government. So I know his credentials, and they go far beyond my visit to Kuwait with him.

That will not be part of this debate: The debate is going to be—from Senators mostly on the other side—that this resolution offered by the Senator from Connecticut and myself and Foreign Relations is in fact authorizing and directing the United States to get into a civil war, or deploy a number of troops, and there are a lot of questions as to how many? How much? When and where? What will the casualties be? What are we going to do? Who is going to pay for it? Who is going to be the commander, et cetera, et cetera. We can have that debate. I am sure General McKenzie, or whoever testifies before the Armed Services tomorrow, will lay out a good position for whatever decision they feel should be made in not even passing a sense-of-the-Senate resolution, which is a nonbinding sense-of-the-Senate resolution. I hope the Senator has other people who will testify at those hearings. I realize that is a jurisdictional matter for the committee.

Some of us—I know the Senator from Virginia is included—feel that we must make a statement. Debate is great. Time to go over these things and contemplate them is wonderful. And if we were in the position of authorizing the United States President to send troops

to Bosnia-Hercegovina, I would be standing foursquare to say: Wait a minute, let us get some more information. We will have a chance in the event the United Nations does decide to use force, and in the event the United States is called upon to be part of that U.N. force structure, to debate it and ask those questions.

It is not going to happen tomorrow or maybe even next month if they pass that resolution today in the Security Council that the troops will be called on. There would be time for that, and properly so.

I think we have to put into perspective what we are talking about here. This is the first step, the first crawl, the first crying out by a great nation, the United States, that something is wrong, we know it, and we are not afraid to say so.

We are not afraid to tell the U.N. Security Council this is what you should consider doing. We are not telling them they must do it or we are going to get out of the United Nations or we are not going to pay our dues. We would go to the United Nations if the President agreed with this and that is his decision. If we pass this tomorrow the President does not have to act on it.

So it would be his decision, and he is there through his representative today talking with our allies in Europe about a resolution that if it did not say the word "force," it would say "whatever means are necessary," which has to be force is included in that whatever means are necessary, so he is moving in that direction.

So there is no political game here, as the Senator from Washington, was, I think, alluding to, that we are trying to play politics here, we are not. I can play politics and I will. I think it is clear where I will go in November and before November to support the candidate that I choose best for President for all the reasons. That is not what we are talking about here.

To put this into a political context is really a disservice and unfair. It is a disservice to President Bush. I do not think his response over the weekend and last Friday and Thursday regarding use of force in Bosnia-Hercegovina was political. Some may say so. I believe it was not, because he firmly felt that something had to be done. No longer could the great Nation, the United States, stand by and see these atrocities occur, and it was important for the President to say that. That was the message. Just like a vote on this type of resolution will be a message to the world and particularly to the Serbian military and paramilitary units that are commiting these atrocities.

Mr. President, we have to act. We cannot wait any longer. I would get down on my knees and beg, if I could, to convince this body to vote today, certainly tomorrow. Those who feel it is too risky, I respect that, and we can have some debate on that. And I respect that they are fearful that this may launch us into some third world war or some Korean-type conflict or Vietnam conflict. But, my gosh, let us debate it. Let us talk about it and let us vote on it. Maybe I am wrong.

I know from public perception I am not wrong. The polls are clear. But I do not operate on the polls. Maybe I am wrong. Maybe we should not worry about it. After all, these are Moslems. After all, it is a long way away. After all, we do not have that much trade with Bosnia-Hercegovina or with Serbia, for that matter. After all, Austria and Germany are the major influence powers there and the Republic of Russia and maybe the United States should just say "Listen, we will play a secondary role here. We will stand back, and we will give you support, and we will give you some military weapons, technology, and intelligence. But we are not prepared to stand up with you or to lead you if necessary."

I think I am right. I think those of us who want to vote on this particular resolution or form thereof are right, because it is the right thing to do, Mr. President. It is the right thing to do for this great Nation to stand up and speak out. And we have seen when we do not do that what happens. We have seen it back in before the Second World War, and what happened to us, and we have seen recently in the Persian Gulf and maybe more so in the Persian Gulf of other nations there. We have also seen what happens when the United States does stand proud and we can be proud of those moments that we did not shirk ourresponsibility because of the potential use of force—and there is a potential. But we are all going to have ample time to debate it, to vote on that actual force, if, in fact, the United States will be called on pursuant to a Security Council resolution.

My question to the Senator from Virginia is, does not he agree with me?

Mr. WARNER. Mr. President, first, I thank my good friend and colleague for a very strong statement and one that was needed. Here is where we disagree and the value of this debate now is bringing into focus where Senators disagree.

If I copied down the Senator's statement accurately he said, we can vote this resolution today but we can change later, we can change later after we have had the Armed Services Committee hearing, after the decision is made in the United Nations, we can change later whether or not U.S. troops would be a part of any military contingent necessary to fulfill all necessary means, there is where we differ.

I feel that given the importance of this resolution, that it will send a strong signal, it will raise the hopes of these people suffering every minute we are here, the tragedy of warfare and inhumane treatment, every minute that we are here. But we have also to think about the men and women in the Armed Forces who will be subjected to equal punishment if we send them forth.

I think it is implicit, it is an obligation inherent in this resolution, that we address here and to the degree to which we participate in air, sea and land. Our President has addressed air and sea and indicated a willingness for this Nation to join. But the problem is insufficient attention has been given to the question of implementing the goals of this resolution. Whatever they may be—and we will finalize them presumably during the course of this day as it relates to ground troops. I think we will not have that opportunity later on to go back and say "The U.N. said let us use all necessary means to achieve goals 1, 2, 3." We will not have the opportunity to go back and say "We agree with the resolution but we are limiting our military participation to 1, 2," whatever the case may be.

It is now, I say to the Senator, that we have to decide among ourselves if we are going to put a restraint on our President as he goes forward and takes up the leadership role that people are clamoring.

Mr. D'AMATO. Will the Senator yield for a question?

Mr. DECONCINI. I am going to finish and then leave it to the Senator from New York.

Would the Senator not say that this being a nonbinding resolution, certainly, does not commit us to any kind of force whether it is land, sea, or air?

Mr. WARNER. Mr. President, I say to my friend, from the fact that the sense of the Senate is nonbinding, all those little verbs, nouns, and pronouns are lost if this message goes across the ocean to those people who are suffering and those who are anxious.

Mr. DECONCINI. I thank the Senator for the answer. If that is the case, this also sends a clear signal to the Republic of Serbia that the United States is at least taking a position on nonbinding agreement that might involve force. Does not that send a clear message maybe they should straighten up and realize the greatest Nation on Earth, the Senate of that Nation, has taken a position?

Mr. WARNER. The Senator is correct. We also pose the risk if we send that message and do not fulfill it, will it not be a greater inducement for them to go on and perpetrate more wrong, will it not be an inducement for other mischief making throughout the globe?

I say to my friend, I think we have to decide now not the exact nature of all military actions but the exact nature to which this Chamber is willing to stand behind the President and the U.N. resolution and we will not have a later time to reflect on that in any way.

Mr. DECONCINI. I thank the Senator for letting me ask him those long, drawn-out questions.

Mr. D'AMATO. Will the Senator yield for a short question? And then I would like to propound a longer question.

Mr. DECONCINI. I yield.

Mr. D'AMATO. Is it not true that we had our debate, as it related to the commitment of troops, not too long ago, in the Middle East, as it related to Kuwait and Saddam Hussein's occupation and 500,000 troops had already been sent over?

I am wondering if the Senator sees the point I am trying to make. What the Senator is suggesting is that we have some kind of detailed analysis of what kind of military strategy. I find myself being drawn into the possibility I should not be talking about possible targets, and the only reason I did that was to attempt to deal with this question and of this assumption that somehow a Commander in Chief, the President, acknowledged the military would do all the kinds of things that some of my friends and colleagues are concerned about.

I could not see a President or the Commander in Chief doing those kinds of things. I could not see him sending the troops into the valley of death. I suggest that is just not factual, it is not practical, and it is not realistic.

So those of us who say let us take this resolution up, let us vote on it, I am going to analyze it, because it does very little different than has already been called upon by the United Nations point after point, including the removal and the cessation of heavy arms.

We already voted that proposal in the United Nations. What are we over here saying we are calling for something that is new? The fact is we are making it known we are not satisfied with what is taking place there.

Why is it that at this point in time those who will oppose going forward with this resolution would put us through a higher standard than has ever been placed when we are just suggesting that the United Nations reemphasize its determination to see that basic human rights are protected?

Mr. WARNER. Mr. President, in response to my good friend from New York, I would like to recount the history of how we dealt with the gulf situation. It happened in August, ironically, several years ago from this very week. And thereafter, sequentially took place careful planning, and our force levels, in fact, were built up to a half million.

The President had frequent consultation with the leadership of the Congress of the United States. We had hearings in the appropriate committees of the Congress of the United States. The Nation understood far better than the Nation understands at this moment the commitment that we were to undertake.

That is the difference of opinion that I have. And I say to my good friend, I do not believe that we can send out a signal with a resolution and then have the ability to step back and say, oh, no, we did not mean, when we sent that signal, that we will use all necessary means, that the American service person would be involved in that aspect of the all necessary means.

You cannot have it both ways. This is my point. You simply cannot have it. If you sent the message, then you have to stand behind the message 100 percent and you cannot say oh, no, we are going to back and dissect it and say we can only do this, that, and the other thing.

Mr. D'AMATO. We have sent most of this message already, and we are not backing it up. The fact of the matter is the United Nations has already said that the heavy weapons are supposed to be under control. We have not backed it up. If you go through this, you will find there is very little, with the exception of some war crimes and access to camps, that we called for.

I have to tell you again, to suggest that this Congress is going to manage any conflict is wrong. We are not suggesting that. We are not suggesting it. I suggest that those who rise in opposition have created a specious argument and that they are suggesting the exact things to attempt to keep us from standing up and making a difference here.

Sending thousands and thousands of land forces in there; nobody suggests that. We do not suggest that. This Senator has not said that I would not be willing to back up whatever the Commander in Chief and the military say is the appropriate responses to meet the objectives.

But, my gosh, to sit back and to watch this thing unfold—and it has been unfolding for 1 year—is criminal. It is wrong. It is a lack of leadership.

For us to say, go ahead, you win, do what you want, that is Europe's problem, that is not our problem, is just simply inadequate. We have failed morally to provide the kind of leadership the world expects of us—more than the world, our people expect of us.

And it is wrong and it is repugnant for those who rise and make known their concerns, to suggest that those of us who say we have an obligation to go forward, are saying we are going to commit our young men and women to a slaughter. That is not the case. If I thought that our generals and our Commander in Chief were going to do that, I would not be part of this resolution.

Why should those then stand up and make that kind of absurd argument? Is it difficult? Is it tough? Yes. But this Nation was founded for the oppressed, and most of us and our families came from oppressed situations. We have a special responsibility here and now, not only for our children here who live here, but who want to live in this world, because what we do will define what the United States stands for.

Mr. WARNER. Mr. President, will the Senator take a question from the Senator from Virginia?

The United Nations did speak to various aspects of this problem and the need to do some of the things that the Senator from New York addressed.

But I say to my friend from New York, the United Nations did not use, in any of those resolutions, the magical words "by necessary means," which implies the use of military forces. So, thus far, the use of military forces has not been specifically addressed in those U.N. resolutions.

But my question—let me make sure I understand the Senator from New York. If we act on this resolution, does that resolution limit in any way our President's authority to commit or not to commit ground forces?

Mr. D'AMATO. No, it does not. Nor does this debate limit or commit. The Commander in Chief, he is going to undertake that. But what we are urging the United Nations to do is to step forth, and our country, to say use those means necessary, which does include force.

Mr. WARNER. But I say to my friend, when I first started the debate—and I would not suggest I started it—but when other Senators started, I remember and I have the Record, in the first few days, Senator after Senator said ground forces will not be involved. Ground forces will not be involved. It was said time and time again and, if necessary, I will go back and get that Record and examine it. But Senators said time and time again ground forces will not be involved.

The Senator from New York now says there is no restriction whatsoever, and, therefore, I say there is a conflict of opinion in this Chamber, and that is a conflict that should be resolved before we vote on any resolution which will send a strong signal to the oppressed that we are coming to give you help.

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

Mr. WARNER. Yes.

Mr. COHEN. I am a bit confused by the debate that has been posited so far. On the one hand, we have Members urging us to take action and, on the other hand, they say this is a nonbinding resolution.

When I left my first job, I was given a watch. On the back it has a three-word inscription in Latin. It said "Virtute, non verbis," which means "By virtue, not by words."

Yet it seems to me, we are talking essentially here about words and not deeds. Because, as I understand it, if we do pass a resolution, whatever the form it may take, we are not in fact authorizing the President to take unilateral action.

I raise this in the context of what we went through on the Persian Gulf debate. I remember, for example, that President Bush went to the United Nations first. He went to the United Nations first and got a resolution passed in the United Nations. At that particular point in time he indicated to some of us that he did not feel it was necessary, constitutionally, to come to the Congress, to the Senate, to get approval for the use of force, of committing force in an aggressive way against Saddam Hussein.

There were those of us, myself included, who said:

Wait a minute, Mr. President. I think there is a serious issue here. If you are going to commit a half million troops to a war with Saddam Hussein, that is not a conflict, that is not just humanitarian assistance, that is war, and it requires some action on the part of the U.S. Senate and the other body.

Now, as I understand it, those who are urging action on a resolution are not indicating that by passing a resolution we are sending the matter to the United Nations, and the United Nations could decide it wants to use force, including ground forces, and it wants the United States to commit some of its forces on the ground. Is my understanding correct that the Members who are supporting taking action in the form of a resolution would then insist that the President come back to the Senate at that point and say, "Ladies and gentleman of the Senate, I would like your expressed authority to commit land forces to this particular conflict"?

Mr. WARNER. Mr. President, that is precisely the point the distinguished Senator from Arizona and I disagreed on. I understood, and my notes reflect that he said, "We can change later." After the United Nations has acted, this Chamber can then, this Congress can then decide the extent to which our Commander in Chief can commit to various types of forces that we have.

Mr. COHEN. So basically this is a statement urging the President to go to the United Nation to seek a consensus that the United Nation should take action to use whatever force it might deem necessary and then the President would have to come back to us and make a presentation, be it to a joint session of Congress or to each body individually, in terms of the nature of the force that he would propose that we commit to that region before taking any action. Is my understanding correct?

Mr. WARNER. Mr. President, my colleague is precisely correct. And that is the reason for, day after taking this floor to try to clarify it.

I am now going through the RECORD, and I will search out and put into the RECORD those who have called for "by all necessary means" but who said it does not involve ground troops. And others who said we can then reflect on what we should do after the United Nation acts, to the extent our Commander in Chief can then call upon land, air, and sea of the U.S. Armed Forces.

Those are the questions that I plead with my colleagues should be resolved before we send this signal. Because the nuances of a sense-of-the-Senate—nonbinding, as the Senator from Maine points out—that will be lost. It is: "We have come to help you"; but the type of help we can give has to be, then, gone back and referred to the Congress.

Mr. COHEN. So when Members are saying, that by adopting a measure today or tomorrow we are taking action and we are encouraging the President to take action, they by no means are suggesting that he take military action which would include the use of ground forces without coming back to Congress for our approval?

Mr. WARNER. Mr. President, I say to my good friend from Maine, that question has not been answered to this Senator's satisfaction. And, I judge, to his satisfaction. I can point to many places in the RECORD where that issue is left open in the debate here on the floor.

Mr. PRESSLER. Will my friend yield?

Mr. COHEN. Mr. President, if I may just continue for a moment, that is an issue we have debated over the years, about the constitutionality of the War Powers Act. No President feels that he is under an obligation to come to us to commit troops to a conflict situation. That, we are told, is somehow an inherent power of the President as the Commander in Chief, and that the War Powers Act is unconstitutional.

So as a result of the conflict over the interpretation of its constitutionality, we have decided that the War Powers Act, indeed, is unworkable.

I see the Senator from Georgia, the senior Senator from Georgia on the floor. I think he has raised the issue that we have to revise the War Powers Act to make it somehow a relevant document.

I think we have to at least clarify this before the vote tomorrow, in terms of exactly what we would be committing ourselves to by that vote. We say: Take action. We are talking about verbal action; we are not talking about military action. We are talking about the President going to the United Nations to forge a consensus to use whatever means necessary. And if the United Nations urges that we then take military action against the Serbs at that point, that they allocate that responsibility of air, ground, and sea; and that the President come back to us before taking any action and then get our consent.

That is my understanding as I have listened to the debate today.

Mr. WARNER. Mr. President, I thank my dear colleague, because it has been a lonely point out here on the floor. The Senator from Arizona, the Senator from Wyoming, and others have joined. We welcome your precise clarification of what I regard as the central point of this debate. I have said it time and time again: What is the nature of our action? What is the message we send? And if, in fact, they are reserving the right, as we say so often on this floor, to then second-judge whatever decision is made by the United Nations, in terms of what is the nature of the participation by the United States.

I have said, as far back as Wednesday and Thursday and Friday, I felt it was wrong to challenge our President for not taking greater leadership when we ourselves have not decided the extent to which we are prepared to back the President of the United States in providing that leadership.

That is the issue.

Mr. PRESSLER. Mr. President, will my friend yield for a question?

Let me say, first of all, as a supporter of this resolution, I am not in disagreement with what has just been said.

However, I think the Senate should take action on this issue. There seems to be a great deal of resistance to having the Senate adopt anything. I do not know what the opponents of this resolution propose. I guess they propose we go home for the month of August without the Senate speaking to the issues surrounding the question of the former Yugoslavia.

But I think we have to take responsibility and step up to the plate.

I would also agree with what my friend from Maine and my friend from Virginia have just said. I do not see such support as inconsistent with my supporting this resolution.

I think the United States has to take an activist role of leadership in the United Nations, whether it is in Africa or the former Yugoslavia. That does not mean we commit ground forces. It does not mean we spend any more money—not necessarily. But I think we have to have U.S. leadership.

In regard to this amendment—it is a sense-of-the-Senate resolution. Language very similar to this amendment passed the Foreign Relations Committee. I do not know if we are going to end up with a combination of the DeConcini amendment and the Foreign Relations Committee resolution. I know a word or two was changed in the amendment yesterday.

The point is, it is the desire of many Senators for the Senate to act on this before the August recess; to put ourselves on record that the United States should take an activist role in providing the leadership in the United Nations to lay the goundwork to act.

We have had thrown around our necks here this business of ground forces. I am one Senator who has said in my interpretation of this amendment that if you vote for it, you have

to take the responsibility for some limited ground force activity. It is not authorizing that, but it certainly is suggesting it. All of us would rather say it is all going to be air strikes, but I think we have to take responsibility for the possibility that it may involve the use of ground forces.

Also, as I have said repeatedly, this is a defining moment in American foreign policy. In the next 10 years, I think we are going to need to have some kind of an international strike force. Perhaps in the United Nations, not necessarily U.S.-run, to ensure that food and medical care can be supplied in certain situations.

I also think we cannot turn our backs on the responsibility of leadership the United States has in what could become a very chaotic world. That does not mean we are going to be sending ground forces, invading armies, et cetera, et cetera into a variety of countries around the world. I would be the first to oppose that.

But I do find it strange that there is resistance in the Senate to act on the issue of the former Yugoslavia. If there is an alternative resolution, let us have it. But we will be leaving here in a day and a half, and all of this could pass without the Senate expressing its will, whatever that may be.

Currently, that seems to be the only alternative to this resolution.

So I will ask my friend from Virginia if this resolution does not pass, what course of action should the Senate take?

Mr. WARNER. Mr. President, I think the Senate has made a very valuable contribution to date through this debate. It seems to me the strong sentiments which I feel reflect every one of 100 seats: That this killing and this suffering should end. That message, indeed, has gone forth from this Chamber without a single word of dissent. It is only the need to clarify that message, to be precise, so that, as the Senator from Maine said, we are not put in a position of speaking without a clear direction to those who are listening. That is the concern I have.

I recognize the Senator from Wyoming for a question.

Mr. WALLOP. Mr. President, I thank my friend from Virginia. I begin by offering my gratitude to him for a very clear debate, representing the concerns of many of us about the desire, in a political year, to make a political statement without being able, down the road, to back it up with a political commitment to fulfill it.

Let me ask my friend, has it come up on the floor that, during World War II, the German Government had 38 divisions in Yugoslavia and never controlled the country?

Mr. WARNER. The junior Senator from Arizona made brief reference to that, Mr. President. But that is a chapter of history that I think should be further examined in the context of deciding what we should or should not do.

Mr. WALLOP. I hope, Mr. President, that during the hearing, that will come up. It has been said that merely to control the airport and the corridor—a safe corridor—would require up to as many as 100,000 armed troops.

Is that a figure that the Senator had heard?

Mr. WARNER. The precise figures have not been used here in the past 2 hours. I used the figure 3 days ago of that approximate amount; yes.

Mr. WALLOP. I think it is fair to say the precise figures cannot be known. Nor can it be known who would provide the 100,000 troops.

It is my understanding that, at least as it emerged from the Foreign Relations Committee, the resolution that the Senate would have voted on would require us to disarm the population.

Does the Senator agree with me; that is an act of war, if that is what it would have required?

Mr. WARNER. Mr. President, it clearly involved significant numbers of persons involved in armed conflict. The question of the act of war has almost faded from history. Because we have seen so many instances in which troops have been involved, yet they do not wish to characterize it as war. Yet, suffering and death occurs.

Mr. WALLOP. I agree with the Senator, Mr. President. Yet, nonetheless, Clausewitz has provided a pretty good definition of war, and that is: Imposing one's will on another side.

Disarming a population, liberating the camps, using whatever means necessary to secure the access of populations to food—all of those things involve imposing one's will, do they not?

Mr. WARNER. Mr. President, I say to my good friend, this is the language used by the Foreign Relations Committee. I think it important to recite it here in the context of our discussion. It is paragraph 3:

> When requested by the President, the Congress should promptly consider authorization for any use of United States military forces pursuant to and only pursuant to U.N. authorization described in paragraph 1.

So it is clear that the significant use of our military forces is contemplated, and, as you say, it fits the definition of war.

Mr. WALLOP. That is typically one of the behaviors of Congress, to cast itself as willing to take action so long as the President, whoever they may be, is first to take the action and can thereafter be blamed if the population has a different view.

I must say that when such an amendment comes in front of the Senate, it will be the intention of the Senator from Wyoming to offer an amendment that says the United States will be prepared, with or without the request of the United Nations, to use all necessary force to achieve these goals, and we will see then where the Senate's vote is. It will be the intention of the Senator having offered the amendment to vote against it, and I hope others do, too. That may well tell us where the real sentiment of the Senate is, whether it is a political statement that is designed to give comfort, which may later, down the road, as the Senator from Virginia has so ably pointed out, cause enormous levels of disappointment and, in fact, weaken American posture somewhere down the road when we do make a commitment that we may well intend to fulfill.

With regard to the force during World War II, is the Senator also aware that Tito, having consolidated these warring tribes composing the separate States of what was Yugoslavia, spent most of his time creating the defense of Yugoslavia by training guerrilla bands, by caching weapons, by, in fact, putting together a trained population which can operate out of the mountains with minimal requirements and resupply and other kinds of things? That would be the nature of the force that we would be confronting, would it not?

Mr. WARNER. I think the Senator postulates what would happen very accurately based on historical precedent.

Mr. WALLOP. The other thing that causes me some concern is which side would it be that the United Nations would propose to take in this civil war? The Senator is aware, I am certain, that during World War II, the various countries that composed Yugoslavia lost in the neighborhood of 1½ million of its citizens.

Mr. WARNER. Many of those casualties were taken among the factions fighting internally against each other.

Mr. WALLOP. I was about to say, three-quarters of those were Serbs killed by Croats. This Senator is not about to take a side in that war, nor does he know which side to take were he to be asked to choose.

Does the United Nations have an idea which side it will choose? Has it made an expression?

Mr. WARNER. I think the United Nations has restricted itself, quite properly, to addressing the need for humanitarian relief no matter which side it is, recognizing that all are suffering. But this resolution goes beyond that.

Mr. WALLOP. It does, indeed.

Mr. WARNER. The various drafts we have seen in the last few days goes well beyond. It may be the proponents of this resolution have retrenched their thinking and may be making it in the nature of what is before the United Nations as you and I speak here this afternoon. That in itself suggests that this debate, which has gone on for 4 or 5 days, has accomplished at least a positive result, and that is focusing the attention of this Chamber now more within the confinements of what is before the United Nations than such

things as, for example, at one point the United Nations placed heavy weapons belonging to all factions under United Nations supervision.

Mr. WALLOP. Does the Senator have any doubt at all, were we to involve ourselves in a series of air strikes, however surgical, that there would be civilian casualties?

Mr. WARNER. Obviously, we do not know which civilians will be injured.

Mr. WALLOP. Noncombatants.

Mr. WARNER. As pointed out, there are many civilians in Serbia who are fighting against their own Government, protesting that Government. To me that could well result in a misinterpretation of use of force.

Mr. WALLOP. Does the Senator have any doubt that one of the reasons why there is so much passion—and it is a legitimate, not misplaced passion—is because of the immediacy of the television coverage of those casualties?

Mr. WARNER. It certainly has focused attention on this suffering to a greater degree than suffering of a commensurate level that is taking place elsewhere in the world as we speak.

Mr. WALLOP. Or on a far greater level. I do not know if the Senator may have seen the "CBS Morning Show."

Mr. WARNER. I did see that on Somalia.

Mr. WALLOP. On Somalia. It strikes me that one of the reasons our passion is so immediate is because these are white babies, white solders, white rib cages in the concentration camps, whereas the black rib cages and the poor, pathetic little arms and other things seem not to have attracted the attention, though it has been said, I think accurately, and pleaded by the Secretary General of the United Nations, Mr. Boutros Boutros-Ghali, pleading for us to pay more attention there because, in fact, it is a far greater human tragedy. I have not brought with me the quotations, but he made a very special plea for us to pay heed to that because as much as 60 percent of the population of that country could be dead within 6 months from starvation when there is not an adequate food supply but an undelivered food supply within less than a mile of people dying.

Would that not tend to say that if the Senate has the passion that it has been so willing to speak on the issue of Bosnia-Hercegovina, that we might well spend some time with the same compassion toward Somalia, might well spend some of that time with compassion for the Kurds, might well spend some of that time with compassion for the Iraqi Shiites, might well spend some of that time back in Cambodia, might well spend some of the passion of this great body on others in the world suffering every bit as much we do not happen to be white?

Mr. WARNER. The Senator's question answers itself. Suffering knows no race, no creed, no religion. And indeed, suffering is taking place in many, many places in the world today. It seems to me that underlies the importance of what we do because, if we act in one area of the world and not in another, that poses, I think, a very serious situation.

In this instance, we are at a threshold decision with this resolution of how we begin to put to rest ethnic problems in many parts of Europe which are right there. The Senator suggests, if we do not act, this will encourage them to break out in civil war. But if we do act, then it is expected, should they break out in war, we would respond in a like manner to that area of the world.

So I think the gravity of this resolution is such that we are right in taking our time to debate it and think it through very carefully.

Mr. WALLOP. May I ask the Senator one more question?

What, in the Senator's view, is the consequence of calling on the United Nations with such specific action as may be directed in these several resolutions, and when the United Nations calls upon us to react and respond, the Senate finds itself unwilling to make that commitment? What is the consequence of that in the world?

Mr. WARNER. I think that is the worst of all consequences. As I said earlier today, if we fail to back up the actions taken by our Commander in Chief of the Nation's Armed Forces and the United Nations, then we have I think done great disservice to the history of this country. That is why I think we should think through very carefully what it is we are about to say in this resolution. It started out to be a time agreement of 1 hour when this Senator took the floor 5 days ago and objected to the time agreement of 1 hour. I am heartened that the Senator and others have joined in this debate now, and I believe we are beginning to recognize the depth of this decision we are about to make. I hope that we may make the correct decision.

I thank the Senator for framing these series of questions very precisely on the seriousness of this issue.

Mr. WALLOP. I thank the Senator.

Mr. WARNER. The Senator from Kentucky has been patiently waiting. I will yield for a question.

Mr. McCONNELL. First, let me commend my good friend from Virginia for the manner in which he has conducted this debate, if you will, today on the question of what our country's posture should be with reference to this ethnic dispute in the former Yugoslavia.

jected to the time agreement of 1 hour. I am heartened that the Senator and others have joined in this debate now, and I believe we are beginning to recognize the depth of this decision we ed States for the manner in which he has handled this crisis today?

(Mr. REID assumed the chair.)

Mr. WARNER. Mr. President, I said earlier the degree to which we can reach an informed judgment on this critical issue is the degree to which we are able to debate it, decide it, and act accordingly without the influence of the partisan political election we are now in.

Mr. McCONNELL. I say to my friend from Virginia, as a Member of the Foreign Relations Committee who opposed the resolution that came out of that committee last week, I am intimately familiar with the various changes that have occurred, both before its enactment and since. It is clear to this Senator that whatever direction the President takes, the resolution will be changed slightly in order to differ.

For example, the resolution as it came out of the Foreign Relations Committee last Thursday essentially would have authorized the United States to go in and disarm the population, something, as Senator WALLOP just pointed out a minute ago, over 30 divisions of Nazis could not accomplish in World War II. And then, upon further reflection, by Friday it had taken another form, which was to provide convoys or support for the opening up of the camps which have received so much publicity in the last week. And now, of course, on Saturday the Serbs announced that the camps would be open to the Red Cross and to others for inspection.

So I suspect, I would say to my friend from Virginia, and I wonder if he has any doubts, that this resolution will continue to be massaged to come out different from whatever the President may be doing at the moment.

Mr. WARNER. I would have to say to my good friend, the majority leader and the Republican leader are very actively involved, and the Republican leader was a cosponsor of some of the earlier resolutions. I am willing to give my colleagues the greatest degree of doubt as to what their motivations have been. I honestly believe that certainly today the debate, which I think has been the most productive to date on this whole resolution, has been a step forward in trying to contribute to a resolution of this matter.

But I am sitting here with the RECORD before me of previous debates, and I posed this question: "I say to my friend that in my mind"—this is the Senator from Virginia speaking—"and the mind of military experts, that being land forces, am I not correct, would be needed?" And one of our colleagues replied, "That certainly is not the intention of the sponsor," to implicate that land forces would be needed in fulfilling the goals of the resolution.

So we see today that the debate has been constructive and it has contributed to a better understanding of the problem.

Mr. McCONNELL. I ask my friend from Virginia if he remembers the six-point test that former Secretary of Defense, Caspar Weinberger, outlined

some years back which he felt should be met before the United States contemplated the use of force?

Mr. WARNER. No, but I think it would be helpful that the Senator from Kentucky places that in the RECORD.

Mr. MCCONNELL. I would respond to my friend from Virginia, since he is interested in that, first to say that I did not mean to imply there was not some support for the resolution on this side of the aisle. What I said was happening is the changes were coming from the other side of the aisle, not that there would not be some Members of this side of the aisle who would support the resolution. But the constant shifting of the resolution, it seems to this Senator, came from the other side of the aisle.

Nevertheless, Secretary Weinberger said that there is a six-point test which he felt should be met before the United States considered using its own troops.

First was that the objective be deemed vital to our national interest, point No. 1.

Point No. 2, if we are willing to commit the forces or resources, that is, the money, necessary to achieve our objectives. In other words, let us be sure before sending in the troops that we are willing to commit forces and the resources. I am curious as to whether any of us has given any thought to what kind of money might be involved to carry out the objective.

Mr. WARNER. There has been no suggestion of the cost of these operations.

Mr. MCCONNELL. So we have no idea what kind of cost to our Treasury, the money resources that would be involved here.

Mr. WARNER. I anticipate in tomorrow's hearing of the Armed Services Committee that and other questions will be addressed.

Mr. MCCONNELL. I say to my friend I think that is a very important thing to ascertain. Caspar Weinberger said, third, there should be a clearly defined political and military objective. I know that has been discussed, I say to my friend. Is there a clearly defined political or military objective anyone has been able to ascertain?

Mr. WARNER. No, there is only one clearly defined objective I subscribe to, as do all others, and that is the deep concern of human suffering taking place on all sides of this conflict.

Mr. MCCONNELL. Fourth, I would say to my friend from Virginia, Secretary Weinberger said the relationship between our objectives and the forces we have committed must be continually reassessed and adjusted if necessary.

I would ask my friend from Virginia if he has any sense of whether this standard might have been addressed?

Mr. WARNER. Certainly not to the degree that I think is required for such a serious decision as that.

Mr. MCCONNELL. The fifth point that Secretary Weinberger indicated should be met before contemplating the use of American troops was whether there was some reasonable assurance we will have the support of the American people and their elected representatives in Congress.

I ask my friend from Virginia, is it not true that we have seen the polls bounce all over the lot on this issue, depending upon what is seen on the evening television news, as to where the American people might be on this subject?

Mr. WARNER. I say to my good friend, speaking largely for myself, polls will not dictate whatever decision I may make. But the level of knowledge that we are able to impart to the American people and how complete that level of knowledge is is a critical factor in my determination as to how I may or may not vote on this resolution.

Mr. MCCONNELL. Finally, I ask my friend from Virginia, by way of laying down the sixth marker that Secretary Weinberger indicated should be met—Secretary Weinberger said the commitment of U.S. forces to combat should be a last resort—if in any way he could conclude at this point that all other avenues have been exhausted, there is nothing else we can do, and we should now consider the use of American troops?

Mr. WARNER. Mr. President, there has been a long history in this conflict of very serious and conscientious diplomatic efforts.

Lord Carrington comes to mind, indeed our former Secretary of State, Cyrus Vance; many individuals have put their shoulders to the wheel to try to resolve this conflict. Indeed, foremost in my judgment has been our own President and our own Secretary of State.

But I am not prepared to say that there are not additional steps to diplomacy, to the exercise of denying to Serbia and other factions in this fight the resources with which to continue this conflict, and that sanctions perhaps could be tightened. I think there are many things that can be done short of the introduction of force. But in fairness to the other side, there is always the question that the signal we have sent thus far, this debate and the actions of our President and others, may have led to the announcement by Serbian factions to open up their camps to allow the International Red Cross to step in.

So there are many sides to this issue, I say to my good friend. I thank him for coming to the floor and posing those questions that I think we must address.

Mr. MCCONNELL. I want to commend the distinguished Senator from Virginia for his leadership on this issue, and to indicate how this debate has been helpful not only for us in the Senate but for others around the world who are watching to see what can be done to help stop this bloodshed.

Mr. WARNER. I thank the Senator from Kentucky, because he has been among the few that have asked for time and further debate, further reflection before acting. I thank him.

Mr. MOYNIHAN addressed the Chair.

Mr. WARNER. Mr. President, I am perfectly willing to proceed with another question.

I see the presence of the distinguished majority leader and the Republican leader on the floor. I wonder if at some point this debate could be concluded and the leadership address what I presume is the unanimous-consent request.

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

Mr. WARNER. Yes.

Mr. MOYNIHAN. To simply say that I would like to speak at this point. I am told by the manager of the legislation at this time that there seems to me great urgency, and I not require a great deal of time. But I want some time.

Mr. MITCHELL addressed the Chair.

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

Mr. WARNER. I yield to the majority leader for purposes of such statement as he wishes to make.

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

Mr. MITCHELL. Mr. President, Senator DOLE and I have been in continuous meetings for most of the day today attempting to work out a process for considering the three matters on which we are trying to act which are the Bosnia resolution, the pending DOD authorization bill, and the urban aid, or tax bill.

It is my hope that we can enter into an agreement which would proscribe a period of time for debate on the Bosnia resolution, which I would like to have brought up as a freestanding measure rather than as an amendment to either of the two bills. That would involve debate later today, and some debate tomorrow as well during which time the Senator from New York could speak, and of course if we get on to the rest of the bill any Senator could speak on the subject all day.

Mr. MOYNIHAN. I simply would like to comment specifically on some of the things that have just been said in this context. If leaders want to reach some agreement for same, it is fine. I would like to continue after that with this.

Mr. WARNER. May I suggest for purposes of parliamentary procedure that the Senator from Virginia yield the floor, and that the two leaders then address the question of the unanimous-consent request?

I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, might I inquire of the distinguished

Republican leader whether he and the manager on the Republican side, Senator WARNER, are prepared to proceed with respect to this agreement?

Mr. DOLE. I think we will be very quickly. But the manager has been involved with debate on Bosnia, and I have Senator WARNER now looking at the agreement. I will be able to give the majority leader an answer in the next few minutes.

Mr. MITCHELL. Might I suggest in the interim that Senator MOYNIHAN be permitted to proceed with his remarks that are relevant to what has just been said.

I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I have been puzzled to hear the resolution reported from the Committee on Foreign Relations on the subject of Bosnia-Hercegovina and Serbian aggression in that area described as a matter that somehow divides our two aisles. That was not my impression in the committee itself. The resolution was reported by Mr. PELL and Mr. LUGAR. It was bipartisan. And the debate was very much in those terms, with the tone of our debate set by the very able Senator from South Dakota, who said that this is a defining moment in post cold war era. By which he clearly meant that this is the moment at which we will find out whether the arrangements we put in place after World War II, arrangements we had hoped to put in place after World War I, for the peaceful resolution of disputes and for the forceful enforcement of international law under the U.N. Charter, which is itself international law work.

I came to the floor to speak to just that point last week. Mr. President, I came as someone who had served as our country's representative at the United Nations, had served as President of the Security Council, and had done so for a Republican President, Gerald Ford.

So I would like to use this moment to invoke the extraordinary statements made yesterday on "This Week With David Brinkley" in an exchange between George Will and Margaret Thatcher.

George Will said to Lady Thatcher about the gulf situation that "the obvious difference is oil." And he asked "What do you say to those critics who justify inaction?"

Mrs. Thatcher responded:

First, this is mainly a great moral question, and if there is one country in the world which came to life on a moral basis, it was America.

Secondly, some of the terrible things that we have seen are things we thought we would never see again in Europe, and we fought that that should not happen. We are seeing things which are just about the worst of Stalin and Hitler.

Thirdly, that is a strategic interest. There are various other minorities in Yugoslavia, unless you stop the aggression in this case, there will be aggression against the Albanians and Kosovo. They've already been attacked. There will be problems with Macedonia, and there could also be other problems as other minorities are attacked. * * * Other countries will not let that rest. Turkey is interested of course in the Muslim population of Bosnia. And Greece would be interested in Macedonia. And other countries will be interested. Albania will be interested in Kosovo. You could in fact have a great extension of the conflict that would be very damaging to us all. And the longer we take to act the worse it will be.

Mr. Will went on to say:

But what do you say to Americans who say we've spent quite enough time, we Americans have, liberating and resuscitating and defending Europe? Why should we act when the Europeans are reluctant to act?

Mrs. Thatcher responds:

If they are reluctant to act, I can only condemn that reluctance.

I, for a long time, have been almost distraught at the inactivity as I have heard of murder after murder, terrorism after terrorism, and brutality after brutality. This is a moral question and, as well a strategic question. And the third aspect is, are we in a position to do it? I think ordinary people have the right instincts about this. They are horrified at the appalling scenes we've seen on television. They think, supposing this were my family crying out to be free, and those who expect to help us withheld that help and left us to our fate. That is the way most people will look at it.

Later on, Mr. Will says:

But the question is, if * * * you have drawn your sword, and the sword of air power and giving arms to the Bosnians does not suffice, how far are you prepared to go?

Then Mrs. Thatcher said something which we ought to record. She said:

Mr. Will, I have been in government for 11½ years—

By which she meant as Prime Minister—

longer than anyone in the United States since Roosevelt. I have known much advice come to me. If you ask people what should you do, they will give you 101 reasons why you should not do anything. If you say the situation is urgent, people are being murdered, they're being invaded, now, how can we deal with it, they will give you a lot of options, which are pretty effective. You really must not be as faint-hearted as to say "What if? What if?" It is a moral case, and we must help.

Not to intrude myself after such extraordinarily powerful, cogent, experienced remarks, by saying in Mr. Will's column on Sunday morning, as it appeared in the Washington Post, he set forth some of the propositions I laid out on the Senate floor last week which anyone with any experience with the United Nations would have laid out. These are exactly the situations that were anticipated by the Charter. These situations are always ambiguous, difficult; they are rarely simple. If they were simple, you would not need a world organization. But action was contemplated. The experience of just this kind of genocidal murder was what was in our minds in helping to draft the Charter.

The first thing we did, Mr. President, as the distinguished chairman of the Committee on Foreign Relations will tell you—the chairman who was at San Francisco in 1945 and carries the U.N. Charter around with him—was to set in place in chapter VII a series of graduated responses to violations of the Charter with respect to the independence of States and the right of territorial integrity.

Article 41 says take economic measures. Turn off the telephone, stop trade, stop financial transactions, measures of that kind, to make a point.

Article 42 begins to speak of force by air, sea and naval forces. It does not say go instantly to war, send 37 divisions into the Balkans. It speaks of "demonstrations"—and the word "demonstrations" is in our resolution. It has never been used, but it is there for just this purpose.

What do you "demonstrate?" You demonstrate that you can blow up every bridge across the Danube in Belgrade. The people of Belgrade do not know how the world is responding. They are not seeing this on television. They are ruled by a former Communist, Milosevic, who will do anything at this point, clearly.

You let the people of Belgrade know what the world thinks. Students and other Serbs have been on the streets against this Government. You close down every barge of oil coming up the Danube. There is no oil in Serbia. There is a pipeline from the Adriatic which has been broken. Even so, you blockade the Dalmatian coast. We have the *Iwo Jima* Carrier Task Force in the Adriatic. You blockade Montenegro, which is essentially a Serbian port city of a sort, as everything is of a sort in that part of Europe. You could blow the side off a mountain, and you could air drop arms, as we dropped arms in World War II.

Mrs. Thatcher makes a point about the period of 1939 to 1945 when the Germans were occupying Yugoslavia and the people of Bosnia were against them, not for them. I am not arguing this would be easy. I am not even arguing a land exercise ought to be attempted. Let us make the difference between attempting to help people free themselves and attempting to free them.

Finally, Mr. President, there comes a time when individual conduct in war has to be made a matter of individual responsibility.

After the Second World War, the United States, Britain, France, and the Soviet Union established the Nuremberg tribunals. A number of Nazi's were tried, and a number were convicted; some were hanged. Rudolph Hess was put in prison for 40 years.

It was generally agreed, however, that international law at the time of the Second World War did not apply to

individuals. Only states were subject to international law.

So we went to Geneva, and over 3 long years, we drew up and codified laws against the practices that the Germans—the fascists—had carried out in the Second World War. We identified crimes against peoples, individuals, the horrors of that time, into four treaties referred to as the Geneva Conventions. And we made individuals accountable. We said these are crimes under the law of nations, and can be punished under the law of nations. You can get yourself hanged by running a concentration camp. You can find yourself on trial for your life having been the head of a government that came up with the ghastly thought of "ethnic cleansing." You could get yourself imprisoned for life. You can get yourself held up before the world as a war criminal. And that is a measure that can be communicated, because it did happen before, and it can happen again.

This is a profoundly important, strategic and moral issue.

Mr. President, I thank the leaders on both sides who clearly will make it possible for us to address this matter, standing alone as an urgent concern in this defining moment of the post-cold-war era.

Ms. MIKULSKI addressed the Chair.

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

I will be happy to yield to the majority leader.

The PRESIDING OFFICER. Does the Senator from New York give up the floor?

The Senator from Maryland is seeking recognition.

Mr. MOYNIHAN. The Senator from Arkansas wishes to address a question.

May I ask what his question is?

Ms. MIKULSKI. I am happy for the Senator to proceed with his question.

Mr. BUMPERS. I just found the remarks of the Senator from New York remarkable in their clarity, sensibility, and sanity. I read very similar things in Leslie Gelb's column yesterday in the New York Times. There was one suggestion that he made and did not quite make either, but the Senator will recall that we wanted the people of Japan to know that in that war the people of the homeland were also going to suffer, as the Senator will recall, that is when we equipped about 12 or 14 B-25's.

Mr. MOYNIHAN. The Doolittle raid.

Mr. BUMPERS. And conducted the Doolittle raid. And while it was not a howling success, it had the desired result of demoralizing the people of Japan. And I believe—and I am not suggesting this as a final option or as an option at all—but it seems to me that all of the things that the Senator said are a much tighter embargo against Serbia, Montenegro, the possible arming by drops, as Mrs. Thatcher suggested, to the Bosnians so they could better defend themselves, and possibly air strikes against Serbia. Serbia has escaped totally unscathed.

Mr. MOYNIHAN. We could close the Serbian-Belgrade Airport as the Sarajevo Airport was closed.

Mr. BUMPERS. Precisely. That is essentially my comment. I am just curious as to how the Senator from New York would respond. I think he agrees, and I agree, that first of all this should be conducted by a U.N. resolution, under a U.N. resolution, and those are some of the options, and that was one of the options that I thought about, and I was just curious what the Senator from New York said.

Mr. MOYNIHAN. I much agree and I think Margaret Thatcher agreed.

Mr. DODD. Will the Senator yield? I would like to raise one point.

Mr. MOYNIHAN. I yield for a question.

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

Mr. MOYNIHAN. Will the Senator yield?

Ms. MIKULSKI. I yield.

Mr. DODD. Mr. President, on the last point raised by the Senator from Arkansas, the Doolittle raid of course was a wonderful demonstration of our ability to hit the homeland of Japan at the time of the war when no one thought that possible.

Mr. BUMPERS. A fundamental distinction: The Japanese people by and large supported the Japanese efforts in that war at the time. As the Senator from New York has just pointed out marginally, but I think more needs to be stated on this. The Serbian Orthodox Church universally denounced the Milosevic efforts. The University of Belgrade was shut down for a week by Serbian students who had a strike in objection to the conflict. Rallies numbering hundreds of thousands of Serbians oppose what is being done by the Milosevic government. There is a significant difference herein. And one precaution—and I am supportive of the resolution and wish to move forward—one caution here. We have to keep in mind a highly divided people, whether or not the present conflict is in their interest. This longstanding historical difference that goes back, Croatian and Serbian, most people in the body are familiar with. I hope as we contemplate the use of force we not run the risk—and I ask the Senator from New York this question—of taking what is otherwise an unpopular effort among the Serbian population and cause it to become much more popular than it is today as a result of engaging in punitive attacks, military attacks, that could in my view cause that effect. I raise that question with him?

Mr. MOYNIHAN. Mr. President, that is wise counsel. That is the kind of calculation we should be making. We must demonstrate to the people who agree with us in Serbia that we are with them and against their government. With that, Mr. President, I thank the Senator from Maryland.

Mr. WARNER. Will the Senator from Maryland allow me to set the record straight?

Mr. STEVENS. Regular order.

The PRESIDING OFFICER. The Senate will come to order. The Senator from Maryland has the floor and the Senator from Maryland is recognized.

Ms. MIKULSKI. Thank you very much, Mr. President.

Mr. President, I, too, rise along with my colleagues to express concern and repugnance at what is going on in Bosnia.

It is now clear that the atrocities being carried out by the Serbs against Croats and local Moslems are far more extensive and repugnant than we realized.

We are experiencing, to a lesser degree, the same kind of shock that we felt when we saw the first pictures of the Nazi death camps liberated by our American soldiers at the end of World War II.

I was a child when this country learned of the extent and brutality of the Nazi genocide. But I said then that if the world could only remember this, then we would never have to witness such horrors again.

Well, the world has a short memory.

I was a 6-year-old little girl in 1942, and I could not do anything. But now I am a 56-year-old U.S. Senator in 1992, and there is now something I can do to stop the killing and the brutality. This is why I advocate, as a minimum, passing this resolution.

I say we are past the time for diplomatic niceties. Asking the Serbs politely if we may inspect their refugee camps has not worked.

It is time for the United States to use its power and influence to convince the United Nations to take a stronger role in protecting the innocent victims of Serbian aggression, using force if necessary.

I believe when we talk about the need for diplomatic solutions, diplomatic solutions will only come about if we show we are prepared to back them up with firmness and force.

Mr. President, this is not a Senator who calls for force in an idle way. I am not somebody who thinks the United Nations should walk around the world with six-shooters strapped to the hips ready to gun sling with everybody in the world. But, the situation today is desperate enough to require drastic action.

The parallels with Nazi atrocities of the 1930's and 1940's are striking and sickening.

Mr. President, we now see the Serbs are using ethnic purification. They have established concentration camps. Victims are loaded in cattle cars for transportation. We now have seen films of men emaciated and near starvation.

We have not been allowed to see the camps, what is happening to women, and yet there are reports in USA Today about the continual rape of women and further sexual assaults that are absolutely repugnant, so repugnant that I cannot even bring myself to mention them on the Senate floor.

Serbian forces threaten to kill several Moslems for every Serb killed, torturing and murdering innocent people.

And like the 1930's and 1940's the rest of the world dithers while countless men, women, and children are being brutalized.

Here we are now debating the United States of America's Defense authorization bill. What is NATO for if it cannot deliver food to the hungry, medicine to the sick, and play a role in liberating camps and directing the type of military strategy that would force the Serbs into a cease-fire and into a diplomatic solution?

Oh, I have heard about how they held out against Hitler's two divisions. The Serbs, the Croatians, hated the Nazis and fought against them. I am not talking about NATO or NATO under the umbrella of the United Nations going in and trying to take all of Yugoslavia and ironing out every ethnic conflict.

Mr. President, where is the genius of NATO presenting ideas to the United Nations in order to bring about some type of resolution to this situation? Certainly the warriors who could bring an end to the cold war can come up with these kinds of recommendations and options on what we could do here. Should we send air strikes to show the Serbs?

Mr. CHAFEE. Mr. President, will the Senator yield right there?

Ms. MIKULSKI. No, not until I finish my remarks.

Should we send the Air Force in, air strikes, into the bridges or powerplants? How about something as benign as maybe thinking about dropping pamphlets on Belgrade with these pictures that we are seeing so that the Serbian people in the capital know what is going on?

Are we all going to set around and say "diplomacy," "be careful." I am going to be careful. I do not want to see American men or women risk their lives in a conflict. We understand this. We understand how difficult, complex, and even treacherous is the course we are embarking upon. If we do not communicate to old Europe that old hatreds and bigotry cannot be solved by savagery, then the new world order is going to come apart. We will plunge into savagery. We will plunge into barbarism. And the new world order will look far more brutal than the old world order.

Mr. President, I do not have the military options all spelled out with every detail, but I do know that the genius of the United States of America combined with the resolution of NATO should be able to come up with some type of options that are specific, immediate, achievable, with minimum threat to Allied lives, and will force the Serbs into some type of activity that they will then come to peace talks.

Let us not be overcautious in reacting to the atrocities in Bosnia. The State Department had heard reports of horrible suffering but was awaiting more concrete confirmation before doing anything. European nations rejected Germany's proposal that they each accept a certain quota of refugees. All of us bear some responsibility for letting the suffering continue.

Will we never learn?

Just 50 years ago, these atrocities—and worse—were being carried out against the Jews of Europe. We all know what happened. We all like to think we would have done something at the time to stop the horrors of the Holocaust.

Will we let the Moslems of Bosnia become the Jews of 1992? Will we ignore the atrocities committed against the Croats as we did those committed against homosexuals, Gypsies, intellectuals, and Communists in 1942?

In 1941 when the Nazis took control of Yugoslavia, Croats and Serbs slaughtered each other by the tens of thousands. We should have learned the lessons of history and been prepared for today's conflict, but we have not.

And as horrible as the suffering has been in former Yugoslavia, it has been far worse and has lasted far longer in the Horn of Africa, Mozambique, Angola, and Liberia.

Today in Somalia warring factions are preventing international organizations from delivering food to starving masses. To date, approximately 30,000 people—mostly children—have died in Somalia; 1.5 million are currently dying of starvation, and 4.5 million more are in danger of starving if food does not arrive soon. There are more than 1 million refugees.

The response to the suffering in Africa has been even less forthcoming than our response to Bosnia and Croatia.

U.N. Secretary General Boutros Boutros-Ghali has shown real leadership in urging a more dynamic response to food delivery to Somalia, but he has received little support. Here in the Senate, Senator NANCY KASSEBAUM has introduced a resolution calling on the United Nations to use security troops to see that food and medicine are delivered to the men, women, and children who are now dying.

We must do more. We must act aggressively now to end the suffering in former Yugoslavia, in Africa and elsewhere—or live with the responsibility and guilt for thousands, if not millions, of lives lost through our inaction.

I will be happy to yield to the Senator from Alaska.

The PRESIDING OFFICER. The majority leader is now recognized.

Mr. MITCHELL. Does the Senator yield the floor?

Ms. MIKULSKI. Yes.

I did note the Senator from Alaska had a question. I am happy to yield my time.

The PRESIDING OFFICER. The majority leader is now recognized.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President and Members of the Senate, as I indicated earlier, Senator DOLE and I have been meeting for almost all day with many interested and participating Senators in determining how best to proceed on the many important matters that remain before us.

So that Senators can be aware, at 4 p.m., or as soon thereafter as I can get the floor, I intend to propound a unanimous consent agreement setting forth a procedure for moving forward on the Department of Defense bill, and a separate resolution dealing with Bosnia. Any Senator who is interested should be present on the floor at that time. That is approximately 9 minutes, at 4 p.m., or as soon thereafter as I can get the floor.

I am pleased to yield to the Republican leader for any comment he wishes to make.

Mr. DOLE. Does the majority leader intend to recite the proposed agreement now, or wait until 4 o'clock?

Mr. MITCHELL. I was going to wait until 4 o'clock. If the Senator feels it would be useful, I could do it now.

Mr. DOLE. I think it would be helpful. If other Senators knew precisely what is in it, it might save some time later.

Mr. MITCHELL. If that will be helpful, I will do so.

The request I intend to propound will be as follows:

That the Bumpers amendment, No. 2919, be withdrawn; that the Sasser amendment, No. 2918, be laid aside until 3 p.m. tomorrow; that at that time, 3 p.m. tomorrow, there be 1 hour equally divided in the usual form on the Sasser amendment; that at the conclusion of yielding back of time, the Senate, without any intervening action or debate, vote on the Sasser amendment; that no other SDI amendments be in order prior to the disposition of the Sasser amendment, other than the Pryor contracting amendment; that there be one relevant second-degree amendment to be offered to the Pryor amendment by Senator WARNER or his designee, on which there be 30 minutes for debate, equally divided in the usual form; that there be 30 minutes for debate, equally divided in the usual form, on the Pryor amendment; and that the votes in relation to the Pryor amendment and the Warner amendment thereto occur immediately, without any intervening action or debate, upon the disposition of the Sasser amendment, which would be at 4 p.m. tomorrow.

I would further ask unanimous consent that there be 2 hours of debate on a Leahy amendment with respect to the B-2 bomber to be offered today; that no amendments be in order to the amendment; and that at the conclusion or yielding back of time on the amendment, it be laid aside with a vote occurring on or in relation to the amendment on Tuesday, August 11, following the vote disposing of the Pryor amendment; and that the only amendments in order prior to the 4 p.m. votes on Tuesday be a Coats amendment with respect to abortion, a Graham and Mack Cuban freedom amendment, and relevant amendments with respect to the Graham-Mack amendment.

I will further ask unanimous consent that the majority leader, after consultation with the Republican leader, may at any time proceed today to the consideration of Calendar No. 608 (S. Res. 330), a resolution on the situation in Bosnia; that there be 4 hours and 20 minutes of debate on the resolution today, 2 hours and 20 minutes under the control of the Republican leader or his designee and 2 hours under the control of the majority leader or his designee; that at the conclusion or yielding back of time on the resolution, the resolution be laid aside until Tuesday, August 11, at a time to be determined by the majority leader, after consultation with the Republican leader, at which time there be 30 minutes remaining on the resolution, equally divided and controlled by the Republican leader and the majority leader; that Senator PELL be recognized immediately after the resolution has been called up, and that it be in order for him to modify the resolution at that time; that the only amendments in order to the resolution or preamble be the following: two amendments that Senator WARNER may offer, and one amendment that Senator DECONCINI may offer, with 30 minutes, equally divided and controlled on each of those three amendments just listed; two amendments that may be offered by Senator BYRD, the first regarding democratic elections in Romania, on which there be 10 minutes equally divided and controlled, and the second dealing with American diplomatic leadership with respect to Bosnia, on which there be 20 minutes equally divided and controlled; an amendment by Senator DOLE regarding Bosnia, on which there be 15 minutes, equally divided and controlled in the usual form; an amendment by Senator WALLOP regarding Bosnia, on which there being 40 minutes equally divided and controlled in the usual form; an amendment by Senator MCCONNELL regarding Bosnia, on which there be 30 minutes, equally divided and controlled in the usual form; an amendment by Senator BROWN regarding Bosnia, on which there be 20 minutes, equally divided and controlled in the usual form; and an amendment by Senator STEVENS. It is listed as a cost amendment regarding Bosnia.

Mr. STEVENS. Yes, the cost of the U.S. participation.

Mr. MITCHELL. An amendment regarding the cost of the United States participation in Bosnia, on which there be 2 hours, equally divided and controlled in the usual form.

That all such amendments whose content is not otherwise listed be relevant to the resolution or to the preamble; that it be in order to offer amendments to the preamble prior to the vote on the resolution; that no motions to recommit be in order; and that all amendments either to the resolution or the preamble must be filed at the desk by 12:30 p.m. on Tuesday, August 11.

Mr. DOLE. If the majority leader will yield, there will be an agreement propounded by the majority leader, maybe, say, 10 after 4 now, to give every Member an opportunity?

Mr. MITCHELL. That is fine.

Mr. DOLE. Mr. President, I would indicate the Senator from Indiana [Mr. COATS] has another problem, I think, trying to be worked out, that he will not be prejudiced by anything that has been stated. But there will be a separate agreement covering an abortion amendment that he and the Senator from Colorado [Mr. WIRTH], as I understand, may be agreeable to.

Second, I remind my colleagues that this is a Bosnia sense-of-the-Senate resolution, and we have had hours of debate. It is a very important issue. And I hope that we will not take another 4 hours and 20 minutes on that. Plus, I think, as I count, there must be at least 7, 8, or 9 second-degree amendments, and that is another 2 or 3 or 4 hours.

So, hopefully some of the problems can be resolved. I suggest that people read the resolution, because it seems to me that having read it and having tried to help put it together, and having passed other resolutions, I think, by a voice vote, that may have been more stringent than the one now pending, that perhaps a careful reading of the resolution might resolve some of the concerns Members might have on each side of the aisle.

I have no personal objection, and I do not think the managers have any personal objection to either one of the requests by the majority leader.

Mr. DECONCINI. Mr. President, will the majority leader yield for a clarification?

Mr. MITCHELL. Yes.

Mr. DECONCINI. Is it understood that on the Bosnia resolution, that there will be a vote tomorrow, even though there is no time certain? Is that the understanding?

Mr. MITCHELL. The resolution, the unanimous consent request, does not specify a vote tomorrow. But that is certainly my intention.

As the Senator knows, there are many devices by which Members of the Senate can delay matters from occurring. This gives me authority to call it up today—which I intend to do—limit the time for debate on it, limit the amendments to it, and the time on the amendments, also.

It is my intention that there be a vote tomorrow.

Mr. DECONCINI. Tomorrow?

Mr. MITCHELL. Yes.

Mr. DECONCINI. The second question is, only those amendments that are listed can be offered? No other amendment?

Mr. MITCHELL. That is correct. The request reads that the only amendments in order to the resolution or the preamble be the following, and then I listed all of the amendments.

Mr. DECONCINI. So there could be no more amendments.

The last question to the majority leader is that if everybody took their time allocated tomorrow on the amendments—I presume that is when the amendments were to be offered; or tonight?

Mr. MITCHELL. Hopefully, they could be offered tonight.

Mr. DECONCINI. Mr. President, is it the intention of the leader to do everything he can to see that the time is exhausted on all of the amendments sometime tomorrow during the working session, so there will be a vote tomorrow?

Mr. MITCHELL. It is my hope to have a vote tomorrow. I just say to my colleague, I have been trying for all day and several days last week to move this legislation forward, and I will to my very best.

Mr. DECONCINI. If the majority leader will yield, my concern is we debate 4 hours and 20 minutes today—tonight—maybe even do a few amendments, and then we go on to this after the B-2 amendment. It should be sometime tomorrow, late tomorrow, or early tomorrow evening, 6 or 7 o'clock. Then there is about 3 hours or 4 hours, at least 4 hours, of debate on amendments that could be taken if all time is taken. Maybe 5 hours. So we are talking about 10 o'clock tomorrow night or 11 tomorrow night if all that time is used.

My question is, If all that time is used, does the Senator feel that we would have that vote tomorrow night?

Mr. MITCHELL. It is my hope that we can have the vote much earlier than that late hour tomorrow evening, and I will do my very best to advance that. But, as the Senator knows very well, I cannot control the length of time which Senators speak and use, other than through this agreement.

Mr. DECONCINI. But, if the majority leader will yield, that is all the time that would be available, under the unanimous-consent request. Is that so? Just the time that is mentioned in that unanimous-consent request?

Mr. MITCHELL. Yes.

Mr. DECONCINI. I thank the Senator.

Several Senators addressed the Chair.

Mr. MITCHELL. I yield to the Senator from Maine and then to the Senator from Alaska.

Mr. COHEN. I listened very carefully to what will be the unanimous-consent request. I did not hear the words "nuclear testing." This Senator has been on the floor since 9:30 this morning prepared to offer an amendment that would raise and hopefully dispose of the issue of nuclear testing. It was so thoroughly debated last week, I wanted to indicate to the majority leader that I am ready, willing, and able to sit down with the majority leader and other members of his party and those on our side to resolve this issue rather quickly. I do not think we need much in the way of time for debate since we took so much time last week.

I do have an amendment that I think can be disposed of in a reasonably short period of time, and I hope we might be able to include that, if not in this unanimous-consent request, sometime before the end of business when we adjourn for the convention.

Mr. MITCHELL. Mr. President, I thank my colleague from Maine. It is my intention that, immediately following the obtaining of the unanimous-consent agreement—which I am now going to propound in about 8 minutes—that we could meet on the test ban subject in an effort to resolve either the substance or, at the very least, the procedure by which it would be handled, and it is my hope that we can accommodate the Senator's wishes.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from Alaska now has the floor pursuant to the majority leader's granting that.

Mr. MITCHELL. Mr. President, I have the floor, and I will be yielding to the Senator. Was the Senator from Alaska addressing me or was he addressing the Chair?

Mr. STEVENS. Mr. President, I sought recognition of the Chair.

Mr. MITCHELL. Then I apologize. I did not understand that.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I see others are prepared. Since the Senator from Rhode Island has had a statement, I have some comments to make concerning the history of Yugoslavia and this Bosnia dispute.

I do think, though, it is time that someone stood up on the floor and asked the Senate what it is doing. How many of us remember Hungary? How many of us really remember that people throughout the world read what we say and hear what we say? I have heard repeatedly now—and I have been listening today in my office to the proceedings on the floor—I have heard repeatedly people talk about rescue attempts and liberating the camps and being able to deliver the military muscle, I think someone did.

It is time, I think, some of us who know a little bit about defense came out here and asked, again: Do we want another false impression of what we are prepared to do?

To a great extent, what I am hearing from the other side of the aisle is political in nature. And every time we raise the question of politics, we are criticized. How many of the people who ask for us to liberate the camps were for liberating Kuwait? And how many people have said we should send forces to South Africa, or to Ethiopia, or Somalia? Are we really going to get into the position where, because we hear about brutal, brutal incidents throughout the world, we are going to call our military into action? Is this the impression the Senate wants to give to the world?

I have not yet decided whether to consent to this agreement that the majority leader has just read on Bosnia. And I do not think I will unless we can get an understanding that this political attack that is coming from the other side against what has just been described as a cold war in the White House comes to an end. If we are going to have a bipartisan concept in dealing with Bosnia—and I have before me what I think could be the basis for that, and that is the current draft of this resolution—we might have some action that the world can understand. But they certainly will not understand the statements that indicate we are about ready to send the Marines into Bosnia.

If anyone wants to debate whether we can do that tomorrow, this Senator is ready to spend the evening with them. But it is time we settled down and understood what this resolution says. I think it would be a good idea, at the beginning of the consideration of this resolution, for all Senators to be on the floor and to listen to the reading of the resolution. Apparently, some Senators are unwilling to read it themselves because the impression I get in listening to what has been going on out here is we are about ready to authorize the immediate use of U.S. force. That is not the case. And this Senator would certainly not consent to any agreement for the consideration of a resolution to do just that.

I think it is time we got a little sense into this in terms of what is going on. If Senators would like, rather than have the resolution—I will be pleased to read what I got from the library, which is about a 169-page document on a short history of Yugoslavia that will take you back to the early history of Bosnia, from its early days. It starts around 1180 and brings us through 1966. If you want to read about oppression and about liquidations and about the seeds of the enmity that exists in this region, I suggest that everyone get a copy. The library will send it to you in 20 minutes—"A Short History of Yugoslavia, From Early Times to 1966," printed by Cambridge, the University Press, in 1966.

Anyone who wants to read it will come to the conclusion we should slow down and think of what we are doing, because the animosity in this region has existed for an awful long time. There are some of us on the floor who remember World War II. And there are some of us who remember the terrible agony of World War II, of sending American forces to Europe.

This Senator is not going to vote to send American forces to Europe alone. We might send American forces to back up a well-thought-out plan of the United Nations in which we participate. But, above all, this Senator is not going to vote for this resolution if it turns out to be a political gimmick from the other side of the aisle to embarrass our President at the time he is trying to deal with this issue.

I hope I have been misreading my friends from the other side of the aisle. I am sincere in telling you, I have not made up my mind yet whether to consent to this resolution. I want some assurance it will be a bipartisan consideration of a very serious matter, and that is whether the United States should go to the United Nations and try to give rise to a U.N. solution that might deal with this problem that the world faces in the Bosnia area. But, so far, what I have heard here on the floor today is political. It is political. And I do not intend to participate in that.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, if I could have the attention of my friend from Alaska, as I said earlier I have been involved with meetings with Senator DOLE all day so I, unfortunately, have not heard the debate that has gone on, so I do not know to what the Senator from Alaska is referring. I just want to note for the record that the resolution that I was involved with was cosponsored by the Republican leader, Senator DOLE, and myself. There may be other variations, and there may have been other statements made. But from the very beginning—and I can speak only for myself on this—my staff and Senator DOLE's have been in close consultation, and we were cosponsors of a resolution that was introduced last week.

I do not know what the Senator from Alaska is referring to, but I wanted to make that clear for the record, insofar as the participation of the leaders, Senator DOLE and I have been working together on this. We jointly cosponsored with other Senators—I believe both Republicans and Democrats—a resolution last week and it is my hope whatever resolution we take up is as close to that resolution as possible.

Mr. STEVENS. Mr. President, I have that resolution in my hand. As I indi-

cated, if this is the subject matter we are going to debate, that is one issue. If it is the comments that have been made on this floor today such as those made by the Senator from Maryland, made by the Senator from Arizona, that are political in nature, then it is going to be a different debate and it certainly is not going to be one under a unanimous-consent request.

Mr. MITCHELL. Obviously, the Senator from Alaska, as each of the 99 other Senators, has the right to object to any unanimous-consent request. The hour of 10 past 4 has arrived. I would like now to proceed to propound the request.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, there are still some on our side who need to reflect on the unanimous-consent request. The Senator from Alaska has spoken to Bosnia. There is one on the amendments to the authorization bill. The Senator from Wyoming is now having an opportunity to look at it. The majority leader said at this particular hour he was prepared to propound this agreement.

Mr. WALLOP. I say to the leader, I do not wish to delay him, having not read it, I would like to at least have a few minutes to determine whether or not I will raise an objection to it.

Mr. MITCHELL. Certainly.

Mr. WARNER. Mr. President, may I say to all Senators, there is a conscientious effort by the leadership and the managers to move forward on this unanimous-consent request. There is a conscientious examination being done here. There is only one—the Senator from Wyoming—whom I know of on this side of the aisle, and if I am not correct, I urge Senators to bring it to my attention at this time. On the assumption the Senator from Wyoming can be accommodated under this agreement, I am prepared on behalf of the Republican leader, Mr. DOLE, to indicate our approval of the unanimous-consent request.

Mr. WALLOP. If the leader will yield, I want to correct my friend from Virginia, but is is my understanding the Senator from New Hampshire [Mr. SMITH] may have an objection. I do not know that to be the case. But I was informed it may be.

Mr. WARNER. I invite all Senators to bring it to our immediate attention so we can move forward. Either we get it or we do not get it.

Mr. MITCHELL. Mr. President, I will propound it at 4:20 or soon after. That will give the Senator enough time to read it. I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island [Mr. CHAFEE] is recognized.

Mr. CHAFEE. Mr. President, all of us are shocked and outraged by the situation in Bosnia. We have read the horrifying accounts of buses with orphaned children being fired on; we have seen the photographs of inmates with protruding ribs in Serbian detention camps; and we have read about the fighting and lack of food in Sarajevo and other Bosnian cities.

I hope that our anger and sadness, however, will not affect our ability to think clearly about the options we face. What can we do, and what should we do, to try and put an end to the violence and suffering?

Let's begin by taking a look at the map. Even a cursory review of this map demonstrates that it will be difficult if not impossible to separate the combatants. The purple areas on this map are areas in which Serbs are in the majority; the green connotes areas of Moslem majority; and the yellow shows areas in which Croats are a majority. The white areas on this map are regions in which no group has a majority. As you can see, this looks like a jigsaw puzzle. Mr. President, this situation looks to me a lot more like Lebanon, or Somalia, than it does Cyprus or the Sinai. This a situation that more nearly resembles Beirut than Kuwait City.

Mr. President, we must also consider the history of this region. The Moslem population in Bosnia is a legacy of the Ottoman Empire, so the current fighting has roots that are very deep and centuries old. In this century, the assassination of Archduke Ferdinand by a Serbian terrorist set in motion the events that led to World War I. During World War II, Hitler sent 550,000 German soldiers into Yugoslavia and they were unable to defeat the Yugoslovian resistance.

This violent history should give us pause as we consider a resolution calling on the United Nations to take steps that could result in the commitment of United States forces to Bosnia.

Today, Serbian and Croatian guerrilla groups are heavily armed and probably self-sufficient with regard to weaponry, as Yugoslavia had an extensive indigenous arms industry. Moslem forces have fewer weapons but are also heavily armed. It is likely that some or all of these groups have shoulder-fired surface-to-air missiles from Yugoslav Army stocks.

Mr. President, this map does not show the topography of Bosnia, but that is another factor that we need to consider. The 1984 Winter Olympics were held in Sarajevo, where the fighting now rages, in part because of the rugged mountains of this region. That same terrain, however, as the Serbs demonstrated during World War II, strongly favors irregular forces. Roads can easily be blocked and weapons and troops concealed. It has proven impossible to move humanitarian supplies along these roads without the cooperation of the various irregular forces operating in Bosnia.

Unfortunately, Mr. President, there is evidence that the Serbian, Croatian, and Bosnian Governments do not control these irregular forces. cease-fire agreement may therefore be difficult or impossible to achieve until one or more of these forces are defeated. Further, the political and territorial objectives of the Bosnian, Serbian, and Croatian Governments are incompatible: Serbia and Croatia both want to absorb large and sometimes overlapping portions of Bosnia. The Bosnian Government meanwhile wants both of its neighbors to completely withdraw so that it can exist as an independent country.

Mr. President, this history and these difficulties are perhaps clearer to officials in Britain, Germany, and other European countries who are much closer to the situation in Bosnia than we are. In that regard, Mr. President, I would like to read a quote that appeared in a Washington Post article on Saturday, "From London to Vienna, political and military leaders remain skeptical that any military move—whether limited to air strikes or expanded to a ground force that NATO officials believe would have to be 100,000 troops strong—would either end the conflict or save Bosnians from the miseries of war." I am not sure that this assessment differs much from that of our own Joint Chiefs of Staff.

We need to be very careful when we talk about humanitarian relief operations. The relief problem in Bosnia today does not stem from a lack of supplies or transportation. It is not a question of money. The relief problem exists because U.N. trucks and planes cannot deliver supplies while they are being shot at. So the question is, who is going to stop the shooting and how are they going to do it?

Let me also point out that this is a problem far greater than the siege of Sarajevo. There are numerous cities in Bosnia under siege by Serbian forces, and these cities are spread all over Bosnia. The city of Tuzla did not receive any supplies during the month of July. The town of Goradze has been under heavy bombardment. I understand that the city of Bana Luca only received about 2 or 3 days of supplies last month. Today's New York Times discusses the situation in the city of Bihac. So, if we want to ensure the provision of humanitarian relief, we may need to gain access not only to Sarajevo but most large Bosnian cities. How will this be done without the commitment of ground forces to these areas?

Mr. President, there has been some discussion of relying on U.S. air and naval power to ensure that humanitarian supplies reach these cities. I hope that none of my colleagues labor under any illusions about the utility of air power in this situation. This is not a war like Desert Storm in Iraq where

there was little cover, few hills and valleys to hide in.

In Bosnia, how will our pilots be able to tell the difference between Serbs, Croats, or Moslems while traveling at 650 mph at 15,000 feet? They are not going to have a convenient "S" or "M" or "B" on their foreheads. For that matter, how will we tell civilians from combatants? What are our targets going to be when there are no important lines of communication or key industrial or military targets in Bosnia?

Mr. President, we need to have specific, clear-cut objectives in Bosnia, and we need to understand what is required to achieve those objectives. We cannot effectively distribute humanitarian aid without ground forces present. This is what the United Nations has been trying to do unsuccessfully for the past several months. Therefore the question is whether we want to provide ground forces. It seems to me that is the ultimate question we have to answer.

Mr. President, I do not think anyone should believe we can have the best of all worlds—a splendid solution with somebody else's ground troops. We cannot tell the Europeans, "Here, we'll hold your coats" while your troops go into that morass and stop the fighting.

Let no one believe air power is going to frighten harassing forces away so supplies can be delivered.

I personally believe the injection of ground forces will be putting those forces into an absolute quagmire such as Lebanon or Northern Ireland. I hope those who are boldly proposing humanitarian aid realize that this effort will come with serious obligations.

Finally, Mr. President, if it is going to be the policy of the United States to intervene in any situation involving atrocities associated with ethnic warfare, we may soon find young Americans dodging bullets in such dangerous and far away places as Tajikistan, Azerbaijan, and Armenia, Somalia, Mozambique, Tibet, and northern and southern Iraq. The civil war in Somalia today is by all accounts causing even more human suffering than the war in Bosnia—and for the same reason—because of a civil war between different ethnic groups.

The suffering and starvation in both countries, in Bosnia and in Somalia, is horrifying and offends every one of us. But are we willing to take the final step?

Mr. President, it is wonderful to give speeches on what we want to accomplish, but are we willing to put the lives of young Americans at risk when it is not clear, based on our experiences in Beirut and Vietnam, that their sacrifices will end the suffering in those countries?

So, Mr. President, I strongly believe we must clearly understand what we are doing or what we might be doing. There are no easy solutions to this problem, no painless solutions.

I thank the Chair.

The PRESIDING OFFICER. Who seeks recognition?

Mr. MITCHELL. Mr. President, I had indicated earlier that I would propounded these agreements but have deferred at the request of our colleagues on the other side so the matter could be reviewed. I am now prepared to propound the agreements.

I am waiting for the presence of the distinguished Republican leader on the floor in order to propound the two agreements. They have been changed in some minor details, particularly with respect to the number and identify of amendments—some have been deleted, some have been added. But since the thrust of the agreements remains as previously stated, however, so that there can be no possible misunderstanding, it is my intention to reread the entire proposed agreements.

Mr. WARNER. Mr. President, I regret to say there are several objections on this side to the unanimous-consent agreement as it relates to the pending bill, the armed services authorization.

Mr. MITCHELL. I have not propound the agreement yet.

Mr. WARNER. I would like just a few minutes until the Republican leader returns to the Senate. He has been absent for a few minutes. I think it best that he assess the latest problem.

I thought it was clear what I said, Mr. President, that my statement related to the armed services bill.

The question of Bosnia—the Republican leader will return shortly—and perhaps that can be resolved. He is going to speak to that one.

Mr. MITCHELL. Mr. President, I intend to propound—as I said, I am going to do so, so there is no misunderstanding—both agreements. Obviously, if any Senator objects, we will not go forward. I want at that time to discuss the consequences of that and where we will proceed from here. But I will as a courtesy, of course, to the Republican leader await his presence on the floor.

Mr. President, does the Senator wish to be recognized?

Mr. COHEN. If the majority leader is going to defer until the minority leader comes to the floor, I will offer some comments on this matter.

Mr. MITCHELL. Mr. President, I yield the floor for that purpose with the understanding that as soon as the distinguished Republican leader arrives, if the Senator is agreeable, we will then proceed to propound the agreement.

Mr. COHEN addressed the Chair.

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

The Senator from Maine.

Mr. COHEN. Mr. President, in addition to the arguments that were marshaled by my friend, Senator CHAFEE, from Rhode Island, I wanted to offer, for the RECORD, a copy of a speech that was delivered by former Secretary of Defense Casper Weinberger back on November 28, 1984.

I remember when the Reagan administration first came into office that there was great fear and trepidation that the Reagan administration was engaged not only in saber rattling but was baring those sabers from the scabbards and started to engage the country in a number of wars in the name of those on the right. Secretary Weinberger gave a fairly thoughtful speech to the Press Club in 1984 on "The Uses of Military Power."

I wanted to quote several sections of it to support the thoughtful comments offered by the Senator from Rhode Island. I believe that yesterday or late last week we honored the 50th anniversary of Senator CHAFEE'S commitment to battle. Certainly, he is one who has fought in the trenches of war and knows something about combat experience.

Here is what Secretary Weinberger said back in 1984. He said:

> So today, I want to discuss with you perhaps the most important question concerning keeping the peace. Under what circumstances, and by what means, does a great democracy such as ours reach the painful decision that the use of military force is necessary to protect our interests or to carry out our national policy?

He said:

> We find ourselves, then, face to face with a modern paradox: The most likely challenge to the peace—the gray area conflicts—are precisely the most difficult challenges to which a democracy must respond. Yet, while the source and nature of today's challenges are uncertain, our response must be clear and understandable. Unless we are certain that force is essential, we run the risk of inadequate national will to apply the resources needed.

Obviously, Secretary Weinberger is responding to the fears that were expressed at the end of the Vietnam war, that once again we would rush into a conflict and find ourselves bogged down for years in a bloody war with thousands of young Americans coming home in coffins.

So Secretary Weinberger set out six basic tests that he would apply in weighing whether to use U.S. combat forces abroad.

Let me just reiterate them. I think the Senator from Rhode Island would like to have it completed.

He said:

> (1) First, the United States should not commit forces to combat overseas unless the particular engagement or occasion is deemed vital to our national interest or that of our allies. That emphatically does not mean that we should declare beforehand, as we did with Korea in 1950, that a particular area is outside our strategic perimeter.
>
> (2) Second, if we decide it is necessary to put combat forces into a given situation, we should do so wholeheartedly, and with the clear intention of winning. If we are unwilling to commit the forces or resources necessary to achieve our objectives, we should not commit them at all. Of course, if the particular situation requires only limited force

to win our objectives, then we should not hesitate to commit forces sized accordingly. When Hitler broke treaties and remilitarized the Rhineland, small combat forces then could perhaps have prevented the Holocaust of World War II.

That may be something that applies in this particular situation.

(3) Third, if we do decide to commit forces to combat overseas, we should have clearly defined political and military objectives. And we should know precisely how our forces can accomplish those clearly defined objectives. And we should have and send the forces needed to do just that. As Clausewitz wrote, "No one starts a war—or rather, no one in his senses ought to do so—without first being clear in his mind what he intends to achieve by that war, and how he intends to conduct it."

War may be different today than in Clausewitz's time, but the need for well-defined objectives and a consistent strategy is still essential. If we determine that a combat mission has become necessary for our vital national interests, then we must send forces capable to do the job—and not assign a combat mission to a force configured for peacekeeping.

(4) Fourth, the relationship between our objectives and the forces we have committed—their size, composition, and disposition—must be continually reassessed and adjusted if necessary. Conditions and objectives invariably change during the course of a conflict. When they do change, then so must our combat requirements. We must continuously keep as a beacon light before us the basic questions: "Is this conflict in our national interest?" "Does our national interest require us to fight, to use force of arms?" If the answers are "yes," then we must win. If the answers are "no," then we should not be in combat.

(5) Fifth, before the U.S. commits combat forces abroad, there must be some reasonable assurance we will have the support of the American people and their elected Representatives in Congress. This support cannot be achieved unless we are candid in making clear the threats we face; the support cannot be sustained without continuing and close consultation. We cannot fight a battle with the Congress at home while asking our troops to win a war overseas or, as in the case of Vietnam, in effect asking our troops not to win, but just to be there.

(6) Finally, the commitment of U.S. forces to combat should be a last resort.

I will ask unanimous consent to include the entire speech in the RECORD. But I thought it was important to outline the six key points that Secretary Weinberger outlined as the test that he certainly would recommend to the President of the United States before committing this country, seeking to commit this country, to a wartime scenario.

As I understand it, again there is great ambiguity in terms of exactly what we seek to achieve with a resolution and, hopefully, that will be clarified during the course of this evening's debate and that of tomorrow.

If, as my friend and colleague from Maine indicated, it is simply a bipartisan resolution to urge the President to seek United Nations support to use whatever means necessary to persuade the Serbs to stop the slaughter and the inhumane treatment they are currently engaged in, then that is one matter.

If it in any way implies that we are delegating to the United Nations authority for it to commit U.S. forces into a combat situation, then I would have great reservation.

In the past, President Bush has indicated some reservations, that he would have to come back to the U.S. Congress in order to get authority to commit troops to what, I believe, would clearly be a wartime situation. There was doubt as to whether he would seek authority from the Congress before actually committing forces to combat against Saddam Hussein. Some of us went to the White House and encouraged him that, in fact, he should and must come to Congress to get that specific authority.

So I think there are some questions that remain about exactly what we are doing. Are we simply offering moral support? Are we encouraging the President to get United Nations action that would at least send a signal that the United Nations and those who participate in it are prepared to use military force if necessary?

And if that is the case, whatever the United Nations decides, to commit air power, land power, sea power, does the President then have the obligation to return to the Congress, say this is the plan we are going to take? Going to the Danube, perhaps, as the Senator from New York suggested? Whatever targets he picked, it seems to me, the President would be required to come back to this Congress and seek congressional authority before committing us to that kind of an operation. But that remains to be debated.

I do not know whether that view of mine is shared. If I were to go back and quote from the language of the debate involved in the Persian Gulf debate, I think most of our colleagues would be surprised to have their words re-read to them in terms of what was involved—No blood for oil. Why are we committing thousands of Americans to potentially their deaths? What do we tell the American people when their sons and daughters come home in body bags? And on and on—very powerful, poignant statements that were made to the Senate and to the world that was watching.

In addition, we all had mothers against the war come to our offices to say, "Don't send my son" or "Don't send my daughter" into that kind of conflict. We took 6 months virtually to debate the issue as the forces were building up, as we deployed forces in Desert Shield, evolving into Desert Storm. We had months in which to allow public opinion to build to a swell, and to know whether they were going to support us or not.

All of us were concerned about what Secretary Weinberger said. Do not commit our forces, young men and women, into a combat situation and then have public opinion shift, change, and then be forced to back out. Never again should we do that.

So I think it is important, as we continue this debate throughout the afternoon, and the evening, and into tomorrow, that we be very clear on exactly what it is we are proposing, what we are suggesting the President do in terms of seeking to encourage the United Nations to take action, and what action we would demand of the President of the United States after obtaining that particular action from the United Nations. I think all of that has to be clarified, certainly in my mind and I am sure in the minds of many of my colleagues, before we pass final judgment on that issue.

So I ask unanimous consent that the full text of the Secretary Weinberger's speech be printed in the RECORD.

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

"THE USES OF MILITARY POWER"

(Remarks by Hon. Caspar W. Weinberger, Secretary of Defense, Washington, DC., November 28, 1984)

Thank you for inviting me to be here today with the members of the National Press Club, a group most important to our national security. I say that because a major point I intend to make in my remarks today is that the single most critical element of a successful democracy is a strong consensus of support and agreement for our basic purposes. Policies formed without a clear understanding of what we hope to achieve will never work. And you help to build that understanding among our citizens.

Of all the many policies our citizens deserve—and need—to understand, none is so important as those related to our topic today—the uses or military power. Deterrence will work only if the Soviets understand our firm commitment to keeping the peace, * * * and only from a well-informed public can we expect to have that national will and commitment.

So today, I want to discuss with you perhaps the most important question concerning keeping the peace. Under what circumstances, and by what means, does a great democracy such as ours reach the painful decision that the use of military force is necessary to protect our interests or to carry out our national policy?

National power has many components, some tangible—like economic, wealth, technical pre-eminence. Other components are intangible—such as moral force, or strong national will. Military forces, when they are strong and modern, are a credible—and tangible—addition to a Nation's power. When both the intangible national will and those forces are forged into one instrument, national power becomes effective.

In today's world, the line between peace and war is less clearly drawn than at any time in our history. When George Washington, in his farewell address, warned us, as a new democracy, to avoid foreign entanglements, Europe then lay 2-3 months by sea over the horizon. The United States was protected by the width of the oceans. Now in this nuclear age, we measure time in minutes rather than months.

Aware of the consequences of any misstep, yet convinced of the precious worth of the freedom we enjoy, we seek to avoid conflict, while maintaining strong defenses. Our policy has always been to work hard for peace, but to be prepared if war comes. Yet, so blurred have the lines become between open conflict and half-hidden hostile acts that we cannot confidently predict where, or when, or how, or what direction aggression may arrive. We must be prepared, at any moment, to meet threats ranging in intensity from isolated terrorist acts, to guerilla action, to full-scale military confrontation.

Alexander Hamilton, writing in the Federalist Papers, said that "it is impossible to foresee or define the extent and variety of National exigencies, or the correspondent extent and variety of the means which may be necessary to satisfy them." If it was true then, how much more true it is today, when we must remain ready to consider the means to meet such serious indirect challengers to the peace as proxy wars and individual terrorist action. And how much more important is it now, considering the consequences of failing to deter conflict at the lowest level possible. While the use of military force to defend territory has never been questioned when a democracy has been attacked and its very survival threatened, most democracies have rejected the unilateral aggressive use of force to invade, conquer or subjugate other nations. The extent to which the use of force is acceptable remains unresolved for the host of other situations which fall between these extremes of defensive and aggressive use of force.

We find ourselves, then, face to face with a modern paradox: The most likely challenge to the peace—the gray area conflicts—are precisely the most difficult challenges to which a democracy must respond. Yet, while the source and nature of today's challenges are uncertain, our response must be clear and understandable. Unless we are certain that force is essential, we run the risk of inadequate national will to apply the resources needed.

Because we face a spectrum of threats—from covert aggression, terrorism, and subversion, to overt intimidation, to use of brute force—choosing the appropriate level of our response is difficult. Flexible response does not mean just any response is appropriate. But once a decision to employ some degree of force has been made, and the purpose clarified, our government must have the clear mandate to carry out, and continue to carry out, that decision until the purpose has been achieved. That, too, has been difficult to accomplish.

The issue of which branch of Government has authority to define that mandate and make decisions on using force is now being strongly contended. Beginning in the 1970s Congress demanded, and assumed, a far more active role in the making of foreign policy and in the decisionmaking process for the employment of military forces abroad than had been thought appropriate and practical before. As a result, the centrality of decisionmaking authority in the executive branch has been compromised by the legislative branch to an extent that actively interferes with that process. At the same time, there has not been a corresponding acceptance of responsibility by Congress for the outcome of decisions concerning the employment of military forces.

Yet the outcome of decisions on whether—and when—and to what degree—to use combat forces abroad has never been more important than it is today. While we do not seek to deter or settle all the world's conflicts, we must recognize that, as a major power, our responsibilities and interests are now of such scope that there are few troubled areas we can afford to ignore. So we must be prepared to deal with a range of possibilities, a spectrum of crises, from local insurgency to global conflict. We prefer, of course, to limit any conflict in its early stages, to contain and control it—but to do that our military forces must be deployed in a timely manner, and be fully supported and prepared before they are engaged, because many of those difficult decisions must be made extremely quickly.

Some on the national scene think they can always avoid making tough decisions. Some reject entirely the question of whether any force can ever be used abroad. They want to avoid grappling with a complex issue because, despite clever rhetoric disguising their purpose, these people are in fact advocating a return to post-World War I isolationism. While they may maintain in principle that military force has a role in foreign policy, they are never willing to name the circumstance or the place * * *.

On the other side, some theorists argue that military force can be brought on bear in any crisis. Some of these proponents of force are eager to advocate its use even in limited amounts simply because they believe that if there are American forces of any size present they will somehow solve the problem.

Neither of these two extremes offers us any lasting or satisfactory solutions. The first—undue reserve—would lead us ultimately to withdraw from international events that require free nations to defend their interests from the aggressive use of force. We would be abdicating our responsibilities as the leader of the free world—responsibilities more or less thrust upon us in the aftermath of World War II—a war incidentally that isolationism did nothing to deter. These are responsibilities we must fulfill unless we desire the Soviet Union to keep expanding its influence unchecked throughout the world. In an international system based on mutual interdependence among nations, and alliances between friends, stark isolationism quickly would lead to a far more dangerous situation for the United States: We would be without allies and faced by many hostile or indifferent nations.

The second alternative—employing our forces almost indiscriminately and as a regular and customary part of our diplomatic efforts—would surely plunge us head-long into the sort of domestic turmoil we experienced during the Vietnam War, without accomplishing the goal for which we committed our forces. Such policies might very well tear at the fabric of our society, endangering the single most critical element of a successful democracy: A strong consensus of support and agreement for our basic purposes.

Policies formed without a clear understanding of what we hope to achieve would also earn us the scorn of our troops, who would have an understandable opposition to being used—in every sense of the word—casually and without intent to support them fully. Ultimately this course would reduce their morale and their effectiveness for engagements we must win. And if the military were to distrust its civilian leadership, recruitment would fall off and I fear an end to the all-volunteer system would be upon us, requiring a return to a draft, sowing the seeds of riot and discontent that so wracked the country in the '60s.

We have now restored high morale and pride in the uniform throughout the services. The all-volunteer system is working spectacularly well. Are we willing to forfeit what we have fought so hard to regain?

In maintaining our progress in strengthening America's military deterrent, we face difficult challenges. For we have entered an era where the dividing lines between peace and war are less clearly drawn, the identity of the foe is much less clear. In World Wars I and II, we not only knew who our enemies were, but we shared a clear sense of why the principles espoused by our enemies were unworthy.

Since these two wars threatened our very survival as a free nation and the survival of our allies, they were total wars, involving every aspect of our society. All our means of production, all our resources were devoted to winning. Our policies had the unqualified support of the great majority of our people. Indeed, World Wars I and II ended with the unconditional surrender of our enemies . . . the only acceptable ending when the alternative was the loss of our freedom.

But in the aftermath of the second world war, we encountered a more subtle form of warfare—warfare in which, more often than not, the face of the enemy was masked. Territorial expansionism could be carried out indirectly by proxy powers, using surrogate forces aided and advised from afar. Some conflicts occurred under the name of "National Liberation," but far more frequently ideology or religion provided the spark to the tinder.

Our adversaries can also take advantage of our open society, and our freedom of speech and opinion to use alarming rhetoric and disinformation to divide and disrupt our unity of purpose. While they would never dare to allow such freedoms to their own people, they are quick to exploit ours by conducting simultaneous military and propaganda campaigns to achieve their ends.

They realize that if they can divide our national will at home, it will not be necessary to defeat our forces abroad. So by presenting issues in bellicose terms, they aim to intimidate western leaders and citizens, encouraging us to adopt conciliatory positions to their advantage. Meanwhile they remain sheltered from the force of public opinion in their countries, because public opinion there is simply prohibited and does not exist.

Our freedom presents both a challenge and an opportunity. It is true that until democratic nations have the support of the people, they are inevitably at a disadvantage in a conflict. But when they do have that support they cannot be defeated. For democracies have the power to send a compelling message to friend and foe alike by the vote of their citizens. And the American people have sent such a signal by re-electing a strong chief executive. They know that President Reagan is willing to accept the responsibility for his actions and is able to lead us through these complex times by insisting that we regain both our military and our economic strength.

In today's world where minutes count, such decisive leadership is more important than ever before. Regardless of whether conflicts are limited, or threats are ill-defined, we must be capable of quickly determining that the threats and conflicts either do or do not affect the vital interests of the United States and our allies . . . and then responding appropriately.

Those threats may not entail an immediate, direct attack on our territory, and our response may not necessarily require the immediate or direct defense of our homeland. But when our vital national interests and

those of our allies are at stake, we cannot ignore our safety, or forsake our allies.

At the same time, recent history has proven that we cannot assume unilaterally the role of the world's defender. We have learned that there are limits to how much of our spirit and blood and treasure we can afford to forfeit in meeting our responsibility to keep peace and freedom. So while we may and should offer substantial amounts of economic and military assistance to our allies in their time of need, and help them maintain forces to deter attacks against them—usually we cannot substitute our troops or our will for theirs.

We should only engage our troops if we must do so as a matter of our own vital national interest. We cannot assume for other sovereign nations the responsibility to defend their territory—without their strong invitation—when our own freedom is not threatened.

On the other hand, there have been recent cases where the United States has seen the need to join forces with other nations to try to preserve the peace by helping with negotiations, and by separating warring parties, and thus enabling those warring nations to withdraw from hostilities safely. In the Middle East, which has been torn by conflict for millennnia, we have sent our troops in recent years both to the Sinai and to Lebanon, for just such a peacekeeping mission. But we did not configure or equip those forces for combat—they were armed only for their self-defense. Their mission required them to be—and to be recognized as—peacekeepers. We knew that if conditions deteriorated so they were in danger, or if because of the actions of the warring nations, their peace keeping mission could not be realized, then it would be necessary either to add sufficiently to the number and arms of our troops—in short to equip them for combat . . . or to withdraw them. And so in Lebanon, when we faced just such a choice, because the warring nations did not enter into withdrawal or peace agreements, the President properly withdrew forces equipped only for peacekeeping.

In those cases where our national interests require us to commit combat forces, we must never let there be doubt of our resolution. When it is necessary for our troops to be committed to combat, we must commit them, in sufficient numbers and we must support them, as effectively and resolutely as our strength permits. When we commit our troops to combat we must do so with the sole object of winning.

Once it is clear our troops are required, because our vital interests are at stake, then we must have the firm national resolve to commit every ounce of strength necessary to win the fight to achieve our objectives. In Grenada we did just that.

Just as clearly, there are other situations where United States combat forces should not be used. I believe the postwar period has taught us several lessons, and from them I have developed six major tests to be applied when we are weighing the use of U.S. combat forces abroad. Let me now share them with you:

First, the United States should not commit forces to combat overseas unless the particular engagement or occasion is deemed vital to our national interest or that of our allies. That emphatically does not mean that we should declare beforehand, as we did with Korea in 1950, that a particular area is outside our strategic perimeter.

Second, if we decide it is necessary to put combat troops into a given situation, we should do so wholeheartedly, and with the clear intention of winning. If we are unwilling to commit the forces or resources necessary to achieve our objectives, we should not commit them at all. Of course if the particular situation requires only limited force to win our objectives, then we should not hesitate to commit forces sized accordingly. When Hitler broke treaties and remilitarized the Rhineland, small combat forces then could perhaps have prevented the holocaust of World War II.

Third, if we do decide to commit forces to combat overseas, we should have clearly defined political and military objectives. And we should know precisely how our forces can accomplish those clearly defined objectives. And we should have and send the forces needed to do just that. As Clausewitz wrote, "No one starts a war—or rather, no one in his senses ought to do so—without first being clear in his mind what he intends to achieve by that war, and how he intends to conduct it."

War may be different today than in Clausewitz's time, but the need for well-defined objectives and a consistent strategy is still essential. If we determine that a combat mission has become necessary for our vital national interests, then we must send forces capable to do the job—and not assign a combat mission to a force configured for peacekeeping.

Fourth, the relationship between our objectives and the forces we have committed—their size, composition and disposition—must be continually reassessed and adjusted if necessary. Conditions and objectives invariably change during the course of a conflict. When they do change, then so must our combat requirements. We must continuously keep as a beacon light before us the basic questions: "Is this conflict in our national interest?" "Does our national interest require us to fight, to use force of arms?" If the answers are "yes", then we must win. If the answers are "no", then we should not be in combat.

Fifth, before the U.S. commits combat forces abroad, there must be some reasonable assurance we will have the support of the American people and their elected representatives in Congress. This support cannot be achieved unless we are candid in making clear the threats we face; the support cannot be sustained without continuing and close consultation. We cannot fight a battle with the Congress at home while asking our troops to win a war overseas or, as in the case of Vietnam, in effect asking our troops not to win, but just to be there.

Finally, the commitment of U.S. forces to combat should be a last resort.

I believe that these tests can be helpful in deciding whether or not we should commit our troops to combat in the months and years ahead. The point we must all keep uppermost in our minds is that if we ever decide to commit forces to combat, we must support those forces to the fullest extent of our national will for as long as it takes to win. So we must have in mind objectives that are clearly defined and understood and supported by the widest possible number of our citizens. And those objectives must be vital to our survival as a free nation and to the fulfillment of our responsibilities as a world power. We must also be farsighted enough to sense when immediate and strong reactions to apparently small events can prevent lion-like responses that may be required later. We must never forget those isolationists in Europe who shrugged that "Danzig is not worth a war", and "why should we fight to keep the Rhineland demilitarized?"

These tests I have just mentioned have been phrased negatively for a purpose—they are intended to sound a note of caution—caution that we must observe prior to committing forces to combat overseas. When we ask our military forces to risk their very lives in such situations, a note of caution is not only prudent, it is morally required.

In many situations we may apply these tests and conclude that a combatant role is not appropriate. Yet no one should interpret what I am saying here today as an abdication of America's responsibilities—either to its own citizens or to its allies. Nor should these remarks be misread as a signal that this country, or this administration, is unwilling to commit forces to combat overseas.

We have demonstrated in the past that, when our vital interests or those of our allies are threatened, we are ready to use force, and use it decisively, to protect those interests. Let no one entertain any illusions—if our vital interests are involved, we are prepared to fight. And we are resolved that if we must fight, we must win.

So, while these tests are drawn from lessons we have learned from the past, they also can—and should—be applied to the future. For example, the problems confronting us in Central America today are difficult. The possibility of more extensive Soviet and Soviet-proxy penetration into this hemisphere in months ahead is something we should recognize. If this happens we will clearly need more economic and military assistance and training to help those who want democracy.

The President will not allow our military forces to creep—or be drawn gradually—into a combat role in Central America or any other place in the world. And indeed our policy is designed to prevent the need for direct American involvement. This means we will need sustained congressional support to back and give confidence to our friends in the region.

I believe that the tests I have enunciated here today, if applied carefully, avoid the danger of this gradualist incremental approach which almost always means the use of insufficient force. These tests can help us to avoid being drawn inexorably into an endless morass, where it is not vital to our national interest to fight.

But policies and principles such as these require decisive leadership in both the executive and legislative branches of government—and they also require strong and sustained public support. Most of all, these policies require national unity of purpose. I believe the United States now possesses the policies and leadership to gain that public support and unity. And I believe that the future will show we have the strength of character to protect peace with freedom.

In summary, we should all remember these are the policies—indeed the only policies—that can preserve for ourselves, our friends, and our posterity, peace with freedom.

I believe we can continue to deter the Soviet Union and other potential adversaries from pursuing their designs around the world. We can enable our friends in Central America to defeat aggression and gain the breathing room to nurture democratic reforms. We can meet the challenge posed by the unfolding complexity of the 1980's.

We will then be poised to begin the last decade of this century amid a peace tempered by realism, and secured by firmness and strength. And it will be a peace that will enable all of us—ourselves at home, and our friends abroad—to achieve a quality of life, both spiritually and materially, far higher than man has even dared to dream.

UNANIMOUS CONSENT AGREEMENT

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, as I earlier indicated, I would propound the unanimous-consent request but delayed it to permit our colleagues the opportunity to review it and consider it in more detail. I would like now, if I might, proceed to propound the agreement. I will propound first the agreement with respect to the pending bill.

Mr. President, I ask unanimous consent that the Bumpers amendment No. 2919 be withdrawn; that the Sasser amendment No. 2918 be laid aside until 3 p.m. tomorrow; that there then be 1 hour, equally divided, in the usual form on the Sasser amendment; that at the conclusion or yielding back of time, the Senate, without any intervening action or debate, vote on the Sasser amendment; that no other SDI amendments be in order prior to the disposition of the Sasser amendment, other than the Pryor contracting amendment; that there be one relevant second-degree amendment to be offered to the Pryor amendment by Senator WARNER, or his designee, on which there be 30 minutes for debate, equally divided in the usual form; that there be 30 minutes for debate equally divided in the usual form on the Pryor amendment; that the votes in relation to the Pryor amendment and the Warner amendment thereto occur immediately, without any intervening action or debate, upon the disposition of the Sasser amendment; that there be 2 hours of debate on a Leahy amendment with respect to the B-2 bomber to be offered today with 1½ hours for debate today with the remaining 30 minutes occurring immediately following the disposition of the Pryor amendment on Tuesday, August 11; that no amendments be in order to the Leahy amendment; and that at the conclusion or yielding back of time on that amendment today, it be laid aside, with a vote occurring on the amendment at the conclusion or yielding back of time on Tuesday, August 11; and that the only amendments in order prior to the 4 p.m. votes on Tuesday, August 11, be a Coats amendment with respect to abortion, which is to be governed by a separate unanimous-consent agreement, and a Graham-Mack amendment regarding Cuban freedom, and relevant amendments to the Graham-Mack amendment.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, there will be an objection on this side. We have had a discussion on this side of the aisle. I will yield the floor to the Senator from Wyoming, who has a reservation statement to make.

Mr. WALLOP. Mr. President, reserving the right to object and, regretfully, I shall object. I just think that what the Senate has done, and is about to do, stands squarely on the throats of the administration's negotiations being conducted now in Moscow. I think it is the wrong thing. It is no secret. The Senate knows how long I have worked on this thing—long before it was a gleam in President Reagan's eye. I had been working on it with the Carter administration. I believe where the Senate is at this moment is contrary to the interest of the United States. I shall be prepared to debate this amendment.

I regret it, but I object.

Mr. MITCHELL. Well, Mr. President, I respect the Senator's concerns. I think it is important that the Members of the Senate understand where we are. We took up the defense authorization bill on Friday. Senator SASSER and Senator BUMPERS offered an amendment which was vigorously debated. A motion to table that amendment was made and failed by a vote of 43 to 49. We were then advised by our colleagues on the other side that no vote would be permitted on the amendment at that time and, as a consequence, we discontinued consideration of the bill.

During our meetings today, again, we were advised that our Republican colleagues would not permit a vote to occur on the amendment today. A request was made that we attempt to come up with some mechanism for setting the amendment aside so that we could proceed to other matters. I asked our Republican colleagues to name the time when the vote should occur. The time of 4 p.m. tomorrow was selected by our Republican colleagues to accommodate the schedules of Republican Senators.

So we are now in a situation where we are told we cannot proceed to a vote on the pending amendment, and we cannot agree to a proposal to set the pending amendment aside. Therefore, we simply cannot proceed, because the Senator from Wyoming, with deep conviction, does not agree with the results of the vote that was had, and I take from his statement, and I inquire, that his objective is simply to prevent any further action with respect to the amendment.

Mr. WALLOP. If the leader will yield, I think it is fair to say that only half of those objections are on this side. The other objection rests with the proponents of the amendment; they do not wish to have other amendments taken up, nor to have this amendment set aside.

So my objection is to now setting a time certain to vote on this amendment.

Mr. MITCHELL. Mr. President, there is no need to belabor it, because any Senator has the right to object. I state that I was advised by Senators SASSER and BUMPERS that they agreed to this proposal and would not object to it. They are present on the floor, and I ask them whether, in fact, they object.

Mr. SASSER. Mr. Leader, I do not object to the unanimous-consent request, and we are agreeable to setting aside our amendment to allow the Senate to take up the other amendments that are outlined in the unanimous-consent request. And we simply request a vote at a time certain, 4 o'clock Tuesday afternoon, on our amendment. We have asked this morning that the Senate proceed directly to an up-or-down vote on our amendment. In fact, we asked that Friday afternoon.

That has been objected to by the distinguished ranking member of the Armed Services Committee. Of course, he is within his rights to do that, and we respect his rights. But it is difficult to know how we can proceed if we are not allowed to move to an up-or-down vote on our amendment and, at the same time, we are not allowed to set our amendment aside with an agreement that it be voted on at a time certain Tuesday afternoon. But we are certainly agreeable to this unanimous-consent request.

However, we would much prefer to have the Senate vote on our amendment today. We assumed by agreeing to a vote at 4 o'clock Tuesday afternoon that this would give the opponents of our amendment the opportunity to gather Senators in who might have been absent from the vote Friday evening, and to attempt to change the minds of Senators who voted with us on Friday. However, we are agreeable to letting this time lapse go on until 4 o'clock Tuesday afternoon.

Frankly, I cannot speak for my colleague, Senator BUMPERS. Nobody can speak for him. He speaks for himself very eloquently, as the majority leader knows. But speaking for myself, I frankly think we are disadvantaged by allowing a vote to come on Tuesday at 4 o'clock because time works against us on this amendment. But in an effort to move forward and not hold the bill up unduly, we have agreed to a 4 o'clock Tuesday afternoon vote and agreed to let our amendment be laid aside so the Senate can deal with other amendments on this bill.

Mr. MITCHELL. The second point I make, Mr. President, is the time of 4 p.m. was selected by Republicans to accommodate the schedule of Republican Senators. If that is not agreeable, if we cannot proceed to vote on the amendment now and cannot set the amendment aside to vote on it at a time certain in the future, I think that it is best——

Mr. WALLOP. Will the Senator yield for an observation?

Mr. MITCHELL. Yes.

Mr. WALLOP. This Senator has not objected to setting aside the pending amendment to consider other things. I object to the condition that it is being set aside and concluded by a time certain vote. That has been my position, and that has been the position of two proponents, that they would not agree

to set it aside absent a time certain vote on their amendment.

Mr. MITCHELL. That is correct.

Mr. DOLE. I indicate to the majority leader, I think the Senator from Wyoming indicated correctly that, as I understand, the proponents do not want to set aside the amendment, and that is the same objection the Senator from Wyoming has with a time certain to vote.

I do believe that we are in a position to go to the Bosnia resolution, which does not help the managers of the DOD bill a great deal, but we can come back to this bill if we agree to set aside the amendment on SDI. Or failing that, we can go to the tax bill.

Mr. MITCHELL. I thank my colleague, and I am pleased now to yield to the distinguished manager, Senator NUNN.

Mr. NUNN. Mr. President, first I would like to thank the majority leader for his splendid cooperation in getting the bill up, helping us schedule the bill in a very compressed time period, and also in trying all day today to work out some unanimous consent agreement on the bill and on the amendments, the key amendments, and on the Bosnian resolution.

Second, I know the Senator from Virginia and the Senator from Kansas both attempted to get a unanimous-consent agreement through, and I appreciate their efforts in that respect.

Mr. President, we have many important provisions in this bill relating to National Guard and relating to the reserve forces. We have certain transition benefits for our Guard and Reserve. We have certain key legislative proposals easing the transition that communities of America are going to face because of defense drawdown and because of the loss of jobs. We have 15-year retirement for military people who find themselves in certain surplus positions.

We have provisions in this bill that relate to giving incentives to military people to go into teaching of math and science in schools. We have key provisions in this bill relating to the intelligence community. We have, of course, the authorization for all the military services, as well as military pay and other key provisions.

We have an awful lot in here that is important to the Joint Chiefs and important to each one of the services, as well as the Department of Defense; but most of all, to the American people. We also have a number of provisions in here to save the taxpayers money, relating to inventory management.

If they do not go into effect, no matter what we do on the appropriations bill in the Appropriations Committee, key provisions to save money will not go into effect. If this bill does not go into effect, not only are hundreds of thousands of people going to be harmed, but people are going to lose jobs, are not going to have transition benefits, and also are going to have, in certain areas, some wasteful practices continue, particularly in inventory management.

It is my view that there is no use in continuing the bill when we are at a roadblock like this, because the Senator from Arkansas and the Senator from Tennessee have really been very cooperative in being willing to move to their amendments. They had every expectation they would have their amendment voted on Friday night after the tabling motion failed.

I was not with them on that agreement; I do not agree with them on the substance. But I do believe they have bent over backward to accommodate the Senate in allowing the amendment to be carried over until tomorrow afternoon; and, in the meantime, letting us proceed with our business on this bill. So I thank both Senators for their efforts.

I am disappointed. I know the Senator from Wyoming feels very strongly that this is a provision that is a key provision. And I know he has worked harder than anyone in the strategic defense initiative area.

But I would only say to my friend from Wyoming, at some point, the way democratic systems work, you have to be able to produce 50 votes, or at least half of those voting—present and voting. And if you cannot do so, then you are not going to be able to get additional money, no matter how much you think it is deserved, in the bill.

The effort to wait until tomorrow afternoon, really, from every point of view, gave those who favored the position of the Senator from Wyoming on this amendment—and I am one of those—every opportunity to change their minds and to reverse the vote.

And I say to the Senator from Wyoming, I hope he considers long and hard the consequences of what he is doing here today by the objection. I know it is heartfelt; I know it is sincere. And I know it is what he believes to be in the best interests of the country.

I also know the results of it. The results of it are we are going to move off this bill—I think we should—and we are going to take up the tax bill. There is almost no likelihood we will get back to this bill, and almost no likelihood we will get back to this bill this year. We may be able to bring it up in September, but only with extraordinary cooperation.

The consequence of that is that we will basically be in a position of trying to attach certain key provisions to the appropriations bill. And that appropriations bill is likely to come up right before adjournment, and that is likely to be right before the election. And I think the result of that will be a continuing resolution. And the result of that will be a level of funding—not in sympathy with the SDI Program, but most programs—that is going to be well below what would be otherwise the course.

I understand where the Senator is coming from. But I can draw you a diagram as to the Senator's desires, and draw another diagram as to what is going to happen. And those two do not in any way converge, because what the Senator is desiring and what is going to happen are totally different.

Mr. President, I understand where all the Senators are coming from, and I appreciate the cooperation. We have had an effort this year that I hope will be productive in the sense of giving some guidance to the Appropriations Committee in their important deliberations. We will work with them constructively where we can.

I thank all the Senators for their cooperation, and I particularly thank the staff on both sides of the aisle for a splendid effort. And we will see where we go from here.

The PRESIDING OFFICER. The Senate majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I now ask unanimous consent that the majority leader, after consultation with the Republican leader, may at any time today proceed to the consideration of Calendar No. 608, Senate Resolution 330, a resolution on the situation in Bosnia; that there be 4 hours and 20 minutes for debate on the resolution today, with 2 hours and 20 minutes under the control of the Republican leader and 2 hours under the control of the majority leader, of their designees.

That at the conclusion or yielding back of time on the resolution today, and at the conclusion of whatever amendments the Senate may dispose of today, the resolution be laid aside until Tuesday, August 11, at a time to be determined by the majority leader after consultation with the Republican leader, at which time there be 30 minutes remaining on the resolution; that Senator PELL be recognized immediately after the resolution has been called up, and that it be in order for him to modify the resolution at that time; that the only amendments in order to the resolution or the preamble be the following, and that they be in order to be offered en bloc to both resolution and the preamble prior to disposition of the resolution:

To relevant amendments that Senator WARNER may offer, and one relevant amendment that Senator DECONCINI may offer, with 30 minutes equally divided and controlled on each of the three amendments just listed. One amendment that may be offered by Senator BYRD regarding democratic elections in Romania, on which there be 10 minutes equally divided and controlled; an amendment by Senator DOLE regarding Bosnia, on which there

be 15 minutes equally divided and controlled—I should have said "in the usual form" earlier—and an amendment by Senator WALLOP regarding Bosnia, on which there be 40 minutes equally divided and controlled in the usual form; an amendment by Senator MCCONNELL regarding Bosnia, on which there be 30 minutes divided and controlled in the usual form; an amendment by Senator BROWN regarding Bosnia, on which there be 20 minutes equally divided and controlled in the usual form; an amendment by Senator STEVENS regarding the cost of U.S. participation in Bosnia, on which there be 2 hours equally divided and controlled in the usual form; an amendment by Senator MCCAIN regarding Bosnia, on which there be 1 hour equally divided and controlled in the usual form; an amendment by Senator BIDEN regarding Bosnia, on which there be 30 minutes equally divided and controlled in the usual form.

That the amendments be first-degree only; that no motions to recommit be in order; and that all amendments to either the resolution or preamble must be filed at the desk by 12:30 p.m. on Tuesday, August 11.

The PRESIDING OFFICER. Is there objection?

Mr. WALLOP. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Will the majority leader—

Mr. MITCHELL Mr. President, will the Senator yield, while I make one correction in this?

I stated that Senator PELL be recognized after the resolution has been called up. I misspoke. That should be that Senator BIDEN be recognized immediately after it is called up.

I yield now to my colleague.

Mr. WALLOP. Mr. President, I make an inquiry of the majority leader as to how we can have necessarily relevant qualifying amendments if we do not know the nature of the resolution to be introduced, and so Senator PELL can modify it between now and tomorrow. How do we file our amendments at the desk?

Mr. MITCHELL. The resolution provides that the Senate resolution be called up at 3:30, and that Senator BIDEN be recognized to modify the resolution at that time. And then Senators have the opportunity to review that and to offer amendments thereto.

Mr. WALLOP. But the modification takes place tomorrow; does it not?

Mr. MITCHELL. The modification will take place right away.

Mr. WALLOP. I am sorry; I misunderstood.

Mr. MITCHELL. It would be the first matter.

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

The PRESIDING OFFICER. Is there objection? Hearing no objection, that will be the order.

Mr. MITCHELL. If I might make one additional change. It is a minor point. I did not state—it is implicit, but I think it should be explicit—that the 30 minutes on the resolution tomorrow be equally divided between myself and the Republican leader, as was the other time.

The PRESIDING OFFICER. Is there objection?

Mr. EXON. Reserving the right to object, and I shall not object, I am trying to move things along as the leader is trying to move things along. However, on the time agreement that we are just about to enter into, does the majority leader have any approximation as to the number of hours we are about to agree to for these amendments that were outlined?

Mr. MITCHELL. Mr. President, I have added them up three different times today, but amendments keep being added, so the time keeps growing. If all the time is used, and I am confident that, or I should not say confident, I am hopeful that all of the time will not be used because we began drafting this this morning before we had several hours of debate on the Bosnia situation today. I think it is close to 10 hours if all the time is used.

Mr. DOLE. About 11 hours and 45 minutes.

Mr. MITCHELL. It keeps growing.

Mr. EXON. It is approximately a day's work, more or less, depending on how many hours we are going to use. It is 5 o'clock now on Monday.

From what the Senator has just outlined, it seems to me pretty obvious that it is going to take today and all of tomorrow or most of tomorrow. We are scheduled to adjourn Wednesday, and we have not begun to outline many of the essential parts that the distinguished chairman of the Armed Services Committee outlined.

Can the Senator, as the leader, in conjunction with the minority leader, possibly advise the Senate where do we go from there? Are we still scheduled to adourn on Wednesday night? I can be here Wednesday night, Thursday, Friday, Saturday, Sunday, next Monday if necessary.

But it so happens, as I understand it, unless it is postponed, that there is a fairly important convention scheduled to start on Monday next. Just for the advice of all, the leader must be thinking about where we are going on the adjournment Wednesday evening. Would it be out of order to maybe give us some idea as to what is going to happen?

I will not object to this, but I certainly think we ought to have a little bit more guidance of where we are going from here, if it is possible for the majority leader to so advise.

Mr. MITCHELL. Mr. President, we all seek certainty in an inherently uncertain circumstance.

I hope we can get this agreement. That would be the first step. That will have been the culmination of about 7 hours of negotiation and discussion that will enable us to begin to deal with this one matter. It is my hope that it will not take the remainder of today and all of tomorrow, and that we can devote time tomorrow, beginning early tomorrow, to the tax bill.

Mr. President, what we have here—I think we all understand this and it ought to be stated. Senator DOLE and I regularly receive dozens of requests from our colleagues. I would say, in the past several days, there have been many more than usual. They are individual, as unique as the Senators themselves, but I think they may fairly be described as falling into two categories.

One involves legislation. And each Senator has an important measure that he wants to debate and usually at considerable length. We have heard that today. And every bill is important, every amendment is important, every Senator's statement is important. So we have that general category of all the things that Senators want done.

The other general category I will describe as having to do with the schedule. In those requests, generally Senators want to be sure that are no votes on Fridays, no votes on Mondays, no votes on Tuesday evenings, no sessions beyond a certain time.

Well, it is obvious, if I may understate the situation, that there is tension between the two categories of requests. And we are tying to reconcile those two tensions.

We are going to go on recess at the conclusion of business on Wednesday, in fairness to our Republican colleagues. The Senate was not in session for the full week prior to the Democratic Convention. In preparing the schedule for this period, we originally had planned to be in session all of next week, but it was pointed out to me, and accurately, that many of our colleagues wish to proceed to Houston for important events occurring with respect to the platform and other matters prior to the commencement of the convention.

So I think, in the spirit of fairness with which I have tried to conduct things here, we ought not to suggest that we will be in session beyond the close of business Wednesday—I do not want to limit it to a precise hour. Sometime the close of business Wednesday may mean early Thursday morning—but basically finishing at that time so that our colleagues can participate in the same manner in which we had an opportunity a month or so ago.

I think we will be in session late each of the next three evenings. I think everyone understands and expects that. I hope we can get this agreement and begin on this. In the meantime, I will attempt to consider what the next

course of action will be with respect to other matters.

I am pleased now to yield to the distinguished Republican leader.

Mr. DOLE. We have already had several hours' debate on the Bosnia general matter. Hopefully, we could shorten that debate considerably. But it is about 11 hours and 45 minutes if all time is taken, and that does not include record votes. That would add to that.

So I certainly urge my colleagues on both sides—certainly, it is a very, very important issue. A number of very important issues have been raised.

But this is a sense-of-the-Senate resolution, and I hope that we can dispose of it, if not this evening, sometime early tomorrow morning or sometime by early afternoon tomorrow, because I think, as the majority leader indicated, maybe there will be some opportunity to get back on the DOD bill or go to another measure.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Reserving the right to object, and I shall not, I just note on the proponents of the B-2 amendment, the so-called Leahy, Levin, Cohen, and Grassley amendment, we were prepared to go on Friday. As both sides know, we are prepared to go today, we are prepared to cut back the amount of time we originally requested to make a unanimous-consent agreement work.

We still stand prepared to go, for whatever it is worth. I note that this was an amendment prepared to go forth immediately after the SDI amendment and we were prepared to do it on as short a time as would accommodate the leadership.

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

Mr. STEVENS. Reserving the right to object, if I may inquire of the leader, is the version of the resolution still in the form that was distributed to the Members of the Senate earlier today? Has there been a change?

Mr. MITCHELL. Mr. President, I do not see the manager of the Bosnia resolution on the floor.

Mr. WARNER. Might I suggest we just read it so we all know what it is.

Mr. MITCHELL. I do not have it before me.

Mr. President, I am advised that this has been provided to members of the minority previously.

Mr. STEVENS. I have no objection. I thank the Senator.

The PRESIDING OFFICER (Mr. ROBB). Is there objection? Without objection, the unanimous-consent request propounded by the majority leader is agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, this provides for a possible total of—I think it is about 10 or 11 amendments. It is my hope that we can begin to have these amendments offered as soon as Senators are able to do so when we get to this matter, and dispose of several of these amendments this evening. So it is my expectation that there will be votes this evening, that we will proceed to take up and get as far as we can with this resolution this evening as soon as it is called up. I intend to call it up as soon as the managers of the resolution appear in the Senate.

Mr. BUMPERS. Will the majority leader yield the floor?

Mr. MITCHELL. I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas [Mr. BUMPERS].

Mr. BUMPERS. Mr. President, I rise just to express a lament on my own personal behalf, and I know I speak for Senator SASSER. The Senator from Wyoming, who has objected to a vote on the Sasser-Bumpers proposal, has a perfect right to do what he is doing. I do not know when, if ever, the Senator from Wyoming would permit a vote on SDI. Presumably, once enough minds have been changed and arms twisted, the Senator from Wyoming would permit us to vote on that.

But the present objection is not an indictment of the Senator from Wyoming as much as it is of the rules of the Senate that allow one Senator to effectively cause a bill to be pulled down, as major a bill as that is. And I think of the thousands of man-hours that have gone into the hearings, staff work, the crafting of that bill by both Senator NUNN and Senator WARNER to bring it to the floor in what they think is a very responsible way. And because one amendment was not tabled, the bill has to be pulled down.

I take it the Senator from Georgia, Senator NUNN, is prepared not to even bring it up again. It is dead, over the success Senator SASSER and I had in cutting SDI by $1 billion; from $4.3 to $3.3. And certainly in the House and Senate conference, half of that would be restored. So we are really talking about $3.8 billion, which represents a very healthy increase over 1990, though a little less than they had in 1992.

And it is incredible to me that now we wind up with the appropriations bill—in a sense, that is fine with me. I sit on the Appropriations Committee as does my colleague in this amendment, Senator SASSER. And when the appropriations bill comes up here again, if the opponents of this amendment have not succeeded in twisting enough arms to change the outcome of the vote, the vote will be the very same on the appropriations bill.

And if you do not get the appropriations bill, then you go to a continuing resolution, and the amendment will be put on the continuing resolution. So it does not profit a single soul in this body to hold up or cause to be pulled down this bill, which the Senator from Georgia and his colleagues on the Armed Services Committee have crafted.

But as I say, at some point one of these days the rules of the Senate are going to have to be changed so that every time somebody prevails with an amendment that one or two Senators object to, you do not really win at all. All you have done is just postponed the ultimate outcome.

I say to my good friend from Wyoming, with whom I sit on the Energy Committee—I have sat with him on the Energy Committee all these years. We have had an excellent personal relationship and will continue to have one. And, as I say I am certainly not blaming him for taking advantage of the rules as they exist. What I am saying is the Senate ought to reform the rules of the Senate. The idea that one Senator can put a hold on a bill and keep any bill from coming up—there are a whole host of things. The majority leader cannot take up a bill, oftentimes, or a motion to proceed to a bill, without a filibuster. If you take that up, then you have the bill up. You offer an amendment on the bill, they filibuster the amendment. If that passes then they filibuster the bill.

You know, the American people, the press keep telling us how angry they are. I think their anger may have subsided some. That may be more a wish than a fact. And they do not understand the rules of the Senate. But when they see something like the Defense authorization bill, which is critical to the country, and they see the Defense appropriations bill, being torpedoed, they know there is something drastically wrong with the way this place is operating.

Mr. President, in conclusion, I just simply say at some point we are going to vote on this. I do not know when we will vote on it again. It may be the other side will turn enough votes by the time we vote so that mine and Senator SASSER's victory will be a transient, temporary one. But to suggest that somehow or other this country is rendered defenseless because $500 million of a $4.3 billion authorization has been cut, is a strange conclusion—strange indeed.

I may offer an amendment later, Mr. President, dealing with the intelligence budget. I can say to my colleagues it is generally conceded, at least, the New York Times and Washington Post constantly tell us, that we spend $30 billion a year on intelligence. You have to be very careful discussing that on the floor of the Senate. But I think it would be fair to say, if we are spending $30 billion a year or whatever the figure is, on intelligence, and in the past I am quite sure—I am not on the Intelligence Committee, so I do not know what happens to all the money. But I know one thing. I would say the majority of it has probably been to spy on the Soviet Union, which does not

exist anymore. My guess is you could probably get 15 billion dollars' worth of what we have been paying for free, from CNN.

So I am going to make a case on that before we leave here in October, even though I may withdraw the amendment, because I just think the debate should begin. Do you know one of the reasons I think Senator SASSER and I succeeded on this, and one of the reasons Senator HATFIELD succeeded on his test ban moratorium? I will tell you why. Because if you go back home and look at the polls, you will find 74 percent of the people in this country favor a test ban. And you present this SDI budget to the American people and, while most of them favor a limited defense system as I do for accidental launches, most of them simply cannot understand how the Soviet Union can cut their defense budget by 80 percent and we are struggling—struggling to take about 3 or 4 percent off ours.

We have run out of enemies, Mr. President. Yet we continue to spend essentially the same amount of money. Nobody is suggesting that we weaken ourselves or that we disarm or that we not be able to take care of Bosnia or Iraq or whatever. But I make the same point I made in the debate the other day. The United States will spend more in 1993 on defense than the 10 top perceived enemies of the United States, including China—twice as much as the top 10 perceived enemies of this Nation. And yet when you say let us bring a little sanity to this—and as I have said 1,000 times, this deficit is a 10 times bigger threat to this Nation than the Soviet Union ever was. And the arguments continue to flow out of this body as though Joe Stalin were still running the Soviet Union.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming [Mr. WALLOP].

Mr. WALLOP. Mr. President, I know the frustration of the Senator from Arkansas. The Senator from Wyoming has felt the same frustration on other questions. He is complaining about the Rules of the Senate and their ability to frustrate progress of the Senate. All of us have felt that at some time.

Mr. President, let me just suggest that the rules of the Senate are the quintessential element of Jeffersonian democracy; the ability for a minority to thwart the tyranny of a majority of just one.

Rules give us a little more flex than that. The Senator comes from a small State. I come from a small State. And were it not for that little provision in our rules—and were it not for the little provision which, thank God, the Supreme Court has yet allowed that there be two Senators from each State—he and I might have senatorial districts composing several States. And California and New York and Texas might have three, four, or six Senators.

I would just say that as frustrating as it is—and it frustrates us all—it is a protection of this country that we do not allow a small majority to run away with things, especially when change is on the horizon.

Now I would say both Senators are on the Appropriations Committee, I would say in large respect the relevance of the authorizing committee was lost last year at the hands of the Appropriations Committee. We could not fight back after the Appropriations Committee appropriated for items for which there was no authorization, failed to appropriate for things that we did authorize, and superseded the authorization in other areas.

The United States has not run out of enemies, and I would just call the attention of the Senate to the absolute passion that some have expressed in this body today, having voted to cut defense at every level, now wishing to send our soldiers and airplanes and ships overseas and put them in harm's way for a purpose they cannot define, for a goal they will not define, for an end that no one can see, ignoring pain and suffering that exists in other parts of the world.

These are the same people, Mr. President, who are voting to cut this Defense budget, and failing to understand the role of the United States in the world, so far as this Senator sees it. We are a trading nation, and it is in our interest to provide stability from time to time.

We are a traveling nation. We travel for trade and we travel for science, we travel for study, and we travel for pleasure.

We are a nation that requires communication. We require communication from space. We are a nation that requires security in space and I see all kinds of Members on both sides of the aisle now willing to spend money of the Defense budget on social programs, willing to spend money of the Defense budget on hometown economics without adding to the ability of the U.S. military to project and protect U.S. interests.

This is not a debate that needs to be ended because we have a summer recess. This is a debate that ought to be carried on in full front of the American people and I for one am not ashamed to have carried it that far.

There are reasons for this country to begin to provide itself and its allies with a defense against missiles. There are reasons for this country to encourage the Soviet Union, the former Soviet Union, to move off of the ABM Treaty and into a new world of global defenses.

There are reasons for this Senate to be somewhat concerned about whether the democrats—small "d"—in Russia survive or the hardliners do. And the role that is being taken, in the mind of this Senator and I continue to argue it and will close with this, is basically to say that if the hardliners sit back in their chairs, we will solve their problems for them. Everybody says that Yeltsin may not survive. This Senator is not one, but those who do say his likely successor is some Darth Vader out of the dark reaches of the former Stalinist past of the Soviet Union; they will have benefited by the move that was sought to be made so hurriedly. That is the reason why one Senator sought to use the rules that were concocted by Jefferson and the Founding Fathers to protect minorities from sudden decisions.

Mr. President, I yield the floor.

Mr. EXON. Mr. President, I listened with great interest to the outstanding remarks by my friend and colleague from Arkansas with regard to the rules of the Senate, and I listened also to the very eloquent statements by my friend and colleague from the State of Wyoming with regard to SDI. It so happens the SDI Program comes under the jurisdiction of the strategic subcommittee that I chair in the Armed Services Committee.

We have had these debates to one degree or another over the last several years. I think it is sad, indeed, regardless of the positions of how strongly one feels about something, that we have come to a situation that is best outlined by the Senator from Arkansas with regard to the fact that we are paralyzing action on the floor of the Senate on a tremendously important defense authorization bill. I think that we are headed for a situation of merely putting off all of the work that has been done for the last year in hearings, all of the work that was done in the subcommittees of the Armed Services Committee, all of the effort, sometimes until 1 o'clock in the morning working out the details, and coming to this floor with a $4.3 billion authorization for SDI.

The Senator from Wyoming makes a good point, and to some extent I agree with him. The problem I have with the position of the Senator from Wyoming is that it is quite apparent to this Senator that regardless of how strong the Senator from Wyoming feels about the matter, in all likelihood he is not going to prevail. I appeal to the Senator from Wyoming to change his position and allow us to proceed in some kind of an orderly fashion in the time we have left between now and Wednesday night to move ahead.

I yield the floor.

AUTHORIZATION OF MULTILATERAL ACTION IN BOSNIA-HERCEGOVINA

Mr. MITCHELL. Mr. President, pursuant to the authority granted me in the previous unanimous-consent agreement, I now ask that the Senate proceed to consideration of Senate Resolution 330.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 330) relating to authorization of multilateral action in Bosnia-Hercegovina under Article 42 of the United Nations Charter.

The Senate proceeded to consider the resolution.

The PRESIDING OFFICER. Who yields time?

The majority leader is recognized.

Mr. MITCHELL. Mr. President, I designate Senator BIDEN to control the time under the agreement on this side.

The PRESIDING OFFICER. Under the previous order, Senator BIDEN is to control time. The Senator is recognized to submit a modification.

MODIFICATION TO S. RES. 330

Mr. BIDEN. Mr. President, I send a modification to the desk on behalf of myself, Senator LUGAR, and others.

The PRESIDING OFFICER. The resolution will be so modified.

The modification is as follows:

Beginning at line 1, page 1, strike all through the end and insert the following:

Whereas the Republic of Bosnia-Hercegovina is internationally recognized as an independent state and is a member of the United Nations and a participant in the Conference on Security and Cooperation in Europe.

Whereas attempts to bring about a permanent cessation of hostilities precipitated by Serbia and Serbian-backed forces in Bosnia-Hercegovina through negotiations have repeatedly failed;

Whereas horrible atrocities are being committed by Serbian-backed forces against the civilian population, including the "ethnic-cleansing" of regions inhabited by non-Serbs;

Whereas the United States and other Contracting Parties to the International Convention on the Prevention and Punishment of the Crime of Genocide may, under Article VIII, "call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide" or any of the other "Acts Constituting Genocide" enumerated in Article III.

Whereas officials of the International Committee of the Red Cross have been denied access to prison camps and internment camps throughout Bosnia-Hercegovina even though such officials are entitled to access to such camps under Article 143 of the 1949 Geneva Convention;

Whereas United Nations and Red Cross relief convoys carrying much needed supplies of food and medicine are being repeatedly blocked and in some cases have been attacked by Serbian-backed forces;

Whereas the Security Council of the United Nations voted unanimously to dispatch additional forces to reopen Sarajevo's airport, and the delivery of supplies of humanitarian assistance to the city's beleagured population is taking place under the protection of these forces but with great difficulty;

Whereas the Security Council also endorsed the cease-fire plan negotiated by the European Community Envoy which would place all heavy weapons in the possession of factions in Bosnia-Hercegovina under international supervision;

Whereas the president of the democratically elected Government of Bosnia-Hercegovina has issued urgent appeals for immediate assistance from the international community;

Whereas the situation in Sarajevo and elsewhere in Bosnia-Hercegovina has reached a critical point requiring immediate and decisive action by the international community; and

Whereas the President on August 6, 1992, announced a six-point plan, to be implemented through the United Nations, the Conference on Security and Cooperation in Europe and NATO, to respond to the situation in Bosnia-Hercegovina, and to attempt to prevent the conflict's spread into Kosova and neighboring countries: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the President should immediately call for an emergency meeting of the United Nations Security Council in order to authorize, under Article 42 of the United Nations Charter, all necessary means, including the use of multilateral military force under a Security Council mandate, giving particular consideration to the possibility of "demonstrations" of force, to give effect to Security Council decisions to ensure the provision of humanitarian relief in Bosnia-Hercegovina and to gain access for United Nations and International Red Cross personnel to refugee and prisoners of war camps in the former Yugoslavia;

(2) during such meeting, the Security Council should—

(a) develop the means by which to implement the July 17, 1992, United Nations-sponsored cease-fire plan, which includes placing heavy weapons belonging to all factions in Bosnia-Hercegovina under United Nations supervision;

(b) review the effects on Bosnia-Hercegovina of the arms embargo imposed on all States in the former Yugoslavia pursuant to United Nations Security Council Resolution 713 and determine whether the termination or suspension of the application of that resolution to Bosnia-Hercegovina could result in increased security for the civilian population of that country; and

(c) convene a tribunal to investigate allegations of war crimes and crimes against humanity committed within the territory of the former Yugoslavia and to accumulate evidence, charge, and prepare the basis for trying individuals believed to have committed or to have been responsible for such crimes.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. I yield myself 10 minutes.

Mr. President, first, this resolution is designed to recommend that the President of the United States obtain a use-of-force resolution from the U.N. Security Council in order to help those in Bosnia who are now being starved, beaten, and slaughtered.

Our goal is to respond to this moral tragedy. There is a slaughter of mind-boggling proportions that is taking place right now. Two and one-half million Bosnians are refugees, and tens of thousands of people have already been killed.

This resolution is specific in laying out the objectives for the use of force, if any force is to be used. In fact, the language reads, "to give effect to Security Council decisions to ensure the provision of humanitarian relief in Bosnia and to gain access for the Red Cross to the refugee and POW camps."

Mr. President, the President of the United States has already indicated his military objective is to ensure the delivery of humanitarian aid. So, other than access to the camps, this resolution goes no further than where the President already is. However, I could not support—and this resolution does not support—a decision to use force with an open-ended objective such as the ending of the conflict. Such an objective would, in my opinion, result in a quagmire all of us have sought to avoid since the end of the last quagmire we found ourselves in, as the present Presiding Officer knows full well.

Furthermore, the resolution does not authorize the use of U.S. military forces in Bosnia. This is a sense-of-the-Senate resolution, and even if we wanted to authorize the use of force, it could not be done through a sense-of-the-Senate resolution.

I am sure we will hear today from some of my distinguished colleagues that we are somehow authorizing the use of force. That is not accurate. I want everyone to listen to this very clearly. Adoption of this resolution authorizes nothing.

What it does is to urge the President to go to the U.N. Security Council, which he has now said he plans to do, and seek from the Security Council a resolution authorizing, if need be, the use of U.N. multilateral forces that may, or may not, include U.S. forces.

And even if the U.N. Security Council is convinced by the President of the United States, upon the urging of the Senate, to pass a resolution authorizing the use of force togain access to the refugee and POW camps, if need be, and to continue the deliverance of humanitarian aid, the President of the United States, through his representative in the United Nations, can then decide what, if any, U.S. military forces would participate in that effort.

He has veto power. He can determine whether this body will support a resolution that will include air forces, ground forces, naval forces, or no forces. If the U.N. Security Council does authorize the use of force which encompasses any American forces, then the President of the United States must come back to the Congress under the Constitution of the United States of America—not the War Powers Act, under the warmaking clause in the Constitution—and seek authorization to use those forces.

This resolution is a Senate resolution. It is not a piece of legislation. But we may hear a lot of our colleagues, who are opposed to urging the President to go to the U.N. Security Council and seek such U.N. authorization, say we are about to vote on com-

mitting U.S. forces. Not true. One cannot vote to send U.S. forces anywhere by a vote cast in the Senate on a vehicle known as a Senate resolution. It is not possible.

So let us get that straight because we are going to hear much debate over it during the course of the next 4, or 6, or 8, or 10 hours of debate. I expect I will be repeating this time and again. This is not an authorization for the use of force. It is urging the President to seek a U.N. Security Council authorization for the use of force which may or may not include U.S. forces; and then, if it does, the President must come to the Congress under the Constitution of the United States in order to seek authorization for the use of such force.

One may well ask, if that is the case, Mr. BIDEN, why did you fight so hard to push this resolution through the Foreign Relations Committee? Why is this so important?

The reason it is so important is that the President of the United States and the United States itself must exercise leadership in dealing with the situation which, in my view, if left unresponded to, will in fact set a pattern for the remainder of this century for a new world order that is not one in which any of us should look forward to participating.

Mr. President, it does contemplate the possibility that the President of the United States come back to the Congress and ask for permission to commit U.S. forces, if need be, in opening up those camps and providing humanitarian aid. But the President must come back with some specificity.

We are not presuming at this moment to tell the President whether or not U.S. forces should be used, how many forces, what kind of forces, and in conjunction with what other forces. We are not presuming to do that.

My colleagues will say they do not want to vote for a pig in a poke; they do not want to be voting for something that may commit x number of U.S. forces. They do not have to make that decision today. This is not even a legislative vehicle that will allow that decision to be made today. They will have time to make that decision if and when the President returns to Congress with a U.N. Security Council resolution.

Now, I, for one, am prepared, if there is a multinational force with the limited objectives we stated, to vote to use U.S. forces. But I will leave that decision to the U.S. military commanders and the President of the United States, Commander in Chief, to recommend what forces, if any, should be used for the two limited purposes—not of ending the civil war, not of reuniting Yugoslavia, not of ending all fighting between Bosnia and Serbia, but of providing humanitarian aid and opening up the camps.

I am prepared, depending on what the President says would be required to vote for U.S. forces to participate in conjunction with other U.N. Security Council participants in that process.

But this is more than a one-step process, Mr. President. If we wanted to do what I heard my friend from Virginia suggest we may be doing, the proper vehicle would be a specific legislative authorization envisioned under the Constitution to seek the permission—I yield myself 5 more minutes.

The PRESIDING OFFICER. The Senator is recognized for up to 5 additional minutes.

Mr. BIDEN. We would seek the consent of the Congress—not just the Senate, the House and the Senate—to give permission to the President to take American forces to war, to use them in combat.

This is not an emergency in the sense contemplated under the Constitution, where American forces are under attack or in imminent danger, or the continental United States or any possession of the United States is under imminent danger. Arguably, in those circumstances, the President does not need the U.S. Congress to give him authorization to use forces—arguably.

I hope we will not, as years ago, when I practiced law or was in law school, generate a number of red herrings, as we used to say in this debate. Let us debate the issue—should the President of the United States be seeking an authorization, A U.N. authorization for the possible use of force if need be to open up the camps if they are not voluntarily opened up, and to provide humanitarian aid if it cannot get through other than with military escort and the use of military force.

It also contemplates, as the Senator from New York has pointed out, the possibility of the use of demonstration forces. When in fact article 43 and article 42 were debated some decades ago it was contemplated that the U.N. Security Council should have some option between doing nothing and waging war.

One of the things, a term of art, that was used was the possibility of the use of a demonstration force. That might envisage, if the U.N. Security Council authorized it, and the U.S. Congress authorized the use of American forces—doing what my friend spoke to earlier today, knocking out bridges, blowing off sides of mountains I think was the phrase he used, or a whole range of other things short of putting ground forces in, short of doing anything else that required a military action.

I used to practice law with a fellow named Sid, who is still practicing law in Delaware, a very good trial lawyer. I would sit with him when he was first trying to teach me how to try a case, and he would say to the jury at the outset of the case, "Now, ladies and gentlemen of the jury, you are going to hear the prosecution tell you a whole lot of things that have nothing to do with whether or not my client killed Mr. Jones. They are going to tell you that he is not a nice-looking fellow. They are going to tell you that he does not speak very well. They are going to tell you that he comes from an area of town that you would not like to live in. They are going to tell you a lot of things about him." And then he would say, "But do me a favor, ladies and gentlemen of the jury; keep your eye on the ball. Keep your eye on the ball."

As Sid would in Delaware, keep your eye on the ball.

The ball that is in play in this debate is a U.N. Security Council resolution that we are urging the President to seek the Security Council to draft. That resolution may or may not authorize the use of force if the President achieves the objective we are urging. If he achieves that objective, it may or may not contemplate U.S. force along with other forces. If it does, and if it passes the Security Council, then we, the U.S. Congress, the Senate in particular, will decide whether or not we are willing to, in the name of the American people, use American forces to achieve the objective outlined by the U.N. Security Council.

Let me make one last point. Assume we got that far down the line, those three or four steps. Then once we would authorize the President's use of force, the President can use the forces in whatever way he may see fit consistent with that resolution. We would not sit here and say you can use x plus 10 or x minus 17 forces.

I urge my colleagues to keep their eye on the ball.

I yield myself 1 additional minute.

I point out that in the original resolution drafted by the Senator from Delaware and passed by the Foreign Relations Committee, there was a provision in it relating to this last issue about the authorization of the use of force. It read: "When requested by the President the Congress should promptly consider authorization for any use of U.S. military forces pursuant to, and only pursuant to, the United Nations authorization described in paragraph 1."

As a matter of accommodation—and because it was argued not to be necessary, I sent up an amended version which deleted that provision, among a few other changes it made.

So I ask my colleagues as this debate begins to keep their eye on the ball.

I am happy to yield to my chairman of the full committee for 5 minutes.

Mr. PELL. I thank my colleague.

The PRESIDING OFFICER. The Senator from Rhode Island [Mr. PELL] is recognized for up to 5 minutes.

Mr. WARNER. Mr. President, parliamentary inquiry. Has the Senator indicated who are the cosponsors of the Senate resolution? There was a large list originally. I would like to know how many of those have survived.

Mr. PELL. Senator LUGAR, I know, is a cosponsor with Senator BIDEN.

Mr. WARNER. Mr. President, the question is the pending resolution. Has the Senator from Delaware enumerated the cosponsors?

Mr. BIDEN. I have not, other than Senator LUGAR and Senator PELL. I have not enumerated them because, quite frankly, I wanted to make sure everyone saw the deletion of the last paragraph. I do not know whether they have.

Mr. WARNER. Will the Senator inform us at the earliest possible time as to the cosponsors, because there was a rather large list on the original.

Mr. BIDEN. Yes.

Mr. WARNER. I am not sure how many remain on the amendment.

Mr. BIDEN. To the best of my knowledge, they all remain. But I will not presume to assure the Senator of that until we have actual assurance. I do not have that at this moment.

The PRESIDING OFFICER. The Senator from Rhode Island has the floor.

Mr. PELL. Mr. President, my colleague and friend from Delaware has succinctly expressed the pros and cons of the resolution.

The essence of it is to set forth the sense of the Senate that the President should call for an emergency meeting of the Security Council to authorize measures that may be necessary, including force if required, in order to implement a U.N.-sponsored effort to provide humanitarian relief to civilians in Bosnia-Hercegovina as well as the U.N.-sponsored cease-fire plan to place heavy weapons belonging to all factions in Bosnia-Hercegovina under U.N. supervision.

The President announced on August 6 that he will press for an emergency meeting of the Security Council. This provides for doing that. In fact, this is what is taking place at this time. To my mind, the President is handling the problem well. But it is not clear whether he will ask the Security Council to address the issue of heavy weapons such as those that are being used to devastate Sarajevo in addition to the issue of humanitarian assistance.

It may be implicit in the President's announcement that the issue of heavy weapons will be addressed since those weapons have been used to obstruct the humanitarian relief effort. It is not specifically mentioned in our committee resolution.

The resolution raises other issues that the committee as well as other Members would like to have addressed by the Security Council.

First, the Security Counsel should take steps to ensure access by U.N. personnel and International Committee of the Red Cross personnel to refugee and prisoner of war camps.

Second, the Security Council should review the effects on Bosnia-Hercegovina of the U.N. arms embargo on all the states of former Yugoslavia and determine whether we are hurting Bosnia more than we are harming Serbia.

Third, the Security Council should take steps to convene its tribunal to investigate allegations of war crimes and crimes against humanity.

The sense of the Senate embodied in this resolution is an important statement of how the United States and the United Nations, acting collectively, should respond to the tragedy that has been unfolding in Bosnia-Hercegovina. The atrocities perpetrated by Serbian forces in Bosnia have no parallel in postwar Europe. The very use by the Serbs of the word "cleansing" bears a chilling resemblance to the Nazis' "final solution" policy toward Jews and other minorities.

If we look the other way, as we did then, or as when Italy raped Ethiopia, when the League of Nations was able to wring its hands and do nothing, the cleansing will succeed with genocidal thoroughness. If that is allowed to happen, a grizzly precedent will be set for the launching of genocidal cleansing elsewhere in Europe and the world.

Thus, I would say to my colleagues it is not the kind of new world order that we want. We need just look at history for a moment for a replay here, and a little bit of remembrance of World War II when the Croats behaved very badly toward the Serbs. Now the sequence is being reversed.

We recognize the sensitive nature of the problem. That is why the resolution very specifically calls on it only to be done under a U.N. operation. If it was not done as part of a U.N. operation and under U.N. support, or under a concert of Europe or multilateral banner I know I, for one, would not be for going in there.

I yield the floor.

Mr. COHEN. Mr. President, I yield up to 20 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for up to 20 minutes.

PRIVILEGE OF THE FLOOR

Mr. WALLOP. Mr. President, I ask unanimous consent that Capt. Steve Madey, a naval congressional fellow, who is assisting me in defense and foreign policy matters be permitted the privilege of the floor during the consideration of this resolution.

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

Mr. WALLOP. Mr. President, I have to confess to a deep sense of distress at the opening remarks of the Senator from Delaware. Though not intended to be cynical, they surely remind one of the conversations that took place on this floor in 1956 with respect to Hungary, when the debates and encouragement of this country, and maybe some in Europe, led Hungarians to believe that if they resisted the Soviets, we might come and help.

We made the same speeches, the same complaints, and we provided the same distressful posturing, and then did not go.

Like all my colleagues, I am deeply disturbed by the atrocities being inflicted upon innocent civilians. The existence of death camps and the repugnant attempt at ethnic cleansing are all to reminiscent of past tragedies.

Despite this compelling desire, which we all share, to punish those responsible for these atrocities, the use of American military force, for whatever reason and to whatever extent, is not something we should casually endorse. Though we call it United Nations, make no mistake about it, the promise is American. I have been dismayed by the statements of some in the media and the political arena who imply that using force would be a quick and easy way to solve the troubling situation in Bosnia. Of equal concern, is the notion that the United Nations should somehow decide what force is needed.

Mr. President, the use of force is only justified if we have high confidence that specific military actions will achieve clearly defined goals at an acceptable cost. Neither this resolution nor the one that will emerge from the United Nations define that. The use of military force simply to satisfy an emotional sense of outrage is never justified. As we consider taking such action, there are a number of critical questions that must be answered.

So look at what American interests are at stake. Does the conflict in Yugoslavia threaten regional or global stability? We are all sensitive to the fact that the spark that ignited World War I occurred in Sarajevo. Today, however, the conflict does not threaten to spread beyond the borders of Yugoslavia. While nobody can condone the actions taken by Serbia, they are certainly not the first step in a larger plan at regional domination. Fortunately, the fate of empires no longer hang in the Balkan balance.

Obviously, there are humanitarian interests at stake, but are these sufficient grounds for direct American military involvement? The United States has never attacked another country simply out of a sense of moral outrage. If we decide to do so today, we would be setting America on a fundamentally new course in foreign policy. And if we decide to allow humanitarian concerns to serve as justification for armed intervention, then are we not required to pursue these ends consistently? Why deploy military force to Bosnia and not to Somalia where 75 percent of that nation's children may die within the next 6 months of starvation. The International Red Cross warns that if outside intervention is not forthcoming in Somalia one-third of the country's population could die of starvation. How can this Senate justify the use of American military forces on humani-

tarian grounds to relieve the agony in Yugoslavia when a much greater tragedy in the Horn of Africa has been staring us in the face for almost 2 years?

Wednesday's New York Times carried the headline: "Dawn Brings Death: One More Day of Ethnic War." Another article about Bosnia? No, Mr. President, a story about slaughter in Akwana, Nigeria. If we are to be consistent, should we authorize American military personnel to get involved in Nigeria and Somalia, as well?

Our apparent willingness to become involved militarily in Eastern Europe for humanitarian reason, when we have not done so in other parts of the world, sends the message that we are selective in what ethnic or racial groups are worth protecting. Why is starvation and brutality somehow more acceptable in the Horn of Africa than in Eastern Europe? The appearance of racism is unavoidable.

Some have argued that more is at stake than purely humanitarian concerns, that genocide begets genocide, that ethnic cleansing could spread to other parts of Eastern Europe and the former Soviet Union, and that regional stability could indeed be threatened. This may be true, but it is unclear that an American show of force in Yugoslavia will deter such actions elsewhere. It is not even clear, for that matter, that a limited show of force would deter Serbs—driven by the desire to return all ethnic Serbs to a greater Serbia—from these heinous acts.

If we conclude that American military intervention is justified, for whatever reason, the second question we must confront is what can we accomplish with what degree and type of force?

It has been asserted, on the floor of the Senate and elsewhere, that a limited number of air strikes would be sufficient to bring the Serbs to their senses, forcing all parties to cease hostilities and seriously negotiate a settlement. It is rubbish. While this presumption may turn out to be true, it may also be wishful thinking. Certainly our objectives should be to foster an enduring political settlement. But Yugoslavia's history is marked by deep divisions. Nowhere in that troubled land do borders correspond to ethnic or religious groupings. Grievances were suppressed and smoldered under Tito's iron fist.

The question we face is: How do we promote a political solution if limited air strikes do not bring the all sides to the negotiating table?

Once committed militarily, we will have an obligation to follow through. We will come limping home, as the Soviets did after Afganistan, as America did after Vietnam. Attempting limited intervention and then giving up would be worse than not having intervened in the first place. If we decide to get involved militarily, we must be prepared to use the means necessary to meet our objectives. Incremental involvement is a losing proposition on all counts.

So what does means necessary imply? On Wednesday, all Senators were invited to an intelligence briefing on the situation in Bosnia. During this briefing, it was explained that merely to secure the Sarajevo airport and one supply route would require two divisions at a minimum. But even if we secure the airport, we cannot ensure that fighting will stop. In Beirut in 1982 we tried to secure an airport, believing that this was a limited objective and that we would somehow be shielded from the violent conflict which surrounded us. This situation is all too familiar. And when fighting does not end, and when we sustain casualties, will we then be willing to expand our involvement to a wider occupation?

Let us be honest, the name of the game in Bosnia is not peacekeeping. We cannot keep peace Mr. President, when there is none to begin with, and there is none in this troubled land. The United Nations already has a 15,000-man peacekeeping force in place. To add Americans to this force without a clearly defined military objective would be irresponsible. If we get involved in Yugoslavia, we must be prepared to use decisive force.

This leads me to a third question: What is America's role in multilateral military actions? The resolution reported by the Foreign Relations Committee seems to hand planning and decisionmaking over to the United Nations. I do not believe that this is wise, nor do I believe that most Americans would support the idea of the United Nations controlling the employment of United States military forces in combat.

The approach advocated by the Foreign Relations Committee is just the opposite of that taken in the Persian Gulf war. Prior to Operation Desert Storm, the President of the United States formulated specific military objectives. Only then did the United States go to the United Nations to seek support. This does not mean that we should not cooperate closely with the Security Council.

Amidst the various prescriptions for stopping the repugnant humanitarian situation in Bosnia-Hercegovina, Governor Clinton has suggested doing "whatever it takes to stop the slaughter of civilians * * * begin[ning] with air power against the SERBS.* * *" This is the man who slipped his obligations during the Vietnam war until he reentered his name solely for the purpose of protecting a political career. This is the man who now advocates the use of military force in a situation where no one—let alone the Governor of Arkansas—has yet determined what America's goals and purposes are. War is not a game played between the lines of a political playing field. War kills and scares people as the Governor may well remember.

But since Governor Clinton is not alone in his prescription, it is worth responding with a few questions and reminders.

Some on the floor today will argue that what we are debating, is not an authorization of the use of force. The Senator from Delaware just did. To them I say, in a democracy, words have meaning. If this amendment passes, the Senate will be on record as supporting a U.N. mandate of a use of force. If and when we do so, and if and when the President returns to the Senate for the real authorization of force, it would be disarmingly dishonest to then vote differently on the real authorization than we did on this resolution. But for the sake of argument, let's say it's not an explicit authorization, per se, and only some middle ground vote to urge action. How then should it be interpreted by those involved in the fighting? Should our enemies take it as a threat upon which we are prepared to follow through? Should the beleaguered Bosnians breathe a sigh of relief that we are prepared to act? Again, I say: we are a democracy and what we say here today, through our passing this resolution, has real meaning for friend and foe alike. To those who cynically believe that this is an ambiguous statement to which we can point as proof that "we were on the right side (whatever that turns out to be)" I say: lives hang in the balance of your irresponsibility.

But since Governor Clinton has challenged America to do "whatever it takes to stop the slaughter of civilians," it is only appropriate that we understand why civilians are being slaughtered. Without such an understanding, one might mistakenly conclude, as Governor Clinton has, that limited air strikes would show the warring Serbs that America is serious and thereby cause the Serbs to cease their errant behavior.

But first let us be clear on our terms. The heinous crimes that are being committed by Serbs against Moslem Bosnians are an act of war. Were we to stop the slaughter, we would be acting in direct opposition to the will of the Serbs. That, as Carl von Clausewitz has pointed out, is war. "War is an act of force to compel the enemy to do our will." Plain and simple. What Governor Clinton and others on the floor of the Senate today are talking about is war. "Protecting civilian populations against the use of heavy weapons," undertaking an "international mission of mercy," or using "all necessary measures to deliver humanitarian assistance" are clearly nicer terms. But again, as Clausewitz explained in 1832:

> Kind hearted people might of course think there is some ingenious way to disarm or defeat an enemy without too much bloodshed, and might imagine this is the true goal of

the art of war. Pleasant as it sounds, it is a fallacy that must be exposed: War is such a dangerous business that the mistakes that come from kindness are the very worst.

Halfway measures or reluctance once having begun are deadly in themselves. And to be sure, a limited effort on our part would not end the humanitarian nightmare. What is sought by the Serbs in Bosnia is no secret. To steal enough territory, by conquest and ethnic cleansing, to create a greater Serbia, which in Milosevic's eyes is the next best thing to a Serb-controlled Yugoslavia.

Given Serbia's skyrocketing inflation, desperate unemployment, and generally doomed economy, there is not a lot of incentive for Milosevic to back down at this point, and certainly not because of a few American air strikes. We are not dealing with reasonable men. This is clear from their systematic racist aggression, their use of heavy weapons against civilians, their contempt for the international community and the repeated duplicity of Mr. Milosevic himself. And as Clausewitz again reminds us, "If the enemy is to be coerced, you must put him in a situation that is even more unpleasant than the sacrifice you call on him to make." I would assert, Mr. President, that putting the Serbs in a situation "even more unpleasant" means one thing: A committed and decisive show of force which uses the means necessary to restore peace and stability.

Mr. President, 38 German divisions were unable to do that during World War II. Since that time Tito has trained the people of the countries of Yugoslavia to do nothing but operate as guerrillas, independently and alone. These people, these Serbs, are not easily deterred. The resentments and desires they hold today are not much different than what they were at end of World War II.

The haves versus the have nots is just one of many conflicts in this region. That has not changed since the beginning of this century. The fault line between relative prosperity and sophistication of the northern republics and the more agrarian south still runs along the borders of the old Austro-Hungarian Empire. Religious conflicts—between Orthodox Christians, Roman Catholics, Moslems, and countless variations on these themes—add to the stew.

So let there be no illusions that limited involvement would be in any way decisive or would do anything to relieve the suffering of innocent civilians beyond the very immediate and cursory.

And the civilians, Mr. President, will be within sight of the television cameras when the limited air strikes kill them as well, and I ask the Senate to take a look at what our reaction may be in those days in that time should it happen, God forbid.

We have all read the accounts of Nazi Germany's doomed aggression in Yugoslavia. This should give us some idea what we are up against. And the troops today are better trained and armed that the wartime resistance was. Thousand of graves of German soldiers in the Bosnian Mountains are reminders of the iron resistance of Tito's partisans. Many have called it the most stubborn, bloody, and uncompromising guerrilla war in Nazi-occupied Europe. At the height of their involvement, the Axis strength in Yugoslavia comprised 1 million men, including 18 German, 14 Italian, 8 Hungarian, and 5 Bulgarian divisions.

Given the iron wills and a terrain suited to the vagaries of Guerrilla warfare, I cannot think of a military planner who would relish the opportunity to strategize our involvement in this Balkan quagmire. The departing U.N. commander warned that, "If the world thinks seriously of putting in an occupation force," and that is what "stop[ping] the slaughter of civilians" could well entail, "then they should be prepared for a very long stay." He told a British newspaper, "I'd say the next 20 years—and even then, who knows what would happen when they left?"

Mr. President, let me remind my colleagues, we are not looking at a simple resolution expressing simple dismay about totally repugnant and atrocious acts in one lightly inhabited part of the world. We are looking at a resolution that has consequences miles and miles and decades down the road. The United Nations is incapable of stopping centuries of conflict. The United Nations could better spend its help and its forces doing what could be done in other countries of the world, as well as this one.

Mr. President, I shall offer an amendment later to take care of some others. In the meantime, I urge my colleagues to tread very lightly on this path. It is a path that is not easily returned from.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Rhode Island [Mr. PELL].

Mr. PELL. Mr. President, I yield myself 3 minutes. Could I have 3 minutes?

Mr. BIDEN. Yes.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for up to 3 minutes.

Mr. PELL. Mr. President, the Senator from Wyoming touched on the case of the Hungarian Revolution, when I was at Andau on the Hungarian-Austria border. I was in Vienna at that time and placed in charge of the International Rescue Committee in their work looking after refugees and trying to help the people cross the border. There is one big difference. We were hideously upset as we knew what was going on in Budapest. The Russians were in there slaughtering the people with their tanks and heavy arms. There was nothing we could do a few miles away. Why? Because if we had, it would have started world war III.

In this case, I do not think there is any great risk of world war III emerging from what is basically a peace-contemplated U.N. operation in the former Yugoslavia.

So I would hope that the analogy would not be made because I do not think it would be correct.

The PRESIDING OFFICER. Who yields time?

Mr. COHEN. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Maine [Mr. COHEN] is recognized for up to 5 minutes.

Mr. COHEN. I listened quite carefully to what my friends from Delaware and Wyoming have just said. Earlier today, it was suggested that we take action, but of course this is not taking action, this is taking words. We are doing nothing in the way of taking action, as a matter of fact.

Now, my friend from Delaware said this resolution authorizes nothing. He repeated it three times—it authorizes nothing. It does not authorize the United Nations to commit the United States to do anything. It urges the President to go to the United Nations to seek authority, which may or may not involve the use of force, which may or may not include the United States; that the President has veto power over the United Nations committing U.S. forces; and, in any event, that if he should come back to the U.S. Congress, he would have to seek authority under the Constitution for a declaration of war.

I cannot conceive of a situation in which the U.S. Senate would go on record urging the President to go to the United Nations to seek whatever means necessary to achieve the goals articulated by my friend from Delaware, I cannot conceive of a situation in which the President does that, he gets the authority, the United Nations grants authority to use some measure of force—we know that the British have air power, we know the French have air power, we know the Germans have air power, as do others. The assumption we are operating under is that if the United States is going to be committed, we will either use naval forces or use air forces, but we are unlikely to commit ground forces.

But in any event, I cannot conceive of a situation in which the President goes to the United Nations, secures a U.N. declaration that we are going to commit ourselves to the use of power, whatever it takes to open up those supply lines for humanitarian goals, that he would then come back to this body and this body would then reject the President's seeking the authority from us. I cannot imagine that situation.

Mr. BIDEN. If the Senator will yield, I agree, I cannot imagine it either.

Mr. COHEN. So when the Senator from Wyoming says, we will sit on our hands, I think it is just the opposite.

So that the Senate, unless it engages in a real act of hypocrisy at that point by sending the President to the United Nations to get the authority and coming back and rejecting it, then we will, in fact, be committing ourselves to some use of force by whatever means necessary as decided by the United Nations. I think that is clear.

There are those operating under the assumption that we are two or three steps away, that we are not anywhere near the use of force by American troops at this point. And I think the Senator from Wyoming does make a point that we may be three steps away. But we definitely are committing ourselves to a course of action which, were we to measure up to our words today, would commit us to deploying U.S. forces.

There is also the point that he makes that some feel that just by threatening to use force that is going to get the attention of the Serbian leadership at this point and they will, in fact, be intimidated by that threat.

But I think that threats are idle and empty if we are not willing to back them up. So it is clear that if we are going to make a threat, we are going to have to back up that threat and actually engage in the use of force.

I also just have a question I want to raise at this point in terms of the timing of this. If we adopt the resolution tonight or tomorrow, and whatever amendments are offered—and I am not sure how many I will support or not support—but whatever comes out of this particular debate, and we authorize the President to seek U.N. support for the use of force to achieve these noble and, I believe, worthwhile goals, there arises the question of what happens next week?

Do we have the President, who is going to the Republican convention, does he use the U.N. declaration to commit our young men and women to battle? Does he call us back into session, because we will be out now until after Labor Day? What happens between now and Labor Day? How many people will be either slaughtered or incarcerated, starved by the Serbians at this point?

What do we do for the next 3 weeks, unless the President were to come back, call us into session and seek authority to go to war with the Serbians?

So I think that it is going to raise a number of issues, it seems to me, as to whether the President would have authority to act without further participation by Congress. And if he should seek further authority from Congress, then I think it is going to place a lot of people in the same position they were in back during the Persian Gulf war.

I want to read just one statement because I think it reflects the sentiments of so many at that time. He said:

> Before we plunge into a difficult conflict which can have no simple ending, we must know, and the American people who will be fighting must know, what kind of solution we are seeking. The complex problems of the gulf region do not lend themselves to simple solutions. We must find a course which will enable our Arab allies to find their own way to peace in the region.

Then he concluded by saying:

> Until we have greater clarity of vision that war will result in a secured peace, and until we have truly exhausted all economic and diplomatic means, I cannot in good conscience vote to give the President the authority to pursue military action from which there is no turning back.

At that point, we had Desert Shield, we had deployed some 500,000 troops to the deserts of Saudia Arabia, we were on the edge of going to war against a known aggressor—someone who threatened to set 500 or 600 oil wells on fire just to demonstrate his contempt not only for the environment but for the world at large—and yet Members still, when coming to that very edge said, until our vision is more clear, they could not in good conscience support the use of military force.

So I think that it is helpful that we are debating this now because, according to the Senator from Delaware, this resolution authorizes nothing. In fact, it is three steps removed from authorizing the use of force, and at some point in the future we will have to take that action.

And so, we are not taking action tonight or tomorrow. We are taking words.

But the Senator from Wyoming said words do, in fact, have importance in this body. But at this point, I think we are going to have to await the outcome of a number of amendments to clarify exactly how this body is going to proceed. Because I think the Senator is correct, once we start down this path, encourage the President to go to the United Nations, he gets the authority, at that particular point in time, it would be unconscionable for us to reject the use of force, of American forces, participating in that particular mission.

So I think there are a lot of questions that have to be asked and answered before we can come to a final conclusion on this matter.

I reserve the remainder of my time.

I yield 5 minutes to the Senator from Virginia.

The PRESIDING OFFICER (Mr. KERREY). The Senator from Virginia is recognized.

Mr. WARNER. I thank my distinguished colleague from Maine. He has articulated many of the arguments that I put forward for over 4 or 5 days here.

I can remember when I was alone, perhaps the Senator from Wyoming was not more than a few steps away, objecting to the rush to have a 1-hour time agreement within which to consider a resolution very similar to the one that is before us now. Well, that 1 hour has now been followed by perhaps a dozen hours of debate and now, perhaps 10 or 12 hours under the present amendment.

So I am pleased that at least the Senate is now beginning to give careful deliberation.

Mr. President, I ask unanimous consent that I be advised when there is 1 minute remaining under my time.

I would like to get the attention of the distinguished manager, the Senator from Delaware, and I would like to propose to him a specific question.

As I understand this, we are going to authorize the President to go to the United Nations and seek authority to do two things specifically: One is to ensure the provisions of humanitarian relief in Bosnia, that is the entire territory, and second, to gain access for United Nations and International Red Cross personnel to refugees in prisoner-of-war camps.

Any realistic appraisal of that recognizes that military force will be necessary. In fact, this specifically uses the magical words, "all necessary means," which connotes—and it says here—using multinational military force.

If the President is successful in getting that, he must be convincing, as the Senator from Maine inferred, to the other member nations there that we will do our share. But if every member nation says, "Well, but you have to go back to your parliament, Congress," then they will say, "We have to go back to our parliament." Because one cannot have this kind of vote without the others.

Now, is that your intention, of how we should send a strong message, to stop this horrifying, and, really, criminal persecution of human beings? Is that my colleague's idea?

And may the response be on the time of the Senator from Delaware?

Mr. BIDEN. I will be happy to respond on my time. Let me say to my friend, as a former Secretary of Defense said, you know, the Constitution is an impediment to free action.

It is sometimes tough, I say to my friend from Virginia, that we do have a thing called a Constitution. Every member state of the United Nations knows about our Constitution. The U.N. Security Council knows about our Constitution. And I might point out at least three of the other members states have similar impediments, as you phrase it, but they can under article 43 of the U.N. charter, provide their respective military forces to participate in a U.N. Security Council action.

So, No. 1, yes. I am recognizing the inevitable, a thing called the Constitution. It is not what I prefer or do not prefer, it is what exists.

Second, we are not authorizing. We are urging. We are urging the President

to go and seek a U.N. authorization. The President may or may not decide that such a resolution, if there is one, includes U.N. ground forces, naval forces, or air forces.

So I hope that answers both questions directly.

Mr. WARNER. Mr. President, in the opening statement of the distinguished Senator from Delaware, after sort of lecturing the Senate on a freshman course in what this means—I think most of us understood what it meant—he used the word "authorized" many times: "Authorizes the President, authorizes the President does not authorize the President." That is why I elected to use the same words that the Senator from Delaware said.

Mr. BIDEN. If the Senator will yield on that point on my time, Mr. President?

I used the word "authorizing" in the context of "seek a U.N. authorization." There is a distinction here. There is a Senate authorization, which would come after, if it came at all, the U.N. Security Council authorized force.

There is, preceding, if you will, the two other steps—first, there is an urging step. We are at the urging step. But as my friend from Maine says, it is not idle urging. It is clear, it is implied that if we go on record and urge the President to seek such an authorization from the U.N. Security Council, and he then comes to us for congressional authorization to use U.S. forces, we are implying that if what he is seeking is within the realm of reason, we would be inclined to authorize it.

If he came and sought an authorization for the use of atomic weapons, we obviously would be less inclined than if he came and sought the authorization to use air power or some ground forces.

If he came seeking an authorization for 500,000 American troops in conjunction with other troops, as occurred in the Persian Gulf, we might not authorize that. If he came seeking authorization for the use of 10,000, or 1,000, or 500 American troops, we may very well authorize that.

I would like to speak to the point that my friend from Maine said. He said we are taking no action. One serious action we are taking.

Underlying this debate is the unstated, and sometimes stated, concern that this may put the President in a politically difficult position. It is designed on the part of the Senator from Delaware and others to do exactly the opposite.

The President of the United States is going into a difficult period, as all Presidents do when they seek reelection. It is now the eve of his convention and his renomination. It would seem to me, if the Democrats along with the Republicans in the U.S. Senate said: Mr. President, that which you have already enunciated, that you believe the U.N. Security Council should, under certain conditions, authorize the use of forces, we agree with you—it seems to me that takes the political sting out of what exposure he might otherwise have without a resolution coming out of a Democratically controlled U.S. Senate.

So the design is not as some have implied, to embarrass the President. I would think the President would be anxious to have us on board with him in seeking from the United Nations an authorization for a multilateral use of force. He is not seeking an authorization to use U.S. forces. The President of the United States does not have to go to the United Nations if he wants to put in U.S. forces. He comes here, to the Congress.

If the President wanted to send in American troops he does not go to New York, he comes to Washington—up the Hill. Or he does what other Presidents have done, ignore the Hill and go ahead and send them, and create a constitutional crisis. But he does not go to New York.

By going to New York, the President will take the first step in achieving what he referred to last year as a "new world order." If force does become necessary, it should be a multilateral force. That is what he said a year-and-a-half ago. That is what he is saying now.

All we are saying is, Mr. President, we are with you in seeking that.

When you get to the fine print, Mr. President, as to how many U.S. forces, if any, you intend to use, you do what was envisioned when the U.N. Charter was debated in this body, and what the Constitution demands. You come back to the Congress.

But my friend from Maine is correct. We would be being duplicitous if we said to the President: All right, you did what we asked of you. You came back. It is reasonable what you are asking. But, it is now a political hot potato and I sure do not want to be voting in this election year, to risk any U.S. lives over there. So we are not going to give you the authorization.

It would seem to me this would benefit the President. It is consistent with what he already indicated that he wants to do. And the fact of the matter is, if I am not mistaken, the distinction, by the way I might add, between Somalia and Bosnia is best stated by Brent Scowcroft. Brent Scowcroft talked about our security being involved in Europe and our national interest. Let me quote.

"First of all, there is a general example of this kind of conflict which, if it cannot be controlled by the United Nations, could be replicated in many other areas around the globe. Second, there is a danger of the widening of this conflict. There are Albanian minorities within Serbia, within Macedonia, there is concern by the Greeks," and he goes on. So it is a fundamental distinction.

One last thing while I have the floor, and I will yield in 30 seconds. We hear Hungary mentioned all the time, and we will hear it mentioned again. And "Are we doing what we did in Hungary?" I might point out to my friends there is a big difference.

The decision by President Eisenhower, whether or not to send forces into Hungary, was not just a humanitarian concern. It was a concern of possibly precipitating world war III.

There was a minor problem involving a country called the Soviet Union. There was a thing called the Warsaw Pact. Sending forces into Hungary, any rational woman or man making that decision had to sit down and say: Am I potentially engaging the United States in the start of world war III? Am I, as a consequence of the U.S. forces going into Hungary, confronting the Soviet Union and risking a nuclear war?

And the answer was "yes."

This ain't Hungary. It is as important in terms of people's lives. It is as significant. But in terms of America's National interests and the risks involved, there is a vast difference. There is no Warsaw Pact. And the countries involved do not have nuclear weapons.

And last, if the U.N. Security Council decides that there should be an authorization for the use of force, it must mean that Russia is part of this effort.

So I hope we will not hear any more about Hungary. We are no longer facing the potential of a nuclear holocaust.

I yield the floor.

Mr. CRANSTON. Will the Senator yield some time to this Senator?

Mr. COHEN. I think the Senator from Virginia has the floor.

Mr. WARNER. Mr. President, I shall propound another question and ask it be charged against the time of the Senator from Virginia, in response to the Senator from Delaware.

Does the Senator from Delaware clearly understand that nothing in this resolution, in any way, abrogates the President's constitutional power to act in any way he thinks is in the best interest of the United States and not come back to the Congress, except pursuant to the provision of the war powers which has always been in dispute?

Mr. BIDEN. Mr. President, if the President of the United States has constitutional authority to act, he has it regardless of this resolution. If he does not have the constitutional authority to act, nothing in this resolution gives him that authority.

Mr. WARNER. That is a good law school answer. What are we doing this resolution for and saying, Mr. President, go up there and do these things, but then come back here? Is it you feel it is necessary to even do the resolution? What do we achieve if he has the powers? What do we achieve by the resolution then?

We are sending out a message from this Chamber, the Senate acts, and all

the niceties about the sense of the Senate is lost.

The PRESIDING OFFICER. The Chair advises the Senator from Virginia, as requested, that he has 1 minute left.

Mr. WARNER. I will let the Senator respond.

Mr. BIDEN. Mr. President, the Senator just answered his own question. We are sending a message. I thought that what we have been trying to do in this new era is introduce a foreign policy that reflects a changed world by speaking with one voice.

What is everybody so worried about? The U.S. Senate is doing what my friends have urged for years: Supporting the President. It is important that a message go out to the world, that it is not merely the President of the United States of America, but the U.S. Senate as well that supports the President's initiative to get a resolution passed out of the U.N. Security Council. That is the answer, I say to my friend.

Mr. DECONCINI. Will the Senator from Delaware yield?

Mr. WARNER. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Chair first advises the Senator from Virginia that his time has expired. It is the second time the Senator from Delaware talked and had not requested time.

Who yields time?

Mr. BIDEN. I yield 10 minutes to my friend from California.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. CRANSTON. I thank the Senator. Mr. President, I rise to support the resolution that is before us. I participated in its drafting in the Foreign Relations Committee. I participated in the redrafting that occurred before the full Senate at the end of last week. I am disappointed that one clause was dropped in the negotiations which I helped write in the Foreign Relations Committee. It would have been a final clause 3 stating:

> Subsequent to any United Nations Security Council authorization of the actions specified in paragraph, 1, the Congress should consider expeditiously authorization for use of United States military forces pursuant to such United Nations Security Council action.

The purpose of that was not to mandate. We cannot do that, but to enhance the prospect that the President would come back to the Congress before committing American forces to any action pursuant to whatever action the United Nations Security Council took.

I, for one, believe that one of the most important powers of the Congress is the power to declare war or not to declare it and to be involved in decisions about the use of American forces, except in times when the President is required in the defense of the United States to take action when there is not time to consult the Congress. I believe and I know that Presidents have felt otherwise, that the Constitution requires that we be consulted before American forces are committed to the danger of hostile actions and possible casualties and deaths for those troops, or those military individuals in our Armed Forces.

Mr. President, the world is groping toward a new world order, a new world civilization where we hope that international instrumentalities under the banner of the United Nations will be able to keep and enforce the peace on this Earth. We also seem to be groping toward a time when we recognize that the violent actions of leaders or groups in various countries that become genocide are of concern to the world and cannot be tolerated.

It is true that if we get involved in trying to restore order and tranquility in the former Yugoslavia, there may be some American casualties if we are part of an international force. It is also true that if there is no international force, no international pressure is brought to bear adequately to restore tranquility in the former Yugoslavia and in Bosnia-Hercegovina, that there may be a spreading of violence beyond that part of the world that could lead to a far vaster number of American casualties sometime in the future. We should not forget that World War I sprang from an assassination of Archduke Ferdinand in Sarajevo, the very city whose plight now concerns us.

We should not forget that it was later on in Adolf Hitler's Germany that the processes of genocide begun by a tyrannical leader that led to the embroilment of the whole world and, again, the United States in World War II.

We now face the danger that if we do not take responsible action, do not encourage responsible international U.N. action, we may once again see what seems to be a faraway conflict not of great interest or concern to us spreading until it becomes a conflagration that engulfs us.

Margaret Thatcher in the New York Times on last Thursday wrote a very thoughtful statement about the situation there which appeared under the headline: "Stop the Excuses. Help Bosnia Now."

I would like to read portions of that article by Margaret Thatcher. She stated as follows:

> It is argued by some that nothing can be done by the West unless we are prepared to risk permanent involvement in a Vietnam- or Lebanon-style conflict and potentially high Western casualties. That is partly alarmism, partly an excuse for inertia. There is a vast difference between a full-scale land invasion like Desert Storm, and a range of military interventions from lifting the arms embargo on Bosnia, through supplying arms to Bosnian forces, to direct strikes on military targets and communications.
>
> Even if the West passes by on the other side, we cannot expect that others will do so. There is increasing alarm in Turkey and the Muslim world. More massacres of Muslims in Bosnia, terrible in themselves, would also risk the conflict spreading.

That is what concerns me; that if we do not suggest as this resolution does "international action," we may see this terrible plight and violence now in one small part of the world spreading until much of the world is involved in mayhem and violence.

Margaret Thatcher went on to state:

> The West's ultimate aim should be the restoration of the Bosnian state, backed by international guarantees within a regional pact, perhaps under C.S.C.E. supervision, and guaranteeing the rights of the three main groups in Bosnia (but not allowing for its partition into three cantons).
>
> Such a solution would prevent the irredentist wars that the partition of the country between Serbia and Croatia would inevitably provoke. Also, keeping the Muslims in a united Bosnia would discourage their radicalization, which would be inevitable if the Muslims were to be dispersed under alien rule. A desperate Muslim diaspora—not unlike the Palestinian one—could then turn to terrorism. Europe would have created an islamic time bomb.
>
> Serbia will not listen until forced to listen. Only the prospect of resistance and defeat will lead to the rise of a more democratic and peaceful leadership. Waiting until the conflict burns itself out will be not only dishonorable but also very costly; refugees, terrorism, Balkan wars drawing in other countries and worse.
>
> Hesitation has already proved costly. The matter is urgent. There are perhaps a few weeks left for a serious initiative before it is too late and a Serb victory is accomplished with terrible long-term consequences.

Again I state the world is groping its way toward a time when the United Nations will undertake responsibilities to keep and to enforce the peace. The United Nations and the world are groping their way toward a time when they will intervene when acts of genocide in one part of the world threaten to spread violence everywhere. The polite term for what is happening in Bosnia-Hercegovina is ethnic cleansing. I believe a more accurate term is genocide. The world should not stand by when genocide is undertaken in any part of this world. It is for these reasons and others that I support this resolution.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I was not present when the time was distributed. I would ask unanimous consent that I be permitted to speak for 10 minutes.

Mr. BIDEN. Mr. President, I object on behalf of the majority leader.

I would be delighted to accommodate time on my side. I told the Senator from Arizona he would be recognized for 10 minutes now, and I promise my friend that if he cannot get time on the Republican side we will find time for him to speak on this side. But I object to extending the time as requested.

Mr. SPECTER. Mr. President, may I ask the Senator from Delaware if I might have that time following the Senator from Arizona?

Mr. BIDEN. The Senator is somewhat persistent, and my inclination is to say no because I promised to give him the time. But my answer is yes, because he is my friend. So the answer is "Yes."

Mr. LEVIN. Would the Senator, while we are allocating timing, allocate 10 minutes to me following the Senator from Pennsylvania?

Mr. BIDEN. Yes, but I will not allocate time to anyone for any other reason unless speakers are finished.

Mr. WARNER. Mr. President, could we rotate speakers?

Mr. BIDEN. We certainly can.

Mr. WARNER. The Senator is not ordering speakers.

Mr. BIDEN. Mr. President, no. Let me be specific. To the extent the Senator from Delaware seeks and is granted recognition, I will next, after the Senator from Arizona speaks, yield to the Senator from Pennsylvania and then the Senator from Michigan. But I assume we will alternate as we have in the past.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. I thank the Senator from Delaware. I ask the Chair to advise me when there is 1 minute remaining.

Mr. President, we have before us a resolution which cannot be taken lightly—I think the debate has indicated some real interest in this subject matter—because it does advocate U.N. authorization for the use of multilateral military force to at least partially restore a degree of renewed humanity and relief to an extremely brutal and volatile situation, a situation fraught with many dangers.

Just as we are compelled to take this issue seriously, I believe we are equally compelled by our principles to support this resolution and the action it implies with a clear and firm resolve of which the aggressor cannot help but take notice.

There is no question of the risk involved. I appreciate those who want to continue to call it to our attention. Nobody is kidding anybody here.

Anyone who has had to deal with the political crisis and civil conflict in the disintegrating Yugoslavia during the past 2 years knows the complexity of the root causes of the conflict before us and of the almost unbelievably extreme hatred which has plagued this region of Europe for so long. Combined with the geography of Bosnia-Hercegovina and the strength of the Yugoslavian armed forces and paramilitary forces that are to be faced here, even the simple objective of securing humanitarian relief becomes, indeed, a huge challenge.

Outweighing all these risks, however, is the clear risk of inaction. First, there are the risks—indeed the certainty—that tens of thousands more people will die, if not by the sniper's bullet, then by cruel starvation and hideous torture in internment camps set up by the Serbian forces for their reprehensible, Nazi-like games that are being played, that are enacted there.

If our country and the world has advanced in any respect since World War II, it has been by the addition of a moral component to our foreign policy that obligates us to respond to situations exactly like this.

Now that we know of these camps and these atrocities, additional deaths will no longer be just the responsibility of the murderers, but it will be the responsibility of us as well. And now that we know, we can be sure that the aggressors in Bosnia-Hercegovina will look at our inaction with a grin and then continue, if not escalate, their inhumanity to new heights in the knowledge that they can do so with impunity.

Second, there is a risk to our own national interests to say that this is entirely a European problem of no direct concern to us is speaking the clearest folly that I can think of. Those who know the complex history of the region also must be aware of the explosive nature of this region. War in one part of the Balkans can easily set off a chain reaction which we have seen before through a great deal of the peninsula. In the past, it has enveloped the entire European Continent that we know so well and have heard the history of several times today.

We have many friends and allies in this region beyond Boznia-Hercegovina, from Albania and Hungary and Turkey and Greece, who are increasingly threatened by this war that is going on and the atrocities that are taking place. If they are drawn into it, inevitably we can and will be, if nothing is done, and then we will not just be talking about surgical air strikes or what kind of forces possibly to be used here.

As the Senator from Delaware so clearly pointed out, this is a nonbinding urging of the President to take action through the Security Council.

This is the danger our Nation faces if we do not act, and act now. The situation calls for leadership that only the United States can take, and it is for times like these that we have NATO forces in the first place that could be made available.

Now, many have worked on this effort for a long time, and it is time that we set aside all of the concern which I think is respectfully raised out of not understanding what this resolution is. This resolution is clear. It is concise. It says what our objective is. It is not to take a side on the civil war but to be sure that humanitarian aid is delivered and that the camps are inspected. That is all. That is all. It does not say what kind of force, if any force.

Maybe this could be such a message that force would not be necessary.

In addition to a multimilitary force, an international tribunal must be established, and this resolution calls for it to prosecute—yes, prosecute—those responsible for the death and the destruction in the former Yugoslavia that constitutes crimes under international law of today including the Fourth Geneva Convention and the Genocide Convention. We have an obligation to those countless, often unknown and now silent victims of heinous crimes in the past, to see that justice is done. We have a chance to speak out for it.

In doing so we may also be saving lives by sending a message to potential aggressors elsewhere that we will not sit idly by as atrocities such as these are committed.

Finally, we must do so with long-term interests in mind because where there is not justice, there will certainly be desire for vengeance. Those who have suffered throughout the former Yugoslavia must see the satisfaction, and the deterring example, of what justice is if we are to see a chance for the killings that have historically plagued this region to end once and for all.

The long-term risk of allowing this to not be addressed is too great.

Finally, I want to call to my colleagues' attention the risk that Bosnia-Hercegovina President Alijo Izebegovic bravely took in the hope of avoiding such a war. As cochairman of the Helsinki Commission of the Congress, I have traveled to Sarajevo. We have had observers there from the Commission. It was a beautiful city 1 year ago.

We met with the President. I have met with the Foreign Minister here in Washington, as well as with the President, and in Helsinki just 3 weeks ago. He did not want war. It would certainly destroy his country and his people. He did not prepare for war, which he might have been able to do. He thought there was a chance that the Western nations could put the influence on Serbia not to take this action.

Indeed, he encouraged the building of democracy. And 1 year ago, there were Moslems, Serbs, and Croats running the government on a bipartisan or a multipartisan basis. There was hope for freedom, and there was optimism instead of this awful situation.

When war began in neighboring republics, the President immediately called for international assistance to prevent it. I talked to Cyrus Vance, attempting to get him to recommend to the Security Council that they deploy peacekeeping troops there, when they were deploying in Croatia. He said: We cannot do that now; we have to wait until something erupts.

Something has erupted. I do not know that those peacekeepers could

have kept that from happening, but we saw what happens when no action is taken. Above all, the President was not preparing for war. He really believed the international community would step forward and help his people.

Now is the time to send that clear message. I am not afraid to send it. I am not afraid that this is going to launch the United States into a ground action. I do not believe that is going to happen. But that is for the United Nations and for the United States to decide, once the United Nations might adopt something similar to what we have suggested here.

Mr. President, it is necessary for this country not to let this pass by. It is deeply important to us as a Nation. It is deeply important to us in the world, to the rule of law that we are trying to advance.

The Commission on Security and Cooperation in Europe has taken all of these new Republics in, including Bosnia, Croatia, Slovenia, and Serbia. They have all agreed to abide by the Helsinki Accord of 1975. That is being violated today by Serbia. We cannot stand by and permit this atrocity to continue.

I hope my colleagues will look at this from the standpoint of what is morally right and not get bogged down. Do not get so complicated that you cannot send a clear message in a nonbinding resolution to the aggressors, the Serbian civilian government, as well as the military forces there that are literally murdering people as we talk, this very moment.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

AMENDMENT NO. 2925

(Purpose: To express the Senate's support for the measures announced by the President.)

Mr. WARNER. 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 Virginia [Mr. WARNER], for himself, Mr. DOLE, and Mr. STEVENS, proposes an amendment numbered 2925.

At the end of the resolution, add the following new paragraph:

(4) The United States Senate strongly supports the measures announced by the President on August 6, 1992.

Mr. WARNER. Mr. President, in response to a question by the Senator from Virginia—what is the purpose of this resolution—the Senator from Delaware said very clearly: To achieve a jointness between the executive and legislative branches.

This amendment, Mr. President, draws into focus precisely the objective as stated by the Senator from Delaware, and shows a parallel. The language is taken from an earlier version of the Foreign Relations Committee proposal.

Mr. President, parliamentary inquiry. The Senator from Virginia, in my understanding, has under the unanimous consent request two amendments with a time of 30 minutes equally divided between the Senator from Virginia and the manager of the bill.

Am I not correct on that?

The PRESIDING OFFICER. The Senator from Virginia is correct.

Mr. WARNER. I am propounding this amendment under that time agreement.

Mr. BIDEN addressed the Chair.

Mr. WARNER. I reserve the remainder of my time.

Mr. BIDEN. Mr. President, I compliment my colleague from Virginia on his amendment. If he is willing to yield back the remainder of his time, I will yield back the remainder of my time, and we will accept his amendment.

I would like to see a copy of the amendment, if I could. I just want to read the exact verbiage.

Mr. WARNER. Mr. President, I am very hopeful of that outcome, and very appreciative because this language is language which we felt, on this side, should be included. We fought vigorously to include it, and it was resisted with equal vigor. So we are, indeed, making progress on this resolution.

Mr. BIDEN. Mr. President, I wish the Senator and I had had a chance to talk. We could have saved everybody a lot of time on this. But is someone getting the Senator from Delaware a copy of that amendment?

I see staff shaking their heads. Good.

I yield the floor.

Mr. WARNER. Mr. President, I will speak to a second amendment that I will send to the desk shortly, so as to utilize the time.

But in the remarks of the distinguished Senator from Delaware, he frequently said that which is obvious. It was part of his—I think—lecture, not to Senators, but to others who are wishing to ensure the purport of this amendment; that is, the pending matter, that nothing abridges the constitutional powers of the President.

Yet, he said we will ask the President to go to the United Nations; ask the President to lead; ask the President to make convincing arguments to other nations as to the requirements to fulfill the goals of the pending measure. But that—I think I have the words correct—we, the Senate, can then review. The President will come back to the Senate.

Am I not correct in that statement?

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

Mr. WARNER. Then my second amendment clarifies the conditions under which the President will act following the U.N. action.

I am prepared to send that to the desk as soon as we can dispose of the pending amendment.

Mr. BIDEN. Mr. President, with regard to the first amendment, that the United States—as I read it—strongly supports the measures announced by the President on August 6, 1992.

I would make one technical amendment. It says at the end of the resolution: "Add the following new paragraph numbered 4." I believe it would have to be: "Add the following paragraph numbered 3."

Mr. WARNER. Mr. President, I thank the Senator for his courtesy. He is correct.

Mr. BIDEN. Mr. President, I am prepared, if the Senator is, as well, to yield back the remainder of my time on Warner amendment number one. And we are prepared to accept the amendment.

Mr. WARNER. 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. WARNER. I ask unanimous consent that a statement by the President on August 6, which is the subject of the amendment, be printed in the RECORD and I will see that it is placed on each desk so Senators can be fully informed.

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

THE WHITE HOUSE,
August 6, 1992.

REMARKS BY THE PRESIDENT UPON DEPARTURE, PATERSON AIR FORCE BASE, COLORADO SPRINGS, CO

The PRESIDENT: A few remarks on the situation in Bosnia and the former Yugoslavia and what the United States—working with the international community—is doing to contain and defuse this escalating crisis.

Like all Americans, I am outraged and horrified at the terrible violence shattering the lives of innocent men, women, and children in Bosnia. The aggressors and extremists pursue a policy, a vile policy, of ethnic cleansing, deliberately murdering innocent civilians, driving others from their homes. And already the war has created over 2.2 million refugees, roughly the population of greater Pittsburgh and Baltimore. This is, without a doubt, a true humanitarian nightmare.

Now, the war in Bosnia-Hercegovina and Croatia is a complex, convoluted conflict that grows out of age-old animosities. The blood of innocents is being spilled over century-old feuds. The lines between enemies and even friends are jumbled and fragmented. Let no one think there is an easy or a simple solution to this tragedy. The violence will not end overnight, whatever pressure and means the international community brings to bear. Blood feuds are very difficult to resolve. Any lasting solution will only be found with the active cooperation and participation of the parties themselves. Those who understand the nature of this conflict understand that an enduring solution cannot be imposed by force from outside on unwilling participants.

Defusing this crisis and preventing its spread will require patience and persistence by all members of the democratic community of nations and key international organi-

zations. Bringing peace again to the Balkans will literally take years of work.

For months now we've been working with other members of the international community in pursuing a multifaceted and integrated strategy for defusing and containing the Baltic conflict. Let me explain the crucial steps that we already have underway to help defuse and to contain this crisis.

First, we must continue to work to see that food and medicine get to the people of Sarajevo and elsewhere in Bosnia no matter what it takes. To this end I have directed the Secretary of State to press hard for quick passage of a United Nations Security Council resolution authorizing the use of all necessary measures to establish conditions necessary for, and to facilitate the delivery of, humanitarian assistance to Bosnia-Hercegovina. This resolution is critical—it is absolutely critical to our efforts to bring food and medicine to the people of Bosnia.

This resolution will authorize the international community to use force, if necessary, to deliver humanitarian relief supplies. My heartfelt hope is that that will not prove necessary. But the international community cannot stand by and allow innocent children, women and men to be starved to death. You can be assured that should force prove necessary, I will do everything in my power to protect the lives of any American servicemen or women involved in this international mission of mercy.

To truly end the humanitarian nightmare we must stop ethnic cleansing and open any and all detention camps to international inspection. We will not rest until the international community has gained access to any and all detention camps.

Second, we must support the legitimate governments of Slovenia, Croatia and Bosnia-Hercegovina. And to this end, I have decided that the United States will move now to establish full diplomatic relations with those governments. And I'll shortly submit to the Senate my nomination for ambassadors to these posts.

Third, we must continue to isolate Serbia economically and politically until all the United Nations Security Council resolutions are fully implemented. We must continue to tighten economic sanctions on Serbia so that all understand that there is a real price to be paid for the Serbian government's continued aggression. And the United States proposes that the international community place monitors in neighboring states to facilitate the work of those governments to ensure strict compliance with the sanctions.

Fourth, we must engage in preventive diplomacy to preclude a widening of the conflict into Kosovo, Vojvodina, Sandzhak, or Macedonia. And therefore, the United States is proposing that the Conference on Security and Cooperation in Europe, CSCE, place continuous monitoring missions in these locations to provide an international presence and inhibit human rights abuses and violence.

Fifth, we must contain the conflict and prevent its spilling over into neighboring states like Albania, Hungary, Bulgaria, Romania and Greece. And to this end, the United States proposes that the international community again place civilian monitors, thereby reassuring these governments of our concern for their welfare and inhibiting any aggression against them.

And sixth, we are consulting with our allies in NATO on all aspects of this crisis and how the Alliance, how the NATO Alliance might be of assistance to the United Nations.

Now, these steps represent an integrated strategy for defusing and containing this conflict. We've been working with the international community to advance our work on each of these, and will continue to do so in the weeks ahead. It is through international cooperation, through the U.N., NATO, the EC, CSC, other institutions that we will be able to help bring peace to that troubled region.

Mr. BIDEN. Mr. President, I ask my friend from Virginia whether or not he would be willing to temporarily lay aside his amendment because I am under the impression that Senators on both sides, thought that there would be no votes this early in the evening.

Mr. WARNER. Mr. President, I certainly wish to accommodate the Senate as a whole, and the managers and the leadership.

Why do we not check with the majority leader and determine the time that would be convenient to leadership?

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. WARNER. Do we have a parliamentary inquiry? What is the pending question before the Senate?

The PRESIDING OFFICER. The Warner amendment.

Mr. WARNER. Have not the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. WARNER. I believe they have not as yet been set aside.

Mr. BIDEN. Mr. President, I ask unanimous consent that the vote on the Warner amendment, not take place until 7:30.

Mr. WARNER. Reserving the right to object, I will not object——

Mr. DOLE. It will occur at 7:30.

Mr. BIDEN. I say, quite frankly, I have not had a chance to check with the majority leader as to whether or not 7:30 is——

Mr. CRANSTON. That is being done right now, if the Senator will yield.

Mr. BIDEN. Mr. President, if we could ask unanimous consent to lay this aside for 10 minutes. Has all time been yielded back on the Warner amendments?

The PRESIDING OFFICER. All time has not been yielded back.

Mr. BIDEN. I will retain the time the Senator from Delaware controls on that, Mr. President, and at this moment, with the permission of my colleagues, I yield 10 minutes to the Senator from Pennsylvania.

Mr. WARNER. I want to accommodate the Senator from Pennsylvania, Mr. President. But I have a second amendment which, under the unanimous consent agreement, I am entitled to.

Is there any reason why I could not proceed with that and then complete this phase of my participation?

Mr. SPECTER. I have been on the floor for the better part of an hour waiting for the 10 minutes. I think I have recognition.

Mr. WARNER. I will accord my colleague whatever he desires. Could I then be recognized following the Senator from Pennsylvania for the purpose of clarifying the time on the pending amendment and to raise a second amendment?

Mr. BIDEN. Mr. President, we can settle this now with regard to the vote on the first Warner amendment, that the vote take place as the Republican leader suggested, at 7:30. It is agreeable with the manager of the bill on this side that the vote on the Warner amendment begin at 7:30 and that the yeas and nays be ordered.

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

Mr. BIDEN. Mr. President, I respectively suggest that, rather than move to additional amendments, we hear from a number of Senators who have been here waiting to speak on the bill as a whole. Mr. President, I ask that I be able to yield, on my time on the Warner amendment, 10 minutes to the Senator from Pennsylvania. That will give me 10 minutes to talk with the Senator from Virginia to see about the next move.

Mr. WARNER. I thank the Senator.

AMENDMENT NO. 2925, AS MODIFIED

Mr. WARNER. Mr. President, I send to the desk a modification of my amendment that is now pending.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 2925), as modified, is as follows:

At the end of the resolution, add the following new paragraph:

(3) The United States Senate strongly supports the measures announced by the President on August 6, 1992.

Mr. SPECTER. Mr. President, I have sought recognition to support this resolution. In my judgment, it is an appropriate stand to be taken at this time, without subjecting the United States to undue risk.

The resolution recites the horrible atrocities which are being committed by Serbian-backed forces against the civilian population, calling it "ethnic cleansing." What is really being committed is genocide.

The resolution recites the inability of the International Committee of the Red Cross to gain access to prison camps, where horrible atrocities are being committed. It then calls for the President to call for an emergency meeting of the U.N. Security Council to consider the use of force, multilateral military force under a Security Council mandate, in order to provide this humanitarian aid.

Mr. President, I believe that this is a very sound resolution, under the principles of collective security, to take action against the atrocious crimes being committed against humanity. The concept of collective security has been a dream for many years, going back to President Woodrow Wilson in his ef-

forts for collective security under the League of Nations in 1919. We had never seen it in this world, collective security, until the action taken by the United Nations in the gulf, where, with the leadership of the United States, there was action to repel aggression and to oust Saddam Hussein from Kuwait.

We now have a situation which has developed in Bosnia, where the atrocious crimes against humanity have been documented and are well recognized. The question that now remains is: How does the world proceed from there?

The thrust of this resolution is very reasonable and very realistic. It calls upon the United Nations to make a decision as to a multilateral military force. Once that has been decided upon, then it will be up to the Congress, pursuant to our constitutional authority, to declare war, to authorize the use of force, and to make a decision after those preliminary steps have been taken.

In January of 1991, this Congress acted, after some dispute as to whether congressional authority was necessary. But a resolution for the use of force was debated on this floor, and was approved 52 to 47 on January 12 of 1991. If such resolution is necessary, the Senate and the House can take it up in due course.

There is one very important provision here, Mr. President, and that is subparagraph 2(c) of the resolution, which calls for the convening of a tribunal to investigate allegations of war crimes and crimes against humanity committed within the territory of former Yugoslavia. This tribunal is to accumulate evidence, charge, and prepare the basis for trying individuals believed to have committed or to have been responsible for such crimes. That is a very important step, Mr. President, and it follows the precedent of the Nuremberg tribunals. It follows what many of us called for after the gulf war to bring Saddam Hussein to trial as a war criminal. So the totality of this resolution is a very appropriate step for the enforcement of international law.

We are taking a measured response to thwart crimes against humanity. This can best be achieved through collective security where there is not the risk of a major international war, because the major powers would all have to agree, since they have the veto power. It preserves the authority of the Congress of the United States to make the ultimate decision, after the United Nations decides what is appropriate force, and what the multilateral military force would be. It contains an appropriate guarantee that other nations will bear a fair share, where the Congress of the United States does not need to authorize the use of force, and in setting up the provision for an international tribunal, it puts notice on everyone in the world that, collectively, the United Nations will not stand by and see such atrocities being committed. We talk about Somalia and we talk about other nations in the world. It may be that at an appropriate time that, too, will be considered.

I think it is plain to see that the United States has very significant security interests in Western Europe, but I also feel that this action is justified entirely on moral grounds to stop crimes against humanity. This is sound collective security. It is moderate in its approach. It does not commit the United States to any prolonged war. It preserves the right of the Congress to take a close look at whatever may be proposed. I urge my colleagues to adopt the resolution.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM). Who yields time?

Mr. BIDEN. Mr. President, how much time remains in my control?

The PRESIDING OFFICER. The Senator has 5 minutes 45 seconds.

Mr. BIDEN. I yield 5 minutes on the amendment and 5 minutes on the resolution to my friend from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I thank the Chair, and I thank our distinguished colleague from Delaware for yielding to me.

Mr. President, this resolution is a resolution in the best tradition of the U.S. Senate. It is bipartisan. It represents the work of Members on both sides of the aisle. It is based on a resolution which has been worked on by Senators DECONCINI, LIEBERMAN, and the leadership, Senators DOLE and MITCHELL and, of course, the Senators on the Foreign Relations Committee, Senator BIDEN, Senator PELL, and Senator LUGAR. They have all worked on this resolution before us. It is an important resolution, it is a serious resolution, and it urges the President to go to the United Nations in an emergency session and urge the United Nations to act with force, if necessary, to accomplish two limited purposes.

The purposes, and the goals are specified clearly in the resolution. It is not a blank check. It does not say end the civil war. It says to accomplish two specific, limited goals. One is to assure the delivery of humanitarian aid. This is exactly what the President is doing at the United Nations already, right now as we speak. In the words of the President, the resolution that he is seeking at the United Nations "will authorize the international community to use force, if necessary, to deliver humanitarian relief supplies."

That is the President speaking. That is not this resolution. But this resolution in its first goal also does precisely that. It urges the President to go to the United Nations and to seek force, if necessary, to accomplish that goal. And so there is no difference between this resolution and the President on that issue.

We are about to adopt the resolution of our friend from Virginia on this, and we are going to commend the President and support the President in going to the United Nations for that purpose. The President is already committed to go to the United Nations seeking the use of force, if necessary, to achieve that limited goal.

If my friend from Virginia were participating here now I would ask him if that is not true, that the President is committed to use force, if necessary, to achieve the delivery of humanitarian assistance. It is clear that the President is committed to that goal.

But there is another goal in this resolution, an additional goal, one in which the President is not yet committed but which this Senate will vote on. That is the question of whether, in addition to urging the United Nations to put together an international force to achieve the delivery of humanitarian assistance, such a force would also be used, if necessary, to achieve access for the Red Cross to the camps where prisoners are being held in Bosnia.

That is the difference. That is what we are really going to be debating about, not whether or not we should go to the United Nations seeking the use of force, if necessary. The President is committed to that goal. It is whether or not, in addition to the goal that he seeks to use that force, if necessary, for the delivery of humanitarian assistance, we should add the goal of achieving access to the camps where there is credible evidence that a genocide has occurred and where there is credible evidence that the Red Cross has been denied access.

That is the issue.

What is the nature of the force that the United Nations would use? We do not decide that, nor should we, nor can we.

But the United Nations would hopefully decide soon.

Will we like the international force that is put together at the United Nations? Will we like our role in it? Our answer is, if we do not, we can veto it. But we cannot design that international force here. This resolution does not do it nor should it.

That has to be designed at the United Nations and if we do not approve of it, if we do not like our role in it, if it has any U.S. ground forces and we do not want any U.S. ground forces, we can veto it.

Why the camps? Why do we want to add the camps? That is the issue before us. Do we want to add that additional limited goal to the delivery of humanitarian assistance? Why do we want to do it?

Because there is a Geneva Convention which requires that the Red Cross

have access to these camps. Every civil war does not violate international law. But the denial of access to a prisoner-of-war camp violates international law. It is because we believe that the United Nations must stand for something in terms of enforcement of international law and because there is credible evidence of mass executions going on right now in camps in Bosnia, that we believe that an additional limited goal is not only a legitimate use of international force but is a required use of force, an international force.

We have seen death camps and have seen genocides in Europe this century. We have had enough. If the United Nations will not act in this situation, in an area which could easily spread into another broad war in Europe, when will it act?

When will the United Nations act if it will not enforce international law now where there is credible evidence of a violation of that law in the camps?

I emphasize what our friend from Delaware has said, this is not an effort to urge the United Nations to involve itself in a civil war and to end it through the use of force. There are in this resolution two narrow military objections and goals, one of which has already been adopted by the President.

I think we owe a great debt to our friends from Virginia and Arizona, and others, for pointing out the necessity of having clear goals and a clear means to achieve those goals.

I do not know whether my good friend from Virginia will, at the end when this amendment process is over, be voting for this resolution or not. But, I know that in any event he has made a contribution by insisting that the goals be clear, that we know what we are getting into. The President presumably does, when he says he supports the use of force by an international U.N. body, if necessary, to deliver humanitarian assistance.

The Senator from Virginia has already proposed an amendment supporting the use of force to deliver humanitarian assistance, because his amendment says we support the President in what he has done, and I think the Senator from Virginia is correct in pointing that out. And I do support the use of force and I gather the Senator from Virginia does, too, because his amendment supports the President's action in going to the United Nations for a U.N. resolution which authorizes the use of force by all means necessary to deliver humanitarian assistance.

He has performed a function again in urging us on to the delineation of clear goals. There are risks in this course, Mr. President, make no mistake about it. There are risks any time we use force or urge the United Nations to put together an international force in order to accomplish the goal of a U.N. resolution. But there are greater risks in the United Nations failure to act, the risk of an ever-widening war in Europe and the risk of a genocide being allowed to occur in 1992 in camps where there is credible evidence of mass executions occurring in Bosnia.±

The resolution is carefully crafted. It is bipartisan. It is offered in the best traditions of this body, and I am proud to be a cosponsor of it.

I congratulate our friends Senator LIEBERMAN, Senator DECONCINI, Senator BIDEN, Senator PELL, and our leadership, Senator DOLE and Senator MITCHELL, for their effort in putting together this resolution.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. COHEN. Mr. President, I yield 10 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Maine yields 10 minutes to the Senator from Nebraska.

Mr. KERREY. Mr. President, I thank my friend from Maine.

I rise to indicate that I cannot support the resolution that has been offered by my friend from Connecticut.

Specifically, my objection deals with what I consider to be a limitation that this resolution would in fact place upon the President himself. If it was a binding resolution, it would be worse, but even as a nonbinding resolution it bothers me that we would begin to get engaged in these kinds of offerings at the very moment, it seems to me, when this body should not be looking for this kind of detailed specific restriction to place on the President.

For us to come to the floor and declare our support of the President taking military action, declare our support of the President taking multilateral action, for our opposition to what the Serbians are doing or any other sort of declaration seems to me to be entirely appropriate.

Mr. President, my fear with this kind of resolution in fact has come to pass as I have listened to this debate. It has been entirely too political. It has been entirely too political perhaps as a consequence of just the nature of any sort of political statement in a time period less than 100 days before a Presidential election.

Foreign policy, particularly today, Mr. President should not be reduced into partisan politics. I believe the Democrats have made a good-faith effort with this resolution to keep partisan politics out of it. But nonetheless partisan politics have intruded and they have deteriorated the quality of the debate, at the very moment when such a deterioration cannot be afforded.

There is a larger context for what is going on in Yugoslovia. I have heard some talk expressed that perhaps we should use a military strike force to liberate the camps in Yugoslavia. Mr. President, I think that is a foolish sort of suggestion.

I have heard some talk about the surgical strikes to destroy bridges between Serbia and Bosnia. Again, Mr. President, I think it is a foolish sort of suggestion; given the fact that we are not on the ground, we could provoke the very thing we seek to avoid.

It may occur that the Serbians say: Well, we will not do ethnic cleansing. We will simply clear everyone. Well, if we are not on the ground, we are not likely to be able to prevent that.

I do not hear anyone on this floor suggesting that we should move unilaterally on the ground, and I believe correctly so. We need not just to exhibit strength of the purpose, I think, but we need to exhibit clarity of purpose as well.

There are two moments of horror that are important for us as we have watched what has gone on in Bosnia. The first is the bombing of Sarajevo itself and the killing of innocent civilians on the streets of Sarajevo, so courageously reported by John Burns of the New York Times.

The second level of horror has in many ways much greater importance, and that is the idea of ethnic cleansing, the idea of camps incarcerating individuals. That is what led, it seems to me, to such outrage and such immediate response on the part of many Americans that something needs to be done.

The larger context and the importance of the United States of America responding to this ethnic cleansing I believe needs to be observed. The larger context is that we are now 229 days into the end of the Soviet Union. And though the Soviet Union has ended, the revolution itself is not over. The revolution moving the people of Russia and the people of the other former members of the Soviet Union toward democracy is much more important than what we sometimes focus on a great deal, and that is the economic reforms. We worry about the economic reforms, but it is the political reforms that are far more important.

The people of the newly independent States look to the United States of America as an example, and they do heed our words. This resolution is important for that very reason. They look to us as an example.

Our revolution of 1776, our democratic effort is what is important. And I say, Mr. President, that it is important for us to stand together as a nation, not politically divided in a political season, but together as a Nation against this ethnic cleansing, because it is entirely possible for it to spread to the East.

This is an idea, Mr. President, of a way to deal with an ethnic minority. It is the Serbians' idea of a way to deal with an ethnic minority: Get them out of the way. It is an idea that one could easily imagine transplanted into the Baltic Republics.

Mr. President, it is important for us to stand in a unified way against ethnic cleansing, convince the world and particularly those who would choose to do this horrible thing that the United States of America will stand united and undivided in opposing this kind of effort.

My fear, Mr. President—and I appreciate my friend from Maine yielding the time—is that this kind of resolution will make it more difficult for us to stand together on a very important issue of foreign policy.

I yield the floor.

The PRESIDING OFFICER. The Senator yields the floor who yields time.

Mr. BIDEN. Mr. President, I yield myself 30 seconds.

I want to point out to my friend from Nebraska, for whom I have an inordinate amount of respect, that I was confused by his statement.

I would like to point out to him this is a bipartisan resolution. The Senate Foreign Relations Committee supported it, Republicans as well as Democrats. The acting ranking member, Senator LUGAR, is a cosponsor of the amendment. Senator DOLE is a supporter of the amendment.

So I am confused as to how all of sudden this became a partisan undertaking. Everything the Senator said I agree with, with regard to the need for a unified effort.

The purpose of this is to put us all on record in support of what the President indicated he intends to do, wishes to do, and is desirous of the United Nations doing.

So there is nothing partisan about this. This is bipartisan. And, I might add, there is bipartisan opposition to this.

So I yield the floor.

Mr. KERREY. Will the Senator yield me 1 minute to respond?

The PRESIDING OFFICER. The Senate will be in order.

Mr. WARNER. Parliamentary inquiry, Mr. President. As I understand the pending business is the amendment of the Senator from Virginia, which is to be voted on in about 2 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. The Senator from Virginia has not yielded back his time under that amendment.

The PRESIDING OFFICER. The time would be forfeited when we reach the hour of 7:30.

Mr. WARNER. That is correct.

The PRESIDING OFFICER. Who yields time?

Mr. COHEN. Mr. President, how much time is remaining from the 10 minutes that were allocated to the Senator from Nebraska? How much time did he consume?

The PRESIDING OFFICER. The Senator from Nebraska has 2 minutes remaining.

Mr. COHEN. Does the Senator wish to respond?

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Thank you, Mr. President.

I appreciate the opportunity to respond, and I appreciate that perhaps I created some confusion with my observation that this debate has become politicized.

But indeed the conclusion that I have reached that it has been politicized is not as a consequence of seeing this resolution being offered just by Democrats. I understand and see it has bipartisan support.

But as I view it from the outside looking in, as one watches the evening news, the conclusion the outside world is reaching is that the Democrats are kicking the President, going after the President. I understand the distinguished Senator from Delaware has not done that.

I have not heard a great deal of people coming to the floor saying that the President is wrong. But, nonetheless, those words have gotten out and the appearance is that Democrats in the Senate are going after the President because of mistakes he has made in Yugoslovia. I am prepared to offer my list of mistakes he has made in Yugoslavia.

But it seems to me that at this critical moment unity is required. I appreciate the distinguished Senator from Delaware has attempted to create and hold unity in this debate.

I would observe for a variety of reasons beyond the control of the distinguished Senator from Delaware this debate has deteriorated into something other than what he intended.

The PRESIDING OFFICER. The hour of 7:30 having arrived, under the unanimous-consent previously agreed to, the vote is to occur on the amendment as offered by the Senator from Virginia. The question is on agreeing to the amendment of the Senator from Virginia. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Nebraska [Mr. EXON], the Senator from Tennessee [Mr. GORE], and the Senator from Pennsylvania [Mr. WOFFORD] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] is absent due to illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 90, nays 5, as follows:

[Rollcall Vote No. 184 Leg.]

YEAS—90

Adams	Bingaman	Brown
Akaka	Bond	Bryan
Baucus	Boren	Bumpers
Bentsen	Bradley	Burns
Biden	Breaux	Chafee
Cochran	Hollings	Nunn
Cohen	Inouye	Packwood
Conrad	Jeffords	Pell
Craig	Johnston	Pressler
Cranston	Kassebaum	Pryor
D'Amato	Kasten	Reid
Danforth	Kennedy	Riegle
Daschle	Kerrey	Robb
DeConcini	Kerry	Rockefeller
Dixon	Kohl	Roth
Dodd	Lautenberg	Rudman
Dole	Leahy	Sanford
Domenici	Levin	Sarbanes
Durenberger	Lieberman	Sasser
Ford	Lott	Seymour
Fowler	Lugar	Shelby
Garn	Mack	Simon
Glenn	McCain	Simpson
Gorton	McConnell	Specter
Graham	Metzenbaum	Stevens
Gramm	Mikulski	Symms
Grassley	Mitchell	Thurmond
Harkin	Moynihan	Warner
Hatch	Murkowski	Wellstone
Heflin	Nickles	Wirth

NAYS—5

Byrd	Hatfield	Wallop
Coats	Smith	

NOT VOTING—5

Burdick	Gore	Wofford
Exon	Helms	

So the amendment (No. 2925), as modified, was agreed to.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Can we have the attention of our colleagues?

I believe there is a general inquiry as to how many amendments may be offered this evening. I am advised that the Senator from Kentucky [Mr. MCCONNELL] may have an amendment this evening; the Senator from Wyoming [Mr. WALLOP] may have an amendment this evening; each of which would——

Mr. PRESSLER. I may have an amendment.

Mr. COHEN. Require votes.

I believe the Senator from Arizona [Mr. MCCAIN] has an amendment which may require a vote; and the Senator from South Dakota [Mr. PRESSLER] has an amendment which would require a vote. So we have at least four or five measures this evening which may require votes.

Mr. BIDEN. Mr. President, the Senator from Colorado has an amendment, also. We may be able to work out something on accepting that amendment. But there could be additional votes.

I inquire of my colleagues who have these amendments, are they prepared to move? Is anyone prepared to move on amendment now?

Mr. MOYNIHAN. If I may say to the distinguished——

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

Mr. BIDEN. I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, while we are discussing possible amendments, I would like to take just a moment to make a general point about the amendments which we just

adopted, which congratulates and thanks the President for the measures he has taken so far in this regard. This Senator voted for it, and I am happy to see that 90 Senators did.

I see the Senator from Kentucky is on the floor, and it might be useful to some Members who are not of the Committee on Foreign Relations to know of our debate—it was hardly a debate; our discussion—of the resolution now before us.

It appeared to the Senator from Kentucky that there might be some intended criticism of the administration. And this Senator—and I think we had complete agreement on our side—said certainly not.

Under chapter VII of the U.N. Charter a sequence of actions is set forth whereby the world community can respond to acts of aggression by one state against another, which is the case before us in the Balkans in the aggression by the Serbian Government against Bosnia-Hercegovina.

The United States has supported in the Security Council measures under article 41, economic measures. There is a very considerable amount of doctrine about what can be done with article 41 sanctions: Cutting off mail, cutting off telephones, certain kinds of embargoes, certain kinds of financial actions.

The charter then goes on to say, in the next article, article 42, that if actions under acticle 41 have not brought about a cessation in aggression, the Council may then move to consideration of the use of force by air, land, and sea forces.

It speaks, as does this resolution, of demonstrations of force: flying over; taking out specific, identified, preannounced targets; a naval blockade; a blockade of oil, moving up the Danube by barge—Serbia having no oil save from the Adriatic and Dalmatian coast and barge traffic from the Black Sea.

I said to the Senator from Kentucky, that in our view, we were saying that article 41 not having succeeded, the United States would be correct in moving to consideration of actions under article 42. And we were trying, as a unified committee—and I hope a unified Senate—to say to the President: Yes, now is the time to move on to these next clearly more powerful measures.

And that is what the world awaits. That is what Margaret Thatcher said yesterday, on "This Week With David Brinkley." This is a defining, moral issue. This is the circumstance that Woodrow Wilson, in fashioning the League of Nations, anticipated and said the world community under law would respond to.

This is exactly the situation that President Roosevelt, Cordell Hull, and men of that age saw could come again, because it had come repeatedly all through the 20th century.

We have been mesmerized by the cold war and the notion of some great armegeddonic clash of ideological visions of a world system, one or the other. The reality of the 20th century has been, rather, of ethnic conflict from the first.

The First World War broke out in Sarajevo. Out of that First World War, total war came with the totalitarianism of the 1920's and 1930's, which persisted until a year ago. But all through that, in every one of those wars, ethnic conflict, the brutality of groups that cannot live together or will not live together, has been the source of world conflict. If you look around the world today, it remains such.

I am sorry.

The PRESIDING OFFICER (Mr. SHELBY). Who yields time? If the Senator will suspend, who yields time?

Mr. BIDEN. I ask my colleague from New York how much more time he thinks he needs?

Mr. MOYNIHAN. Five minutes to make my point. I have more than made it.

Mr. BIDEN. I yield an additional 5 minutes.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, there are 171 states attending the Olympics. There will be 50 more in 50 years and, almost without exception, the new states will be formed out of ethnic conflicts within existing countries.

Learning to manage this evolution, learning to somehow teach the lesson that aggression, that genocide, that torture will not prevail, this is the defining moment at which we find ourselves. All over the former Soviet Union, there are ethnic conflicts going on now, heating up, cooling down some of them. All over central Europe, all over Africa, the same thing. We think of Somalia as a situation in which there is one nationality. There are, in fact, two distinctive clans in Somalia fighting an ethnic war. Today, 1,000 people died in Kabul, in the aftermath of the overthrow of the Communist Government there. What we have on the part of the Mujahidin is fierce ethnic battles between groups of Shiites and Sunnis, different languages, different territories, different histories, ancient enmities. It happens everywhere.

We are hardly spared this kind of conflict, although blessedly not in the form that takes place elsewhere in the world.

We are trying to learn our way. We know very little about this. The world community has never successfully managed such a conflict.

Now, after the two vast disasters of the World Wars, we have tried to set in place a mechanism that might do it. Here is the first chance we have. If we lose this, it will be the lesson of "Why die for Danzig?" The lesson of "Who cares about the Sudeten Germans if the Germans want them from Czechoslovakia?" Adolf Hitler smashed into Czechoslovakia under the banner of what he specifically said was Woodrow Wilson's principle of self-determination. The charter guarantees self-determination. The world does not know what that means and has not learned to bring it about with a measure of comity and peace and success.

That is all we are trying. It is not partisan. I have listened to our conversations in this matter throughout the last 2 weeks and I have not heard a partisan comment on our side. I hope there would not be any on the other side, because it is a bipartisan measure.

Finally, Mr. President, this measure comes to the Senate under the sponsorship of that most eminently fair and nonpartisan chairman of the Foreign Relations Committee, CLAIBORNE PELL, of Rhode Island, who was present in San Francisco in 1945 when we put these measures in place, measures we are trying to at last put into action.

Finally, Mr. President, as a measure of what we might have in mind, a very learned, experienced friend in New York—a Yugoslav by nationality, American by citizenship—has sent me two pages of suggestions regarding the Bosnian question, which I find wise, thoughtful, and prudent.

I ask unanimous consent that they be printed in the RECORD at this point for Senators who might wish to review them in the morning, and for the consideration of the executive branch when this resolution is adopted.

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

SOME SUGGESTIONS REGARDING THE BOSNIAN QUESTION

1. HUMANITARIAN REQUIREMENTS

(a) Secure several corridors for humanitarian aid, which can be delivered in required quantities only by land. This can be done through 20 kilometer wide corridors through the conflicted areas, safeguarded by a limited number of foreign military units (3000 troops per corridor) covered by air surveillance and support. One corridor could start from Zagreb through the U.N. Protected Area (UNPA) to the besieged northwestern region of Cazinska Krajina; the second from the Croatian border town Slavonski Brod to the Bosnian town Zenica; the third from Croatian port split (or Ploce), through territory controlled by Croatian troops from Bosnia to Sarajevo; a wing of the third route could be extended to the besieged town of Gorazde.

(b) Secure Red Cross inspections of the reported detention and concentration camps.

(c) Provide necessary humanitarian aid for the refugee centers in Croatia and in Bosnia, build new ones on the territory under the control of Muslim and Croatian troops in Bosnia and prepare them for the winter.

2. MILITARY ACTION

(a) Use of military force should be gradual and limited to selective targets and goals But it has to demonstrate a resolute military presence, such as overflights of NATO aircraft, air surveillance and electronic

countermeasures, closing of air space for military flights from Serbia, Montenegro and Serb-controlled parts of Bosnia.

(b) If this will not stop aggression and atrocities by Serbian forces, Muslim and Croation Forces in Bosnia should be provided with military aid. At the very least, the weapons embargo which applies all across former Yugoslavia ought be lifted with respect to the Bosnian and Croatian forces in Bosnia who are defending against Serbian aggression. As it now stands, the Serbian forces, notwithstanding the embargo, have virtually an unlimited supply of weapons and munitions from stockpiles of the former JNA, the Yugoslav Peoples Army.

3. ULTIMATUM TO SERBIA AND MONTENEGRO

Serbia and Montenegro should be given a clear ultimatum to comply with Western demands regarding:

(a) immediate recognition of the neighboring states and their constitutional and internationally recognized borders;

(b) recognition of all principles and documents of the EC sponsored conference on Yugoslavia, which were accepted by all former Yugoslav republics;

(c) full cooperation in the return of refugees;

(d) cessation of Serbia's military and economic support for war against Bosnia and Croatia.

4. POLITICAL SOLUTION FOR BOSNIA

(a) Immediate cease-fire, with retaliatory actions against units breaking it.

(b) Support for the international peace conference, sponsored by the EC and the UN, which will strengthen principles, documents and achievements of the Lord Carrington conference on Yugoslavia, but which should concentrate primarily on building mechanisms of implementing and enforcing these principles and provide international guaranties for the listing regional security and cooperation.

(c) Introduce a comprehensive and international sponsored trusteeship (Namibian or Cambodian formula) until constitutional arrangements between three constitutive nations are reached and free elections in Bosnia organized.

(d) After these horrible hostilities the constitutional arrangement cannot rest on a unitary state, but will have to provide wide territorial autonomy of the regional (cantonal) units, including parity representation in the central government in Sarajevo. Muslims have to reject the idea of a unitary or Islamic state, while Serbs and Croats have to reject the idea of secession to Serbia or Croatia. Partition of Bosnia will lead to even bigger resettlement of the population and will be inconsistent with international law.

Mr. MOYNIHAN. Mr. President, I thank the managers of the measure, and I yield the floor.

Mr. BIDEN. Mr. President, I yield 10 minutes to the Senator from South Dakota.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I do not plan to use the full 10 minutes, and I will summarize my remarks in the interest of others wishing to speak.

First of all, let me say I think we are at a defining moment in American history. We are now dealing with one superpower and numerous small states around the world. This situation will require a new approach in terms of diplomacy.

Some years ago, I gave a speech on the Senate floor about the importance of small state diplomacy. That speech was ridiculed, in fact, by some in the press. Today, however, we are entering an era in which we have many small states emerging. This is true, for example, in central Asia from which I just returned. We are now in a new era, a new order, whatever you may wish to call it.

One of the things we will have to do as part of this new order, if we are to maintain our position as the major power in the world, is to work with the United Nations or our allies in Europe, to establish the capability to use air strikes, or perhaps to have an international commando strike force to bring food and medical care into certain situations. If we fail in this, we will see one of these newly emerging countries establish itself as a superpower.

We can have 40 or 50 years of dominance in the world—time in which democracy can take root and grow, but we now have to work skillfully through the United Nations, and with our European and Japanese partners to promote what is right in the world. That is hard to do. One of the things we must do is recognize we are a superpower. We must provide leadership. That will cost us something in terms of money and lives at some point. Howevers, if we carry out such a policy carefully, it does not mean major land invasions, it does not mean major ground force utility. We have the technology and the air power to do much in the world. But it does mean working with the United Nations, and with other international groups in providing leadership.

I say that this is a defining moment in American history because we must learn to deal with a large number of small countries, both diplomatically and militarily. It is a new order, but it is in some ways much more difficult than the old order. To have diplomacy with small countries, you have to deal with them through ambassadors who can speak their language and who are specially trained. Rather than just dealing with a single superpower—such as a Soviet Union which took care of all 10 or 11 countries in the Soviet Union—you must deal now with 10 or 11 countries individually, each of which has different demands.

Mr. President, I find it strange that there is a resistance in the Senate to function on the situation in the former Yugoslavia. I want the Senate to be very active. I want the Senate to provide leadership. I think we need an activist role. That does not mean we are going to be invading a bunch of countries. However, we have to recognize that we have a new order, a new group of small countries to deal with, and we must go forward.

I also find it very strange here in the Senate, because—I guess maybe in a Biblical analogy—I would say the hawks have become doves and the doves have become hawks. Many of those I would have thought would actively support the resolution we are debating tonight appear reluctant to do so, while others I thought would oppose such a resolution strongly support its intent. That aside, I think we must carry out our international responsibility, and by that I do not mean invasions of countries or similar actions.

Some years ago when Lawrence Eagleburger was confirmed, I predicted what would happen in Yugoslavia if the United States followed its policies. During his hearings—and I am proud of this—I disagreed with U.S. policy as it then existed. My concerns proved to be well founded.

Recently, I visited some of the countries of central Asia, and the Jewish and Russian minorities there told me they were afraid. As in the states emerging from the former Soviet Union, we cannot send invasion armies into the former Yugoslavia, but we can influence the situation through our embassies by taking a strong stand. We can influence policies in all of these new small states through such things as the consideration and approval process of trade agreements, bilateral investment treaties, and tax treaties. We have a great deal of leverage as the great power in the world, and we should use it responsibly.

We also have considerable military power, without sending in a major land force. In addition, we have immense power in terms of economic sanctions. In the former Yugoslavia we could shut the Danube River down. We could establish a real embargo against Serbia. We could also have an international commando strike force supported by air strikes to ensure the relief supplies are delivered.

Many people, both in Europe and the United States, would volunteer and be active in these types of activities. I am not talking about drafting a lot of people, but I do know that with a commando force of 1,000 well-trained men supported by air strikes, you can accomplish a great deal in these situations. In fact, you can paralyze a country. I think we should take our responsibility.

Mr. President, I conclude by saying that whatever we do here, we have to recognize that in the new world order—a new world reality with many small states—the United States must take an activist role, diplomatically and otherwise. We have a world of small states with which to deal, and it is going to be tough to adjust.

I am not advocating great ground forces going here and there. We can manage without doing that. We should look upon our current actions regarding Yugoslavia as one of the examples of how that new world order will function. If we do not act, if the Senate

does not act, then we will have failed our duty.

I yield my time.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. I yield 10 minutes to the Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, let me first express my gratitude to the majority leader, to the Senate Republican leader, to the leadership of the Foreign Relations Committee, to my colleagues generally, for the fact that this debate is occurring, occurring not just as an amendment to an unrelated bill, occurring not with a pressurized time agreement, occurring earlier this afternoon on a more informal basis and now under a unanimous-consent agreement on a more formal basis, and in an extended and serious way.

This is a profound question that we are addressing, obviously, in terms of what is happening in Bosnia today. But also in terms of what the reaction of the United States and the rest of the world will be.

It was my pleasure to work with a group of colleagues—the Senator from Arizona [Mr. DECONCINI]; the Senator from New York [Mr. D'AMATO]; the Senator from South Dakota [Mr. PRESSLER]; the Senator from Michigan [Mr. LEVIN]; and others—in fashioning a resolution and working over the last 2 or 3 weeks to try to engender action on it by this Chamber as an expression of our moral outrage and an expression of the strategic national security interests of the United States of America.

So it is first with some sense of satisfaction and pride that I stand, that we are giving this question not just attention, but the serious attention and discussion that it deserves.

Mr. President, why should we be adopting this resolution? It is easy to say that there are many conflicts in the world, and this is a faraway place. What interest do we have? Well, much has been said about the moral interest that we have, and I agree we do. I read earlier today on the floor, and I will repeat it briefly, from today's New York Times: 300,000 increasingly desperate residents of northwest Bosnia, surrounded by Serbian forces, only because they are Moslem. Muslim Ibrahim Kozlica, who operates a cafe in Bihac says:

> They are trying to clear the area of Moslem people. I wanted to send my wife and children out, but there is no way. We are waiting for God to save us.

United Nations official Cedric Thornberry said:

> It is a human and political calamity just waiting to happen. It will require a major change in policy on the part of the Serbs, if that calamity is not to occur, and many of us have nightmares about it.

The commander of the U.N. military mission coming from a meeting with the local Serbian leaders says:

> They said they want to move all the Moslems out of Bosnia and replace them with Serbs. They really do not have any military objective. The shelling is directed to civilian areas to terrorize people.

Mr. President, I saw a quote that I had not seen in a long time the other day. I think it was in a George Will column, from F. Scott Fitzgerald, where Fitgerald said: "France is a land, Britain is a people, but America is an idea, a unique idea, a moral idea, a principled idea." And it is from that idea, no matter what else we are, that we ultimately take not just our purpose but our strength, and that idea of our uniqueness, our moral strength is tested here. That is the first reason, having seen and heard the outrages and atrocities that have been much discussed in this debate occurring in Bosnia, that we must act.

Second, the Senator from New York, with his characteristically superb historical analysis, has told us what we are dealing with here is ethnic conflict of the kind that can and will spread throughout what used to be the former Soviet Union if we do not act to stop it here.

Mr. President, comparisons have been made between this action and Operation Desert Storm—a proud moment, Operation Desert Storm, in America's military, diplomatic and moral history. We stood for a principle. But I suggest to my colleagues here this evening that what we are facing today in Bosnia is a test that is much more typical of those we and the rest of our allies will face in the post-cold-war world than was operation Desert Storm.

The course of what happened over the last year is clear. The Serbs, from the moment of dissolution of Yugoslavia, began to march, first into Croatia, taking perhaps a third of that country, until they were confronted with strength and then stopped; beginning to move into Slovenia, again confronted with strength and stopped; now moving into Bosnia against a people, the Bosnian Moslems that are effectively defenseless, with insufficient arms to meet the threat; Serbs moving with abandon where and when they want, doing to people the most brutal bestial acts, unresponded to.

Twice in this century, the United States has been tested by conflict in Europe, attempting repeatedly at the outset to turn away from it, not our business, let us go, only to find each time that we ended up inevitably being drawn into it and ultimately paying a much dearer price, certainly, in the blood of Americans.

I do not want that to happen again. This is the occasion in our national interest to send a message of strength to aggressors in Yugoslavia to stop the aggression. What does the resolution do? The resolution, as has been said, urges the President, urges the President to do what he has begun to do and has done, which is to go to the United Nations and seek authorization to use force to implement the decisions of the United Nations.

It leaves to the Commander in Chief what will happen after that. We have the veto at the United Nation. We reserve the right to determine what force will and should be used.

It is a message to the Serbs that we have had enough. Let us talk about this Serbian leadership of Milosevic. It does not enjoy unanimous support at home. Tens of thousands of citizens of Belgrade have been out in the streets demonstrating against Milosevic. The head of the Serbian Orthodox Church has spoken out against what is happening in Bosnia and Serbian aggression.

As I pointed out, each time forces confronted the Serbians they backed down. But in Bosnia they are moving with abandon and demolishing a people. It is time for us to send this message of strength. First, through humanitarian relief with the military force to protect it. Second, as the resolution requires, through the use of military force if necessary to gain access to these detention camps that we know and I have seen with our own eyes exist.

There are other parts to this resolution and they are important to stress. We ask the Security Council to review the effects on Bosnia-Hercegovina of the arms embargo imposed on all the states in the former Yugoslavia and determine whether the termination or suspension of the application of that resolution to Bosnia-Hercegovina could result in increased security for the civilian population of that country.

Mr. President, I think everyone on the floor will agree here in this debate that we do not want American ground forces engaged in a civil war there. The truth is there are ground forces in that country today. They are ground forces of the Bosnian people, the Moslem people, but they do not have the arms to fight. Let us give them at least the wherewithal to put up a fair fight and hopefully help to bring the Serbs to the table, which is the goal that we have in this entire involvement.

Mr. President, it is with some pride that I note that this is a bipartisan agreement, a bipartisan resolution, and has been made even more so by the amendment we just adopted.

Finally, let me say this. Repeatedly Members have said on the floor here: "What do we say to Americans? Why should Americans care about this? Do Americans really care about it?"

I say yes, the American people understand that quote from Fitzgerald that I mentioned a few moments ago that while France may be a land and Britain may be a people, America is an idea. Americans understand and want to be a people that stands tall, proud of our moral strength, proud of our leadership of the world, and proud of the fact that we are willing to come to the aid of

those in need along with our allies in Europe. And we are willing once again to stand up against aggression, because Americans understand perhaps in their wisdom better than ours here in this Chamber, as is so often the case, that we have something on the line in what is happening in Bosnia today. Our moral strength, our strategic interest, and ultimately our security. Because when we turn away, turn our backs on the acts that are occurring in that country today that we know and have seen with our own eyes, we diminish ourselves, we diminish the security in which we and our families want to live.

Mr. President, I am proud to be here in this Chamber to support this resolution. I hope and believe it will pass overwhelmingly and send a message of strength to the American people, a message of pride to the American people, and a message of will to the leadership of Serbia.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Maine.

Mr. COHEN. Mr. President, I yield myself 1 minute. Perhaps I could just alert my colleagues to where we are at this time. The Senator from New York [Mr. D'AMATO] has requested 15 minutes to speak on the general resolution. He has indicated he does not intend to take the full 15 minutes.

Mr. D'AMATO. Correct.

Mr. COHEN. Something closer to 5 minutes, as I recall. And following his presentation I do not know on the Democratic side.

Mr. BIDEN. Mr. President, there are those who wish to speak. But I understand our distinguished friend from Arizona has an amendment ready to go. We are ready to move amendments.

Mr. COHEN. As soon as Senator D'AMATO completes his remarks we will recognize Senator MCCAIN offering an amendment, and we anticipate a vote on that amendment in a reasonably short period of time.

The PRESIDING OFFICER. The Senator from Maine has 3 minutes and 13 seconds remaining.

Mr. CHAFEE. Could I ask a question?

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I wonder if the managers of the resolution could do three things: One, tell us whether if they know how the Senator from Arizona will take on his amendment. Two, will he have a vote? Three, following that, what will happen? Are there more amendments coming up? How long do they anticipate this evening to take?

Mr. COHEN. I advise my colleague that the Senator from Arizona has reserved 1 hour equally divided. I doubt very much it will take 1 hour equally divided for his amendment, but I do anticipate he will request a rollcall vote.

Mr. CHAFEE. The next question is, What will transpire following that? Do the managers know?

Mr. COHEN. I am in position to say we anticipate possibly an amendment from the Senator from Kentucky and possibly one from the Senator from Wyoming.

Mr. CHAFEE. That is all going to take place tonight?

Mr. COHEN. That could take place tonight.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I say to our friend from Rhode Island there are a potential of five other amendments, but my guess is that this thing would roll out fairly quickly and there may only be one or two amendments that would require a vote, maybe one after this one, and then we would be prepared for one vote tomorrow and final. I think that is the hope. But that is not a promise.

Mr. LEAHY. Mr. President, will the Senator yield for a question?

Mr. BIDEN. Surely.

Mr. LEAHY. Mr. President, we appear to be now in the hour that we are in sort of the Dracula form of legislation. We do not vote in daylight hours. We vote only after the Sun goes down, which I understand happens late in the summertime. We had a lot of talk and quorum calls earlier, and so on. We have a number of amendments. It would be nice if we could take them en bloc and vote them. The results would probably be the same.

Has there been any discussion? As far as many of these, it is difficult to tell the difference other than the difference in names of those who submitted them and those differences spelled out in the press releases of various ones who sent them, who are concerned as well as we are as to what happened there. Is there any possibility of having the vote on all these and start the vote at 7:30 or 8 o'clock tomorrow morning and vote them one after another?

Mr. BIDEN. In the interest of time, the answer is no. I could give a longer explanation. I share the Senator's frustration, maybe even a little more than he feels it, but the answer to the question is I think if we just keep moving on we may find that the time collapses very rapidly and we may get this finished.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. I yield up to 15 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 15 minutes.

Mr. D'AMATO. Mr. President, I have difficulty understanding what it is that this body is in such a turmoil about in terms of enacting this resolution. It has taken so long for so many to have to work to even get it up for consideration, because people are going to filibuster it, do all kinds of things.

Let us understand it. This is a bipartisan resolution. This has been drafted by Republicans and Democrats who had input into it. The Republican leader has been part of it. This Senator and my colleagues on the Democratic side have had input.

Let me tell you what I am talking about specifically. This resolution pales in comparison to one that the Senate of the United States adopted by voice vote unanimously, one that was approved and worked over by the Foreign Relations Committee on June 11 of this year. And on June 12 it was accepted here on the floor and cleared by both sides. What do we find? All of a sudden my colleagues have found out that we are urging the use of force to see to it if necessary that the United Nations has the ability to enforce that which it sought, that which it was given, that which it was sworn to do, those mandates which it passed. Let me tell you and let me read to you just one portion of what we passed on June 12.

We said:

> Be it resolved that the Senate calls upon the President of the United States to urge the United Nations Security Council to direct the Secretary General of the United Nations to provide a plan and a budget for such intervention as may be necessary to enforce the Security Council resolution seeking cessation of hostilities in the former republics of Yugoslovia.

To enforce.

Now what is this namby-pamby nonsense and the conjuring up that the President of the United States, the Commander in Chief, that he is going to send our men on a death march? That is the kind of thing that we have heard, that he is not going to be guided by his military commanders. Shame on us for conjuring up the worst of the worse. And where is our moral leadership and responsibility?

How long do we have to wait? It was 10 months ago—10 months ago—when we saw Dubrovnik being shelled and bombarded and we got the killer to cease and desist for a while and his armies marched on, and it has been nothing but broken promise after broken promise, diplomatic effort, one after another, after another, has failed.

And he states the fact that we have failed to authorize the use of necessary force, to see to it the basic human rights are protected.

And let me tell you, unless we have a credible threat of a use of an international force, Milosevic will continue the rape, the murder, the ethnic purification and expand his aggrandizement for a greater Serbia. That is what is happening.

We do not have the guts and courage to come out strong and say, yes, Mr. President, we will support you; we want you to go to the United Nations, we urge you to urge them to stand up and to be counted in this very defining moment.

And I have to tell you, we will have more horror on our hands. And here is

an opportunity for this country to stand up for an oppressed people who are Moslems.

It is rather important, because there are other areas in the world with large populations of Moslems that may look upon this as a very defining moment to say, yes, that maybe a world that does not believe and have the same religion that we do has the same value in the terms of the sanctity of life, and we can implore them and go to them when we see these ethnic conflicts which eventually will break out to use the same kind of moral discipline and to stand for what is right: Basic human rights for all, regardless of their religion, regardless of their ethnic background. And that is what we seek here.

Mr. President, I would ask unanimous consent to have printed in the RECORD a copy of the RECORD which indicates that on June 12, 1992, we adopted this resolution so that the resolution in its entirety may be included in the RECORD.

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

S. RES. 330

Whereas continuing hostilities in the former republics of Yugoslavia are killing thousands of noncombatants, displacing hundreds of thousands of civilians, and causing massive destruction and starvation;

Whereas there is a threat of ever-widening conflict in the republics of the former nation of Yugoslavia, which conflict could extend to other nations in the region;

Whereas resolutions of the United Nations Security Council denouncing the hostilities in the former republics of Yugoslavia, and demanding that they cease, have not been heeded;

Whereas the United Nations Security Council, under Chapter VII of the Charter of the United Nations, has adopted Resolution 757, imposing sanctions on the Yugoslav government, and requesting that the Secretary General work to create a security zone to assure unimpeded delivery of humanitarian supplies to Sarajevo and other destinations in Bosnia and Herzegovina;

Whereas the United Nations Security Council may, under Chapter VII of the United Nations Charter, make plans for the application of armed force to maintain or restore international peace and security, and the United States and other permanent members of the Security Council may veto resolutions of the Security Council;

Whereas officials of the United Nations and the United States have not determined what resources would be required to enforce a cessation of hostilities and bring peace to the former republics of Yugoslavia and, specifically, to enforce Resolution 757;

Whereas knowledge of the resources and military forces needed for such a task would enable the United States and other nations to make an informed judgment about how to take such action;

Whereas the process of devising a plan and budget for such action could, in itself, signal greater resolve at the United Nations to take action; and

Whereas the United States cannot and should not be the world's policeman, but is the one nation with the moral authority and military strength to provide leadership at the United Nations for stronger international coalition efforts to enforce peace: Now, therefore, be it

Resolved, That the Senate calls upon the President of the United States to urge the United Nations Security Council to direct the Secretary General of the United Nations to provide a plan and budget for such intervention as may be necessary to enforce the Security Council resolutions seeking cessation of hostilities in the former republics of Yugoslavia.

SEC. 2. The Secretary of the Senate shall transmit this resolution to the President.

Mr. D'AMATO. I yield back my remaining time.

Mr. COHEN. Mr. President, I think we are making progress. I thank the Senator from New York. He did, in fact, speak less than 15 minutes, much to the surprise of the Senator from Maine. But I thank him very much.

As a result of that, I think we will be able to make more progress this evening.

Let me just review where we are right now.

The Senator from Arizona, I believe, intends to offer an amendment and take approximately 10 minutes to debate that amendment.

Mr. MCCAIN. I say to my friend from Maine there are others who want to speak on the amendment. I may have to use my entire half-hour agreed to by the previous unanimous-consent agreement.

Mr. COHEN. Does the Senator at this point intend to proceed with the amendment?

Mr. MCCAIN. Yes, if it is agreeable to the managers of the bill.

Mr. COHEN. And to ask for a vote?

Mr. MCCAIN. Yes.

Mr. COHEN. I yield to the Senator from Arizona. I think he has his own time.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

AMENDMENT NO. 2926

Mr. MCCAIN. I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 2926.

Strike the words "giving particular considerations to the possibility of demonstrations of force," from section 1.

Mr. MCCAIN. Mr. President, my amendment is a simple one, as was just read. It focuses on one of the many contradictions in the text and logic of the resolution before us. I find it hard to understand how this body is going to propose to authorize the use of force, or military demonstrations, and yet not really do so—as the statements made by the sponsors of this resolution indicate is the case.

What these sponsors are saying, and I have heard them say it throughout the day, is that we are authorizing the use of force but we are not really authorizing it because the President will have to come back to the Congress and ask for the use of force to be authorized. This makes some of us wonder what this resolution is all about.

One of the most egregious aspects of this resolution is the misuse of U.N. rhetoric regarding demonstrations. This is the part of the resolution which my amendment attempts to delete, and it is the most classic example of the consideration of the possibility of authorizing the nonauthorization of force. The resolution talks about demonstration of force.

Mr. President, the world will not see this as mere U.N. rhetoric. It will see this as a promise and a threat. Yet, I do not know why such demonstrations should succeed. I have not the foggiest notion why a flyover, as described by one of the authors of this particular piece of the resolution would succeed. I do not know why a naval blockade, taking out a mountain side or destroying a bridge should succeed. I don't know how anyone can refer to U.N. rhetoric on the one hand and threaten force on the other. This shows profound ignorance of the nature of a conflict which has been going on in the Balkans for hundreds of years and of the nature of this civil war.

Worse, this is exactly the same kind of vague rhetoric we heard in 1965. We said then that if we shell the Coast of Vin from North Vietnam, the Vietnamese will decide to quit. We said that if we launch limited air strikes into North Vietnam, then the Vietnamese will be so frightened so that Ho Chi Minh will call off the war.

Mr. President, far too often demonstrations do not work or lead to massive and sustained escalation. We cannot indulge in token action. We either go in with military force supported by the Congress and the American people or we do not.

One of my favorite military leaders is Gen. Maxwell Taylor. Gen. Maxwell Taylor, was Chairman of the Joint Chiefs of Staff under President Kennedy. He was the Ambassador of the United States to Saigon, and he was a World War II combat veteran.

Maxwell Taylor said that there were five criteria for military involvement. First, the objective of our involvement must be explainable to the man in the street in one or two sentences. Second, there must be clear support of the President by the Congress for the involvement. Third, there must be a reasonable expectation of success. Fourth, we must have the support of our allies for objectives. And, finally, there must be clear U.S. national interests at stake.

Mr. President, I do not see that this resolution or the contemplated use of force meets these criteria.

Let us take the first one. The objectives of the involvement must be ex-

plained to the man in the street. How can I explain this resolution, Mr. President? What we are saying is we are telling the President he can use force, but he cannot use force until the United Nations authorizes it, and he then comes back for a vote from the Congress of the United States. I am not sure the man in the street can really understand that. I am not sure I can.

Second, there must be clear support of the President by the Congress.

I have not seen support of the President by the Congress here displayed today. What I have seen is support for a resolution that says the President might use force under certain circumstances. But, whatever the outcome of this resolution, he still must come back to the Congress of the United States.

Third, there must be reasonable expectation of success.

Mr. President, where is the military expert, the proven military tactician or strategist, who can describe to me or the American people, a tactical and strategic plan for the use of force, or demonstration of force, that will bring about a successful resolution to this terrible tragedy?

Mr. President, Maxwell Taylor must be spinning in his grave. How in the world is a demonstration going to offer us a reasonable expectation of success.

Once again, I know this kind of language is viewed by some as harmless U.N. rhetoric, but that is not the message that we are sending to the world from the U.S. Congress. The message is we threaten demonstrations, without either really supporting them or dealing with the risks of escalation.

Mr. McCONNELL. Will the Senator yield?

Mr. WALLOP. Will the Senator yield?

Mr. McCAIN. I would be glad to yield first to my friend from Kentucky and then my friend from Wyoming.

Mr. McCONNELL. Mr. President. I say to my friend from Arizona, we discussed this demonstration of force language in the Foreign Relations Committee. It is reminiscent of the time when it was reported that President Johnson himself would pick out targets.

I just wonder, my friend from Arizona has had experience as a pilot in wartime. Who is going to pick out the site? Who is going to pick out the site? Where are these demonstrations of force going to occur? Does my friend from Arizona have any idea how this might be done and by whom?

Mr. McCAIN. I would say to my friend from Kentucky, if I could respond very quickly, I do not know. I have not the foggiest notion of what targets would be chosen or of why they would have the desired effect. I have heard talk we should bomb a powerplant outside Belgrade or we should take out a half a mountainside. There is a wide variety of options we can destroy, but it is unclear that striking at any of them will make things better, and such strikes could well make things worse.

One of the most enlightening readings I could commend to my colleagues on this subject is the Pentagon papers. In 1965, the then Deputy Secretary of Defense, a man named John McNaughton, recommended to Secretary of Defense McNamara and the President that if we shelled the radar installations at Vinh, Ho Chi Minh would get the message and would immediately stop supporting the Vietcong in south Vietnam. This reference to "demonstrations" may be drawn from U.N. rhetoric, but it is all too reminiscent of the logic that led us into Vietnam.

I yield to my friend from Wyoming for his question.

Mr. WALLOP. I say to my friend, he almost answered it. It seems to the Senator from Wyoming, this is sort of a typical bully boy posture that the United States could embrace for a policy.

Contrary to Teddy Roosevelt, instead of walk softly and carry a big stick, this would be walk with your overshoes on and carry no stick at all.

The signal that it sends is somehow or another that the United States is willing to do something as a demonstration but not willing to do anything that is consequential.

I have been quoting Clausewitz a lot. Machiavelli has a quote on this that is very useful to the Senate, and that is, "Never do your enemy a little harm."

A bully demonstration like that will do absolutely nothing but mobilize the intentions of people. Would the Senator agree?

Mr. McCAIN. I would totally agree with my friend from Wyoming.

One of the witnesses before the Senate Armed Services Committee tomorrow, a committee of which the Senator from Wyoming is a member, will be General McKenzie of the Canadian Army. He will testify before the committee. I strongly suspect that he will say in no uncertain terms that he sees no viable military option.

This is the person who is in charge of the U.N. peacekeeping forces on the ground in Sarajevo. This is a proven peacekeeper. I say to my friend from Wyoming that we have to listen to such people.

Mr. WALLOP. Will the Senator yield for one further question? Would it not be rational to suppose that what we have already had was a demonstration of force, with 15,000 peacekeeping troops on the ground? And unable to accomplish a mission that General McKenzie will describe?

Mr. McCAIN. I will say that is correct. I have already heard some estimates of the forces required by military experts on peacekeeping. I do not have the specialized expertise, experience, or knowledge to make such estimates, but there are those who do who say it will take 200,000 troops to bring security to the people of Bosnia. I do not know if that is true or not, but some military experts say that is the case.

I want to emphasize again, no one feels as terrible about this tragedy as the Senator from Wyoming, the Senator from Kentucky, and I do. We share the world's anger, sympathy, and concern.

The question is, Can we translate this sympathy, anger, and disgust into concrete action that will really help these people and not bring greater harm to them? Unless we have very specific plans, unless we have a U.N. commitment to employ a truly massive multinational force, and unless the world will stay the course, we may well make things worse.

I also suggest that our first obligation is to the young men and women who serve in our military who are the ones who will be sent into this quagmire. We must not use them in political or military experiments. We must not risk them unless our military experts are fully convinced that our actions will succeed.

Mr. WALLOP. The Senator, having been in harm's way more than most in this body, would, I think, be among the first to recognize that not only do you not want to send them in harm's way but you do not want to send them without having a clear purpose of what the ultimate goal of our presence is going to be. And a demonstration of force is not an ultimate statement of purpose; is that correct?

Mr. McCAIN. I certainly agree with my friend from Wyoming.

Let me say that I have made as many mistakes as any Member of this body. But I do remember in 1983 when I was a new Member of the other body, brand new, and I heard that we were going to dispatch young marines to Beirut, Lebanon, as a demonstration, as a peacekeeping force. I asked then, to do what? To secure the airport? Does this have a familiar ring?

At that time I went to the floor of the other body and I said we should not do this. They asked for peacekeepers. There was no peace. They said there was a strategy. There was no strategy. I am sorry to tell my friend from Wyoming that that time I was right. Over 200 young marines lost their lives because we put them in harm's way without a real strategy, without a real plan, and without a recipe for victory.

I am not prepared to see that happen again.

Let me make one other comment. It has been said several times on the floor that this is only a sense-of-the-Senate resolution. Its supporters have said that it really does not mean that much, that it is not binding, that it

will not have the weight of legislation requiring the President of the United States or the United Nations to do anything.

I think that reasoning badly underestimates the impact on the world of taking such an action and of a vote taken by the Senate of the United States of America.

The media reports throughout the world will not be that we passed a nonbinding sense-of-the-Senate resolution. The media reports will be: "United States Senate calls for the use of force in Bosnia."

Mr. President, we are not actually prepared to use massive amounts of force if we do not have a plan, and if we do not have a strategy, we should not pass this resolution. Most of all, we should not pass it unless we have the full support of the military leadership of this country. We need to hear their views, as the Senate Armed Services Committee will do to some degree tomorrow. We need their views on what our options are, how we can execute them, and what prospect we have for success before we enact this resolution. We must not send America's young men and women into harm's way without their advice and support.

I yield to my friend from Kentucky.

Mr. MCCONNELL. I commend my colleague from Arizona for his observations. Could it not be argued that big countries, real superpowers, really cannot afford to bluff? What would be the effect if we passed this resolution, demonstration of force, and then we did not do it?

Mr. MCCAIN. I think I could list for my friend from Kentucky a few of the other times in history when bluffs, demonstrations, promises, and unmet commitments failed: Ethiopia, Spain, the Sudetenland, Manchuria, China, Czechoslovakia—between the wars, Hungary in 1966; Rolling Thunder in Vietnam, and the multinational force in Lebanon. These were all cases where we either threatened military action we did not take, or halfheartedly used military force, and ended up with tragic consequences. In all of these cases, the consequences were tragic for the peoples and nations that we were attempting to assist. In several, they were tragic for America's fighting men and women.

Mr. MCCONNELL. I just want to thank my friend from Arizona. This is an amendment right on the mark and I commend him for enlightening us as to the past history when we have tried this sort of thing, and laid out for us, as skillfully as anyone has, that this is clearly the wrong path for us to be going at this point.

Mr. MCCAIN. I thank my friend from Kentucky. I would also like to thank him for his active participation in this debate, both on the very important Foreign Relations Committee and on the floor.

Mr. President, I ask my friend from Delaware a question. This is, I do not intend to call for a vote on this amendment because I think the hour is late. There is important debate to be addressed on the issue of the many other amendments.

If and when the Senator from Delaware is prepared to do so, I will ask unanimous consent to withdraw my amendment.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I will yield back my time in about 2 minutes. Just let me start off by saying I would like to compliment my friend from Arizona, because if anyone understands what it means to blithely commit a young woman or man to battle—whether it is demonstration, peacekeeping, anything—he does. It does not matter to a family, God forbid, if the young woman or man that is taking out the bridge or participating in the demonstration, et cetera is killed—a death is a death is a death. A war, is a war, is a war.

The Senator from New York, Senator MOYNIHAN, was the one who suggested we add this language. I wanted to—in fairness to the Senator from New York—point out to my colleagues where the phrase "demonstration" came from. It is a term used in the U.N. Charter.

Let me read article 42 of the U.N. Charter. It says:

> Should the Secretary Council consider that measures provided for in article 41 would be inadequate—

That basically relates to sanctions—economic sanctions, and the like. Should they prove to be inadequate, the Security Council—

> may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such actions may include demonstrations, blockade, or other operations by air, sea, or land forces of members of the United Nations.

The point here, is that the Senator was using a term of art as blockade is a term of art used in article 42.

When the Senator from New York was referring to blowing off the side of the mountain, it was in the context of what General MacKenzie, head of the U.N. forces, who was quoted here today, says:

> It is easy to find the weaponry, the heavy weaponry.

One of the debates on this resolution was whether we could take out the language referring to heavy weaponry. And the point the Senator from New York was making was that the heavy weaponry is located in the mountains around the airport. He was referencing taking out, destroying, the heavy weaponry if it meant blowing off the side of the mountain, heavy weaponry that General MacKenzie says is easy to find.

I do not want to take issue with my friend from Arizona, who knows much more about the difficulty of taking something out by air than the Senator from Delaware would ever know. I do not pretend to even put myself in the same league.

But what was being discussed here was this notion of demonstration as a term of art under the U.N. Charter.

One other thing I should point out, as well, is it is argued that demonstrations have never worked. I might point out, I was the one, along with my friend from Arizona, who was, in the early 1980's arguing against putting the U.S. Marines in Beirut. It was the Biden resolution on the floor of the Senate that tried to stop sending those Marines, because there was no clearly defined purpose, in my view, and in the view of the Senator from Arizona.

Here, whether the Senator would agree or not, the attempt in this resolution is to clearly define two missions. Granted, they could be broad missions. One is to bring in humanitarian aid; and two is to gain access to the camps, the prisoner-of-war camps, the detention camps, for the Red Cross. So the attempt, at least, is to define it more clearly.

Last, it is not the United States who would authorize the use of force; it is the United Nations that would authorize the use of the force under a U.N.-led coalition, if force ultimately was used. We would however, still have to approve U.S. participation in that force.

So, again, in the interest of time, let me again compliment my friend from Arizona. It is a very legitimate concern.

But I want to make it clear that my friend from New York did not take lightly the notion that American lives are at risk if any demonstration were to be used.

I yield the floor.

Mr. MCCAIN. Mr. President, before my friend from Delaware yields, my colleague from Indiana had wanted to comment. So before I yield back and withdraw, I would like to recognize my colleague from Indiana for 7 minutes.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Fifteen minutes, four seconds.

Mr. MCCAIN. I would like to yield 10 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 10 minutes.

Mr. COATS. Mr. President, I thank the Senator from Arizona for the time. I want to explain a couple of things.

One, my vote on the previous amendment. It was not easy for this Senator from Indiana to come down here and vote against an amendment that supports the decisions made by the President of the United States on August 6 relative to this issue. I did not want to do that, because I believe I have a pret-

ty good understanding of what the President is trying to do and what he believes it is not possible to do. I think we are pretty much in accord on that.

But I voted against that because I have concerns about some of the language in the statement made by the President, that might involve the use of U.S. troops in supporting a U.N. resolution to provide humanitarian relief to those who desperately need that humanitarian relief.

I think it is important to note, I doubt that there is any Senator in this body who does not share the deep concern over the plight of those refugees and those suffering from the fighting going on in what we used to know as Yugoslavia; and the agony, as we watch day to day, and the memory of a situation that occurred before my lifetime—in the lifetime of many here—but is fresh in all of our memories, and burned and etched into our memories, of a so-called ethnic solution, ethnic cleansing, final solution that will be a blot on the stain of humanity for as long as the world exists. We are agonizing over that.

And no one objects to the goal which this resolution seeks to achieve. We want to stop the fighting. We want to get relief to those who are suffering. And we want to bring peace to this region.

The question, though, is not whether or not we care or whether or not we agonize or whether or not we want to do something. The question is, How do we achieve this? And what is involved in achieving this?

In that regard, the President's statement on August 6 is important, because I think it outlines the complexity and the difficulty of doing this. I quote from that statement:

> The war in Bosnia-Hercegovina is a convex, convoluted conflict that grows out of age-old animosities. The blood of innocents is being spilled over century-old feuds. The lines between enemies and even friends are jumbled and fragmented.
>
> Let no one think that there is an easy or simple solution to this tragedy. The violence will not end overnight. Whatever pressure and means the international community brings to bear, blood feuds are difficult to resolve and any lasting solution will only be found with the active cooperation and participation of the parties themselves.
>
> Those who understand the nature of the conflict understand that an enduring solution cannot be imposed by force from outside on unwilling participants, and bringing peace to the Balkans will take years of work.

Mr. President, I believe that statement to be absolutely true. The information that I have received as a member of the Armed Services Committee, the intelligence briefing that I have received, fully indicates that what I just quoted from the President's August 6 statement is absolutely true.

The question that we have to answer in seeking this resolution is what is the ultimate end of this, and what are we committing, and what are we asking the United Nations to do, and what consequences will it have for this country, and particularly for men and women in uniform in this country?

The question is, Are we willing to commit U.S. troops to the situation in Croatia, Bosnia, and surrounding areas? Are we willing to do that? Because even if you say this is only for humanitarian purposes, it is impossible to deliver relief supplies, food and medicine, to those suffering in this region without committing forces to do so. Just to fly in the material into Sarajevo requires securing the airport. And securing the airport, by many estimates, will require two divisions.

Let us say it requires two companies. Let us say is requires one platoon to secure the airport at Sarajevo so that we can fly in a C-130 and unload supplies, humanitarian supplies. Are we willing to commit one platoon to that effort? And then we have to load those on the trucks, and we have to take them to all parts of the war-torn region.

Are we willing to put those in trucks and send American soldiers in those trucks and drive them through the mountains, so that we can deliver those supplies? That is what is at issue here.

It is not a grandiose goal, providing humanitarian aid. We all want to do that. The question is: How do we do it, and does it involve U.S. troops?

No other country is rushing forward to commit their troops. No other nation is rushing forward to say: Oh, we will take up the call. No; it has to be a unified effort, and everybody has to participate in it.

To be sure, there will be U.N. troops from other countries.

Does anyone here believe that U.S. troops will not be involved? Does anyone here believe that U.S. C-130's will not land at the airport? Does anyone believe that Marines will not unload supplies for those troops?

Mr. President, I voted and supported the effort to send the Marines to Beirut. I was in the House of Representatives, when my friend from Arizona was saying, "I have been there; it is a mistake; there is no defined objective; there is no strategy; we are sending them there on the hope that their presence will bring about peace." I supported that policy. Then I traveled to Beirut, and I spent 4 hours at that airport. A helicopter dropped Congressman WOLF and myself off. There was not a marine there who was willing to come out on the tarmac to meet us. They probably thought, what are these two stupid Congressmen standing out there on the tarmac for?

But I was so concerned about my vote and so concerned about what I might be subjecting our marines to, and based upon the reports I was reading, I was beginning to think maybe we had made a mistake. There I stood on the tarmac, and a marine was waving at me saying, "Get down, get down. Crawl in this foxhole, crawl in this barricade." They were not willing to run out and even escort us there. These are Marines.

That 4 hours I spent on the ground, including time standing in front of a destroyed barracks at which more than 200 young men in our uniform were killed in their sleep through a truck bomb, convinced me that I would never again put U.S. troops in a situation where there was not a clearly defined objective, where there was not a clearly defined strategy, where we know exactly what our mission was and we had the means to secure the safety of those troops.

Now, I have asked some people who for a living make decisions about what it takes to secure those troops. They have told me that it may take up to as many people as we sent to the Persian Gulf to protect troops that are stationed and moved in for the purpose of providing humanitarian efforts and humanitarian relief to suffering people who need the relief.

Are we as a Senate willing to do that? It is easy to pass a resolution saying we want to end this agony. It is very difficult to translate this into actual policy, actual tactics, actual strategy. At the very least, I hope my colleagues will wait until the Armed Services Committee meets tomorrow—and I invite all 100 Senators to come to that meeting—and listen to what our commanders are saying relative to what it will take to accomplish this particular mission, not the mission of ending the fighting, not the mission of ending the bloodshed, just the mission of delivering a carton of relief, of medical supplies or food supplies to those who are suffering.

What is it going to take to do that, to run that truck through the mountain roads to the back outposts? What is it going to take? And how many car bombs is it going to take and mortar shells fired from areas where we are not sure where they are coming from, or missiles fired at U.S. planes or a missed bombing so that a school is hit instead of a strategic installation? How many of those incidents are going to have to happen before we say, here we are in another quagmire; here we are in another Beirut; no defined mission, dribbling it in, plane by plane, troop by troop, hoping not to get everybody worked up by sending divisions and ships to provide the protection, hoping for the best, fearing the worst.

We need to look to the end of this resolution, not the beginning, because we are starting down a slippery slope that we have been down before, and I do not think we should go down it again.

The PRESIDING OFFICER (Mr. SIMON). The time of the Senator from Indiana has expired.

Mr. COATS. I thank my friend.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I thank my friend from Indiana.

To reinforce his views, I would like to mention for the record that Serbia has over 1,500 tanks, over 2,000 heavy artillery weapons, over 1,500 other armored vehicles, and I have no idea how many more mortars and small arms and RPG's, weapons of war that would be aimed and fired at American troops under certain circumstances.

Mr. President, at this time I ask unanimous consent, if it is agreeable, to withdraw my amendment.

The PRESIDING OFFICER. The Senator withdraws his amendment.

The amendment (No. 2926) was withdrawn.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I thank my colleague. Let me say—and I am not being gratuitous—I respect the passion and concern of the Senator from Indiana, and I think we are better for him having spoken on this issue. I would, in another context, maybe on the bill itself, argue it does not do quite what he says. He is, it may be presumptive of me to say, approaching this issue as we all should approach this issue and not take it lightly, and I compliment him on his concern.

Mr. President, my distinguished colleague, Senator COHEN, managing the time on the Republican side of the aisle, indicated to me, as he had to step off the floor for just a moment, that he is prepared to yield 15 minutes, I believe. Is that correct?

Mr. McCONNELL. I say to my friend from Delaware, to his relief, the Senator from Kentucky will not be offering the amendment which I had an opportunity to offer under the UC agreement. Instead, I will take 15 minutes on the bill.

Mr. BIDEN. So the Senator from Maine has instructed me to yield on his time 15 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 15 minutes.

Mr. McCONNELL. Mr. President, first, I commend the Senator from Indiana. I just had an opportunity to listen to his remarks this evening. I think he was right on the mark. His own personal experience with the fiasco in Beirut I think added a great deal to the debate.

Mr. President, we are cleared not interested, it seems to me, in taking sides in what used to be Yugoslavia. I want to point out that one of the Members of Congress is a Serbian-American, Congresswoman HELEN BENTLEY. Congresswoman BENTLEY called me earlier this evening just to make a couple of points in the hopes that we can keep this debate at least somewhat balanced in terms of the views of those in this country who are Serbian-Americans.

She points out that while we have focused on detention camps of Bosnians, there may be another untold story. Serbian Orthodox bishops in the United States have called attention to 22 concentration camps holding Serbian civilians. Congresswoman BENTLEY has submitted a list of the villages and camps under siege where Serbians, it is alleged, have been murdered or starved.

Mr. President, I do not know, frankly, the veracity of this, but Congresswoman BENTLEY, a respected Member of Congress, has passed this on just to provide some balance in the debate on these items, and I ask unanimous consent that they be printed in the RECORD.

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

DETAILS OF CONCENTRATION CAMP SITES AND DETENTION FACILITIES USED FOR THE IMPRISONMENT OR EXTERMINATION OF BOSNIAN-SERBS

1. LIVNO: The camp is situated in the fortress in the Old Town. About 300 Serbs are imprisoned.

2. DUVNO: The camp is located on the site of a former secondary school in the village. About 500 Serbs are detained.

3. RASCANI: All the Bosnian-Serbs from this village are blockaded without any food or medical supplies.

4. BUGJNO: The home of a murdered Bosnian-Serb (Relja Lukic) is being used to detain an unknown number of Bosnian-Serbs. In addition around 700 Bosnian-Serbs are detained in the "Slavko Rodic" factory in the town.

5. JAJCE: In the old Fortress about 300 Bosnian-Serbs are detained.

6. BIHAC: In the "Jedinsrvo football stadium" about 900 Bosnian-Serbs are detained.

7. ORASJE: About 100 Bosnian-Serbs are detained in a concentration camp under the command of Pero Vincentic from V.Donje Mahale.

8. ODZAK: 3,000 Bosnian-Serbs; 400 aged from 18-70 are kept in the elementary school under the control of camp commander Mijo Barisic; 150 men and women in the "Stolit" company; 1,500 women and children in Novi Grad; 59 in the elementary school in the suburb of Poljari; 300 in the former military depot in V. Rabici.

9. POLJARI: Up to 100 Bosnian-Serbs were moved from the concentration camp of V. Poljari and V. Rabic towards Bosanski Brod. Here Mr. Fuad Alijagic was ordered to bury executed Serbs with a mechanical digger in the Moslim graveyard near the hospital of Odzak.

10. KONJIC: 3,000 Bosnian-Serbs are detained in the "Ivan" railway tunnel above Bradina.

11. HADZIC: A substantial but unknown number of Bosnian-Serbs are detained in the cultural centre in Pazari.

12. ILIDAZ: In Hrasnica near Ilidza women and children are being detained, in numbers not possible to establish, shrieks can be heard from the nearby Bosnian-Serb controlled territory.

13. TUZLA: 4,000 Bosnian-Serbs are detained in the "Tusanj" stadium.

14. SARAJEVO: 6,000 Bosnian-Serbs are detained in a variety of locations including; "Kososvo" football stadium, Zetra railway station, the womens prison, the Mladen Stojanovic student hostel, the Viktor Bubanj barracks the 25 Maj childrens home in Syrakino Selo, The Sipad storehouse and the central prison which comes under the command of the notorious criminal nicknamed "Ceb."

15. ZENICA: 2,000 Bosnian-Serbs are detained in the Penitentiary of which there are confirmed reports of 100 already killed.

16. B.BROD: 400 Bosnian-Serbs detained.

17. JABLANICA: 500 Bosnian-Serbs detained at V. Celebici near the Jablanica Lake.

SOME TYPICAL EXAMPLES OF MASSACRES OF BOSNIAN-SERBS BY UNITS OF THE CROATIAN ARMY IN B-H AND THE BOSNIAN TERRITORIAL DEFENCE

KUPRES: In the town of Kupres, by the beginning of April, 52 Bosnian-Serbs had been murdered. The principle methods of execution and mutilation were the severing of heads or the extraction of the brains of living victims. In addition mallets were often used to smash skulls.

Prior to death it was common practice to gouge out eyes, cut off ears and break both arms and legs of victims.

An unidentified number of Bosnian-Serbs were murdered around the village of Gornji Malovan near Kupres. The corpses were buried in a mass grave on Borova Glava. We are now in possession of proof, in the form of photographs, video tapes and tape recordings which can be produced.

BRATUNAC: On 21 May 1992, in V. Derventa, a Moslem TD unit under the command of Hedib Sulejmanovic massacred Bosnian-Serbs from the village. They slaughtered 31 people, mainly old age pensioners, women and children. This Bosnian-Serb village was then burned to the ground.

GORAZDE: In the village of Vukasinovici a Moslem TD unit under the command of Suad Hamzic slaughtered 8 Bosnian-Serbs: Veljko Vukasinovic (72), his wife Danien Vukasinovic (60) Vukasin Vukasinovic (90) his wife Boza Vukasinovic (75), Milorad Vukasinovic (78) and Grozda Vukasinovic (56) the wife of the only survivor Perko Vukasinovic. Following the killings the assassins who also included Ferid Aganovic and Ibro Salispahic, burned the family homes together with the corpses.

LELECI: The night after the Vukasinovic killings the same team slaughtered 9 Bosnian-Serbs in the small village of Leleci and burned their homes.

MOSTAR: On 26 May 1992 units of the Croatian Army attached the Bosnian-Serb villages of Raska Gora and Bogodol on the outskirts of Mostar. Here they slaughtered 200 Bosnian-Serbs and burned down the village.

CEMERNICA: On 2 June 1992, units of the Moslem TD from Olovo and Kladanj killed 32 Bosnian-Serbs in the village of Cemernica. These included seven from both the Trifkovic and Bunjevac families, six from the Petrovic family and twelve members of the Damjanovic family.

One young man was burned alive in a stable before the entire village was ignited.

Only one young woman escaped, but needed to be detained in hospital for 20 days and has subsequently had a complete nervous break-down.

She was able to describe the way in which the villagers were first executed and then their bodies were mutilated with axes, picks and shovels.

CRKVINE: On 15 June 1992 units of the Moslem TD attacked the following villages; Crkvinje, Opaci, Orahovica, Bibici, Biogor,

Turija, Podrid, Postolje, Darasnica, Crni Vrh, Karno., Grubanovici, Jasenova, Spat and Cicevci i Bukova Glava. All these villages were plundered and the entire population massacred. All the houses were set light and burned to the ground.

The same unit then attacked Bosnian-Serbs in Pribicevac whilst they were attending a funeral. Most of those were old women and children. The total death toll amounts to more than 400.

SREBRENICA: On 21 June 1992, Moslem extremists attacked the remaining five Bosnian-Serb villages around Srebrenica: Dvorista, Ducici, Polimac, Gornji Raikovici and Donji Ratkovici. In those villages not a single Bosnian-Serb was left living and all the village buildings and houses were destroyed by fire.

ZITOMISLICI MONASTERY: During the last ten days, the Croatian Army in Hercegovina has burned down the Serbian-Orthodox monastery of Zitomisici and 14 more Orthodox churches in the Nererva valley, whilst at the same time they slaughtered all the villagers of Prebilovci and burned down the entire village.

The data on the aggression of the Republic of Croatia against Bosnia & Hercegovina is not yet complete and is very difficult to compile due to the ever increasing flood of new Croatian battle units flowing across the border into Bosnia & Hercegovina.

The area of Bosanska Posavina and Hercegovina are particularly heavily occupied and it is our fear that it is in these areas that the genocide is the greatest.

There is an abundance of documentation on aggression by the Republic of Croatia against Bosnia and Hercegovina and the ongoing genocide. The blockade placed on Yugoslavia makes it very difficult for us to reproduce this material, however, it is available for the world to inspect and check.

"ETHNIC CLEANSING" AGAINST BOSNIAN-SERB VILLAGES AND TOWNS

Following reports that Bosnian-Serb forces were engaged in a policy of "ethnic cleansing" as part of a political and racial process, a claim that is strongly denied, the following document offers evidence of a sustained policy of intimidation, persecution and forced eviction of Bosnian-Serbs.

1. KUPRES: The entire town of Kupres and the villages of Gornji and Donji Malovan have been completely destroyed and burned to the ground.

2. BUGOJNO: The village of Perna comprising 100 Bosnian-Serb households was completely destroyed by fire.

3. BIHAC: All Bosnian-Serb households under the control of the Moslem Territorial Defense Force have been looted and plundered.

4. BRCKO: The Bosnian-Serb villages of Bijela and Cerik have been burned to the ground.

5. ZWORAIK: The Bosnian-Serb village of Boskovici has been burned to the ground.

6. KALAGIJA: The Bosnian-Serb village of Dubica, Zole and Juginov Kuk have been destroyed.

7. ZIVINICE: The Bosnian-Serb village of Brnjica has been burned to the ground.

8. KLADANJ: The Bosnian-Serb villages of Matijevici, Olevei, Vranovici, Gradine, Miadovo, Brdijell, Oberveac, Pajici, Kovacici, Pjevor and Stupari have all been completely destroyed.

9. ROGATICA: The Bosnian-Serb village of Starcici has been completely burned to the ground.

10. MORTAR: The Bosnian-Serb village of Ruska Gora and Bogodol have been totally destroyed by fire.

11. BRATUNAC: The Bosnian-Serb village of Derventa has been totally destroyed.

12. KONJIC: The Bosnian-Serb village of Bradina has been destroyed by fire.

13. N. TRAVNIK: The Bosnian-Serb villages of Trnovac and Opare were demolished.

14. VITEZ: The Bosnian-Serb village of Tolavici was destroyed.

15. OLOVO: The Bosnian-Serb village of Cermernice was burned down.

16. SREBRENICA: The Bosnian-Serb villages of Crkvine, Opaci, Orchovica, Bibici, Biogor, Takija, Podrid, postolfe, Garasnica, Crni Vrh, Karno, Crubanovici, Jasenova, Spai, Cicevci, Pribicevac, Dvorista, Ducici, Polinci, Gornji Ratkovici, and Danji Ratkovici were burned down.

17. BASANSKI: Brod The Bosnian-Serb villages of Stjekovac and Novo Selo were demolished.

18. SARAJEVO: All Bosnian-Serb households have been plundered and all Bosnian-Serb homes in the suburb of Pofalici have been burned to the ground.

The list of totally destroyed villages and villages totally "cleansed" of Bosnian-Serbs is not complete and we are only in a position to confirm 70 such places.

BOSNIAN-SERB TOWNS AND VILLAGES WHERE THE SERB POPULATIONS HAS BEEN DISPLACED OR "CLEANSED"

In addition to the entire population of all Bosnian-Serb villages that were burned down, the following Bosnian-Serb villages have also been totally de-populated of Bosnian-Serbs by force.

The Municipality of:

1. Srebrenik: V. Spionica, V. Podpec, V. Jasenica.

2. Gradacav: V. Srnice.

3. Lopare: V. Breza, V. Miladici, V. Sibosnica, V. Visori.

4. Tuzla. V. Konjkovici, V. Kovacica, V. Pozarnico, V. Simin.

5. Han: V. Kovacevo Selo and V. Caklovicic.

All Bosnian-Serb villages in the following municipalities have been totally destroyed and "cleansed" of Bosnian-Serbs. The remaining population are either Moslem or Croat.

1. Zininice, Banovici, Kladrnj, Srebrenica (apart from Skelani), Modrica, Gracanica, Kresevo, Busovaca, Vitez, Novi Travnik, Travnik, Zenica, Gornji Vakuf, Olovo, Breza Kakanj and Vares.

MILITARY INTERVENTION BY THE REPUBLIC OF CROATIA IN THE REPUBLIC OF BOSNIA AND HERCEGOVINA

There is little doubt about the aggression instigated by the Republic of Croatia against the Republic of Bosnia and Hercegovina. Every day regular units of the Croatian Army enter the territory of Bosnia and Hercegovina. There are now full battle units of the Croatian Army in Bosnia and Hercegovina performing combat missions against Bosnian-Serb forces.

According to estimates from London, some 40,000 Croatian soldiers, in uniform are now occupying territory in Bosnia and Hercegovina.

In particular the following formations and personnel are present in the territory.

1. "Bruno Basic" regiment under the command of Ciro Crubisic, is active in the Posusje region.

2. The Second CA (Croatian Army) Battalion was transferred from Arzan to the Hutova region of Hercegovina where it has seen active service.

3. An independent CA Brigade known as the "King Tomislav Brigade" is operating in the Mostar area under the command of Mate Sarlija, nicknamed Daidza.

4. The First Croatian Army Brigade (an elite CA formation specializing in offensive action and formed in Zagreb and entirely staffed by professional soldiers) is currently in the boarder area of Zaplanik and Uskoplje and moving towards the Serb populated region of Trebinje.

5. Battalions from the fourth CA Brigade (formed in Split) is in the vacinity of Mostar.

6. The 128th CA Brigade (formed in Gospic) is currently engaged in combat action in Western Hercegovina.

7. Part of the 203 CA Brigade (formed in Vukovar) is now performing a combat role in Hercegovina having moved from the Kupres battlefield.

8. An independent CA Battalion (formed in Zadar) is located in the area of Siroki Brijeg near Citluk.

9. An independent CA Battalion (formed in Trogir) is located in the area of Neum near Metkovici.

10. 111 CA Brigade (formed in Brinja) is currently active in Hercegovina.

11. 116 CA Brigade (formed in Metkovic) is currently engaged in active service in Mostar.

12. 118 CA Brigade (formed in Makarska) is stationed in the area of Ploce.

13. The Independent Battalion of "Francopan" (made up of foreign mercenaries trained in Kumovor near Zagreb) is now located in Hercegovina. Mario Pesa a United States Citizen of Croatian extraction was arrested whilst sabotaging military aircraft. He is still in detention. It was learned that the unit was formed to engage in terrorist and sabotage activity deep behind lines and that the slogan of the unit is "no prisoners".

14. Parts of the 115 CA Brigade are still in the Hercegovina theatre of operation.

15. 2 CA Brigade (formed in Dugo Selo near Zagreb) is performing combat action on the boarder with Trebinje under the command of Boris Jastovic.

16. 163 Brigade is currently performing combat action in the Trebinje boarder area. Attack orders were intercepted on 30 June 1992 which detailed clear offensive strategy beginning with 2 Brigade of ZNG forming a development line from V. Bujici, V. Martinovici, V. Gornil Bragat and V. Knezica. These are followed by clear strategic objectives.

17. 163 Brigade is backed up, to it right flank, by a defensive force with orders to fiercely defend all positions taken by the 2 Brigade and to keep some forces in battle readyness for offensive action in the direction of V. Petraca, Zvijezda, Rupni Do and V. Glavska.

18. 163 Brigade is to be ready to take over all positions taken by 1, 2 and 4 Brigade. In command of parts of the 2 Brigade is Colonel Drago Matanovic.

The above mentioned sites are in the municipality of Trebinje, making it clear that Croat forces plan an attack on the town.

19. 4 Independant Battalion "Zrinjski" (composed of foreign mercenaries and outlaws formed and trained in Kumrovec near Zogrob) is currently located in the Livno a and has participated in the Kupres theater of operations.

20. 141 CA Brigade (formed in Split) is stationed in the area of Tomislavrod and was under the command of Colonel Zarko Tole (a former major in the Yugoslav Peoples Army). The Colonel was captured on 26 May 1992 and is still held prisoner.

21. 144 CA Brigade is momentarily located in the Livno theatre operations.

22. 126 CA Brigade (formed in Sink) is located in the area of Busko Jezero.

23. 158 CA Brigade (formed in Split) is located in the area of Tomislavgral. On 1 July 1992 Bosnian-Serb forces shot down a piston-engined aircraft of the Croatian Air Force whilst it was attacking their positions.

24. 3 CA Brigade (formed in Ostjek) under the command of Lt. Colonel Krnjak is currently stationed in the Orasfe area.

25. 103 CA Brigade (formed in Dakovo is currently engaged in active duty in the Slavonski Brod area.

26. 105 CA Brigade was formerly active in Morica and is now performing in the area of Odzak. The Brigade is commanded by Pero Stanic.

27. 107 CA Brigade is currently performing in the area of 1 under the command of * * * Miljacevic.

28. 108 CA Brigade is located on the territory of Broko with HQ in the village of Gornji Rahic under the command of Commander Miro Lovrie.

29. 114 CA Brigade (formed in Zadar) is now engaged in combat in the north Zivinice area. The HQ is in the Hotel Svatovel on the north slopes of mount Vijenac near Zivinice.

30. 122 CA Brigade (formed in Dakovo) is performing combat operations in the area of Odzark near Morica.

31. 123 CA Brigade (formed in Slavonska Pozega) is performing in the combat area around Orasle.

32. 139 CA Brigade (formed in Vrpolfe) is performing combat operations in the Bosanski Samac region.

33. 157 CA Brigade (formed in Slavonski Brod) is performing combat operations in the Bosanski Brod area.

In this area on 22 June 1992 Bosnian-Serb forces shot down a Croatian Air Force MIG-21 aircraft whilst it was performing combat operations against Serb positions.

34. 77 CA Brigade (formed in Rijeka) is now performing in the combat area of Tarcin and Pazaric near Sarajevo. The Brigade is under the command of Commander Mustars Parobic.

CONCLUSIONS

At the current time there are the following active Croatian units performing in the territory of Bosnia and Hercegovina; 17 complete brigades, parts of 6 brigades, 1 independant regiment, 5 battalions and one independent company, supported by the Croatian Air Force.

[Press Release]

WEST IGNORES PLEA OF SERBIAN ORTHODOX BISHOPS; SERB CIVILIANS HELD IN 27 CAMPS—WEST FAILS TO INVESTIGATE

"SHOCK AND OUTRAGE FOR RELIGIOUS LEADERS"

The West has not followed up on an anguished May 27 appeal by the Bishops of the Serbian Orthodox Church to immediately investigate the 27 concentration and detention camps throughout Bosnia-Hercegovina and Croatia, where Serbian Orthodox civilians—not military personnel—are being illegally held.

At their August 6 meeting in Pittsburgh, PA, the Serbian Orthodox Bishops of the United States and Canada expressed shock and outrage over the inaction and indifference of the world media, watch dog groups, and governments. They called for immediate and urgent attention to their May 27 appeal, and reiterated their urgent demand for investigations into the atrocities being inflicted on the Serbian Orthodox people in Bosnia-Hercegovina and Croatia.

According to a profusion of eye-witness reports relayed to the Bishops by members of their Church, the Moslems and Croats are illegally holding Serbian Orthodox Christians in the following concentration and detention camps: Suhopolje, Virovitica, Odjak, Duvno, Livno, Smilijan, Tornislavgrad, Bugojno, Jajcc, Bihac, Orasje, Odjak, Kosjic, Konjic, Hadjici, Ilidja, Tuzla, Bosanski Brod, Zenica, Jabianica, Kladanji, Sarajevo, and elsewhere.

The Bishops demand that the United Nations, the United States, the Red Cross, and other appropriate bodies, immediately inspect these camps.

They also demand fair and equal treatment for all the victims of the Yugoslav conflict, and call for the vigorous pursuit of human rights and justice for the innocent and suffering Serbian Orthodox people throughout the territory of the former Yugoslavia.

STATEMENT OF SERBIAN ORTHODOX BISHOPS

SERBIAN ORTHODOX BISHOPS EXPRESS SHOCK AND DISMAY—27 CONCENTRATION CAMPS HOLD SERBS IN CROATIA AND BOSNIA

While the Episcopal Council of the Serbian Orthodox Church in the United States of America and Canada expresses its profound concern and regret over the recent reports and visits to purportedly Serbian-held concentration camps in the former Yugolsav Republic of Bosnia and Hercegovina, it is shocked and dismayed over the incomprehensible lack of concern evidenced among civic and media leaders over the 22 concentration and detention camps where Serbian civilians—not military personnel—are being illegally held in Bosnia and Hercegovina.

The Bishops of the Serbian Orthodox Church in America, convened at their meeting on August 6, 1992, in Pittsburgh, PA, draw the world's attention to Memorandum of the Holy Assembly of the Serbian Orthodox church, issued at its regular session in Belgrade, Yugoslavia, on May 27, 1992, in which with pain in our souls we notified the international media of the following concentration camps opened for Serbian civilians in Croatia and Bosnia and Hercegovina; Suhopolje, Virouitica, Odjak, Dhuna, Livno, Similjan, and others , and that innocent Serbian Orthodox civilians were being killed and disposed of in the caves of Shurmancima (near Medjugorje) and Mount Velebit's Katina pit.

While other sections of this Memorandum were focused on in the world press, we were and remain astonished that our anguished plea concerning concentration and detention camps was and remains overlooked, and that the necessary investigations have not been undertaken by the appropriate watch dog groups, governments, and media outlets.

Since that time, we have been informed by our long-suffering Serbian Orthodox faithful in Croatia, Bosnia and Hercegovina, the Republic of Serbian Krajina, and the Serb Republic of Bosnia and Hercegovina, that the following, additional camps have been opened: Tamislabgrad, Bugojna (the home of slain Serb Aelja Lukic), Bugojno (the "Slauko Hadic" factory), Jajce, Bihac, Orasje, Odjak (the Odjak primary school), Odjak (the "Stolit" Firm Building), Odjak ("Novl Grad" Village), Odjak (the Paijanl primary school), Odjak (the four military warehouses), Kanjic, Hadjicl, Ilidja, Tuzia, Bosenski Brod, Zenice, Jablanice, Kladanj), and several locations in Sarajevo.

We commend the United Nations Security Council for demanding that the Red Cross be allowed to inspect these camps, and, with confidence in their intentions and abilities, we call upon this humanitarian organization to exhibit fair and equal concern for all of the victims of this tragic conflict in all areas of Bosnia-Hercegovina and Croatia. We call upon the United Nations, the United States, the Red Cross, and all other concerned bodies, to vigorously pursue human rights and justice for the suffering Serbian Orthodox people throughout the territory of the former Yugoslavia.

We also draw the world's attention to the recent, written plea of the World Council of Churches, in which Dr. Herman Goitz, Studies Secretariat for the European Council of Churches (811)(41)(22)791-6111, warned that Croatian troops are penetrating into Eastern Hercegovina where they are committing an "ethnocide" against the Serbs that "could turn into a genocide." Dr. Goitz also appealed to all ecumenical organizations to save Serbian Orthodox Bishop Alanasije of Hercegovina. Bishop Alanasije is under violent attack by Croatian forces, and has become a symbol of Serbian Orthodox suffering in Bosnia and Hercegovina.

We also express sincere regret over the uneven presentation of facts in the media. It is with great concern for the objectivity of our media, and our trust in both broadcast and print journalism, that we point out that conclusions about alleged atrocities, based on no evidence whatsoever, are all too often publicly disseminated, only to be later discredited and corrected. Our faithful member, John Shatian, a reporter currently in Belgrade, toured with journalists from England, France, Germany and the United States, the alleged site of a Serb-held Concentration Camp in Bijeljina, Serb Republic of Bosnia and Hercegovina. John writes: "Reports in the western media that Serbs were executing Croat and Moslem civilians in a concentration camp in a mine complex near [Bijeljina] are false as some 35 foreign correspondents toured the complex today without finding any sign of a camp, prisoners or bodies."

"What the journalists did see earlier at the military headquarters prison in Bijeljina was 70 Serbian paramilitary troops, who were arrested and incarcerated by soldiers of the regular army of the Serb Republic of Bosnia-Hercegovina, under the command of its leader, Radouan Karadzic. (According to Yugoslavia's Prime Minister Milan Panic, this is the first time that members of a paramilitary formation had been arrested since the start of conflicts in the former Yugoslav republics. Panic hoped Croatia and the Moslems would arrest paramilitary troops of their nationality.)"

We firmly and prayerfully desire peace for all the suffering people throughout the tragic lands of the former Yugoslavia.

The Joint Episcopal Councils of the Serbian Orthodox Church in the United States of America and Canada, Metropolitan of Midwestern America, Metropolitan of New Gracanica, Bishop of Eastern America, Serbian Orthodox Diocese of Eastern America.

THE EFFECT OF "ETHNIC CLEANSING" AGAINST BOSNIAN-SERBS IN BOSNIA AND HERCEGOVINA

[Contrasted with the Census of 1991]

Municipality	Bosnian-Serbs 1991	Bosnian-Serbs today
Morica (percent)	33.0	None
Tuzla (percent)	15.5	4.5
Zivinice (percent)	5.0	None
Kladanj (percent)	26.0	None
Banovici (percent)	14.0	None
Kalesija (percent)	18.0	None

THE EFFECT OF "ETHNIC CLEANSING" AGAINST BOSNIAN-SERBS IN BOSNIA AND HERCEGOVINA—Continued

[Contrasted with the Census of 1991]

Municipality	Bosnian-Serbs 1991	Bosnian-Serbs today
Travnik (percent)	11.0	None
N. Travnik (percent)	13.3	None
Bugojno (percent)	18.9	5.0
Derventa (percent)	40.8	5.0
B. Brod (percent)	33.8	None
Jajce (percent)	19.3	4.0
Sarajevo (percent)	33.0	7.0
Bihac	[1] 7,000	[2] 500
Livno	[1] 2,800	[3] 837
Duvno	[1] 1,000	[3] 400
Mostar (percent)	[1] 20,000	[2] 1,000

[1] Serbs.
[2] About.
[3] All in a concentration camp.

NB: In total around 300,000 Bosnian-Serbs have been displaced by "ethnic cleansing."

I have, today, instructed the Serbian forces around the town of Gorande, to begin an immediate unilateral ceasefire. I have ordered the Serbian forces in that region not to react to outside provocation, even if the Serbian inhabitants are still prevented from leaving the town. I have informed Lord Carrington and the U.N. Secretary General of my orders, I have also told them that I would welcome the deployment of U.N.-observers to Gorazde, in order to monitor the ceasefire.

RADOVAN KARADZIC.

LONDON, *16 July 1992.*

Mr. MCCONNELL. Mr. President, over the past weeks, the tragedy in Bosnia has taken a dark turn for the worse. We have all seen the agonizing images of women and children attacked as they bury babies. The pictures from death camps have shocked our collective conscience. No one can watch the unfolding horror and walk away untouched.

The resolution we are considering tries to speak to the unspeakable atrocities the world has already witnessed. It gives expression to our moral outrage and frustration over the continuing crisis.

But I caution my colleagues to look carefully at this resolution before they leap. Either this measure is a time-consuming exercise echoing the diplomatic efforts already underway or it is an authorization for the U.S. to engage in war in Bosnia.

It is either a waste of our time or it is a waste of lives. In the hours of hearings and debate in the Foreign Relations Committee some of the cosponsors argued not to worry, this is only an expression of the Senate's interest in promoting the United States to generate discussion at the United Nations about the use of multilateral force.

If indeed that is the case, let me point out that the United States is actively engaged already in just such a debate. It is going on. It went on today, and will go on tomorrow. But I think a different calculation has been going on. I think a cynical political game is being played by some in an effort to persuade the public that George Bush is not doing enough to help those suffering in the battle for Bosnia. Some of the Members and Governor Clinton needed to prove they can pull the trigger too.

I think we need to make sure, Mr. President, that American soldiers are not the victims of this ready-fire-aim approach to foreign policy. Members of this body who calculate that this will draw attention to U.S. policy shortcomings should familiarize themselves with just what has and what is being done.

You would think, Mr. President, that nothing was being done. But as we speak the United States is actively engaged in an effort at the United Nations to forge a consensus plan of action. The President is also working closely with Prime Minister Major and his European counterparts to settle differences and move forward to protect the U.N. relief lifeline of food and medicine and end the crisis.

The President's record is solid and sure. What has he done? He ejected the Serbian Ambassador, and he froze Serbian financial assets, and last Thursday he announced his intention to appoint ambassadors to Slovenia, Croatia, and Bosnia, further isolating Serbia. The administration has worked at the United Nations to impose comprehensive economic sanctions and has deployed Naval assets in the Adriatic to enforce those sanctions.

We are making a major contribution to the relief effort, and the President has consistently declared his willingness to support any multilateral military effort to protect those humanitarian operations. In fact, he has charged the Secretary of State with the responsibility to assure quick passage of a resolution authorizing all necessary means to provide humanitarian relief—all necessary means. To that end, the administration is consulting with NATO to determine how best our allies can serve U.N. goals and plans.

Mr. President, the list goes on. Last week the administration called for an emergency meeting of the U.N. Human Rights Commission to review and investigate the shocking allegations of death camps and other atrocities. As we speak 30 nations have endorsed the President's proposal and the commission is scheduled to hold an emergency session Thursday.

To complement this effort, the administration has asked the Conference on Security Cooperation in Europe to appoint a special rapporteur to report the charges, and we are moving forward on a resolution in the Security Council to urge all States to collect information on war crimes.

I think the President is actively exploring every option. I think he is on the right course. And if that is what all the sponsors of this bill would admit, in view of the facts, I would, as the saying goes, sit down and shut up.

But I do not think that is what has developed. Thursday it was said in committee that this was an effort to offer the President cover for action he might want to take. The President does not need cover. His policy has been consistent; his record is substantial and trustworthy.

Maybe it is Governor Clinton who needs cover. Frankly, I think for some that is exactly what this is all about—not for everyone, but for some. Many people thought they could craft legislation saying the President must do "more," get the headline, run from the responsibility of what "more" means.

What more means is our involvement in this conflict. I do not think we are ready to commit American troops or shed American blood in Bosnia.

Any further military options must be carried out in close consultation with the United Nations and the Europeans who have the matter in sharp focus. No one needs to tell Germany, England, or France the human toll of a battle in the Balkans. Individually and collectively, they know first hand the cold cost in blood, in lives lost.

And frankly, that bloody calculation is precisely the cause of their cautious, prudent approach. The President and our allies cannot afford to be driven by moral indignation. They must balance frustration with facts.

And when they look at the facts, they listen to General MacKenzie, whom Senator MCCAIN was quoting a few moments ago, General MacKenzie, the recent commander of the United Nations forces stationed in Croatia and Sarajevo, on his ninth peace-keeping mission. Appearing on "Larry King Live", he confirmed the factions will not turn in their weapons and observe a cease-fire as called for the by the United Nations. In expressing his amazement at the level of hostility between the warring factions—this is General MacKenzie just having come back from being on the ground in Bosnia. He said:

> The United Nations is there to help both sides, in spite of the fact that they don't understand that in Bosnia. In every other peace-keeping mission I have been involved in they do.* * * The fact of the matter is I have never seen a level of hatred like this * * * if the leaders said tomorrow, "OK let's call it quits * * * we'll sign something" I'm not sure if the momentum of hatred would let that happen.

Mr. President, There is no doubt in my mind that the crisis in Bosnia is one which has simmered, boiled, and erupted over centuries. We are witness to the most recent cycle of violence, but we should understand the history of the crisis, the number of lives lost over the centuries before we enter the fray.

As we consider our future options, General MacKenzie had further insight as to what lies ahead. Larry King asked the General to respond to the President's statement "Before I commit American forces to a battle, I want to know what's the beginning, what's the objective, what's the end," exactly the point that Senator COATS was making a few minutes ago.

General MacKenzie said:

"He's spot-on. If I may be permitted to say, the President of the United States needs clearly defined foreign policy objectives and has to think extremely carefully before he gets involved in combat in the Balkans. If we read our history, it is one extremely difficult place to fight. And you want to make pretty sure of what you want to achieve before you go in there, and you'd better be prepared to stay for a long time. * * * The Germans had over 30 divisions in Bosnia during the last war, hundreds of thousands of casualties—most of them Yugoslavs killing other Yugoslavs. If you're going in there, you're going into country God-given for guerilla type operations—better than Nicaragua, better than Salvador, better than Guatemala."

Larry King then said: You're saying, General, don't go.

General MacKenzie could not have been clearer: Yes, I am saying that.

King: Would the direct threat of U.N. force have any effect?

MacKenzie: No.

This is a United Nations peacekeeper who has served in Beirut, an objective eyewitness to the carnage and destruction, this is a trained soldier who is telling the President, "Don't involve the United States, do not go it alone."

In light of General MacKenzie's unsetting analysis, let us look carefully at exactly what the United Nations is doing. The highest priority in United Nations discussions has been the delivery of food, medicine, and humanitarian relief.

This week members of the Security Council will take up a U.S.-supported resolution to guarantee the delivery of that assistance. To my way of thinking this is a reasonable, focused use of multilateral capabilities.

Beyond humanitarian relief, the United Nations has already passed a resolution urging the factions to give up their weapons and support a cease-fire. They have not. They will not and the wanton slaughter continues.

The language reported from the Foreign Relations Committee demands that the United Nations now authorize the force necessary to capture and control Serbian and Bosnian weapons of war. By all estimates we are talking about more than 1,000 pieces of heavy artillery.

I understand that provision may have been deleted. It has been in fact been deleted.

But the amendment still requires the United Nations to authorize the use of force to be used to secure access to the camps.

It seems to me that we have substituted people for artillery. If I have to choose between protecting people or securing guns, I am obviously going to put people first.

But in debating the general goals of military force, we have a responsibility to consider how they can be achieved, whether it is liberating concentration camps or silencing the artillery, the enormous problems presented to military planners are all the same.

As my colleagues pointed out, we have reports of dozens of prison camps scattered throughout the country. To carry our stated goal to its logical conclusion that we are directing the U.N. to use force, secure camps or round up heavy weapons, we must admit that it will require significant force. That means only one thing: A vote for this resolution to direct the use of force means we, the American people, are in it for a long, bloody haul.

Air strikes alone, Mr. President, will not work. The Senate simply cannot declare goals and ignore how they are to be implemented. We cannot say we expect the U.N. to use force to protect civilians or secure camps and not understand that that will mean the commitment of ground divisions.

Some of my colleagues have made suggestions as to how that goal can be achieved without significant use of troops. I have heard some Senators, and Governor Clinton earlier, support bombing targets in Serbia. That will bring them to the negotiating table, they say. The discussion in committee, in the Foreign Relations Committee, followed this track and suggested we rely on article 42 of the U.N. Charter, authorizing "demonstrations of force." That is something we have just discussed here on the McCain amendment, which was earlier offered and subsequently withdrawn after a useful discussion of that possibility.

In fact, one draft of the amendment I saw included that recommendation. Well, I just ask, as I said earlier, any of my colleagues to point to a target. We have Serbia here. What are we going to do, pick out the targets, like President Johnson in the Vietnam war?

I confess that it borders on the absurd for Members of Congress sitting on the sidelines to tell the military exactly how to wage this war. To point out how absurd it is for the Senate to play armchair chief of staff, try coming over here and pick out a spot. Do you want to land a bomb on Belgrade? Knock out a bridge here or there? What are we going to tell the public when we attack a mobile artillery site and find out it is right next to an orphanage?

I also find the talk that bombing Serbian targets will stop the battle in Bosnia is shortsighted. Whether the Serbian Government is or is not directly coordinated and supporting the insurgence in Bosnia is really not the issue. The fact of the matter is a couple of strikes in Serbia will not stop the fighting in Bosnia. Again, we must admit they will not be surgical, clean, and simple. We will be involved on the ground, in the air, and at sea for a long, long time.

Our rhetoric and the real risk are battlefields apart. To me, the military targets are murky at best.

So when Prime Minister Major says there is no front line to this war, there is no single enemy, I think we should listen. When he unequivocally declares air power cannot be used in sufficient force to make any difference, I think we should listen. When General MacKenzie warns that the direct threat of U.N. force is unlikely to have any meaningful effect, I think we should listen. This is the reasonable advice the President of the United States is listening to, which is why the President has had the good judgment to rule out the unilateral use of American troops, and why he is engaging our allies in a determined, deliberate manner to reach a durable—repeat, durable—solution.

The President understands that this is not Iraq and Kuwait. This is Lebanon and Vietnam. The President understands that the principles of freedom and self-determination, which are in peril, are the foundation of the new world order we are shaping.

He sees this as the crisis the world shares. It is not just a European problem, but the President knows that it is essential that the European Community be a part of the answer and not be left to us acting alone to police their continent.

It is easy work to be morally indignant, to play upon the public's emotional response to the vicious cruelty splattered across every newspaper and TV screen. That can have a direct impact on the polls. But let us assume that we launched an air strike accidentally against an orphanage in Bosnia while trying to knock out Serbian artillery. I suspect that would have an enormous impact on the polls and the public, which seems to be for intervention one day would be against it the next day. Moral mandates will not stop the massacre. A strong international consensus must be harnessed to the careful use of multilateral military force. This is the President's course, which I believe the Senate should support fully.

I am apprehensive about the legislation before us as much because I believe it will require the engagement of U.S. troops in Bosnia as I am about the fact that the authors are divided by what it means. On the one hand, we have Senators who have had a longstanding interest and commitment to seeing this crisis resolved, who believe that it simply endorses the President's efforts and envisions no use of ground force.

Others, such as Senator LIEBERMAN, have said American lives may be lost because of this legislation, a view echoed in committee by the Senator from South Dakota [Mr. PRESSLER]. In the discussion in the committee, Senator PRESSLER acknowledged that this legislation commits us to the use of ground troops, that we may pay in American lives, but that it is a price we must pay as we arrive at a defining moment in history.

Mr. President, I respectfully suggest that both interpretations cannot be

correct. It is either an endorsement of the President's actions and policies, or it is a significant step as we march the United States to war. The resolution cannot be both. These are mutually inconsistent.

So I believe the decision we must admit we are faced with today is whether we should use American military troops in Bosnia. Mr. President, I think the answer is clearly no, and upon adoption, I will indeed vote "no."

Mr. President, I yield the floor.

Mr. COHEN. Mr. President, I yield 5 minutes to Senator BURNS.

The PRESIDING OFFICER. The Senator from Montana is recognized for 5 minutes.

Mr. BURNS. I thank my friend from Maine for yielding 5 minutes. I know it is getting late at night.

Mr. President, I do not think I have listened to a debate on this issue as closely as I have listened to this one. I do not serve on the Foreign Relations Committee. But I know that this is a very, very serious moment for this country and for this body and for this President. I imagine he is spending many hours just trying to figure out how to deal with it, because in this country—coming back from my home State of Montana, where I had an opportunity to visit with a lot of folks who still have family in Yugoslavia, both from Montenegro, and Serbia, and Croatia, I have found that no one likes to commit troops, and I have to believe that in this country there are enough related people and talented people that may be in the area of like the Senator from South Dakota said, small-country diplomacy; I think we have an opportunity here.

I really believe that is what President Bush wants to do, and I support him in that. In private consultation with the President, we know that is the preferred action.

I, too, like the Senator from Indiana, have a troubled mind, because we really do not define what this resolution does, and I think the whole world is watching us. I do not hear great speeches being made in other parliaments, especially in Europe, Western Europe, on how to deal with this or committing any kind of dollars or manpower to solve it.

Maybe it is because they understand the area. They still remember very vividly those days of World War II when over 30 divisions of Hitler's troops not only did not disarm that population, they fought each other then, plus the Germans. So you can say nobody won.

I visited Yugoslavia, and I have traveled there along the Adriatic, and I can tell you those mountains over there are solid granite. And if those people for their own preservation and the preservation of their society as they know it will retreat into the hills, you will never get them out no matter how many troops you commit.

So I would suggest to the President, I would suggest to this body, that we look for those people who are citizens of the United States that have families there, that maybe there is a chance drawing these people together. And why could we not use those people, why could not the Foreign Relations Committee and the Senators that serve on that committee form a delegation and, yes, take a step in the right direction and say, hey, we would like to try before we commit troops to stand in harm's way?

We have had advice from military people that have seen combat that have tasted it, and they advise this is dangerous. We have talked to people who were raised in Yugoslavia and they tell us do not go because they not only have a working knowledge but also family and history of the area.

The debate has gone on, but I think it sends a strong message to the President, and if there is one thing we do not want to do is put the President in a position to where you set your spurs so deep you cannot get loose.

So let us try. Let us enlist those people who are here that speak all of the languages in the area from Serbia, Croatia, and Montenegro. Let us try. I think it is worth a shot, a shot of bringing peace to that area without putting American lives in harm's way or taxing a Treasury that right now cannot afford it.

There is not one person in this body that is not sensitive to the conditions going on there now, not one person in this body. There is not one person in this body that can accept what is going on there now.

The PRESIDING OFFICER. The Chair informs the Senator his 5 minutes expired.

Mr. BURNS. I ask unanimous consent to have 30 seconds to sum up.

Mr. COHEN. I yield the Senator a minute.

Mr. BURNS. Not one person is not sensitive to that and not one person in this body is not sensitive to the fact that, yes, with the jet engine and with satellite communications, this Earth is only as big as this inkwell tonight.

What happens thereafter affects all of us. We must try to solve it in a peaceful way.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Maine.

Mr. COHEN. I yield myself 1 minute.

AMENDMENT NO. 2927

(Purpose: To ensure U.S. military personnel are proceeding with the full commitment and support of the American people)

Mr. COHEN. Mr. President, on behalf of the Senator from Colorado [Mr. BROWN] I have an amendment which has been cleared on both sides, and I would just recite it, briefly.

In the resolve clause, add the following new subsection: "No U.S. military personnel shall be introduced into combat or potential combat situations without clearly defined objectives and sufficient resources to achieve those objectives."

This has been cleared on our side and cleared on the majority side, and I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. BIDEN). The Clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Maine [Mr. COHEN], for Mr. BROWN, proposes an amendment numbered 2927.

Mr. COHEN. 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:

In the resolved clause, add the following new subsection:

"(4) No United States military personnel shall be introduced into combat or potential combat situations without clearly defined objectives and sufficient resources to achieve those objectives."

The PRESIDING OFFICER. Do both Senators yield back their time?

Mr. COHEN. I yield back.

Mr. PELL. I yield back the time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the amendment.

So, the amendment (No. 2927) was agreed to.

Mr. PELL. Mr. President, I yield 5 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I rise in support of the resolution. I think there are a few things we know from history. One is when an empire shrinks or disintegrates, there is a certain amount of difficulty and chaos. It was true with Britain in India, Pakistan, and now Bangladesh. It was true for the United States when we withdrew from the Philippines. It is true for the disintegration of the Soviet Union. It is true for Yugoslavia.

This resolution as the Presiding Officer, Senator BIDEN, has pointed out is not partisan. People from both sides are sponsoring it, including the minority leader and the at least temporary ranking member of the committee and the former chairman of the Foreign Relations Committee, Senator LUGAR, and it was about 8 weeks ago, Mr. President, that the Secretary of State came to our Foreign Relations Committee and said the time has past for just words. We have to learn from history. And the lesson of history I think is very clear. You cannot let situations like this multiply. And if we do nothing, we will have those situations multiply.

For those of us who voted against the use of force at that point in the Iraq-Kuwait situation, Iraq was in a very different situation so that an economic embargo would work against Iraq.

Mr. MOYNIHAN. Exactly.

Mr. SIMON. In the case of Serbia, at best, it is 50 percent effective. So that an economic embargo hurts but is not doing the job.

No one here that I have heard has suggested that we should use ground troops at this point. We are talking about a limited use of air power.

But one of the problems that we face is that we either authorize the use of force or we do not, and when we authorize the use of force we do not know whether we are talking about 500,000 troops or 5,000.

That is why the bill introduced by the Senator from Delaware [Mr. BIDEN] to authorize the limited use of force by the President of the United States when the Security Council authorizes the use of force, I think, makes a great deal of sense. And I am working with the Senator from Delaware to try and help shape that so maybe we say you can use 2,000 American troops who are volunteers from our Armed Forces in this kind of a limited response.

What is clear is if we sit back and just morally posture this is a terrible thing that is going on over there and do nothing more, we will be condemned by history, and we will be inviting problems down the road that I cannot tell you what they are, and when we hear talk about ethnic purity, I shudder. One of the reasons, also, I believe it is in our long-term best interests here we have a situation where among the targets, the principal targets, Moslems in Bosnia and there are those in the Moslem world who say a nation that is predominantly Christian, like the United States, will not respond when Moslems are being attacked by Christians.

I think it is important that we stand up on the principle that you cannot violate the borders of any country. We ought to guarantee air power so that we can get the food and medicine not just into Sarajevo but into other beleaguered communities.

I heard my friend from Kentucky.

Mr. President, I ask unanimous consent for 1 additional minute.

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

Mr. PELL. I yield 1 additional minute to the Senator from Illinois.

Mr. SIMON. Mr. President, I heard my friend from Kentucky say air strikes alone will not work. I am old enough and, with all due respect to the Presiding Officer, he is old enough now to remember the Berlin airlifts when some people said air power alone is not going to do the trick. The Berlin airlift worked.

I am not standing here and saying that air power alone will do the trick. I am standing here saying making speeches on the floor of the Senate and making speeches from any other forum is not going to do the trick. We have to show a willingness to protect these people and we have to do it at some risk.

Mr. President, I yield the floor.

(Later the following occurred and appears at this point by unanimous consent.)

Mr. BIDEN. Mr. President, I would like to briefly comment on the remarks of the Senator from Illinois. I want to thank him for his words of support for a bill I have introduced, Senate Joint Resolution 325, the Collective Security Participation Act. That bill would reaffirm section 6 of the U.N. Participation Act, which states that if the President negotiates a special agreement with the Security Council to make U.S. forces available under article 43 of the U.N. Charter, it shall be subject to the approval of Congress.

I plan to conduct hearings in the Foreign Relations Committee next month, and I look forward to Senator SIMON's participation.

I simply wanted to make clear that the resolution to which the Senator from Illinois was referring was my bill and not the resolution pending before the Senate.

The PRESIDING OFFICER. Who yields time?

Mr. COHEN. Mr. President, I yield 15 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized for 15 minutes.

(Mr. SIMON assumed the chair.)

Mr. GORTON. Mr. President, with all respect to my close friend from the State of Illinois, the resolution upon which we are called to vote is very specific with respect to what it asks us to seek authorization for from the United Nations, and I quote the operative words: "military force to ensure the provision of humanitarian relief in Bosnia-Hercegovina and to gain access to refugee and prisoner-of-war camps in former Yugoslavia."

There is nothing limited in that authority. No limitations to antiseptic air strikes. No statement of limited military force at all, military force presumably sufficient to reach those goals.

This is not a county fair or a picnic which we are asked to authorize the use of American, among other, forces for.

On several occasions during the course of this debate, former Secretary of Defense Weinberger has been quoted with respect to six conditions he felt necessary when we weigh the use of American combat forces abroad. For the purposes of my remarks, I need only refer to the first three.

First, Secretary Weinberger stated the United States should not commit forces to overseas combat unless the engagement or occasion is deemed vital to our national interests.

Second, that if we do make such a decision, we must do it with the clear intention of winning and the commitment of forces necessary to achieve those objectives.

Third, if we make such a decision, we should have clearly defined political and military objectives.

The senior Senator from New York, who just a moment ago left the floor, apparently this afternoon had a substitute for those rules. He stated that this was a moral question and that our intervention was determined by the answer to that moral question. Evidently whenever the morality of the question is sufficient, we should ignore the wise counsel of the former Secretary of Defense and simply "do what is right."

But if we should succeed in ensuring humanitarian relief and gaining access to refugees and prisoners of war, what have we gained, Mr. President? In order to do that, we must secure communications with dozens—perhaps 50, 60 or 100—of locations within Bosnia-Hercegovina by military force, all with tenuous lines of communications along roads and river valleys surrounded by hills from which snipers apparently can act unimpeded.

But what have we gained? Half or more of the ethnic cleansing, which is apparently the goal of the Serbs, has already been accomplished. Serbia has already accomplished most of its goals.

Is it an appropriate military objective simply to provide relief to a half dozen cities and to two or three dozen concentration camps? Is not the real goal a free Bosnia, its independence, which has been recognized both by this country and in the resolution on which we are asked to vote?

Do we seriously think that we can restore the status quo ante that we can get these three quarreling factions, whose differences have occupied half a millennium, to return to their homes to forget all this violence and to live in peace together? Or is our implicit goal some kind of partition of Bosnia? Or is it the removal from Bosnia of all of the Serbs who have taken up arms against their neighbors? What is our goal and how will we achieve it?

I tell you most earnestly, Mr. President, we are not going to achieve that security by a few isolated air strikes.

I listened to the junior Senator from New York early this afternoon saying the air strikes can go at Serbia itself; that is the cause of the problem. We can knock out communications systems and powerplants in Belgrade.

I find that a fascinating prescription when it is precisely in Belgrade that we have tens of thousands, perhaps hundreds of thousands, of Serbians who are on our side, who demonstrate, sometimes daily or weekly, against their own government. So presumably it is their power and their communications we are to knock out in order to discipline their kinsmen in Bosnia-Hercegovina. We will simply create more enemies for ourselves rather than fewer by such a course of action.

Before we vote for this resolution, this Senator wants to know how much air power will be necessary to attain these ends. How many casualties among American airmen will we be willing to sustain to attain this end? How much in the way of ground support are we willing to supply? Between ourselves and our allies, 30 divisions were insufficient for the Germans during the course of World War II.

And how many of those divisions will come from the United States? How many from Germany? How many from Moslem countries? How many from France and from the United Kingdom?

How long are we willing to stay? If all we are to do is to provide relief and not settle the underlying quarrel, we will be there being shot at for a long time, Mr. President, an extremely long time.

How many casualties are we willing to sustain? We should decide that before we start this adventure, Mr. President, not after it is half accomplished.

How do we determine when we have won? Only when there is a peaceful Bosnia? Only when there is a peaceful Yugoslavia? How long has that peace been absent? And how long will we wait until we return?

It may well be that sanctions and a blockade will not work. Unlike the previous speaker, I do not agree that they would have worked in Iraq or that there is the slightest evidence that they work even today for limited objectives there. And I certainly make no claim that they will work, even though they will impose some difficulties on Serbia, at the present time.

This Senator sees an unsatisfactory but better solution, and it is a solution which has both the weight of history and the weight of success behind it.

Bosnians wish to be free. They have a right to be free. Let us arm them and let them establish their own freedom. We have higher quality weapons than the Serbians have. We can make this a fair fight and perhaps a winning fight without risking our lives and the lives of our European allies.

It is utterly absurd, Mr. President, that we should have an arms embargo which penalizes effectively only those in Bosnia and Croatia, who are fighting for their freedom, and has no adverse impact on the aggressors whatsoever.

Mr. President, in this case, the President of the United States has already gone too far, and we propose to go further. For once in the history of this body, we should exercise our God-given ability to remain silent, to let the President of the United States set our policy, to let the United Nations set its policy, and to make our determination as to what to authorize without having committed ourselves in advance to a U.N. solution we know not the outlines of.

It is sufficient for us to debate that resolution after it has been passed, after we have a specific proposal, after we have some determination as to what our political goals are, after we have expert military advice as to what it will cost us to attain those goals, and after we have a far better determination than we do today as to how long we are willing to pursue these goals, and at what cost in treasure and in blood.

This resolution, no matter how modified—and all of its modifications have been for the good so far—no matter how modified, is of grave danger to the United States, of grave danger to the United Nations, of danger to the cause of peace, and should be rejected out of hand.

The PRESIDING OFFICER. Who yields time? The majority leader is recognized.

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9——

Mr. President, I had begun to propound a unanimous consent request, which I had been advised was cleared on both sides. I am now advised there is an objection on the Republican side.

I will withdraw my request, awaiting the arrival of the Senator who wishes to express the objection.

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

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

AMENDMENT NO. 2928

(Purpose: To express the sense of the Senate regarding the importance to Romania of the Romanian national elections scheduled for September 27, 1992, and any run-off elections, being conducted in a free and fair manner)

Mr. PELL. Mr. President, on behalf of Senator BYRD, 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 Rhode Island [Mr. PELL], for Mr. BYRD, for himself, Mr. MITCHELL, Mr. BOREN, Mr. DECONCINI, Mr. REID, Mr. SPECTER, Mr. D'AMATO, Mr. FOWLER, Mr. MURKOWSKI, Mr. BIDEN, Mr. PRESSLER, Mr. DODD, Mr. KERREY, Mr. MOYNIHAN, Mr. LIEBERMAN and Mr. KENNEDY, proposes an amendment numbered 2928.

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

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

The amendment is as follows:

At the end of the resolution, add the following:

SEC. . (a) Congress makes the following findings:

(1) National elections for the President and Parliament of Romania are scheduled to be held on September 27, 1992.

(2) Romania lacks an historical tradition of political democracy.

(3) The Romanian elections of 1946, in a major step toward the Soviet and Communist enslavement of Eastern Europe, were fraudulently manipulated to bring the Communists to power.

(4) Romania, since the violent overthrow of the Communist Ceausescu regime in 1989, has professed to pursue a democratic course.

(5) Progress toward achieving democracy has been marred by acts of violence, perpetrated by groups of miners in June 1990 and September 1991, that were aimed either at suppressing political dissent or at undermining the democratic institutions of the Romanian government.

(6) In February 1992, the first free and fair local government elections in a half century were held in Romania.

(7) There are many encouraging signs that the parliamentary and presidential elections scheduled for September 27, 1992, can be fairly and democratically conducted.

(8) Among those signs is the recent enactment of legislation in Romania that creates an audiovisual council with the responsibility for fairly allocating radio and television access to the various candidates.

(9) Although international human rights monitors have observed that Romania has made progress in the area of human rights, the monitors have also identified significant unresolved problems with regard to free speech, the activities and control of the Romanian Intelligence Service, and the rights and treatment of minorities.

(10) Recent press reports indicate that Romania may be serving as a conduit for the transport of goods to Serbia and Montenegro in contravention of United Nations sanctions.

(11) A bilateral United States-Romanian trade agreement, which was signed on April 3, 1992, has been submitted to the Senate.

(12) To become effective, that trade agreement must be approved by the Senate.

(13) The support of the Senate for extending the favorable aid and trade treatment needed to help improve the performance and growth of the Romanian economy will depend heavily on the conduct of the fall election campaign and on the election day procedures.

(14) In considering the trade agreement, the Senate will also take into account Romania's record on human rights and its compliance with the United Nations sanctions against Serbia and Montenegro.

(15) The development of democratic procedures and institutions in Romania is at a critical stage, and the elections scheduled for September 27, 1992, represent an historic test of the commitment of the Romanian leadership and political system to developing such procedures and institutions.

(b) It is the sense of the Senate that—

(1) the elections for the President and Parliament of Romania that are scheduled to be conducted on September 27, 1992, will be an important measure of Romania's progress toward democracy;

(2) those elections should be conducted in a free and fair manner that includes reasonably equal access to the mass media by the major candidates;

(3) the Secretary of State should initiate an international effort to ensure that a sufficient number of United States and inter-

national observers are placed in Romania to monitor the scheduled elections, and any run-off elections that may be held, in order to ascertain whether such elections are conducted in a free and fair manner; and

(4) consideration by the Congress of any legislation to grant nondiscriminatory (most-favored-nation) trade status to Romania should be withheld until the Secretary of State has certified to the Senate that the elections in Romania scheduled for September 27, 1992, and any subsequent run-off elections that may be held, are conducted in a free and fair manner.

Mr. BYRD. Mr. President, I am offering an amendment expressing the Sense of the Senate, on behalf of myself and the distinguished majority leader, Mr. MITCHELL, Mr. BOREN, the chairman and other members of the Helsinki Commission, Mr. DECONCINI, Mr. REID, Mr. SPECTER, Mr. D'AMATO, and Mr. FOWLER, as well as other Senators concerned about developments in Romania, Mr. MURKOWSKI, Mr. BIDEN, Mr. PRESSLER, Mr. DODD, Mr. KERREY, Mr. MOYNIHAN, Mr. LIEBERMAN and Mr. KENNEDY pertaining to the upcoming Presidential and Parliamentary elections in Romania. While I would have preferred to offer this in the form of a free-standing resolution as it was originally drafted, rather than as an amendment to this measure, we have been unable to get unanimous consent to bring the measure up on the floor. Because of the time-sensitive nature of this issue, for the Resolution to have the desired effect on developments in Romania, it should be considered expeditiously. Consequently, I feel I must bring it to the attention of my colleagues at this time.

The manifestation of democracy in Romania is an important part of the historic and dramatic shift away from communism and dictatorship in the countries of the defunct Soviet Empire and Warsaw Pact in Eastern Europe. These nations are shaking off decades of crud and crust piled upon them by Soviet occupation and corrupt Communist dictatorships. After decades of life under the Soviet imposed dictatorial boot, in some of the nations of Eastern Europe progress has been swift, such as in Czechoslovakia and Poland, yet in others, important work remains left to be accomplished to put into place stable democratic institutions and practices. Romania falls into this second category and is facing an extremely important test of its progress this fall when presidential and parliamentary elections are scheduled to be held. It would be fair to say that Romania faces a watershed in its progress toward real working democracy.

There have been some encouraging recent signs that these elections will be held freely and fairly, and with reasonable access to the audio-visual media for the competing candidates. Local elections were held in February 1992 and have generally been given good marks for procedural fairness and peacefulness, free of intimidation or harassment from holdovers of the previous Communist regime of the irrational dictator, Mr. Ceausescu, and his family.

Nevertheless, there have been indications pointing in the wrong direction as well. Romania has seen its share of violence during the last 5 years. Unlike the so-called velvet revolution in Czechoslovakia, the Ceausescu regime was overcome in the midst of violent street battles in December 1989, and he and his wife were preemptorily killed execution-style without a trial. Since the elections of 1990, peaceful street demonstrations have been marred by the regime's use of miners to brutally suppress such demonstrations. In addition, and of real concern for the elections this fall, the current Parliament, dominated by the regime in power, enacted legislation which restricts the role of domestic observers at the polling places, putting the question of the conduct of the elections under some cloud. While an atmosphere of fear and intimidation no longer pervades Romania, concern has been expressed over restrictions that have been imposed on domestic observers, as well as the overwhelming control that the current regime has over access to TV broadcasting.

Romania's economy has been struggling to overcome the command practices of the former Communist states, and is committed to free-market principles. Nevertheless, the transition has proven difficult and the GNP declined over 10 percent last year and may decline even more this year. One item that Romania badly needs to help stabilize its economy and as a signal to international investors, is the passage by this body of most-favored-nation trade status with the United States. Such an agreement has been signed by the administration and submitted to the Senate for its approval. However, Mr. President, I believe that the Senate must make clear its concern over the future of democratic institutions in Romania by withholding approval of MFN until the elections have been held and it has been determined that the outcome was the result of free and fair procedures, with reasonable access to the media for the competing candidates. By doing so, we are giving the Romanian leadership an important incentive to make sure that this is in fact what does occur.

In addition, it is important that an effective delegation of international election observers be present to ascertain that these procedures and principles have been followed. Accordingly, the amendment calls for the Secretary of State to take a leadership role in putting together a credible and effective international observer delegation for both the elections of September 27, and any run-off elections that might be necessary subsequent to that.

Thus, the purpose of the amendment we are offering is to send a clear message to the leadership and competing parties in Romania that the conduct of the upcoming elections is a critical litmus test for future relations with the United States; that free, fair, and open campaigning and proper conduct of the polling apparatus will be of the utmost importance; and that a stable, growing and favorable economic relationship with the United States will be very much dependant upon what happens in that process.

I urge all my colleagues to support this amendment and the progress of democracy taking firm root in Romania.

Mr. DODD. Mr. President, I rise to join the distinguished chairman of the Appropriations Committee on the introduction of this amendment, and I want to commend him for his effort on this very important subject.

Mr. President, there can be no doubt that the Romanian Government has taken remarkable strides toward democracy and freedom since the fall of Nicolae Ceausescu in 1989. And there can be no doubt that the favorable trade treatment accorded under MFN status would certainly help the Romanians strengthen their progression to free markets and true democratic pluralism.

But for all that has changed in Romania over the past few years, there is much that still remains the same. Parliamentary and presidential elections, once scheduled for the spring, have now been postponed until September 27. Access to the media remains severely limited. And the recent resurgence of anti-Semitism, along with the continued discrimination against ethnic Hungarians and gypsies, serve as stark reminders that half a century of Communist rule is not easily overcome.

And so the question on MFN status, Mr. President, is not so much a question of whether but rather when. We all agree that extension of most-favored-nation status would be beneficial to the Romanian economy. But it is for exactly this reason that MFN is a useful instrument in bringing about positive change. Grant MFN too quickly, and we will have lost a unique opportunity to help foster true democracy in Romania.

Accordingly, Mr. President, this amendment is a simple one. It states the will of the Senate that MFN should not be granted until free and fair elections have been held in Romania. Certainly this basic test of democracy is a reasonable price to pay for normalized trade relations with the United States.

Mr. President, while I strongly support this amendment and commend the Senator from West Virginia for sponsoring it, I want to make clear my belief that the Romanian commitment to democracy must extend beyond the issue of elections. In fact, on July 24, 13 Senate colleagues and I sent a letter

regarding this issue to Secretary of State James Baker.

In the letter, which I will submit for the RECORD, we spelled out the areas in which we will look for substantial improvements as we consider approval of MFN for Romania. Those areas include the holding of free and fair elections, the establishment of civilian control over the Romanian intelligence service, the operation of an independent media, and the protection of human rights and civil liberties, including the rights of minorities.

It is my sincere hope that the Romanian leadership will undertake legitimate reform in all of these areas between now and September. And it is my hope that the State Department will do everything in its power during that time to encourage Romania to bring about these changes.

Mr. President, I know MFN was not designed as a political tool. And I know many members of this body are hesitant to use it as one. But today in Romania, it is not just democracy and human rights that are on the line, but the permanent emergence of a nation from half a century of Soviet rule. If a delay in MFN can possibly help democratic change take root in Romania, that seems to me a chance well worth taking.

I ask unanimous consent that the letter to Secretary Baker, signed by 14 Members of the Senate, be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, July 24, 1992.

Hon. JAMES A. BAKER III,
Secretary of State, Department of State, Washington, DC.

DEAR SECRETARY BAKER: As the U.S. and Romania continue to chart a course for closer political and economic relations, we are writing to let you know of our concerns about the issue of Most Favored Nation (MFN) status for that country.

We believe the eventual restoration of MFN status to be an important step for Romania as it faces up to its serious economic challenges. Indeed, we look forward to the day when Romania casts off the last vestiges of its autocratic legacy and becomes a full-fledged member of the family of democratic nations. Sadly, that day has not yet arrived.

As we understand it, the Administration has set down three markers for the restoration of Romania's MFN status: free and fair elections, an independent media, and civilian control of the Romanian Intelligence Service (SRI). We support these goals and would add a fourth: the protection of human rights and civil liberties, including the rights of minorities. Before supporting the restoration of MFN, we will look for significant progress in these areas.

In the area of elections, once-promising progress has recently been set back. We are deeply troubled by the recent decision to postpone elections until the fall, a further setback for this fundamental test of democracy. Furthermore, the election law now under consideration would eliminate or severely restrict domestic observers, contravening the spirit of the CSCE Copenhagen Document. And other serious problems remain, notably the existence of a county perfect system which gives broad power to centrally-appointed officials.

We will also look for improvement in the tolerance and protection of an independent media. Independent and opposition reporters continue to be subject to harassment and arbitrary denial of press privileges. The long-awaited establishment of an independent nationwide television station has not yet been achieved. And minority language television broadcasts—effectively halved under a February 3, 1991 order—have not been reinstated.

As for civilian control of the SRI, limited progress has been made to place this agency under suitable civilian control and to abandon ties with the former Securitate. Indeed, we view the recent appointment to the SRI leadership of Ion Talpes—a former advisor to President Ion Iliescu with well-established ties to the Securitate—as a serious setback. Furthermore, the Romanian Government has yet to adequately distance itself from extremist, SRI-supported entities such as the anti-Hungarian Vatra Romaneasca and anti-Semitic publications such as Romania Mare and Europa.

Finally, the protection of basic human and civil rights—especially where applicable to minorities—has been uneven at best. Three months ago, for example, the Mayor of the City of Cluj unilaterally cancelled a conference involving an ethnic Hungarian political party and issued a autocratic ban on bilingual signs. He has also led efforts to evict the Hungarian youth organization Madisz and the Hungarian journal Korunk from their offices.

At the national level. Romanian officials continue to limit television broadcasts in Hungarian, refuse to re-open the Hungarian Bolyai University in Cluj, and have introduced a draft Education Law which would eliminate Hungarian-language instruction in all medical technical and business schools. And ethnic Hungarians and Gypsies who have been victims of anti-minority violence lack suitable legal protection and remedies, while many have been imprisoned on false charges.

Modern Romania has reached a turning point. Today its political leaders must decide, once and for all, whether they are truly ready to embrace democracy and its ideals. With a firm and principled hand, the United States can play a positive role in this historic moment—or we can sit on the sidelines. The process of restoring MFN status presents the United States with a unique opportunity to encourage true and lasting democratic reform in Romania. Let us not waste it.

We appreciate your prompt consideration of this matter, and we look forward to hearing from you at your earliest convenience.

Sincerely,

Christopher J. Dodd, Joseph I. Lieberman, Paul Simon, Brock Adams, Alan J. Dixon, Edward M. Kennedy, Claiborne Pell, Alfonse M. D'Amato, Dennis DeConcini, Frank R. Lautenberg, Daniel K. Akaka, Jesse Helms, John Glenn, George J. Mitchell.

Mr. DECONCINI. Mr. President, I am pleased to be an original cosponsor of this amendment, regarding the upcoming parliamentary and presidential elections in Romania, and I commend my colleague Senator BYRD for introducing this timely amendment. It sends a clear and simple message to the Romanian authorities: The preparation and administration of the September 27 elections will be a critical component of our consideration of most-favored-nation trade status for Romania.

Mr. President, Romania stands at a critical point in its journey toward democracy. Despite the brave hopes of those who toppled the Ceausescu regime in the bloody street battles of December 1989, this journey has been difficult from the start—besieged by political instability, occasional violence, and a debilitating legacy of mistrust. Progress in the area of human rights has been hampered by unresolved problems with regard to free speech, the activities and control of the Romanian Intelligence Service, and the rights and treatment of minorities.

Over the past year, nonetheless, Romania has taken a number of important steps. Prime Minister Theodor Stolojan and his caretaker government have overseen the adoption of a new Constitution, the continuation of economic reforms, and the holding of local elections in February 1992, that made considerable progress toward meeting CSCE standards and guidelines.

The local elections were noteworthy not only for their procedural improvements relative to the general elections of May 1990, but also because they demonstrated a major shift in the political inclinations of the Romanian voters. The Democratic Convention, an opposition alliance, won the majorships of many important urban centers, including the capital, Bucharest. The ruling National Salvation Front, in contrast, saw its support decline precipitously—from 66 percent to 33 percent of the vote.

Unfortunately, developments since then have been less than encouraging. The general elections, originally slated for May, were ultimately postponed to September. Furthermore, the parliament passed electorial legislation purporting to restrict the role of domestic observers, contravening the spirit of Romania's CSCE commitments.

I firmly believe, Mr. President, that the upcoming elections represent an important test of the Romanian authorities' commitment to democratic procedures and institutions. Our resolution asks the U.S. Secretary of State to initiate an international effort to ensure a sufficient number of United States and international observers to monitor the elections and runoffs; the Helsinki Commission, of which I am cochairman, will also be sending a staff observer, and I understand that the National Democratic Institute and the International Republican Institute have plans to organize a joint observer mission, as they did for the elections of May 1990 and February 1992.

Delaying congressional consideration of most-favored-nation status adds extra incentive for all forces in Roma-

nia to ensure that the September 27 elections are truly free and fair, and to anchor the foundations of democracy and rule of law. I urge my colleagues to join me in support of this important amendment.

Mr. PELL. Mr. President, this amendment concerns the forthcoming democratic elections in Romania. It has been cleared on both sides. I hope we can consider it.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, my understanding is it has been cleared by Senator DOLE and the staff.

The PRESIDING OFFICER. Is there further debate? If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2928) was agreed to.

Mr. PELL. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. PELL. 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. COHEN. 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. COHEN. Mr. President, may I inquire, does the Senator from Alaska wish to proceed with a discussion of his amendment at this time?

Mr. STEVENS. Mr. President, I will be happy to do that. I have been waiting. I will be happy to yield to the leadership at any time they wish to proceed with the unanimous-consent agreement that I have already looked at, if that is in order at this time, Mr. President.

AMENDMENT NO. 2929

(Purpose: To express the sense of the Senate regarding authorization of multilateral action in Bosnia-Hercegovina under Article 42 of the United Nations charter)

Mr. STEVENS. 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 Alaska [Mr. STEVENS] proposes an amendment numbered 2929.

At the end of the resolution, insert the following new section.

(4) The United States Senate pledges to provide such funds as are necessary for United States participation in such humanitarian relief and multilateral military force activities, pursuant to such mandates as may be adopted by the United Nations Security Council, consistent with the terms of this resolution.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, it is my intention to ask for a vote on this. I will explain why later. But I do want to point out the agreement that is going to be entered into will specify that this amendment will be voted on tomorrow, after 30 minutes has expired on this amendment tomorrow.

I will address it slightly tonight.

I would like to start off, though, with just a question to the two leaders on this resolution. It is my understanding that the basic resolution does not really authorize the commitment of forces to the mandates that are to be sought from the Security Council, but that it will contemplate there will be another resolution brought before the Congress if we are to provide the President with authority to commit U.S. forces abroad pursuant to such a mandate.

Is that correct?

Mr. COHEN. Will the Senator yield?

Mr. STEVENS. Yes.

Mr. COHEN. That is a matter that is open to constitutional debate, Mr. President. It is the understanding of the Senator—I believe I can speak safely for the Senator from Delaware, who is no longer with us this evening, but had to drive back home—that he believes that this particular resolution does nothing in the way of authorizing the President to commit U.S. forces into that region without first coming back to this body and to the House.

I might point out, if we are drawing parallels with what took place with respect to the Persian Gulf, at that time President Bush expressed some questions as to whether or not, constitutionally, he was required, once having sought and gained authority from the United Nations—whether or not he was required to come back and seek authority for him to go forward in the Persian Gulf from both Houses of Congress.

That is a matter which cannot be resolved by anything that we do. We can neither grant greater constitutional powers to the President than he has, nor can we subtract any constitutional powers that he currently has.

So on that matter I believe I can say it is the understanding of the Senator from Delaware, and it is my fervent belief as well, that this resolution simply urges the President to seek U.N. action and, following that authority that might be granted by the United Nations, whatever that authority might be, the President would be obliged to return to the Congress to seek specific authority to use force.

But that, again, is a matter of constitutional interpretation.

Mr. STEVENS. Mr. President, I am delighted to hear that. I was one of the Senators who called upon the President of the United States after a visit to the Persian Gulf, following the invasion of Kuwait by Iraq, and urged the President to seek a resolution authorizing the use of force.

I understand this first section of the resolution, which is a sense-of-the-Senate, to mean that we are calling upon the President to seek an emergency meeting of the U.N. Security Council to authorize, under article 42, all necessary means for the use of multilateral military forces under a Security Council mandate; that that is not, in effect, the same type of resolution we passed for Kuwait. And we passed that resolution after the mandate.

That is the reason in this amendment I have just offered that we have the final clause which says "consistent with the terms of this resolution." Because I certainly do not want this resolution to be, in any way, interpreted to amend the basic resolution in a manner that would be interpreted to be a finding, now, that such force is authorized by the Senate by this resolution.

Mr. STEVENS. Mr. President, as I indicated, I am constrained to mention an experience before the State legislature of Alaska, the times that we spent debating resolutions. They were memorials and petitions sent to the Congress of the United States. We labored long and hard on those resolutions and sent them here. When I came to the U.S. Senate, I found that such resolutions are received by the clerk, given to the Secretary of the Senate to promptly, formally reply and thank the Alaska legislature for their resolution, and that is the end of it.

I suggest this is a Senate resolution, it is a sense-of-the-Senate resolution, and sometimes I think that we overemphasize the impact of what we are doing. But it is true that it will have a binding effect on the President, I think, because I do think that he will and has and does listen to the U.S. Senate when we seek his cooperation and when we particularly support his action, as we have in this resolution. We have, after all, endorsed the position taken by the President of the United States.

I first heard about this resolution last week, and it was my intention to join in supporting it because I thought it was a resolution to support what the President had outlined he wished to do. I heard some comments on the floor that led me to believe that may not be a unanimous position of the Senate. But at least from the point of view of this Senator, I intend to support this resolution, and I will support it whether or not my amendment is adopted because I believe that the President of the United States does support it and that this is the course he wants to take and will take and we are really reinforcing his position.

Let me cite just a few things, and I will not take the time of the Senate for too long. I want to put some things in the RECORD. I do believe the situation is similar to Kuwait in some aspects. I believe we must have a U.N. mandate to proceed with the use of force in this

area; that it must be a multilateral force; that no action of the U.S. military should take place outside of the framework of the United Nations; and that we should realize that in this instance it is necessary to have a proportional participation by our allies in such a multinational force. That, of course, would mean that we would be linking our participation with that of our allies in Europe.

I heard it called for U.N. action. I heard another call for NATO action. Clearly, this is primarily a U.N. mission that we are seeking to be part of, and there is no question that we can only succeed as partners with our friends in the European Community. I think that the majority and minority leaders in the Senate have done the right thing to put us in the position of backing what the President is doing and that we should realize that, notwithstanding the similarity I mentioned to the Persian Gulf, this is an entirely different military circumstance.

We took advantage of well-developed ports, roads, and airfields, which permitted the rapid deployment movement of U.S. forces to the Persian Gulf. We had a host nation that was willing to pay a substantial portion of the bill to make certain we had the facilities that we could use. The desert terrain there maximized the superiority we held in terms of air power, the power of our forces on the land and, of course, we used our sea forces, our naval forces very effectively. As I indicated, it is not insignificant that the host Government spent over $15 billion providing us the facilities to use.

In terms of Bosnia, there is no question that our participation in any multinational force will be at our expense. That is the reason for this amendment. I want to make certain that the people who vote for it know what they are doing and that they pledge, as a Member of the Senate, that they will support the moneys that are necessary to fund the actions of our forces should they be dispatched as a portion of any multinational force under the U.N. mandate.

I have some of the costs of our U.S. forces in the Desert Shield/Desert Storm days. Those costs were significant, and I think they are indicative of the kind of costs that we are going to face in terms of transportation costs, personnel costs, operational costs, fuel costs, and the total problems of transportation and support for our forces that went to the Persian Gulf.

Some people say, and I heard them say today, "But this is not the gulf." This certainly is not the gulf. This is different. Many people have quoted General MacKenzie today. I ask unanimous consent that this be printed in the RECORD at the end of my remarks.

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

(See exhibit 1.)

Mr. STEVENS. Mr. President, this is the "CBS This Morning" interview that took place on the 5th day of this month, and in it General Lewis MacKenzie was interviewed by Harry Smith. Smith asked him this question:

There are also new calls among some of the U.S. Congress that there should be some sort of military intervention or at least a strong military backup to help the U.N. do what it's trying to do there. Do you support that?

General MACKENZIE. Well, what I have to say is that if you're going to jump from chapter 6 to chapter 7 of the U.N. charter and move from peacekeeping to force, then you better get the peacekeeping force out first.

Mind you, Mr. President, you better get the peacekeeping force out of there.

Otherwise, you got 1,500 to 1,600 hostages sitting there 200 kilometers from the nearest secure border. You can't combine these two.

And if you're going to get involved in the Balkans, then we better read a bit of history, because we're talking about an area that gobbled up 30 divisions during the last war. Unsuccessfully, by the way, in keeping the peace in Yugoslavia. Unsuccessful in tracking down Tito and finding him in Macedonia. So you're talking about a very, very major undertaking.

Not only that; when they leave, with the amount of hate that's been generated on both sides, it's going to break out and start all over again unless you come to some sort of political constitutional solution for that country.

Question from Mr. Smith:

President Bush has said that before he goes in there he needs to know what the objective is, he needs to know what the rules are, what the end game is actually.

Is there a way to know the answer to those questions in a place like Yugoslavia right now? Or what used to be Yugoslavia?

General MACKENZIE. Well, yeah, you're not deciding it for Yugoslavia, you're deciding it for the United States. Foreign policy objectives have to be clearly defined. You don't just go in there to try and do this thing or that thing. What you have to do is have a clearly defined objective. I would certainly support those type of recommendations. And any time you come up with a final solution, when you back off and look at the resources you're going to require and the time over which you're going to require them, you're going to have to be fully committed, because you're in there for the long term.

Mr. SMITH. When you talk about fully committed, give me just some rough estimates of numbers.

General MACKENZIE. That's all it would be, that's MacKenzie's guestimate, that's all. It's got nothing to do with the U.S., it's personal opinion.

Mr. SMITH. Right.

General MACKENZIE. But you're talking about more forces than you put into the Gulf, that's for sure.

Now, let me repeat that. "You're talking about more forces than you put into the gulf, that's for sure."

Now, Mr. President, I am supporting this because I believe that we have a President who understands the military concepts involved, served in World War II, was the head of the CIA, was Vice President for 8 years, and certainly understands how to read intelligence reports. He certainly knows what this is all about, and I am willing to give him this authority and urge him to go to the United Nations because I think he knows how to handle that.

As I have said, I ask unanimous consent that the full text of the CBS interview appear in the RECORD.

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

CBS THIS MORNING INTERVIEW

GUEST: General Lewis MacKenzie, former commander of the United Nations peacekeeping forces, August 5, 1992.

HARRY SMITH: The Canadian general who commanded the U.N. peace keeping force in Sarajevo through last month says the situation in the Bosnian capital is getting worse, not better. The question is what to do next. Joining us this morning, Major General Lewis MacKenzie. Good morning, sir.

General Lewis MacKenzie, (Former commander, U.N. peacekeeping forces): Good morning, Harry.

Q: First what I'd like to talk about is this on again off again talk about death camps. The U.S. State Department yesterday backed off its—whether or not it knows of their existence. What can you tell us about it?

General LEWIS MACKENZIE. Well, very little, because to explain our mandate was strictly Sarajevo and the areas attached to Sarajevo. All I can say is that we get protests every day from both sides claiming the other side have detention camps, concentration camps, whatever you want to call them.

But there is no way to confirm that at this time because there are no eyes around the rest of Bosnia. The spotlight of the world is on Sarajevo. What I would say, in accordance with other statements that have been made, it would be really nice to get the international Red Cross in there in large numbers. As you know, one of their people was killed in Sarajevo and they're in the process now of coming back into Bosnia. They're the experts, they're the ones who should take a look.

Q. The U.N. said let's get the Red Cross in there, let's get them in to inspect these camps. The Serbians aren't going to allow that, are they?

General LEWIS MACKENZIE. Well, I wouldn't just pin it on one side. Both sides admittedly have their own detention camps, and both sides, the pressure is going to have to be brought to bear to let the inspectors go in.

There's always this problem in every war, and we'll always be totally convinced that there are some camps we're not going to find. But at least if you start the process, it's a step in the right direction.

Q. There are also new calls among some of the U.S. Congress that there should be some sort of military intervention or at least a strong military back up to help the U.N. do what it's trying to do there.

Do you support that?

General LEWIS MACKENZIE. Well, what I have to say is that if you're going to jump from chapter six to chapter seven of the U.N. charter, and move from peace keeping to force, then you better get the peace keeping force out first. Otherwise you got 1,500–1,600 hostages sitting there 200 kilometers from the nearest secure border. So you can't combine these two.

And if you're going to get involved in the Balkans, then we better read a bit of history,

because we're talking about an area that gobbled up 30 divisions during the last war. Unsuccessfully by the way, in keeping the peace in Yugoslavia. Unsuccessful in tracking down Tito and finding him in Macedonia. So you're talking about a very, very major undertaking.

Not only that, when they leave, with the amount of hate that's been generated on both sides, it's just going to break out and start again unless you come to some sort of political constitutional solution for the country.

President Bush has said that before he goes in there he needs to know what the objectives is, he needs to know what the rules are, what the end game is actually.

Is there a way to know the answer to those questions in a place like Yugoslavia right now? Or what used to be Yugoslavia?

General MACKENZIE. Well, yeah, you're not deciding it for Yugoslavia, you're deciding it for the United States. Foreign policy objectives have to be clearly defined. You don't just go in there to try and do this thing or that thing. What you have to do is have a clearly defined objective. I would certainly support those type of recommendations. And any time you come up with a final solution, when you back off and look at the resources you're going to require and the time over which you're going to require them, you're going to have to be fully committed, because you're in there for the long term.

Q. When you talk about fully committed, give me just some rough estimates of numbers.

General MACKENZIE. That's all it would be, that's Mackenzie's guestimate, that's all. It's got nothing to do with the U.S., it's personal opinion.

Q. Right.

General MACKENZIE. But you're talking about more forces than you put into the Gulf, that's for sure.

Q: How do you think this is all going to end?

General MACKENZIE. Well, there are two different scenarios. If the presidential side, for all kinds of reasons that are very, very justifiable for them, the presidency of Bosnia-Hercegovina, continues to refuse to negotiate with the other side, because they look upon them as an aggressor army, and therefore they only deal with Belgrade or the Yugoslavian headquarters in Belgrade, then there is no solution. Because the war will continue. And one side will win and one side will lose. Maybe it will take two months, maybe it will take ten years.

But certainly it would appear to me that there is no chance for a solution until the sides talk.

Now, the Serbs, for reasons known to them, are prepared to talk now anytime, any place.

The presidency is very concerned about that, because they see that as freezing the status quo. And as far as territorial gains go right now, they don't have much territory. So you can understand their lack of willingness.

But at some stage, we have to ratchet up the political process. You're not going to resolve it probably by meeting now and then outside of the country for a few days here and a few days there. That is a tremendous contribution to the process, but ultimately the sides have to sit down, square off across the table, and come to some sort of constitutional agreement.

Q: Thank you.

Mr. STEVENS. I have another item, Mr. President. As I told the Senate this morning, once I heard last week that we were going to get into this debate, I spent the weekend reading a series of things that the Library of Congress and my staff dug out so that I might try to understand this a little bit more.

One of them was another report, this one was issued the next day following General MacKenzie's comment. It was a Reuters article dated the 6th of this month, and its question was:

Is Yugoslavia a military black hole, waiting to swallow up divisions if the West is rash enough to intervene? Or could limited military action silence the big guns and bring relief to trapped civilians?

Then I am skipping down through another quote.

The head of the nine-nation Western European Union, Willem van Eekelen, told Dutch radio Thursday that only military means could now end the slaughter. "This cannot go on," he said.

But the outgoing commander of U.N. peacekeeping forces in what remains of Yugoslavia, Lt. Gen. Lewis MacKenzie, had words of warning for those contemplating military action.

"I have never seen an intense hatred between peoples," he told Britain's Daily Mail.

"If there is no diplomatic solution and the world thinks seriously of putting in an occupation force, then they should be prepared for a very long stay. I'd say for the next 20 years—and even then, who knows what would happen when they left?"

The report goes on to give the NATO preliminary estimates that at least 12,000 troops backed up with heavy equipment would be needed to take control of just the airport at Sarajevo, and up to 100,000 men with permanent air cover would be needed to open up a land corridor to the city.

Mr. President, I ask that that report from Reuters appear in the RECORD after my comments.

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

(See exhibit 2.)

Mr. STEVENS. I am seeking the floor tonight to try to focus a little bit of the Senate's attention on the fact that this is a very dangerous undertaking on which we are not supporting the President of the United States. We are seeking an emergency session of the Security Council to talk about the use of an international force, a multinational force to deal with this problem in Bosnia.

One of the reports that I got ahold of over the weekend was a CRS report for Congress by Steven J. Woehrel dated July 31 of this year, and I want to read just one portion to the Senate. He reported that: "The history of interwar Yugoslavia not a harmonious one." This was following, of course, the assassination by some Bosnia-Serb student of Archduke Francis Ferdinand in Sarajevo in June of 1914, an event which he points out touched off the First World War.

In the interwar period:

Serbia imposed a centralized state, which it dominated, and faced resistance from Croats, who wanted a loose federation. Bosnian Muslims, while unhappy with Serb domination, reached a modus vivendi with Serb leaders in exchange for religious toleration and an easing of land reform provisions that threatened Muslim landowners in the province. Nevertheless, hundreds of thousands of Slavic Muslims emigrated to Turkey.

After the German conquest of Yugoslavia in 1941, Bosnia-Hercegovina was annexed to the Independent State of Croatia, a puppet state headed by the Croatian fascist Ustashe (Uprising) movement. The proclaimed goal of the Ustashe was to expel a third of the Serbs, convert a third to Catholicism and kill the remainder.

That was their stated goal then. This is 50 years ago, Mr. President. People think that somehow, by dispatching a group of military people to have a demonstration, we will have an impact on this bloodbath that has been going on since the 11th century?

That is what bothers me about the comments that have been made on the floor, not with what the resolution says but what some people on the floor of the Senate have interpreted it to mean; that we are going to go in and liberate these concentration camps, these abominable things.

Certainly, we should be totally revolted by the reports we are getting out of that area. But I think we should also listen to General MacKenzie. And I hope the Senate does listen to him tomorrow and understand what we are doing, because we are certainly not, in this resolution, authorizing the President of the United States to dispatch U.S. military forces to liberate either, as part of a multinational unit or on our own, anyone from those camps.

Mr. President, I have taken enough time of the Senate tonight. I would point out just one thing, the Yugoslav Government in the postwar years after World War II listed partisan and Yugoslav losses at nearly 250,000 people, and the report was mostly they killed each other.

We all know the stories of the fight between Tito and Makhailovich in World War II. It is time for us to realize that this country, this Senate acting on a resolution, which does not become law, which is the sense-of-the-Senate, has no binding effect on anyone, whether it is the President of the United States, the Congress of the United States, or the United Nations. It is not going to solve this problem. But the one thing I want everyone to do when they vote for this resolution, is to vote for this amendment which will mean one thing.

If a Member of the Senate votes for this amendment he is committing himself or herself to support the funds to keep our people in the field if they are dispatched pursuant to the course that we are setting tonight, that we are initiating tonight or tomorrow when we pass this resolution. I believe that those people who in the past have not supported the United Nation ought to

realize that if we are going to authorize our participation in a multinational force, this time we are going to pay the whole bill.

When we pay it, I hope the Senate will look at this briefing I prepared in terms of what it cost to deploy the U.S. military forces from August of last year through May 31, of this year.

They point out, for instance, that just the airlift and sealift cost $8.2 billion. Remember, General MacKenzie said we will need even more people than that.

Second, Mr. President, it is my hope that those people who back in the days of the Vietnam war stopped supporting appropriations for the war in order to try to end it realize that that cannot go on in this situation either. General MacKenzie indicated his judgment is if we get forces in there, they will be there for 20 years unless we get a political solution. If we start down this course, we are going to have to have the money, and this resolution says we pledge we will supply the funds to maintain those forces in the field.

I think it is important that we make that pledge if it is important to pass the resolution.

I will make my further remarks tomorrow.

EXHIBIT 1

COSTS TO DEPLOY U.S. MILITARY FORCES

(All Figures through May 31, 1992)

TRANSPORTATION COSTS

In Operation Desert Shield/Desert Storm, the costs of airlift and sealift to both deploy and return U.S. forces to the Persian Gulf total $8.2 billion.

Airlift costs totaled $3.3 billion.

Sealift costs totaled $4.9 billion.

For the Army, transportation costs totaled $1.3 billion for airlift, and $3.8 billion for sealift.

For the Navy, transportation costs totaled $1.1 billion for airlift, and $666 million for sealift.

For the Air Force, transportation costs totaled $746 million for airlift, and $405 million for sealift.

PERSONNEL COSTS

Costs related to additional pay and allowances for personnel assigned to the Persian Gulf totaled $6.5 billion.

Costs included imminent hazard pay, and active duty pay for National Guard and Reserve personnel.

For the Army, personnel costs totalled $4.1 billion.

For the Navy, personnel costs totalled $1.3 billion.

For the Air Force, personnel costs totalled $1.0 billion.

As of July 15, 1992, 180,000+ DoD military personnel remain deployed in the Persian Gulf region, receiving increased pay and allowances for their service.

OPERATIONAL COSTS

Increased incremental operating costs (not including fuel) for Operation Desert Shield/Desert Storm totalled $19.99 billion.

Such costs include increased operating tempo (OPTEMPO), spare parts, communications and maintenance activities.

Operating costs for the Army totalled $12.1 billion.

Operating costs for the Navy totalled $4.6 billion.

Operating costs for the Air Force totalled $3.2 billion.

FUEL COSTS

Additional fuel costs associated with the deployment and operational activities for Operation Desert Shield/Desert Storm totalled $4.8 billion.

Additional fuel costs for the Army totaled $224 million.

Additional fuel costs for the Navy totaled $1.4 billion.

Additional fuel costs for the Air Force totaled $2.7 billion.

EXHIBIT 2

YUGOSLAVIA: MILITARY BLACK HOLE OR RIPE FOR STRIKE?

(By Nicholas Doughty)

BRUSSELS, BELGIUM.—Is Yugoslavia a military black hole, waiting to swallow up divisions if the West is rash enough to intervene? Or could limited military action silence the big guns and bring relief to trapped civilians?

Most military analysts believe it could be Europe's Vietnam, a quagmire without an end in sight.

But NATO military officials, although they have little enthusiasm for getting involved, say some operations could be feasible if their objectives were properly defined.

In any case, diplomats say, military considerations may not be the dominant factor for much longer.

There is a massive groundswell of revulsion in the West over the savage fighting in Bosnia, particularly the shooting of two infants by snipers and reports of concentration camps run by Serbs.

The head of the nine-nation Western European Union, Willem van Eekelen, told Dutch radio Thursday that only military means could now end the slaughter. "This cannot go on," he said.

But the outgoing commander of U.N. peacekeeping forces in what remains of Yugoslavia, Lt. Gen. Lewis Mackenzie, had words of warning for those contemplating military action.

"I have never seen such an intense hatred between peoples," he told Britain's Daily Mail.

"If there is no diplomatic solution and the world thinks seriously of putting in an occupation force, then they should be prepared for a very long stay. I'd say for the next 20 years—and even then, who knows what would happen when they left?"

Nevertheless, NATO officials are discussing a range of possible military options which could be carried through if the United Nations approves the use of limited force.

Alliance sources say these range from air strikes on Serbian artillery and mortar positions around the beleaguered city of Sarajevo to setting up safe havens for civilians or creating a land corridor for aid delivery from the Adriatic coast.

Preliminary NATO estimates suggest at least 12,000 troops, backed up with heavy equipment, would be needed to take control of Sarajevo airport. Up to 100,000 men, with permanent air cover, would be needed to open a land corridor to the city.

But the cost could be high. The mountainous, wooded terrain cost Hitler several divisions in World War II due to losses from guerrilla attacks. Small mortars and snipers are hard to hit, with the risk of high civilian casualties.

If a political decision is taken to commit forces, military officials said all the objectives must be clear.

For example, if you are going to take Sarajevo airport by force so that aid can be flown in, how long do you hold it for? How do you reinforce troops there if needed and how do you get them out again? And does that mean you have to go into other areas of Bosnia, too?

Any mission would need a legal mandate, presumably from the United Nations. It would also need a single, unified command to work properly. Who would run it?

The United States had overall command in the Gulf War and is unlikely to commit forces to Yugoslavia unless it holds the same dominant position.

NATO has a military structure but cannot go beyond the defense of its member states. The Western European Union has no command structure.

"The whole question of command, where the troops come from and who pays is very unclear," said Paul Beaver, publisher of the authoritative Jane's Defense Weekly. "That would have to be sorted out first, otherwise you risk making big mistakes."

A key consideration for the politicians is to ensure that international and popular opinion is behind any military action before it happens.

"Once we go in, we're the enemy," said one NATO diplomat. "We have to be ready to deal with bodybags coming back to London or Paris."

Mr. COHEN. Mr. President, I yield myself such time as I may consume.

Mr. President, I want to respond briefly as I can to the Senator from Alaska, especially his final comments about this resolution.

As I understand his rationale, the Senator from Alaska is supporting this resolution which he believes is unnecessary. He believes that from a legal point of view it is completely unnecessary to pass any resolution to grant or urge the President to go to the United Nations to secure authority to participate in a military operation against Serbia. But he is going to support the resolution because he firmly believes that President Bush would never be foolish enough to commit substantial amounts or levels of ground forces to achieve a military solution.

The Senator from Alaska raises the kind of, I guess, complexity that is involved in this entire debate. There have been parallels drawn between the Persian Gulf and this particular conflict. In the Persian Gulf we know that they were fighting in a desert, and the lines were very clearly defined in that desert. The enemy was quite clearly identified, the goal was very simply explained, if not easily achieved, and that was to drive Saddam Hussein out of Kuwait and back to his bunker in Baghdad.

We have something quite different however when it comes to this particular conflict. A number of people have tried to at least express what the role of the United States ought to be, following the collapse of the Soviet Union. It has been frequently declared that we are not a policeman of the world, and that has been reiterated throughout the day today and tonight. But that we are, at least if not the po-

liceman of the world, the conscience of the world.

So this issue of conscience, should we not do something in the face of this unmitigated brutality that is being inflicted by the Serbian Government? Everyone has expressed being horrified by the actions taken by the Serbs. Many have also expressed their hesitancy to commit U.S. troops to resolve that particular conflict.

Some have said this is simply a nonbinding resolution, as if what we are engaged in merely is the expression of words, a sense of sentiment, a sort of moral commitment for the President to push him in the direction he is already moving. But I think there is more than words involved.

As the debate evolved during the course of the day we understand that if in fact we go on record to urge the President to go to the United Nations and there to develop a consensus for the use of whatever force is necessary to achieve the goals expressed in this particular resolution, and that if in fact he does achieve that consensus, and if in fact they pass a resolution urging the use of whatever force is necessary, it would indeed be hypocritical for any who support this resolution for the President to come back to the Senate and to the House—assuming he feels he has to by the way. That is not altogether clear, because during the debate on the Persian Gulf on a number of occasions he expressed considerable doubt as to whether he once having gone to the United Nations then had to turn around and come back to the Congress to get authority because every President since the passage of the War Powers Act has declared it to be unconstitutional. Every President has felt it is within the powers inherent of the Commander in Chief's position that he or she be allowed to commit forces in the national security interest of this country without going to Congress to secure that particular authority.

But assuming the President were to come back to the Congress and say: Now, I have got this document, here is the United Nations declaration. It would be hypocritical, to say the very least, for any Member of Congress who had voted for the resolution to say: Wait a minute, I have had second thoughts about this, Mr. President. We are not so sure we like the allocation of responsibility. We know that we had originally intended simply to use air power. We are going to use the air power of this country to strike bridges, strategic targets, to knock out energy supplies, to dam up certain rivers in order to isolate their government. But we had no intention of doing what the Senator from Alaska suggested, that the general thought might be necessary, and that is commit 30,000, 50,000, 100,000, 500,000 troops to that region, because there is a serious question as to how long they have to be committed, serious questions as to when if at any time they could be withdrawn, and what happens following their withdrawal.

I raise this because I think it has typified the debate here today. Many of us are still of divided mind about what is the appropriate thing to do.

The Senator from Washington said we do not need this resolution. The President is doing just fine. He has the authority without Congress taking any action whatsoever to seek a resolution out of the United Nations, to then report back to us, and then outline what he would propose for military action on the part of the United States. He does not need our help whatsoever.

But we are giving him some added incentive. What we are I saying is: You, if you get that authority, come on back. We will be with you 100 percent, 100 percent in the terms of use of force. We are also with you 100 percent in terms of what it is going to cost.

That is what the Senator from Alaska is saying: No mistake. No backing out. When the bullets start flying we intend to spend whatever millions or billions are required in order to achieve this particular objective.

So that is the nature of the debate that has been taking place today, that many people say: Well, it is only a nonbinding resolution, we are simply urging him, pushing him to go to the United Nations. He is not bound by anything we say or do, and we are not bound by anything he does. When in fact once we are on record as urging him to take certain action and he returns, we are in fact, those who support the resolution bound to support the President in whatever he seeks to do provided it does not involve what Senator BIDEN suggested, a nuclear attack on what was formerly Yugoslavia, or a commitment of some half-a-million or perhaps more ground forces to that region.

Mr. President, I want to repeat again what I read earlier this morning. One of the chief cosponsors of the resolution I think articulated the kind of hesitancy that was expressed back during the debate on the Persian Gulf war. He said:

> Before we plunge into a difficult conflict which can have no simple ending we must know, and the American people who will be fighting and dying must know, what kind of a solution we are seeking. The complex problems of the gulf region do not lend themselves to simple solutions.

I would suggest what the Senator from Alaska has just read into the RECORD would in fact follow precisely this. It does not lend itself to a simple solution if history is any guide as to what has taken place over the centuries in that region.

Then going back to the Persian Gulf debate, the Senator said: "We must find a course which will enable our Arab allies to find their own way to peace in the region," and concluding, "but until we have a greater clarity of vision that war will result in a secure peace, and until we have truly exhausted all economic and diplomatic means, I cannot in good conscience vote to give the President the authority to pursue military action from which there is no turning back."

That was I think not an unusual statement. I think it was a statement that was made with great conviction and out of conscience, but I think it reflected the kind of deep feelings that were involved in that debate. That debate do not forget took at least 6 months to evolve, at least 6 months from the time that Saddam Hussein invaded Kuwait and the President decided to commit forces to defend Saudi Arabia, so-called Desert Shield, that full 6 months while we were deploying up to 500,000 troops, the debate started in this country, exactly what were we getting into, how many people would have to be deployed. What kind of war are we going to fight? Are we going to go at it ground to ground, or simply from the air. How many would die? How many body bags are we going to order. What are we talking about in terms of casualties? What are the calculations involved?

All of that was involved in the debate as we continue to try to develop a policy that would ultimately support the President's use of force. It took 6 months and many hearings, many long hours of hearings with witnesses coming and giving their best estimates in terms of what would happen, should we go to war with Saddam Hussein.

The issue came up of whether or not Saddam Hussein had any possibility of using chemical or biological weapons. How close was he getting to nuclear weapons? All of those issues were involved, because we were so hesitant to take on an enemy who was so clearly identified and located, or could be located—Saddam Hussein. We have something far more complex here, something with an equally complex tradition in terms of trying to resolve ethnic hatred.

So, Mr. President, we are going to have to resolve this issue tomorrow. We are going to have a hearing before the Armed Services Committee. I see the distinguished ranking Republican Member here on the floor this evening. Unfortunately, we will not have much time to ponder that testimony before we are called upon to vote. It puts us in a rather difficult position that we should hold a hearing to take the testimony of witnesses, who will give their best judgment to the members of the committee and, yet, the committee members will have little, if any, opportunity other than the 5 minutes perhaps allocated to the Senator from Virginia, to express to our colleagues the nature of the testimony before the committee.

So, for all practical purposes, we will be voting tomorrow based upon what we have discussed this day, what we feel in our hearts, and the doubts we continue to experience along with the heartfelt concerns we have for the people who are dying and starving to death in that tortured country right now.

Mr. WARNER. Mr. President, first, may I say to my colleague and friend from the State of Maine, how well he has managed a very difficult assignment, given that many Senators at this time are still trying to determine on which side their final vote will be taken on this.

I think the Senator has posed, time and time again, the pertinent questions that each Senator must answer for himself or herself, as we deliberate our vote on this. But I want to also commend the Senator from Alaska for this very good summary of this situation. And on this amendment, I want to ask a question.

First, I draw your attention to what appears to be the title. It says: Relating to Authorization of Multilateral Action in Bosnia-Hercegovina. I understand the proponents of this as saying the underlying amendment authorizes nothing. It simply says to the President: Go to the United Nations and argue the case pursuant to this amendment; then come back to us, and we will decide, Mr. President, whether we area going to support you. That is the essence of it, and that is where I have absolutely my greatest concern with this amendment.

So I wonder—well, it does appear, and this has been replaced by another document, I say to the Senator.

Mr. STEVENS. That is true, but it is now: Express the sense-of-the-Senate regarding authorization of multilateral action. That is still the purpose.

Mr. WARNER. Apparently.

Mr. STEVENS. It is not part of the resolution, I say. It is a stated purpose at the beginning.

Mr. WARNER. It is misleading, I would say, if we are to take what the Senator from Delaware has said over and over, earlier this afternoon and this evening.

Mr. STEVENS. There will be, as I understand it, an amendment to that clause, before we are through, unless I am wrong. That is the first knowledge I have.

Mr. COHEN. My understanding is that there will be no such amendment.

Mr. WARNER. So on its face it is misleading. I want to get to the key question here. Mr. President, if I could direct this to the Senator from Alaska. The Senator who spoke this evening, Senator BIDEN, made it absolutely clear to all present: Worry not, the President will go. We will ask him to do certain things, but he has to come back to this body.

As I read this, does this not cut off the option of Senators? If they are to support the Senator from Alaska, to what extent does that limit their options, if in fact the President does come back to this body to seek specific authorization to take action with the U.N. forces and delineate specifically what components of the U.S. military are to be utilized by the United States?

For example, time and time again, throughout the 5 days that we have worked on this, Senators have gotten up and said—I have gone to the record—we will not utilize ground forces. Supposing he comes back and says that it is my judgment that it is essential that we take the same level of risk as do other nations if we are going to achieve the goals as laid down by this resolution?

If a Senator were to vote tomorrow in support of the Senator from Alaska, could that Senator then in good conscience turn around and vote against the President's recommendations to incorporate ground forces as a part of the overall force that we will commit to such resolutions as the United Nations made up?

Mr. STEVENS. Yes. This amendment contemplates such a possibility, because it is specifically limited by the last clause which stays consistent with the terms of this resolution. This resolution is a sense-of-the-Senate resolution, which is designed, as I understand it, to give the President of the United States an urging.

Mr. WARNER. Yes; he does not need the authority.

Mr. STEVENS. It is an urging to go to the United Nations and ask for an emergency meeting. But it just is predatory in the sense that it says he should. In my judgment, what I am saying is that people who are voting for this pledge that when a U.S. force participates with a multilateral military force——

Mr. WARNER. If I can interrupt the Senator. Let us take it in sequence. We vote tomorrow for the resolution, and Senators vote for the amendment of the Senator from Alaska; the President goes to the United Nations, and the United Nations does vote a resolution consistent with this resolution, at which time the President makes certain commitments with respect to our military forces. Now it is anticipated that that decision of the President will be reviewed by the Senate, and if certain Senators are not in agreement with the quantum and, most specifically, the types of military forces the President commits, he or she then is free to vote against the President.

Mr. COHEN. If the Senator will yield. Legally, obviously, any Senator is free to vote against the President, coming back and saying, this is what I propose we do. This is the commitment I made. That would be hypocritical, totally hypocritical, for anybody to vote on this measure thinking I voted for it, but I did not have any intention of ever supporting the use of ground forces, and I am thinking only of air power or naval gun power, and nothing else.

And then to come back to the President, and he says here is my opinion. No, Mr. President, we are sorry, but we cannot agree to that. That would be the height of hypocrisy on our part, and it would also be the height of demoralizing the very issue raised about Hungary earlier today. It would be the same thing, raising people's expectations only to dash them, particularly under the circumstances where the President is in a major political battle. I think it would be a terrible message to be sending. I think if you support this, you support the——

Mr. WARNER. What is this Senator, the underlying resolution, or the amendment? I ask the Senator from Alaska.

Mr. COHEN. The Senator is putting us on record saying whether you support the underlying resolution or not, if we agree to urge the President to get this kind of authority, we are agreeing we are going to pay for it.

Mr. WARNER. I am wondering when do you make that commitment, at the time we pass this resolution to support the payments, or at such a time as the decision of the President comes back for another review by the Senate?

Mr. STEVENS. Mr. President, do I have the floor? I would like to answer these questions. I think we are getting off on a rabbit trail here.

The PRESIDING OFFICER. In the judgment of the chair, the Senator from Virginia had the floor.

Mr. WARNER. Mr. President, I yield to the Senator from Alaska for a response.

Mr. STEVENS. It was my understanding that the Senator asked me a question, and I was supposed to answer it. If he has the floor, it is all right. But I have to tell the Senator this has as much legal impact on a Member of the Senate as the resolution itself does, just a sense-of-the-Senate resolution.

Mr. WARNER. Mr. President, I agree.

Mr. STEVENS. What this says is the U.S. pledges. It does not say Senator COHEN or Senator WARNER or Senator PELL or Senator LEAHY or myself, that we personally pledge.

I want the Senate on record to say if we are going to urge the President to do this, to go to the United Nations and ask for the emergency meeting of the Security Council, and we do in fact end up by having American forces in this multilateral military force pursuant to a mandate adopted by the United Nations, that he will in fact know that we will provide the funds. That we will not have the same situation develop as developed in Vietnam or developed so many times since we have been here that people urge the President to do things and when it comes down to paying the bill they will not pay it.

Besides that, as I pointed out, some of our Members do not support the

United Nations itself, yet they are calling on the United Nations to get involved in this. The United Nations does not have the deep pockets that Saudi Arabia has. If we get involved in this one, this is on us.

Mr. WARNER. Mr. President, it is my understanding of the Senator's amendment it simply states that the Senate as a body will continue to support the President of the United States in his decision to utilize our forces as he so determines consistent with the U.N. resolution and it reinforces what the Senator from Maine has been saying all along. It would be hypocrisy if we come back and review it and decided not to support.

Am I not correct?

Mr. COHEN. Mr. President, what I am saying, this is not simply a nonbinding resolution. It is phrased as a nonbinding resolution. Fact is this is more than words. There is a message to the President: Do this job, go to the United Nations, get the mandate, and then come back and we will support you. But you cannot separate it out; you cannot say it is only a nonbinding resolution. We are binding ourselves, making a commitment to the President that we are going to follow his lead when he comes back from the United Nations to take whatever action he determines is in our national security interest, because it has been identified as having a bearing on national security interest.

Mr. WARNER. I agree with the Senator from Maine in his analysis.

Mr. STEVENS. Will the Senator yield for one more comment?

Mr. WARNER. Yes.

Mr. STEVENS. You can look through the resolution and the Senate does not pledge to do anything until it comes to my amendment. The Senate is really asking the President to do all these things and asking the Security Council to do certain things, and I do not disagree with them. But where is the Senate saying we are going to do anything? I think we ought to say if you do this, we pledge we are going to be with you. That is what this amendment does.

Mr. WARNER. Mr. President, that is precisely the point I wish to make and, on that, I yield the floor, because the Senator has satisfied this Senator.

Mr. STEVENS. I reserve the remainder of my time for tomorrow.

Mr. COHEN. For the record, the Senator has reserved a total of 30 minutes for tomorrow on his amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. COHEN. Mr. President, I might indicate for the record that I was sort of kidnaped by this management position today. I was on my way to another meeting and Senator DOLE happened to see someone who was unescorted at that time and asked me to manage this bill. But I will indicate that I believe that one of the members of the Foreign Relations Committee on the Republican side tomorrow will have to conclude the management of the bill since I have a hearing with Senator LEVIN that begins early in the morning.

Mr. DOMENICI. Mr. President, I was a cosponsor of the original version of this resolution regarding the situation in Bosnia. I support the modified resolution we are considering today.

I regret that what began as a somewhat routine expression of Senate concern about the fate of Bosnia's civilians became a vehicle for the bickering and delay that increasingly characterizes this body.

None of us know for certain what is happening in the detention camps and besieged cities in Bosnia, but what we have learned over the past week adds new urgency to a situation that was already terrible. That is why some of us from both parties here decided to introduce a resolution that would give the President some political protection to act more forcefully in this matter during an election year.

In fact, since the original resolution was drafted, the President accelerated an international program of action to limit these atrocities. As far as I can determine, both candidates fully recognize the need for action. I fail to understand the fear that this has become a partisan issue.

Why is this a matter of U.S. national interest? It is a matter of our national interest because of the locale and history of Yugoslavia in the heart of Europe. Bosnia, Croatia, and Serbia are surrounded by other countries with restive national minorities.

I strongly suspect that Serbs are not the only ones in the region who are capable of starving and shooting civilians of other ethnic groups. Others in Eastern Europe appear ready to follow the example of Serbia and undertake "ethnic cleansing" on a massive scale.

The year 1992 was going to be the year of Europe—of European unification. Instead we find that a European nation—Serbia—is practicing policies that resemble nothing less than genocide. That this is happening now, 47 years after we thought that this crime has disappeared from Europe forever, gives a new meaning to the slogan "Europe 1992."

Europe is a vital part of the global economy that we have come to depend on over the last decade or two. If the "ethnic cleansing" spreads from Yugoslavia to other countries bordering our major trading partners in Europe, Europe cannot contribute to the trade, jobs, and investment badly needed here in the United States. That is why the policies encouraged by this resolution are in America's self interest.

I do have two questions about this matter of Bosnia that have not been answered to my satisfaction: our utter reliance on the United Nations, and the lack of intelligence about the detention camps.

I agree with all who have spoken here that the United States should not act alone in Eastern Europe. But the Secretary General of the United Nations has publicly observed that regional institutions could function better than the United Nations in Yugoslavia. There are other insitutions, NATO for example, that may serve our objectives better than the United Nations.

My other unanswered question relates to our massive intelligence capacity developed during the cold war. Why did we have to learn from a newspaper in Long Island and TV reporters in England what was going on in the camps?

I commend the Senators from Arizona, Connecticut, and Kansas who originated this resolution. Like Secretary of State Jim Baker several months ago, these Senators were moved to demand action by the international community.

Finally, I ask unanimous consent to place in the RECORD at this point a statement written by the Acting Secretary of State on the afternoon, 5 days ago, when the Senate originally discussed this amendment. At that time, the State Department spokesman explained exactly what the administration was doing with regard to this situation. Since then the President has personally amplified and expanded upon this statement several times.

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

REGULAR STATE DEPARTMENT BRIEFING, AUGUST 5, 1992

(Briefer: State Department Deputy Spokesman Richard Boucher)

This is a statement by the acting secretary, Lawrence S. Eagleburger, which I will read to you, which I have been entrusted to read to you on his behalf.

Over the past week we have seen an increasing number of reports about detention centers in Bosnia-Hercegovina and Serbia, including reports that indicate the possibility of executions, torture and other gross human rights abuses. These reports have included press interviews, charges and countercharges by the parties, and reports from others in the area.

The International Committee of the Red Cross has visited nine facilities where they registered 4,300 prisoners. At this point the Red Cross has reported on very difficult conditions of detention, but they have not found any evidence of death camps. Nonetheless, there are reports of many other detention centers which the Red Cross has not been able to visit and it is at some of these that atrocities have been reported.

These reports, although unconfirmed, are profoundly disturbing. It is vital that any and all prisons and detention centers be open to the Red Cross and other neutral parties. Urgent action is required to reveal the truth and to prevent any abuses which may be occurring.

Yesterday morning we began a series of steps to support such access. We instructed our diplomatic personnel immediately to contact senior Serbian, Bosnian and Cro-

atian officials to insist that the International Committee of the Red Cross be granted immediate, unimpeded and continuing access to any places of detention.

We have asked the United Kingdom, the presidency country of the European Community, and through them, the other members of the EC, to make similar approaches.

We have asked the Russians to use their influence with the Serbs to the same end.

We proposed and we obtained a statement by the Security Council yesterday evening which endorsed this demand and reminded those involved in any abuses that they can be held individually responsible for breaches of the Geneva Conventions.

Today we have called for an emergency extraordinary meeting of the United Nations Human Rights Commission in Geneva to examine the situation in more detail, to discuss gross human rights violations and to press for full access to detention camps. We look to the Human Rights Commission to forcefully exercise its mandate in this regard by appointing a special representative, who should be granted access to investigate these charges and report back to the members of the United Nations with his recommendations.

This will be the first ever such meeting by the United Nations Human Rights Commission. We have been urging governments throughout the world to support this call immediately, even before the formal proposal was circulated, so that the meeting could take place as soon as possible.

Our proposal has now been circulated in Geneva asking the 53 members for their views by 1:00 Eastern Daylight Time on Monday, August 10. We hope to see the necessary endorsement from at least 27 members even before that, if possible.

In addition, we are undertaking other steps immediately. We're calling on the CSCE to invoke the appropriate measure of the CSCE human dimension mechanism in order to telescope the process of choosing a rapporteur to look into the allegations. We're undertaking renewed efforts to tighten sanctions enforcement, in addition to the efforts that we made earlier this month which have met with some success.

We will facilitate the deployment of monitors to Romania to ensure that the effect of the U.N. sanctions on the Serbian economy is as devastating as possible, and we are developing a Security Council resolution which would call on states and organizations to collect substantiated information concerning war crimes and to make that information available to the Security Council.

There are today some indications that our urgings are being heard. In Belgrade Mr. Panic promised our charge to invite international observers to sites of alleged camps in Serbia and Montenegro.

Mr. Panic also pledged his support to the U.N. presidency statement demanding the opening of camps run by Serbians in Bosnia.

Press reports today indicate leaders of the so-called Serbian Republic of Bosnia have said that they are ready to open all facilities to international inspection. Bosnia President Izetbegovic told our charge in Belgrade that he has offered access to international observers to all facilities within Bosnia.

President Tudjman told our consul-general in Zagreb yesterday that he would contact Croatian leaders in Bosnia to request their complete cooperation with ICRC. These promises are welcome but what is important is real action. We cannot allow excuses such as those used in the past, that the safety of the ICRC delegates could not be ensured to block their important mission. We will press to see that real action is achieved.

Let me also add to that we are intent upon seeing a U.N. Security Council resolution to ensure the humanitarian assistance is delivered through whatever means are necessary and that we have been discussing with our key allies a draft of such resolution.

MORNING BUSINESS

Mr. PELL. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein.

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

AUTHORIZING TESTIMONY, DOCUMENT PRODUCTION, AND REPRESENTATION IN THE CASE OF UNITED STATES OF AMERICA VERSUS CLAIR E. GEORGE

Mr. PELL. Mr. President, on behalf of the majority leader and the Republican leader, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution.

The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 332) to authorize testimony, documentary production, and representation of Members and employees of the Senate in United States of America versus Clair E. George.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, the Senate recently agreed to Senate Resolution 323, authorizing several current or former Members and employees of the Senate to testify in the case of United States of America versus Clair E. George, at the request of Independent Counsel Lawrence Walsh. The jury began hearing testimony in that case on Friday, July 24.

Counsel for the defendant has served subpoenas calling for the production of Senate records on the records custodians for the Committee on Foreign Relations and the Select Committee on Intelligence. In the interests of evenhanded justice, the Senate should authorize the production of records to the defendant.

Also, both sides have indicated that they may make further requests for testimony or records from the Senate as the trial unfolds. Accordingly, in addition to authorizing the Foreign Relations and Intelligence Committees to respond to the existing requests, this resolution will authorize Members and employees to testify or produce documents in the event that additional requests materialize as the trial progresses, including during the August recess.

The resolution also authorizes the Senate legal counsel to represent the witnesses in connection with their testimony.

The PRESIDING OFFICER. Without objection, the resolution and the preamble are both agreed to.

The resolution (S. Res. 332), with its preamble, is as follows:

S. RES. 332

Whereas, in the case of *United States of America* v. *Clair E. George*, Crim. No. 91-521, pending in the United States District Court for the District of Columbia, counsel for the defendant has requested the production of documents from the custodians of records of the Committee on Foreign Relations and the Select Committee on Intelligence;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members and employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, by Rule VI of the Standing Rules of the Senate, no Senator shall absent himself from the service of the Senate without leave;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That the custodians of records of the Committee on Foreign Relations and the Select Committee on Intelligence, and current or former Members and employees of the Senate from whom testimony may be necessary, are authorized to testify and produce documents in the case of *United States of America* v. *Clair E. George*, except, with respect to Members of the Senate, when their attendance at the Senate is necessary for the performance of their legislative duties, and except concerning matters for which a privilege should be asserted.

Sec. 2. That the Senate Legal Counsel is authorized to represent the custodians of records of the Committee on Foreign Relations and the Select Committee on Intelligence, and current or former Members and employees of the Senate from whom testimony may be necessary, in connection with their testimony in *United States of America* v. *Clair E. George*.

Mr. PELL. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

MEASURE PLACED ON CALENDAR—S. 3163

Mr. PELL. Mr. President, I ask unanimous consent that S. 3163, introduced earlier today by Senators KENNEDY and HATCH, be placed on the calendar.

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

PRESCRIPTION DRUG AMENDMENTS OF 1992

Mr. KENNEDY. Mr. President, today Senator HATCH, Senator DECONCINI, and I are introducing the Prescription Drug Amendments of 1992. This legislation would extend the deadline for States to comply with the Prescription Drug Marketing Act, in order to ensure that citizens across the country will continue to have access to prescription medications.

The PDMA set a September 14, 1992, deadline for States to license prescription drug wholesalers. As of this month, 23 States are in full compliance with the requirement. While most of the remaining States have introduced legislation or regulations to bring themselves into compliance, it is clear that some States that are important distribution centers of prescription drugs will not be in compliance by the September deadline. An extension of the original deadline would guarantee continued access to the full range of prescription drugs for all Americans. Otherwise, prescription drug wholesalers in States that have not yet met the legislative requirements of the PDMA will be subject to civil and criminal penalties.

Senator HATCH and I have worked with industry groups, the administration, and consumers in drafting this amendment. The bill includes a sunset provision, so that the PDMA deadline is extended by only 2 years. This gives States the time they need to legislate and implement their registration programs. Until then, the FDA may register companies in States that have not yet licensed their prescription drug wholesalers.

I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that a section-by-section summary of the bill and a clarification of legislative intent on several key issues be printed in the RECORD.

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

SECTION-BY-SECTION ANALYSIS

SEC. 1. SHORT TITLE

SEC. 2 DISTRIBUTOR REGISTRATION

Establishes a temporary (2 year) registration program with the FDA for wholesale distributors of prescription drugs in interstate commerce in states that do not license such persons in accordance with existing requirements of the FD&C Act.

SEC. 3. PENALTY CLARIFICATION

Adds a "knowingly" standard to the felony provision of the Prescription Drug Marketing Act (PDMA). In its present form, the act provides severe punishment for criminal violations without expressly requiring any scienter on the part of the offender.

Substitutes the words "institution of criminal proceeding" for "arrest" or "arrest of" in current law. There are rarely arrests in connection with criminal proceedings under the PDMA.

Revises section 303 (c) and (d) to conform with section 303 (a) and (b) as amended by the PDMA, and corrects subsection (d).

SEC. 4. DRUG SAMPLES

Clarifies the prohibition against the distribution of drug samples by anyone other than the manufacturer or the manufacturer's authorized distributor. Makes clear that providing a drug sample to a patient by (or in very limited circumstances at the direction of) a licensed practitioner is not prohibited.

Makes clear that any wholesale distribution of a prescription drug (any sale to anyone other than a consumer or patient, including any sale to an authorized distributor of record to a retail pharmacy) by anyone other than the preceded by a statement identifying each prior sale of the drug. The identifying statement must in all cases include the dates of each transaction involving the drug and the names and addresses of all parties to the transaction, and must contain such other information as the Secretary may require.

SEC. 5. TECHNICAL AMENDMENT

Subparagraph 503(e)(2)(A) of the current law is intended to ensure that any person engaging in the wholesale distribution of prescription drugs in interstate commerce shall be licensed in the state in which it does business and that state licensing requirements meet certain minimum requirements are contained in regulations promulgated by the Secretary. The effective date for subparagraph 503(e)(2)(A) is September 14, 1992.

While many states have taken steps to meet the licensing requirements and are expected to meet the deadline, current data indicate that some states may not enact prescription drug wholesaler licensing requirements by September 14, 1992. Therefore, the amendments to section 503(e) provide for a temporary registration program within the Department of Health and Human Services for persons engaging in the wholesale distribution of prescription drugs in states that have not yet adopted licensing programs. This temporary registration provision is not intended to create a federalized registration program and will expire without extension on September 14, 1994. Ultimate responsibility for licensing wholesale distributors shall remain with the states.

The bill's sponsors understand that the FDA has the discretion to implement this provision in a manner that is consistent with its resources.

Addition of the word "knowingly" in 21 U.S.C. §333(b)(1) is intended to clarify that the offenses described in that section require an element of knowledge. The amendment conforms with prosecutorial experience and practice.

The offenses described in section 333(b)(1) are treated differently from other offenses in the FDCA. In general, a violation of the FDCA is punishable as a misdemeanor without proof of consciousness of wrongdoing, 21 U.S.C. §333(a)(1); United States v. Park, 421 U.S. 658 (1975), or as a three-year felony when the violation is second offense, or when it is committed with the intent to defraud or mislead. 21 U.S.C. §333(b)(2). The prescription drug marketing offenses described in section 333(b)(1) are excepted from this scheme, carrying only a felony penalty.

As originally enacted, section 333(b)(1) stated no mental element for the offenses it described. This silence potentially could create confusion about what kind of conduct Congress was addressing. Indicia of Congress' intent are available in other parts of the statute and then the legislative history. For example, Congress was careful to explain that a pharmaceutical company would not be criminally responsible for every drug diversion perpetrated by a company employee. 21 U.S.C. §353(c)(1); House Report 100-76 at 12. This is strong evidence that 333(b)(1) was not intended to create a strict liability offense under the FDCA. In the absence of specific language describing the intended mental element of the offense, however, the statute might be subject to conflicting or erroneous interpretation by the courts.

The present amendment should make clear that the offenses described in section 333(b)(1) are committed when an individual "knowingly" commits acts that are proscribed by the PDMA, (for example selling a prescription drug sample, importing a prescription drug, or selling a drug that had been purchased by a health care entity). This knowledge extends only to the prohibited act; it would not be necessary in a prosecution for the government to prove that the defendant knew that the act was a violation of any law. Thus, for example, an offense under amended section 333(b)(1)(B) would be committed when an individual sold a prescription drug that had been purchased by a health care entity, if he was aware of these circumstances, whether or not he also knew that the sale of the drug was a violation of section 353(c)(3).

Mr. HATCH. Mr. President, despite 2 years' notice to the States, a nationwide shutoff of prescription medications to pharmacies and practitioners, including hospitals, physicians' offices, nursing homes, clinics, and retail pharmacies, is imminent.

In 1990, States were given a 2-year deadline to comply with a Federal law requiring them to license prescription drug wholesalers and manufacturers. With little more than a month remaining until the Federal deadline, less than half of the States have complied with the Prescription Drug Marketing Act of 1987, despite intensive efforts by the industry to help these States meet the mandated deadline.

If the September 14, 1992, deadline is not met, Mr. President, wholesalers and manufacturers in those States that are not in compliance will not be able to distribute prescription drug products legally. Distribution without the appropriate licenses carries penalties of $250,000 and/or 10 years in prison.

Two States and one territory with the largest concentrations of pharmaceutical manufacturing facilities—New Jersey, Pennsylvania, and Puerto Rico—are among those that have not complied with the Federal law. Therefore, after September 14, products produced in these locations will not be available nationwide.

For this reason, Mr. President, I am pleased to join my colleagues Senator KENNEDY and Senator DECONCINI, in introducing the Prescription Drug Amendments of 1992. This legislation will ensure that the millions of Americans who rely on drug therapy will be able to receive their medications without disruption.

This proposal will allow drug wholesalers and manufacturers located in States that are not in compliance to temporarily register with the FDA. The registration program would be an

interim remedy, and would sunset in 2 years.

The need for expeditious passage of this legislation is obvious due to the health consequences for millions of Americans who depend on drug therapy. I urge the support of all Senators for this legislation which will allow the distribution of vital pharmaceutical products to continue.

ENGROSSMENT OF H.R. 4111

Mr. PELL. Mr. President, I ask unanimous consent that the engrossment of H.R. 4111 be modified with the change I now send to the desk.

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

SMALL BUSINESS EQUITY ENHANCEMENT ACT

Mr. PELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 609, H.R. 5191, relating to small business equity capital, that the committee substitute amendment be agreed to; that the bill be read a third time, passed; that the motion to reconsider be laid upon the table; that a section-by-section analysis and any statements relative to the passage of this item appear at the appropriate place in the RECORD.

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

The Senate proceeded to consider the bill (H.R. 5191) to encourage private concerns to provide equity capital to small business concerns, and for other purposes, which had been reported from the Committee on Small Business, 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 "Small Business Equity Enhancement Act of 1992".

SEC. 2. LEVERAGE (MATCHING FUNDS) FORMULA.

Section 303 of the Small Business Investment Act of 1958 (15 U.S.C. 683) is amended—

(1) in subsection (b)—

(A) by inserting "or participating securities" after "debentures" in the first and sixth sentences;

(2) by striking paragraphs (1) through (3) of subsection (b) and inserting in lieu thereof the following:

"(1) The total amount of debentures and participating securities that may be guaranteed by the Administration and outstanding from a company licensed under section 301(c) of this Act shall not exceed 300 percent of the private capital of such company: Provided, That nothing in this paragraph shall require any such company that on March 31, 1993, has outstanding debentures in excess of 300 percent of its private capital to prepay such excess: And provided further, That any such company may apply for an additional debenture guarantee or participating security guarantee with the proceeds to be used solely to pay the amount due on such maturing debenture, but the maturity of the new debenture or security shall be not later than September 30, 2002.

"(2) After March 31, 1993, the maximum amount of outstanding leverage made available to a company licensed under section 301(c) of this Act shall be determined by the amount of such company's private capital—

"(A) if the company has private capital of not more than $15,000,000, the total amount of leverage shall not exceed 300 percent of private capital;

"(B) if the company has private capital of more than $15,000,000 but not more than $30,000,000, the total amount of leverage shall not exceed $45,000,000 plus 200 percent of the amount of private capital over $15,000,000; and

"(C) if the company has private capital of more than $30,000,000, the total amount of leverage shall not exceed $75,000,000 plus 100 percent of the amount of private capital over $30,000,000 but not to exceed an additional $15,000,000.

"(3) Subject to the foregoing dollar and percentage limits, a company licensed under section 301(c) of this Act may issue and have outstanding both guaranteed debentures and participating securities: Provided, That the total amount of participating securities outstanding shall not exceed 200 percent of private capital.

"(4) In no event shall the aggregate amount of outstanding leverage of any such company or companies which are commonly controlled as determined by the Administration exceed $90,000,000, unless the Administration determines on a case by case basis to permit a higher amount for companies under common control and imposes such additional terms and conditions as it determines appropriate to minimize the risk of loss to the Administration in the event of default.";

(3) by inserting before the period at the end of subsection (c)(6) the following: ", except as provided in paragraph (7)"; and

(4) by adding the following at the end of subsection (c):

"(7) The Administration may guarantee debentures or may guarantee the payment of the redemption price and prioritized payments on participating securities under subsection (g) from a company operating under section 301(d) of this Act in amounts above $35,000,000 but not to exceed the maximum amounts specified in section 303(b) subject to the following:

"(A) The interest rate on debentures and the rate of prioritized payments on participating securities shall be that specified in subsection 303(g)(2) without any reductions.

"(B) Any outstanding assistance under paragraphs (1) to (6) of this subsection shall be subtracted from such company's eligibility under section 303(b)(2)(A).".

SEC. 3. PARTICIPATING SECURITIES.

Section 303 of the Small Business Investment Act of 1958 (15 U.S.C. 683) is further amended by adding the following new subsections:

"(g) In order to encourage small business investment companies to provide equity capital to small businesses, the Administration is authorized to guarantee the payment of the redemption price and prioritized payments on participating securities issued by such companies which are licensed pursuant to section 301(c) of this Act, and a trust or a pool acting on behalf of the Administration is authorized to purchase such securities. Such guarantees and purchases shall be made on such terms and conditions as the Administration shall establish by regulation. For purposes of this section, (A) the term 'participating securities' includes preferred stock, a preferred limited partnership interest or a similar instrument, including debentures under the terms of which interest is payable only to the extent of earnings and (B) the term 'prioritized payments' includes dividends on stock, interest on qualifying debentures, or priority returns on preferred limited partnership interests which are paid only to the extent of earnings. Participating securities guaranteed under this subsection shall be subject to the following restrictions and limitations, in addition to such other restrictions and limitations as the Administration may determine:

"(1) Participating securities shall be redeemed not later than 15 years after their date of issuance for an amount equal to 100 percent of the original issue price plus the amount of any accrued prioritized payment: Provided, That if, at the time the securities are redeemed, whether as scheduled or in advance, the issuing company (A) has not paid all accrued prioritized payments in full as provided in paragraph (2) below and (B) has not sold or otherwise disposed of all investments subject to profit distributions pursuant to paragraph (11), the company's obligation to pay accrued and unpaid prioritized payments shall continue and payment shall be made from the realized gain, if any, on the disposition of such investments, but if on disposition there is no realized gain, the obligation to pay accrued and unpaid prioritized payments shall be extinguished: Provided further, That in the interim, the company shall not make any in-kind distributions of such investments unless it pays to the Administration such sums, up to the amount of the unrealized appreciation on such investments, as may be necessary to pay in full the accrued prioritized payments.

"(2) Prioritized payments on participating securities shall be preferred, cumulative, and payable out of the retained earnings available for distribution, as defined by the Administration, of the issuing company 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 with remaining periods to maturity comparable to the average maturities on such securities, adjusted to the nearest one-eighth of 1 percent, plus, at the time the guarantee is issued, such additional charge, if any, toward covering other costs of the program as the Administration may determine to be consistent with its purposes, but not to exceed 2 percent.

"(3) In the event of liquidation of the company, participating securities shall be senior in priority for all purposes to all other equity interests in the issuing company, whenever created.

"(4) Any company issuing a participating security under this subsection shall commit to invest or shall invest and maintain an amount equal to the outstanding face value of such security solely in equity capital. As used in this subsection, 'equity capital' means common or preferred stock or a similar instrument, including subordinated debt with equity features which is not amortized and which provides for interest payments contingent upon and limited to the extent of earnings.

"(5) The only debt (other than leverage obtained in accordance with this title) which any company issuing a participating security under this subsection may have outstanding shall be temporary debt in amounts limited to not more than 50 percent of private capital.

"(6) The Administration may permit the proceeds of a participating security to be used to pay the principal amount due on outstanding debentures guaranteed by the Administration, if (A) the company has outstanding equity capital invested in an amount equal to the amount of the debentures being refinanced and (B) the Administration receives profit participation on such terms and conditions as it may determine, but not to exceed the percentages specified in paragraph (11).

"(7) For purposes of computing profit participation under paragraph (11), except as otherwise determined by the Administration, the management expenses of any company which issues participating securities shall not be greater than 2.5 percent per annum of the combined capital of the company, plus $125,000 if the company's combined capital is less than $20,000,000.

For purposes of this paragraph, (A) the term 'combined capital' means the aggregate amount of private capital and outstanding leverage and (B) the term 'management expenses' includes Salaries, office expenses, travel, business development, office and equipment rental, bookkeeping and the development, investigation and monitoring of investments, but does not include the cost of services provided by specialized outside consultants, outside lawyers and outside auditors, who perform services not generally expected of a venture capital company nor does such term include the cost of services provided by any affiliate of the company which are not part of the normal process of making and monitoring venture capital investments.

"(8) Notwithstanding paragraph (9), if a company is operating as a limited partnership or as a subchapter s corporation or an equivalent pass-through entity for tax purposes and if there are no accumulated and unpaid prioritized payments, the company may make annual distributions to the partners or shareholders in amounts not greater than each partner's or shareholder's maximum tax liability. For purposes of this paragraph, the term 'maximum tax liability' means the amount of income allocated to each partner or shareholder (including an allocation to the Administration as if it were a taxpayer) for Federal income tax purposes in the income tax return filed or to be filed by the company with respect to the fiscal year of the company immediately preceding such distribution, multiplied by the highest combined marginal Federal and State income tax rates for corporations or individuals, whichever is higher, on each type of income included in such return. For purposes of this paragraph, the term 'State income tax' means the income tax of the State where the company's principal place of business is located.

"(9) After making any distributions as provided in paragraph (8), a company with participating securities outstanding may distribute the balance of income to its investors, specifically including the Administration, in the percentages specified in paragraph (11), if there are no accumulated and unpaid prioritized payments and if all amounts due the Administration pursuant to paragraph (11) have been paid in full, subject to the following conditions:

"(A) As of the date of the proposed distribution, if the amount of leverage outstanding is more than 200 percent of the amount of private capital, any amounts distributed shall be made to private investors and to the Administration in the ratio of leverage to private capital.

"(B) As of the date of the proposed distribution, if the amount of leverage outstanding is more than 100 percent but not more than 200 percent of the amount of private capital, 50 percent of any amounts distributed shall be made to the Administration and 50 percent shall be made to the private investors.

"(C) If the amount of leverage outstanding is 100 percent, or less, of the amount of private capital, the ratio shall be that for distribution of profits as provided in paragraph (11).

"(D) Any amounts received by the Administration under subparagraph (A) or (B) shall be applied first as profit participation as provided in paragraph (11) and any remainder shall be applied as a prepayment of the principal amount of the participating securities or debentures.

"(10) After making any distributions pursuant to paragraph (8), a company with participating securities outstanding may return capital to its investors, specifically including the Administration, if there are no accumulated and unpaid prioritized payments and if all amounts due the Administration pursuant to paragraph (11) have been paid in full. Any distributions under this paragraph shall be made to private investors and to the Administration in the ratio of private capital to leverage as of the date of the proposed distribution: Provided, That if the amount of leverage outstanding is less than 50 percent of the amount of private capital or $10,000,000, whichever is less, no distribution shall be required to be made to the Administration unless the Administration determines, on a case by case basis, to require distributions to the Administration to reduce the amount of outstanding leverage to an amount less than $10,000,000.

"(11)(A) A company which issues participating securities shall agree to allocate to the Administration a share of its profits determined by the relationship of its private capital to the amount of participating securities guaranteed by the Administration in accordance with the following:

"(i) If the total amount of participating securities is not more than 100 percent of private capital, the company shall allocate to the Administration a percentage share computed as follows: the amount of participating securities divided by private capital times 9 percent.

"(ii) If the total amount of participating securities is more than 100 percent but not greater than 200 percent of private capital, the company shall allocate to the Administration a percentage share computed as follows:

"(I) 9 percent, plus

"(II) 3 percent of the amount of participating securities minus private capital divided by private capital.

"(B) Notwithstanding any other provision of this paragraph—

"(i) in no event shall the total percentage required by this paragraph exceed 12 percent, unless required pursuant to the provisions of clause (ii),

"(ii) if, on the date the participating securities are marketed, the interest rate on Treasury bonds with a maturity of 10 years is a rate other than 8 percent, the Administration shall adjust the rate specified in paragraph (A) above, either higher or lower, by the same percentage by which the Treasury bond rate is higher or lower than 8 percent, and

"(iii) this paragraph shall not be construed to create any ownership interest of the Administration in the company.

"(12) A company may elect to make an in-kind distribution of securities only if such securities are publicly traded and marketable. The company shall deposit the Administration's share of such securities for disposition with a trustee designated by the Administration or, at its option and with the agreement of the company, the Administration may direct the company to retain the Administration's share. If the company retains the Administration's share, it shall sell the Administration's share and promptly remit the proceeds to the Administration. As used in this paragraph, the term 'trustee' means a person who is knowledgeable about and proficient in the marketing of thinly traded securities.

"(h) The computation of amounts due the Administration under participating securities shall be subject to the following terms and conditions:

"(1) The formula in subsection (g)(11) shall be computed annually and the Administration shall receive distributions of its profit participation at the same time as other investors in the company.

"(2) The formula shall not be modified due to an increase in the private capital unless the increase is provided for in a proposed business plan submitted to and approved by the Administration.

"(3) After distributions have been made, the Administration's share of such distributions shall not be recomputed or reduced.

"(4) If the company prepays or repays the participating securities, the Administration shall receive the requisite participation upon the distribution of profits due to any investments held by the company on the date of the repayment or prepayment.

"(5) If a company is licensed on or before March 31, 1993, it may elect to exclude from profit participation all investments held on that date and in such case the Administration shall determine the amount of the future expenses attributable to such prior investment: Provided, That if the company issues participating securities to refinance debentures as authorized in subsection (g)(6), it may not elect to exclude profits on existing investments under this paragraph.".

SEC. 4. POOLING.

Section 321 of the Small Business Investment Act of 1958 (15 U.S.C. 687l) is amended to read as follows:

"SEC. 321. ISSUANCE AND GUARANTEE OF TRUST CERTIFICATES.

"(a) The Administration is authorized to issue trust certificates representing ownership of all or a fractional part of debentures issued by small business investment companies, including companies operating under the authority of section 301(d), and guaranteed by the Administration under this Act, or participating securities which are issued by such companies and purchased and guaranteed pursuant to section 303(g): Provided, That such trust certificates shall be based on and backed by a trust or pool approved by the Administration and composed solely of guaranteed debentures or guaranteed participating securities.

"(b) The Administration is authorized, upon such terms and conditions as are deemed appropriate, to guarantee the timely payment of the principal of and interest on trust certificates issued by the Administration or its agent for purposes of this section. Such guarantee shall be limited to the extent of principal and interest on the guaranteed debentures or the redemption price of and priority payments on the participating securities, which compose the trust or pool. In the event that a debenture in such trust or pool is prepaid, or participating securities are redeemed, either voluntarily or involuntarily, or in the event of default of a debenture or voluntary or involuntary redemption of a participating security, the guarantee of timely payment of principal and interest on the trust certificates shall be reduced in proportion to the amount of principal and interest such prepaid debenture or redeemed participating security and priority payments represent in the trust or pool. Interest on prepaid or defaulted debentures, or priority payments on participating securities, shall accrue and be guaranteed by the Administration only through the date of payment on the guarantee. During the term of the trust certificate, it may be called for redemption due to prepayment or default of all debentures or redemption, whether voluntary or involuntary, of all participating securities residing in the pool.

"(c) The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee of such trust certificates issued by the Administration or its agent pursuant to this section.

"(d) The Administration shall not collect a fee for any guarantee under this section: Provided, That nothing herein shall preclude any agent of the Administration from collecting a fee approved by the Administration for the functions described in subsection (f)(2) of this section.

"(e)(1) In the event the Administration pays a claim under a guarantee issued under this section, it shall be subrogated fully to the rights satisfied by such payment.

"(2) No State or local law, and no Federal law, shall preclude or limit the exercise by the

Administration of its ownership rights in the debentures or participating securities residing in a trust or pool against which trust certificates are issued.

"(f)(1) The Administration shall provide for a central registration of all trust certificates sold pursuant to this section. Such central registration shall include with respect to each sale—

"(A) identification of each small business investment company;

"(B) the interest rate or prioritized payment rate paid by the small business investment company;

"(C) commissions, fees, or discounts paid to brokers and dealers in trust certificates;

"(D) identification of each purchaser of the trust certificate;

"(E) the price paid by the purchaser for the trust certificate;

"(F) the interest rate on the trust certificate;

"(G) the fee of any agent for carrying out the functions described in paragraph (2); and

"(H) such other information as the Administration deems appropriate.

"(2) The Administrator shall contract with an agent or agents to carry out on behalf of the Administration the pooling and the central registration functions of this section including, notwithstanding any other provision of law, maintenance on behalf of and under the direction of the Administration, such commercial bank accounts as may be necessary to facilitate trusts or pools backed by debentures or participating securities guaranteed under this Act, and the issuance of trust certificates to facilitate such poolings. Such agent or agents shall provide a fidelity bond or insurance in such amounts as the Administration determines to be necessary to fully protect the interests of the Government.

"(3) Prior to any sale, the Administrator shall require the seller to disclose to a purchaser of a trust certificate issued pursuant to this section, information on the terms, conditions, and yield of such instrument.

"(4) The Administrator is authorized to regulate brokers and dealers in trust certificates sold pursuant to this section.".

SEC. 5. AUTHORIZATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended—

(1) by striking in subsection (g)(3) "stock and $221,000,000 in guarantees of debentures" and inserting in lieu thereof the following: "securities, $221,000,000 in guarantees of debentures, of which $40,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act, and $100,000,000 in guarantees of participating securities";

(2) by striking in subsection (i)(3) "stock and $232,000,000 in guarantees of debentures" and inserting in lieu thereof the following: "securities, $232,000,000 in guarantees of debentures, of which $42,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act, and $250,000,000 in guarantees of participating securities"; and

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

"(k) The following program levels are authorized for fiscal year 1995:

"(1) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $23,000,000 in purchases of preferred securities, $244,000,000 in guarantees of debentures, of which $44,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act, and $400,000,000 in guarantees of participating securities.

"(l) There are authorized to be appropriated to the Administration for fiscal year 1995 such sums as may be necessary to carry out subsection (k), including salaries and expenses of the Administration.

"(m) The following program levels are authorized for fiscal year 1996:

"(1) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $24,000,000 in purchases of preferred securities, $256,000,000 in guarantees of debentures, of which $46,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act, and $550,000,000 in guarantees of participating securities.

"(n) There are authorized to be appropriated to the Administration for fiscal year 1996 such sums as may be necessary to carry out subsection (m), including salaries and expenses of the Administration.

"(o) The following program levels are authorized for fiscal year 1997:

"(1) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $25,000,000 in purchases of preferred securmties, $268,000,000 in guarantees of debentures, of which $48,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act, and $700,000,000 in guarantees of participating securities.

"(p) There are authorized to be appropriated to the Administration for fiscal year 1997 such sums as may be necessary to carry out subsection (o), including salaries and expenses of the Administration.".

SEC. 6. SAFETY AND SOUNDNESS.

(a) FINANCIAL VIABILITY DETERMINED.—Section 302 of the Small Business Investment Act of 1958 (15 U.S.C. 682) is amended by adding the following at the end of subsection (a): "The Administration shall also determine the ability of the company, both prior to licensing and prior to approving any request for financing, to make periodic payments on any debt of the company which is interest bearing and shall take into consideration the income which the company anticipates on its contemplated investments, the experience of the company's owners and managers, the history of the company as an entity, if any, and the company's financial resources.".

(b) VALUATION GUIDELINES AND RESPONSIBILITY.—Section 310 of the Small Business Investment Act of 1958 (15 U.S.C. 687b) is amended by adding at the end thereof the following new subsection:

"(d) Each small business investment company shall adopt written guidelines for determination of the value of investments made by such company. The board of directors of corporations and the general partners of partnerships shall have the sole responsibility for making a good faith determination of the fair market value of the investments made by such company. Determinations shall be made and reported to the Administration not less than semiannually or at more frequent intervals as the Administration determines appropriate: Provided, That any company which does not have outstanding financial assistance under the provisions of this title shall be required to make such determinations and reports to the Administration annually, unless the Administration, in its discretion, determines otherwise.".

SEC. 7. EXAMINATIONS.

(a) EXAMINATION BY INVESTMENT DIVISION.—Section 310 of the Small Business Investment Act of 1958 (15 U.S.C. 687b) is amended by striking from subsection (b) "Administration by examiners selected or approved by" and by inserting in lieu thereof the following: "Investment Division of"; and

(b) TRANSFER OF RESOURCES.—Effective October 1, 1992, the personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, and other funds employed, held, used, arising from, available or to be made available, which are related to the examination function provided by section 310 of the Small Business Investment Act of 1958 shall be transferred by the Inspector General of the Small Business Administration to the Investment Division of the Small Business Administration.

SEC. 8. NON-FINANCED SBICS.

(a) INVESTMENT LIMITATION.—Section 306(a) of the Small Business Investment Act of 1958 (15 U.S.C. 686(a)) is amended to read as follows:

"(a) If any small business investment company has obtained financing from the Administration and such financing remains outstanding, the aggregate amount of obligations and securities acquired and for which commitments may be issued by such company under the provisions of this title for any single enterprise shall not exceed 20 percent of the private capital of such company, without the approval of the Administration.".

(b) CONFORMING AMENDMENT.—Section 310 of the Small Business Investment Act of 1958 (15 U.S.C. 687b) is amended by inserting before the semicolon at the end of subsection (c)(5) the following: "; if such restriction is applicable".

(c) TEMPORARY INVESTMENT OF FUNDS.—Section 308(b) of the Small Business Investment Act of 1958 (15 U.S.C. 687(b)) is amended by inserting after "Such companies" in the third sentence the following: "with outstanding financings".

(d) REGULATORY REVIEW.—Not later than 90 days after the effective date of this Act, the Small Business Administration shall complete a review of those regulations intended to provide for the safety and soundness of those small business investment companies which obtain financing from the Administration under the provisions of the Small Business Investment Act of 1958. The Administration is directed to exempt from such regulations, or to separately regulate, those companies which do not obtain financing from the Administration.

(e) REPORT TO CONGRESS.—The Administration, within 180 days after the effective date of this Act, shall report on actions taken pursuant to section 8(d) of this Act to the Committees on Small Business of the Senate and the House of Representatives, including the rationale for its actions.

SEC. 9. MINIMUM CAPITAL.

Section 302 of the Small Business Investment Act of 1958 (15 U.S.C. 682) is amended by striking from subsection (a) "1979 pursuant to sections 301 (c) and (d) of this Act shall be not less than $500,000" and inserting in lieu thereof the following: "1992 pursuant to section 301(c) of this title shall be not less than $2,500,000 and pursuant to section 301(d) of this title shall be not less than $1,500,000".

SEC. 10. DEFINITIONS.

Section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662) is amended as follows:

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new paragraphs:

"(9) notwithstanding any other provision of law, the term 'private capital'—

"(A) includes the private paid-in capital and paid-in surplus of a corporate licensee (or the private partnership capital of an unincorporated licensee), inclusive of—

"(i) any funds invested in the licensee by a public or private pension fund;

"(ii) any funds invested in the licensee by a State or local government entity (to the extent that such investment does not exceed 33 percent of a licensee's total private capital and otherwise meets criteria established by the Administration); and

"(iii) unfunded commitments from institutional investors that meet criteria established by the Administration (except that such unfunded commitments may not be used for the purpose of meeting the minimum amount of private capital required by this Act or as the basis for the Administration to issue obligations to provide financing); and

"(B) does not include any funds that are—

"(i) borrowed by the licensee from any source; or

"(ii) obtained or derived, directly or indirectly, from any Federal source, including the Administration; and

"(10) the term 'leverage' includes debentures purchased or guaranteed by the Administration, participating securities purchased or guaranteed by the Administration, or preferred securities issued by companies licensed under section 301(d) of this Act and which have been purchased by the Administration.".

SEC. 11. INTEREST RATE CEILING.

Section 305 of the Small Business Investment Act of 1958 (15 U.S.C. 685) is amended by striking the period at the end of subsection (c) and by inserting in lieu thereof the following: ": Provided, That the Administration also shall permit those companies which have issued debentures pursuant to this Act to charge a maximum rate of interest based upon the coupon rate of interest on the outstanding debentures, determined on an annual basis, plus such other expenses of the company as may be approved by the Administration.".

SEC. 12. PREFERRED PARTNERSHIP INTERESTS.

Section 303(c) of the Small Business Investment Act of 1958 (15 U.S.C. 683(c)) is amended—

(1) by striking from the first sentence the word "preferred";

(2) by inserting after the second sentence the following: "As used in this subsection, the term 'securities' means shares of nonvoting stock or other corporate securities or limited partnership interests which have similar characteristics."; and

(3) by striking from paragraph (1) "shares of nonvoting stock (or other corporate securities having similar characteristics)" and inserting in lieu thereof "such securities".

SEC. 13. INDIRECT FUNDS FROM STATE OR LOCAL GOVERNMENTS.

Section 303(e) of the Small Business Investment Act of 1958 (15 U.S.C. 683(e)) is amended—

(1) by inserting after the word "company" the following: "licensed under section 301(d) and notwithstanding section 103(9)"; and

(2) by striking "to the effective date of this Act." and inserting "to November 21, 1989: Provided, That such companies may include in private capital for any purpose funds indirectly obtained from State or local governments. As used in this subsection, the term 'capital indirectly obtained' includes income generated by a State financing authority or similar State institution or agency or from the investment of State or local money or amounts originally provided to nonprofit institutions or corporations which such institutions or corporations, in their discretion, determine to invest in a company licensed under section 301(d).".

SEC. 14. SBIC APPROVALS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by adding the following at the end of subsection (a)(2): "Subject to approval in appropriations Acts, amounts authorized for preferred securities, debentures or participating securities under title III of the Small Business Investment Act of 1958 may be obligated in one fiscal year and disbursed or guaranteed in the following fiscal year.".

SEC. 15. EXCEPTION FROM BANKRUPTCY AUTHORITY.

Section 109(b)(2) of title 11, United States Code, is amended by inserting "a small business investment company licensed by the Small Business Administration under subsection (c) or (d) of section 301 of the Small Business Investment Act of 1958," after "homestead association,".

SEC. 16. STUDIES AND REPORTS.

(a) SBA ANNUAL REPORT.—Section 308(g) of the Small Business Investment Act of 1958 (12 U.S.C. 687(g)) is amended by adding at the end the following new paragraph:

"(3) In its annual report for the fiscal year 1993, and in each succeeding annual report made pursuant to section 10(a) of the Small Business Act, the Administration shall include a full and detailed description or account relating to—

"(A) the number of small business investment companies the Administration licensed, the number of licensees that have been placed in liquidation, and the number of licensees that have surrendered their licenses in the reporting period, identifying the amount of government leverage each has received and the type of leverage instruments each has used;

"(B) the amount of government leverage that each licensee received in the reporting period and the types of leverage instruments each licensee used;

"(C) for each type of financing instrument, the sizes, geographic locations, and other characteristics of the small business investment companies using them, including the extent to which the investment companies have used the leverage from each instrument to make small business loans, equity investments, or both; and

"(D) the number and amount of investments during the reporting period in small business investment companies made—

"(i) by any State or local government entity; and

"(ii) by any public or private pension fund; and

"(E) the frequency with which each type of investment instrument has been used in the reporting period and a comparison of the reporting period with previous reporting periods.".

(b) REPORT OF THE COMPTROLLER GENERAL.—Not later than 4 years after the date of enactment of this Act, the Comptroller General of the United States shall transmit to the Committees on Small Business of the House of Representatives and the Senate a report that reviews the Small Business Investment Company program (established under the Small Business Investment Act of 1958) for the 3-year period following the date of enactment of this Act, with respect to each item listed in section 308(g)(3) of the Small Business Investment Act of 1958, as amended by subsection (a).

SEC. 17. IMPLEMENTATION.

Notwithstanding any law, rule, regulation or administrative moratorium, except as otherwise expressly provided in this Act, the Small Business Administration shall—

(1) within 90 days after the date of enactment of this Act, publish in the Federal Register proposed rules and regulations implementing this Act and the amendments made by this Act; and

(2) within 180 days after the date of enactment of this Act, publish in the Federal Register final rules and regulations implementing this Act, and enter such contracts as are necessary to implement this Act and the amendments made by this Act.

SEC. 18. BUY AMERICA.

Section 102 of the Small Business Investment Act of 1958 (15 U.S.C. 661) is amended by adding at the end the following: "It is the intention of the Congress that in the award of financial assistance under this Act, when practicable, priority be accorded to small business concerns which lease or purchase equipment and supplies which are produced in the United States and that small business concerns receiving such assistance be encouraged to continue to lease or purchase such equipment and supplies.".

SEC. 19. NO EFFECT ON SECURITIES LAWS.

Nothing in this Act (and no amendment made by this Act) shall be construed to affect the applicability of the securities law, as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934, or any of the rules and regulations thereunder, or otherwise supersede or limit the jurisdiction of the Securities and Exchange Commission or the authority at any time conferred under the securities laws.

THE SMALL BUSINESS EQUITY ENHANCEMENT ACT OF 1992

Mr. BUMPERS. Mr. President, I am pleased the Senate is considering H.R. 5191, the Small Business Equity Enhancement Act of 1992, which was reported by the Committee on Small Business on August 6. This bill, Mr. President, is the product of a long series of hearings which I began in 1990 examining some serious failings in the Small Business Investment Company, or SBIC, program at SBA. Let me take a moment to put the program in perspective.

In 1958, 5 years after passage of the Small Business Act and before the existence of a private venture capital industry as we know it today, the Senate under the leadership of Lyndon B. Johnson determined to address the acute shortage of equity capital for small business which had been identified in a study by the Federal Reserve. The result was the Small Business Investment Act of 1958 and the SBIC Program.

The SBIC Program licenses privately owned venture capital companies to provide equity and long-term debt financing to small businesses. SBIC's may be partnerships, sole proprietorships, or in the corporate form. Some are bank-owned, thereby granting a limited exemption from the Glass-Steagall Act. Under the current program, SBIC's are permitted to borrow funds with SBA's guaranty, thereby allowing them access to capital at approximately the U.S. Treasury's cost of money, although the program is financed outside the Treasury. SBIC's have been permitted to borrow as much as $4 for each $1 of private capital.

In the 1970's, a special subgroup of SBIC's known as MESBIC's, or minority enterprise SBIC's, was created to address the extreme shortage of capital for businesses owned by socially and economically disadvantaged individuals. These companies are also referred to as special SBIC's or as section 301(d) companies, and they are financed by SBA through a different mechanism which includes purchase of preferred stock in the MESBIC.

SBIC's have helped produce some of the most prominent names in corporate America. Federal Express, Nike, Compaq, Apple Computer, Digital, Genentech, Essence magazine, and Cray Research are among the winners which would likely not exist at all today had it not been for SBIC's. Regu-

lar SBIC's have invested over $2 billion in American small businesses, while MESBIC's have invested almost $500 million in minority-owned small businesses.

The pending bill is full of hope for the future Cray's and Nike's. At the same time, it contains strong medicine to curb some egregious abuses of the system. SBIC's were not immune to the ripoff artists and loose corporate morality which characterized American high finance throughout the 1980's.

In the course of budget hearings on the administration's fiscal year 1991 budget request, it came to my attention that SBA was facing about $500 million in losses in the SBIC program, mostly from failures in the previous 5 years. Moreover, there had been some recent, spectacular losses by a few companies. The press had reported on the bankruptcy of River Capital Corp. located in Virginia. That company, which had about $7.5 million in private capital, had borrowed some $28 million through SBA at the time it went belly-up. Borrowings had been approved by SBA within a year of the bankruptcy. Most astounding, the bankruptcy examiner reported that the assets of the company were virtually zero. That later turned out to be only a slight exaggeration, but the bankruptcy court ruled that SBA was in last position as a creditor, and the Government's loss was total. River Capital, unhappily, was not the only financial disaster for the SBIC program.

There was also the strange case of Royal Business Funds, a New York company placed in liquidation in the early 1980's by SBA. The press was fascinated with Royal because its collapse left SBA owning a ski resort in Colorado and a real estate development in Florida. The most bizarre aspect of the case was the way that SBA elected to handle the liquidation. Our committee's hearings revealed that SBA employees had, with approval from higher-ups, established a corporation, owned by SBA and managed by them, which was conducting the liquidation by managing the ski resort, the real estate development company, and other Royal ventures. The corporation was also illegally paying some expenses of the Government employees. Astonishingly, some lawyers at SBA defended this enterprise against the clear language of the Corporation Control Act, which says that agencies may establish corporations only with approval of Congress. SBA's Administrator requested a formal opinion from the Attorney General, and the Justice Department ruled against SBA on the Corporation Control Act question.

It soon became apparent that the SBIC program was in a serious tailspin. Frankly, there were myriad problems which we identified in the course of these hearings. A lack of adequate resources to effectively manage and oversee the program was cited by SBA as the chief culprit. This was especially acute in the liquidation area, where SBA had a literal handful of employees, each one responsible for more than 10 times the private sector standard for liquidators. Typically, the administration blamed Congress for not appropriating enough money for staff. Presidents Reagan and Bush, however, never requested more resources, and it is well known that OMB strictly controls personnel ceilings.

In River Capital and other cases, there were evident problems with valuation of investments by the board of directors. Seriously exaggerated valuations were not noticed by certified public accountants from one of the Big Eight firms who sat through a day-long meeting with the board. The accountants failed even to note that one stock value assigned by the directors vastly exceeded the value listed on that day in the over-the-counter market.

Two spectacular failures of New York SBIC's, Columbia Capital and Clinton Capital, had at least overtones of outright fraud against the Government and have been the subject of civil and criminal litigation. In River Capital and other cases, the inspector general also failed in his duty to examine the licensees annually or semiannually as prescribed by law. But he, too, pleaded a lack of resources. Even when IG audits were conducted, as in the case of River Capital, the IG staff, like the public accountants, often failed to notice gross errors. It should be noted that the IG has received a 25-percent increase in budgetary resources in the last 2 years.

There was clearly a neglectful attitude throughout the last decade by SBA's top management about this growing problem, at least until our hearings focused the attention of Administrator Engeleiter and her staff on the issues. Of course, bear in mind that the Reagan administration expended most of its energy trying to abolish SBA and this program entirely. Mrs. Engeleiter did respond to the problems by proposing an overhaul of the SBIC regulatory scheme, and by replacing management of the program with one of SBA's most seasoned and respected administrators.

Among the regulatory changes proposed by Mrs. Engeleiter was an increase in capitalization requirements from a minimum of $1 to $2.5 million for regular SBIC's and $1.5 million for MESBIC's. That increase was adopted by SBA and has been codified in H.R. 5191 so that there will be no confusion between the statute and the regulations. Most of the other proposed regulations, however, were simply inapposite to the problems our hearings had identified. The regulations provoked a firestorm of criticism, and many of the proposals were eventually discarded.

In 1991, the Senate Committee on Small Business commissioned a study of the program by two outside experts, Messrs. Edwin Holloway and John Werner. Both were retired from SBA's finance and investment division and have impeccable reputations. They produced a comprehensive report on the program's shortcomings and a series of recommendations which were released shortly after Mrs. Patricia Saiki took office as administrator, replacing Mrs. Engeleiter.

Mrs. Saiki asked the committee for a year to get the SBIC program back on course, and she also took the initiative to establish her own panel of outside experts, the Investment Advisory Council. Under the leadership of its chair, Pat Cloherty, the IAC studied the accomplishments and failings of the program since its inception. Ms. Cloherty, incidentally, had served as Deputy Administrator of SBA under President Carter, and she put an enormous amount of time into the council's work.

To make a long story somewhat shorter, the IAC recommended legislation which eventually became H.R. 5191, the pending measure.

The most salient conclusion of our committee's hearings of Messrs. Holloway and Werner, and of the IAC is that a fundamental flaw exists in both the theory and practice of the SBIC program as currently constituted. It is simply not workable to finance long-term equity investments in small business by using currently payable debt, and that is largely what we have done for 34 years. Time and again, Congress has reiterated the primary purpose of SBIC as the creation of equity investment capital for small firms. However, public policy has perversely rewarded those firms who make more equity investments by allowing them more borrowing. The fourth tier of leverage, for example, has been available only for those SBIC's which agree to put the proceeds in equity investments. The most highly leveraged companies, however, we now know have been the most likely to fail. This bill repeals the fourth tier of leverage.

Of all the SBIC's which have failed, the primary risk factor has been the degree of leverage. The amount of capital, per se, has been less of a risk factor than the ratio of borrowing to paid-in capital. For a company which merely relends SBA's money, debt financing is not necessarily so risky. But these are not the companies which we most need to encourage. Straight lenders, in my view, merely duplicate existing loan programs such as the section 7(a) loan guaranty program and the section 504 development company program. Moreover, there is no shortage of banks and other lenders. There is a serious shortage of sources of equity financing for American small business, and it is this shortage which H.R. 5191 hopes to bridge.

This bill has several purposes, not the least of which is reducing the Government's risk of loss in the SBIC program. H.R. 5191, make many changes aimed at reducing the taxpayer's exposure to loss and reducing opportunities for abuse, while at the same time reinvigorating the only Government-supported equity capital program for small business. There remains today the shortage of patient money for growth-oriented emerging businesses which spawned this program 34 years ago. So, while we need to prevent, as best we can, some of the abuses which have characterized the SBIC program since 1986, we also need to invest in the companies which will build the future economy.

H.R. 5191 will revitalize the investment company program by creating a financing mechanism for equity-oriented SBIC's. This new instrument, called a Participating Preferred security, will allow SPA to essentially take an equity stake in the SBIC's which elect to participate. Although, the Government will not exercise ownership rights in the SBIC, it will share in the company's profits, if any. In addition, the borrower will pay interest based on the cost of money. On the other hand, the Government participates in the risk as well. If there are no profits, no interest will be due. The principal remains owing nonetheless, and SBA's participating security will take priority in the event of liquidation over all other equity interests, whenever created.

The bill also reforms the program to better protect the Government's interests. The bill eliminates the fourth tier of SBA leverage for all SBIC's. The maximum leverage will be reduced from 4:1 to 3:1. Of this amount, not more than 2:1 may be under the new participating security.

The bill strictly limits overhead or management expenses for investment companies so that profits cannot be dissipated with inflated salaries to top management. Not more than 2.5 percent of capital may be used annually for overhead, plus an additional $125,000 for smaller SBIC's. H.R. 5191 requires all SBIC's to have written valuation guidelines and makes the board directly responsible for valuation decisions.

The substitute committee amendment will, among other things, flatly prohibit SBIC's from filing bankruptcy petitions. This provision, which I regard as essential to the bill, has already passed the Senate as part of S. 1985, the bankruptcy reform bill. The SBIC bankruptcy prohibition has been scored by CBO as saving $44 million to the Treasury over a 5-year period. This provision will more than pay for the cost of this new program over the next 2 years. It is strongly supported by the administration and I ask unanimous consent that a letter from SBA Administrator Saiki be printed in the RECORD at this point.

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

U.S. SMALL BUSINESS ADMINISTRATION,
Washington, DC, September 6, 1991.

Hon. DALE L. BUMPERS,
Chairman, Committee on Small Business,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request at the hearing of July 31, 1991 of the Senate Committee on Small Business, for the views of this Agency on the current state of the Bankruptcy law with respect to Small Business Investment Companies (SBIC). As you know, an SBIC is able to avail itself of the protection of the Bankruptcy Code unless an order entered by a court of competent jurisdiction prohibits it from doing so. This has proved extremely detrimental to the liquidation and collection efforts of the Small Business Administration (SBA) with respect to indebtedness owed to it by SBIC's which obtain protection under the Bankruptcy Code.

For example, as you have pointed out, notwithstanding our best efforts, SBA has on several occasions been beaten to the courthouse by defaulting SBICs which have obtained Bankruptcy protection prior to the granting to SBA of a receivership order. Also, some SBICs have obtained such protection after we have made demand for payment. Since we are a subordinated and unsecured creditor under those circumstances, our ability to recover on the indebtedness owed is greatly compromised by such a course of conduct.

As I testified, currently there are eight SBICs which have obtained protection under Chapter 11 of the Bankruptcy Code. SBA has provided a total of $109.5 million in leverage to these SBICs. River Capital Corporation filed for protection in 1988, two other SBICs filed for protection in FY 1990 and five have done so in FY 1991. We believe administrative costs associated with Bankruptcy proceedings are higher than receivership proceedings. Thus, bankruptcy proceedings not only compromise our liquidation and collection efforts by taking advantage of our subordinated and unsecured creditor position, but they also deprive SBA of a source of funds which might otherwise be available to satisfy obligations owed to us.

We recognize the equitable and policy considerations involved in depriving a class of financial institutions of the protection afforded by the Bankruptcy laws. However, Congress has seen fit to do so with respect to other entities which have government backing or for which there exists a sufficient public policy reason. These entities include railroads, banks, savings and loan associations, credit unions and insurance companies.

Based upon the above mentioned adverse effect on our liquidation and collection efforts, we believe legislative action is appropriate with respect to SBICs as well. Therefore, I have enclosed a proposed draft of an amendment to the Bankruptcy Code which I feel would satisfy our mutually expressed interests. I view this as a working draft that your staff and ours as well as other Executive Agencies and Departments and Committees of Congress can use as a point of departure for the development of legislation to cure this problem.

The Office of Management and Budget has advised that from the standpoint of the Administration's program there is no objection to the presentation of these views to your Committee.

I look forward to working with you and the Committee on this matter and hope that we can strengthen the Agency's position in these cases.

Sincerely,

PATRICIA SAIKI,
Administrator.

Mr. BUMPERS. H.R. 5191 is a rare exception to the legislative gridlock which everyone rightly bemoans. The bill has the support of the administration and of members on both sides of the aisle in the House and Senate.

I urge Senators to support the Small Business Committee's amendment and to pass this bill, and ask that its section-by-section analysis be printed in the RECORD.

Mr. President, I want to thank our distinguished ranking member, Senator KASTEN. he has been a cooperative partner throughout the hearing process and in preparation of this bill.

Mr, President, I ask unanimous consent to print in the RECORD a section-by-section analysis of the bill.

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

SECTION-BY-SECTION ANALYSIS OF H.R. 5191

SECTION 1. SHORT TITLE

The short title for this bill is the "Small Business Equity Enhancement Act of 1992".

SECTION 2. LEVERAGE (MATCHING FUNDS) FORMULA

This section authorizes the Small Business Administration to guarantee debentures and new investment instruments, called participating securities, which are issued by regular small business investment companies (SBICs). The purpose of this new authority is to increase the availability of equity capital to small businesses.

Government financing, called leverage, is available for regular debentures up to a ratio of 3:1 for leverage to private capital, including the participating securities, up to a ratio of 2:1. In addition, the amount of leverage for a licensee must conform to formulae established in this section which are keyed to the amount of the SBIC's private capital as follows: An SBIC with up to $15 million in private capital may obtain up to $45 million in leverage; an SBIC with more than $15 million, but less than $30 million in private capital may obtain up to $75 million in leverage; and an SBIC with more than $30 million, but less than $45 million in private capital may obtain up $90 million in leverage. The fourth tier of leverage under the existing program is no longer available for SBICs under this revised program.

Individual and commonly controlled SBICs are capped at $90 million, which cap the Administration may increase on a case-by-case basis. However, the Committee substitute amendment deletes an automatic inflation adjustment which would have been applicable to the cap and to the dollar figures in the leverage formulae under the House-passed bill. Existing law permits each SBIC to obtain up to $35 million in government leverage. In the Committee's view, an increase from $35 million to $90 million without an automatic inflation adjustment is adequate to encourage growth in the program.

A Specialized SBIC (SSBIC), which meets the required private capital and other requirements, may also obtain leverage up to the $90 million cap, however, the maximum

leverage under this section will be reduced by the amount of the SSBIC's outstanding preferred stock or reduced interest debentures.

SECTION 3. PARTICIPATING SECURITIES

This section authorizes SBIC's to issue a new security which is aimed at resolving the mismatch of the program's goal of encouraging long-term equity investments and its funding mechanism which requires the SBIC to begin repayment 6 months after receiving funding. Under the bill, SBICs pay interest equal to the Federal cost of money, but only to the extent the SBIC has profits. At such time as the SBIC distributes profits from investments made with the SBIC's combined capital (private capital and SBA leverage), the SBA receives a share of profits in addition to interest.

SBA's share is calculated based on the ratio of its leverage to the SBIC's private capital as follows: If the ratio of leverage to private capital is 1:1, SBA's share equals 9 percent of the profits. If the ratio is 2:1, SBA's share is 12 percent. If the ratio is higher than 1:1, but less than 2:1, SBA's share of the profits is calculated proportionately between 9 percent and 12 percent.

Under the Committee amendment, SBA's profit share is indexed to an 8 percent 10-year Treasury bill rate. If the Treasury bill rate at the time the participating security is sold is other than 8 percent, the percentage of profit participation is proportionately adjusted upward or downward. For example, if the 10-year Treasury bill rate is 9 percent on the date of sale of the participating securities, SBA's share of the profits would be 1 point higher. Conversely, if the 10-year Treasury bill rate is 7½ percent on the date of sale of the participating securities, SBA's share of the profits would be ½ percent lower.

To foster the goal of increasing the availability of equity capital to small businesses, SBICs issuing participating securities are required to use the funding for equity investments in small businesses.

This section also contains several protections for the Government against loss or erosion of profits by the SBIC. Management expenses of the SBIC are limited to 2.5 percent for all SBICs plus an additional $125,000 for SBICs with combined capital of less than $20,000,000. Management expenses are defined in the bill to include expenses relating to salaries, office expenses, travel, etc., but not costs associated with outside consulting services and other services not normally performed by venture capital companies.

In addition, the participating securities are required to be senior to all other equity investments in the SBIC, regardless of when the other investments occur. The only debt an SBIC issuing participating securities may have outstanding, other than that obtained pursuant to the Small Business Investment Act, is temporary, short-term debt. Short-term debt is limited to 50 percent of private capital and may not exceed one year. This need to borrow short-term operating capital, for example, while it is awaiting a financing from SBA. However, the provision also protects the Government from being subordinated to outside debt should a liquidation be necessary.

SECTION 4. POOLING

SBA is already authorized to pool SBIC debentures, to sell shares of the pools to private investors and to guarantee the payment of principal and interest on the shares. This section would authorize identical pooling authority for the new participating securities. Participating securities are to be pooled separately from debentures under the existing program.

SECTION 5. AUTHORIZATIONS

This section adds authorizations program levels for the participating securities for the five-year period of the pilot program as follows: $100 million for fiscal year 1993, $250 million for fiscal year 1994, $400 million for fiscal year 1995, $550 million for fiscal year 1996 and $700 million for fiscal year 1997.

SECTION 6. SAFETY AND SOUNDNESS

This section requires SBA to make a determination of financial viability for each SBIC prior to licensing and prior to approving each request for financing. Specifically, each SBIC must be found able to make periodic payments on its debt.

Each licensee is required to adopt written guidelines for valuing its investments. The guidelines must require that the board of directors or general partners (whichever is applicable) have the sole responsibility for making a good faith determination of the fair market value of the SBIC's investments. The determinations must be made at least semiannually. For SBICs with leverage, the determinations must also be reported to SBA at least semiannually. SBA may require the reports more frequently if deemed necessary.

SECTION 7. EXAMINATIONS

This section transfers, as of October 1, 1992, the authority to perform periodic examinations of companies participating in the SBIC program from the Office of the Inspector General (Office of Audits and Investigations) to SBA's Investment Division. The function to be transferred includes personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations and any other related funds. The Office of the Inspector General will retain the responsibility, and associated resources, for conducting audits and investigations of the SBIC program, as authorized or required under the provisions of the Inspector General Act of 1978, as amended.

SECTION 8. NON-FINANCED SBICS

This section exempts SBICs which have no government leverage from a requirement which was imposed to protect the Government's risk of loss. Such companies are exempted from the prohibition that no more than 20 percent of an SBIC's private capital may be invested in any one small business. This section also directs SBA to examine its regulations within 90 days of this legislation's enactment to identify and modify similar regulatory provisions which should not apply to SBICs which have no leverage. SBA must report to Congress on the results of its review within 6 months of this legislation's enactment.

SECTION 9. MINIMUM CAPITAL

This section increases the statutory minimum private capital required to become licensed as an SBIC from $500,000 to $2,500,000 for regular SBICs and $1,500,000 for Specialized SBICs. This change is a codification of existing SBA regulations.

SECTION 10. DEFINITIONS

This section amends the definition of "private capital" for purposes of determining eligibility to become an SBIC and to receive leverage. The House-passed bill included funds from public or private pension funds within the definition. The Senate substitute also includes funds from State or local governments within the definition, provided that no more than 33 percent of an SBIC's private capital is comprised of such funds. The 33 percent limitation is intended to prevent State or local control of such companies. SBA is also authorized to impose regulatory restrictions on the use of state and local government funds, if deemed necessary, to maintain private control of the SBICs or to otherwise maintain the integrity of the program. This section also amends the definition of leverage to include the new participating securities purchased or guaranteed by the Small Business Administration.

SECTION 11. INTEREST RATE CEILING

Under existing law, the maximum interest rate which may be charged by an SBIC is set by SBA, based upon the current interest rate on financial assistance from the Agency to the SBIC, even though the SBIC may be paying a different interest rate under a debenture issued years ago. If the interest rates have fallen, such a company may not be recovering its cost of money; conversely, if they have increased, the company may be receiving a windfall.

This bill requires SBA to provide, as an alternative interest rate ceiling, a cap on the maximum interest rate which an SBIC may charge based upon the interest rate of the debenture financings provided to each SBIC by the SBA.

SECTION 12. PREFERRED PARTNERSHIP INTERESTS

The bill authorizes limited partnership-type Specialized SBICs to sell partnership interests to the SBA with the equivalent of a 4 percent dividend under the same terms and conditions which apply to corporate form companies when they sell preferred stock to SBA.

SECTION 13. INDIRECT FUNDS FROM STATE OR LOCAL GOVERNMENTS

This section authorizes Specialized SBICs to use funds indirectly obtained from State or local government sources, provided that the funds have taken on a private character. For example, monies from a non-profit entity which is funded by a State would be permissible private capital for Specialized SBICs.

SECTION 14. SBIC APPROVALS

Subject to provisions of appropriations acts, this section permits SBA to make obligations for debentures and preferred securities in one fiscal year and disburse or guarantee them in the following fiscal year.

SECTION 15. EXCEPTION FROM BANKRUPTCY AUTHORITY

This section excepts SBIC's from eligibility for filing a petition under the Bankruptcy Code. There exists an adequate administrative system for addressing liquidations of troubled SBICs. In recent years, SBA has suffered several major losses as the result of SBICs filing for bankruptcy before the matter was referred to SBA's regulatory system. This provision is intended to protect the government against losses, while maintaining a regulatory system for addressing financial problems of troubled SBICs.

SECTION 16. STUDIES AND REPORTS

This section requires SBA to include a description and an analysis of its progress in implementing the new participating securities and other reforms in its annual report to Congress on the SBIC/SSBIC programs. At the end of 4 years, the General Accounting Office is required to report to Congress on the SBA's progress in implementing the reforms contained in this bill and on the effectiveness of the reforms in generating equity capital for small businesses.

SECTION 17. IMPLEMENTATION

This section requires SBA to publish proposed regulations within 90 days, and final

regulations within 6 months, of the date of enactment of this bill.

SECTION 18. BUY AMERICA

This section notes the Congress' support for financing small businesses which buy American-made products and American services.

SECTION 19. NO EFFECT ON SECURITIES LAWS

This provision makes clear that the authority to regulate the SBICs, their securities and the pooling of such securities in no way affects the applicability of the securities laws as defined in section 3(a)(47) of the Securities Exchange Act of 1934, or any regulations issued thereunder.

So the bill (H.R. 5191) was deemed read a third time and passed.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MEASURES REFERRED

The following bill, received from the House of Representatives for concurrence on August 5, 1992, was read the first and second times by unanimous consent, and referred as indicated:

H.R. 5630. An act to amend the Head Start Act to expand services provided by Head Start programs; to expand the authority of the Secretary of Health and Human Services to reduce the amount of matching funds required to be provided by particular Head Start agencies; to authorize the purchase of Head Start facilities, and for other purposes; to the Committee on Labor and Human Resources.

MEASURES PLACED ON THE CALENDAR

The following joint resolution, received from the House of Representatives for concurrence on August 5, 1992, was read the first and second times by unanimous consent, and placed on the calendar:

H.J. Res. 507. Joint resolution to approve the extension of nondiscriminatory treatment with respect to the products of the Republic of Albania.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BENTSEN, from the Committee on Finance, without amendment:

S.J. Res. 317. A joint resolution approving the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of the Republic of Albania (Rept. No. 102-362).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 3359. A bill to amend the Geothermal Steam Act of 1970 (30 U.S.C. 1001-1027) and for other purposes (Rept. No. 102-363).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

H.R. 4364. A bill to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, research and program management, and Inspector General, and for other purposes (Rept. No. 102-364).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 2870. A bill to authorize appropriations for the Legal Services Corporation, and for other purposes (Rept. No. 102-365).

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

S. 1880. A bill to amend the District of Columbia Spouse Equity Act of 1988 (Rept. No. 102-366).

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 1602. A bill to ratify a compact between the Assiniboine and Sioux Indian Tribes of the Fort Peck Reservation and the State of Montana (Rept. No. 102-367).

S. 3118. A bill to increase employment and business opportunities for Indians, and for other purposes (Rept. No. 102-368).

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 2263. A bill to amend title 5, United States Code, with respect to certain programs under which awards may be made to Federal employees for superior accomplishments or cost savings disclosures, and for other purposes.

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. SYMMS (for himself, Mr. CRAIG, Mr. GARN, Mr. HATCH, Mr. LOTT, Mr. THURMOND, and Mr. HELMS):

S. 3159. A bill to amend the Endangered Species Act of 1973 to reauthorize such Act and to provide a means whereby endangered species and threatened species may be preserved and the habitat needs of the endangered and threatened species may be balanced and harmonized with the needs of man, and for other purposes; to the Committee on Environment and Public Works.

By Mr. REID (for himself, Mr. BRYAN, Mr. D'AMATO, and Mr. GRAHAM):

S. 3160. A bill to amend the Fair Labor Standards Act of 1938 to ensure that inmates are not treated as employees for purposes of such Act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. INOUYE (for himself and Mr. SIMON):

S. 3161. A bill to designate May of each year as "Asian/Pacific American Heritage Month"; to the Committee on the Judiciary.

By Mr. JEFFORDS (for himself and Mr. DURENBERGER):

S. 3162. A bill to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to improve pension plan funding; to the Committee on Finance.

By Mr. KENNEDY (for himself and Mr. HATCH):

S. 3163. A bill to amend the Federal Food, Drug, and Cosmetic Act to coordinate Federal and State regulation of wholesale drug distribution, and for other purposes.

By Mr. RIEGLE (for himself and Mr. JEFFORDS):

S. 3164. A bill to establish a program to demonstrate the environmental, economic, and social benefits and feasibility of carrying out response actions to remediate environmental contamination and redeveloping or reusing land blighted by environmental contamination; to the Committee on Environment and Public Works.

By Mr. REID:

S.J. Res. 331. A joint resolution to designate the month of January 1993 as "National Cowboy Poetry Month"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PELL (for Mr. MITCHELL (for himself and Mr. DOLE)):

S. Res. 332. A resolution to authorize testimony, documentary production, and representation of Members and employees of the Senate in United States of America v. Clair E. George; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SYMMS (for himself, Mr. CRAIG, Mr. GARN, Mr. HATCH, Mr. LOTT, Mr. THURMOND, and Mr. HELMS):

S. 3159. A bill to amend the Endangered Species Act of 1973 to reauthorize such act and to provide a means whereby endangered species and threatened species may be preserved and the habitat needs of the endangered and threatened species may be balanced and harmonized with the needs of man, and for other purposes; to the Committee on Environment and Public Works.

PROGRESSIVE ENDANGERED SPECIES ACT OF 1992

Mr. SYMMS. Mr. President, I rise before my colleagues today to introduce what I consider to be one of the most important pieces of legislation that will come before Congress this year, the Progressive Endangered Species Act of 1992.

It is a comprehensive improvement over what is arguably the most powerful—and in my opinion, one of the most ineffective—environmental laws in our history; a law which is much more far-reaching and more powerful than most Americans and perhaps many of us here today realize; a law that is basically out of control.

The name, Progressive Endangered Species Act, is not arbitrary, for this

truly is a progressive bill. This legislation will take us out of the stone age of conservation and enable us to move forward using man's art and science to make things better for all species, humans included.

This bill is progressive because it recognizes a simple truth, that economics is not adverse to conservation. It will reestablish the positive link between economics and conservation through incentives for humans to become active in species protection. With this bill, we don't have to apologize for our free enterprise system. On the contrary, this bill allows us to use it wherever possible to benefit species.

This bill is progressive because it reestablishes the link between humans and the rest of the living world—it is called coexistence. And by requiring high scientific standards throughout, we will no longer list or refuse to delist species based purely on emotions and hype.

This bill is progressive because it reestablishes cooperation between local, State and Federal authorities. For too long, we have caused these groups to be adversaries, and that certainly has not benefitted our endangered species.

This bill is progressive because it provides for real management. Rather than the massive bureaucratic listing process we have today, the Progressive Endangered Species Act will serve as a useful, active tool designed to achieve results.

To set the stage, Mr. President, for the changes I am proposing, I am going to share a story about an American citizen. His name is Mr. Don Walker, Jr. As a matter of fact, he is here today in the Senate gallery with his wife Kay. Mr. Walker happens to be a former logger, but he could be a shrimper from the Gulf States, or a fisherman from the east coast, a logger from the Pacific Northwest, a farmer from the heartland, a rancher from the Plains or any one of millions of private property owners who are struggling to deal with the current Endangered Species Act. Mr. Walker wrote a letter to the editor of the Wall Street Journal, and here is the text of his letter:

My name is Donald Walker, Jr. For 30 years, I was an Oregon logger. I have been out of work since August 1989, when the company I worked for closed out it operations near Oakridge, where my wife and I live.

Times have been pretty tough since then, though I think we have been luckier than many woodsworkers. We still have our home, where we raised our children. Many younger loggers, with small children at home, have lost everything as a result of the spotted owl controversy that has tied Congress in knots.

FAITH AND HOPE

My wife has an office job with the same company I worked for, but she had to accept a transfer to another office a four hour drive from home. Now we see each other only on weekends.

It gets pretty lonely here without her, but our faith in God has kept us strong, and we continue to hope for better days when we can be together again like a family should be.

After I lost my job I took some courses at a local community college, thinking that I might be able to make a new start in life. I figured my best hope was to learn enough to start some sort of small business that was related to my 30 years of woods experience.

I took welding, some small business classes and a couple of courses in interpersonal communications. Can you imagine a logger in an interpersonal communications class!

Community college helped me a lot personally, but starting over when you are 55 years old isn't easy. Since 1989 the only work I've been able to find is as a part-time caretaker on some private timber land near here.

I've also worked seasonally as a yew bark collector for an outfit that has a contract with a big drug company that is searching for a cure for cancer. They think Taxol, which comes from yew bark, might be a miracle cancer cure.

I also work on the family tree farm, and that is the other part of this story.

My dad and my grandad bought this farm in 1932. Our family has been logging it for 60 years. We've replanted as we've gone along, or converted the land to fields where we graze a few cattle.

Our land was burned badly in a fire in 1912, so we don't have any of the old growth timber Oregon is famous for. None of our trees are more than 80 years old.

One of the hopes I have held onto since I lost my job is that I could supplement our income by continuing to manage our tree farm as my father and grandfather did for so many years. But it doesn't look like this is going to pan out either.

Last November, I received a letter from an outfit called the Forest Conservation Council telling me that if I cut any more timber on our land it would sue me for violating the Endangered Species Act, which protects spotted owls, and makes it a crime to tamper with their habitat.

I have never seen a spotted owl on our place, and I have never met anyone from the Forest Conservation Council. So far as I know, it's never even been on our farm. But I do have a typewritten, single-spaced, four page letter from their lawyer saying that what we have been doing on our tree farm for 60 years is no longer legal.

I might have felt a little bit better about the letter if they had offered to buy the land, or at least pay the taxes, which we have also been doing for 60 years. But they didn't and I guess I'm not surprised. From what I've read about these people, they don't believe in private property rights.

About 200 Oregon tree farmers got the same letter I got. There are actually many more tree farmers in Oregon, but for some reason we were singled out. It got me to thinking about how what has happened to us could happen to any private property owner. In fact, the newspapers are filled with stories like ours. It's happening to people all over the United States.

There is even a Supreme Court case now involving a fellow in South Carolina who paid almost a million dollars for a couple of beachfront lots he has been told he can't build on because somebody thinks the land should be left to nature.

A lot of news reporters have visited our place since we got our letter from the Forest Conservation Council. I think they're impressed with the beauty of our farm, but I'm afraid they don't grasp the significance of what is happening to us, or to other private landowners across the country. Do they understand that the right of ownership of private property is fundamental to our democracy? I don't think so. I think they are too busy collecting what are called six-second sound bites, and that is not something I am very good at.

Some people say we should cut down all our trees now, while we still can, before the Forest Conservation Council letter becomes a court case. But we don't want to. We're conservationists. This tree farm is our home, and the trees are part of our way of life. We work with nature to grow a crop the Nation needs. The crop is wood. It puts food on our tables.

BANKRUPTCIES AND LAWSUITS

In 26 years of married life, we have never been late on a bill we owed. The pressure on us now is hard to describe. My wife won't even read the newspaper anymore, because it's filled with stories about loggers losing everything, and preservationists filing more lawsuits.

Where does it all end? Do people count anymore? Do private property rights still have meaning in America? Who will compensate us for our loss? The public? The Forest Conservation Council? So far, I haven't heard from anyone except the property tax collector.

The problem isn't the owl, or even old growth for that matter. The problem is an out-of-control preservationist movement that doesn't care about people or their rights.

Our tree farm is our last hope. It is worth fighting for, and I intend to fight for it every way I know how.

Mr. President, I think that is a very powerful letter and I hope my colleagues will look through it.

I ask unanimous consent at the end of my remarks that the letter to Mr. Walker from the Forest Preservation Council be printed in the RECORD.

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

(See exhibit 1.)

Mr. SYMMS. Mr. President, would my colleagues not agree, after hearing this, that it is time this body acts to correct this situation? For Don Walker and the millions of people like him, we must do the responsible thing and improve the Endangered Species Act.

My bill will amend that legislation which was passed in 1973 and amended several times since then. I did not vote for it then because I could see some of the potential problems that loomed ahead; however, I would have never predicted a situation this severe.

The 1973 bill was enacted at a time of rapid growth for this country and when we all thought Government resources were unlimited. Well, we now find ourselves with a Federal debt of over $4.0 trillion and a deficit of $400 billion.

These figures are important, Mr. President, because the inspector general of the Interior Department estimates that in the late 1990's, it will require $4.6 billion to recover only part of the species listed at that time and part of the listed candidate species. This estimate, which reaches $6.65 to $8.1 billion today, does not include those costs associated with permitting, consultation, law enforcement, listing, delisting, mitigation and, most impor-

tantly, cost to society. We are ignoring or denying the cost to society, as Mr. Walker's letter points out. Regardless of what environmental groups want us to believe, the current Endangered Species Act is creating havoc with the social fiber of this country. And oddly enough, it doesn't have to.

After reviewing present and future costs of implementing the current act, there is no question that we cannot afford to save every threatened, endangered and candidate species, subspecies and population. There are over 1,200 species, subspecies and vertebrate populations listed as endangered or threatened under the current act, 727 of them in the United States. Over 3,500 more are official candidates which do not have a high enough priority to undergo the listing process.

The U.S. Fish and Wildlife Service tries to list at least 50 species each year. The Interior Department estimates that it would take nearly 50 years and $114 million to review and list the current official candidates. Meanwhile, Federal officials must review numerous petitions each year to list additional species, subspecies and populations. In its 1990 annual report, the Council on Environmental Quality noted that the Natural Heritage data base reported as many as 9,000 domestic species were at risk.

And what has all this effort and millions of dollars bought us? Have we really saved species and have we made measurable progress? Mr. President, the short but true answer is: No. The majority of species which have been delisted have been delisted or should have been delisted on the grounds of data error—9 of 16 total delistings. This demonstrates that there is an obvious need for more objective science and stricter guidelines as to what should and should not be listed. For every plant or animal mistakenly added to the list, it costs nearly $100,000—an average of $60,000 to list and $37,000 to delist.

Mr. President, in the nearly two decades since the act's implementation, there is not yet one legitimate recovery. This is not a problem which requires more money, but a fundamental change in approach of how the law is handled.

To more graphically express the extent to which the current act is tightening its grip on the social and economic fiber of this country, we have prepared two charts depicting endangered species habitat that were created using data taken directly from currently available U.S. Fish and Wildlife Service recovery plans.

This first chart shows all of the critical habitat that has been designated in the United States as well as all essential habitat. Critical habitat receives the law's strictest protection because it is habitat that is critical to the continued existence of a species. Essential habitat denotes an area's importance to a species' existence, but it does not receive any higher degree of protection under the law. Most likely, these are areas which the authors of the recovery plans felt should be designated as critical habitat. There is a considerable amount of critical and essential habitat. The critical habitat shown, however, represents only 3.3 percent of all listed species in the United States.

This first overlay, as I will explain, depicts the habitat range of threatened and endangered plants and animals in the United States, areas where these species can be found or are likely to occur. First, we have 49 species of reptiles, amphibians, and invertebrates. To point out a few—the Alabama red-bellied turtle, and some 21 fresh water mussels occurring throughout Tennessee and surrounding States.

The second overlay shows 65 species of fish and mammals. This orange area represents the Indiana bat. I do not mean to suggest that there is an Indiana bat at every point in his range, but his map was made to show where the Fish and Wildlife Service says these endangered species can occur—just about anywhere, which means there is nothing to keep an Indiana bat from feeding on insects over on your farm or to prevent a red-cockaded woodpecker from nesting in your backyard.

The third overlay is the range and habitat of 68 species of birds and plants, which makes for quite a colorful image, a very disturbing image, nonetheless, but keep in mind that this represents less than one-quarter of all species that are currently listed in the United States—172 of the currently listed 727 species. Furthermore, it does not include the over 3,500 category 1 and 2 candidate species, 296 of which are snails. Can you imagine what this map will look like when the data if finally available on the remaining 75 percent of the species?

Mr. President, you can see that the impact of the current legislation is awesome. To think about what we are trying to do, it is impossible under the current act to put all this into effect.

Among some of the most flawed aspects of the current legislation is the critical habitat designation. The act allows certain areas to be excluded from designation if the economic and other benefits of exclusion outweigh the scientific benefits of inclusion but only if the failure to designate the area will not result in the extinction of the species.

The Fish and Wildlife Service frequently evades consideration of economics by invoking the act's extraordinary circumstance clause to avoid designation. And even though one Federal court already found the agency's use of these criteria to be improper in the *Northern Spotted Owl* v. *Lujan*, 758 F. Supp. 621 [W.D. Wash. 1991], by rule and policy the Fish and Wildlife Service has written economics out of the designation process.

Furthermore, the agencies often have designated as critical habitat all suitable habitat within the entire range of a listed species, which takes all meaning from the word "critical."

Mr. President, there has to be a better way to achieve our goals of listing and defining critical habitat and recovery than this piecemeal approach we are now taking. That is why my bill will require a comprehensive listing process that includes: First, a scientific determination of whether a species is threatened or endangered; second, an economic analysis that must contain sector-by-sector impacts; and third, critical habitat designations.

This information will help us make better decisions, for species and for people.

Mr. President, among the many species, subspecies and populations that continue to be listed, many are done so indiscriminately. And when a listing occurs, a recovery plan is supposed to be developed. The plan must describe the steps Federal, State and local agencies and private individuals should follow to assist the species to survive and recover. However, recovery plans have been prepared for less than half of all listed domestic species.

Most of the completed plans were prepared long after the listing. That leaves private citizens, like Mr. Walker, and public officials uninformed about the consequences of listing a species when the listing occurs. They are not given timely guidance on how to comply with the act. Even if a landowner fervently follows a recovery plan, the plan provides no assurance that he will not still be sued for a "taking." Would you not agree that Mr. Walker would like to have an opportunity to take part in a recovery plan with the assurance that he would not be sued? Yet, agencies are free to ignore the recovery plans and place more stringent conditions on landowners.

Recovery plans are drafted for the most part by agency employees without significant involvement of the public and do not calculate or disclose the full public and private costs of recovery. That is one of the reasons my bill requires that an economic analysis be conducted concurrently with the listing process. We must know, the public has a right to know the cost of recovery.

The Progressive Endangered Species Act will open up the process. It makes local public hearings more accessible to affected citizens.

My legislation will require notification by certified mail of critical habitat designation that will impact property owners and those holding leases and permits on Federal lands.

It further opens the process by allowing judicial review of the determina-

tion of critical habitat and of whether or not a species is endangered. Recovery teams will have to work in open meetings rather than in private working groups behind closed doors.

My bill also contains strict "conflict of interest" language. In other words, the individual who petitions to have a species listed cannot benefit by being a member of the recovery team.

The act can only work when the public is allowed to participate, to be part of the process. The changes I am recommending will allow this to happen and will have a positive effect on the process.

And in regards to private property, Mr. President, many reasonable and productive uses are being substantially curtailed or terminated altogether by the current act. Landowners have been prohibited from cutting trees, clearing brush, using pesticides, planting crops, building homes, grazing livestock, and protecting livestock from predators.

The act has deprived landowners of the only economic uses they can make of their properties, as in Mr. Walker's case—uses which are productive and contribute to local, regional, and national economies and welfare and which contribute tax dollars for implementation of species protection. Property values have been depressed or, in some cases, destroyed in complete disregard of the constitutional protection of property rights. The Government has shown no inclination to compensate citizens for the unconstitutional taking of their property, Mr. President. This is an outrageous situation.

We cannot, in all good conscience, allow this to continue. There is a private property movement in this country that has reached great magnitude, and we need to address it if we are to honestly represent our constituents' rights.

That is why the Progressive Endangered Species Act contains language similar to my private property rights bill, S. 50. It basically says that when an agency makes new rules, that agency must follow approved guidelines that assess the potential "takings" of private property. And if a "taking" occurs, the landowner is compensated. For too long, we have allowed agencies to implement regulations that deny landowners use of their private property. Fundamentally, morally, constitutionally, that is wrong. But just as importantly, it is bad economic policy, as well. It impacts landowners' livelihoods; it impacts what may be the best use of the land; and it has a severe impact on the tax revenues that are generated from managing those lands.

Why can we not encourage landowners to manage their lands for traditional and historic uses and threatened or endangered species? Rather than command and control regulation, let us allow self-interest and individual responsibility to promote conservation of species. My bill will include a provision that will encourage people to provide habitat for an endangered species. All they will have to do is write to the Fish and Wildlife Service describing the action they will take. The Service then decides if the action will be a net benefit to the species, and if so, authorizes the landowners to take that action.

Additionally, my bill requires us to focus our efforts on more reliable and objective biological units by removing future listings of subspecies and distinct populations. That will allow us to focus our attention and resources on those biological units and finally achieve some long overdue recoveries.

Removing the disincentives is partly what this legislation is about. The best thing we can do for endangered species is to make them popular, as opposed to the current law. It has brought about the saying "Shoot, shovel, and shut up!" The people who say this don't hate endangered species but recognize the possible regulatory nightmare that comes with their presence—a nightmare which can threaten private property, business, and the future livelihood of Americans.

Mr. President, I have heard from many grassroots organizations from all over the country; many have come into my office asking for these changes. That is why I say that this is a grassroots drive bill. It comes from citizens all over the country who want to do something positive for species, who want to be part of a process that protects rare species from extinction and who feel that that process should include human beings—not exclude them.

As my colleague from Oregon, Senator HATFIELD, said earlier this year in a reauthorization hearing on the Endangered Species Act:

> Today the ESA is being applied across entire states, across entire regions. The result: it now affects millions upon millions of acres of publicly and privately owned land; it affects tens of thousands—if not hundreds of thousands—of human beings; and it affects scores—if not hundreds of rural communities.

Mr. President, it is time to change the current act, and we, as the elected body of this country, need to recognize that we can proactively and progressively improve the act. I submit to you today the Progressive Endangered Species Act of 1992 to begin a thoughtful and productive process to improve the current legislation.

Mr. President, I want to commend several people for the effort they extended in drafting this legislation. Embodied in this bill are ideas the National Wilderness Institute has been bringing to the forefront of this debate, and I want to thank Jim Lacey for his contributions. These include such common sense ideas as utilizing active management, not just bureaucratic listing; using objective, not subjective science; using incentives, not disincentives; and using markets and free enterprise, not command and control methods to achieve conservation.

The personal time dedicated by Robert Gordon, Benjamin Patton, and Jim Streeter has been critical to developing a truly new approach to solving our endangered species problems, and I want to take this opportunity to thank them for that dedication. I also want to thank Taylor Bolden and Susan Fagan who also dedicated countless hours to this endeavor.

Mr. President, this bill will work in the following way. It has some very basic principles of how it works: private property rights. For this act to work, it must respect the rights of property owners. This bill that I am introducing today recognizes the rights of private property owners and provides just compensation when property rights have been taken.

Private sector involvement. This bill will provide tax incentives for those who modify or manage private habitat to benefit species. It provides the means for the private sector to bid in the recovery process. It creates a U.S. biodiversity foundation to tap the knowledge and skills of private natural resource professionals in species recovery and it encourages voluntary and cooperative efforts on private property.

Sound science in determining species. This bill will redefine species to exclude less reliability defined biological units such as subspecies and extinct population while grandfathering in currently listed species with some exceptions. The sunshine clause opens up the process. This bill will eliminate the secretive and controversial God Squad while opening up the process to administrative appeal according to the procedures to be promulgated by the Fish and Wildlife Service and judicial review in a court of competent jurisdiction.

Economic impact. This perhaps is the heart of the bill, Mr. President. As you have heard today, we are listing ourselves into oblivion. It simply will not work. We are like a credit card junkie gone wild. We are listing species after species with no idea how large the bill is going to be for recovery or how we are going to pay for it when it comes due.

This bill will do three simple things. First, the determination whether or not a species is on the brink of extinction will remain a purely scientific endeavor.

Second, concurrently, with the scientific analysis of a species' status, a recovery plan must be developed.

And third, also concurrently, the costs associated with the recovery plan, both the direct cost of bringing the species back and the indirect cost of the effect to the economy, will be developed. All three of these items must be filed together. We will know

the scientific status of the species and we will know what we have to do to recover it, and we will know what it costs.

Now that we know what it costs, what are we going to do with it? That is the next question. This bill calls for automatic recovery whenever the costs are below $10 million. Automatically it has to be recovered. However, when the costs of recovery are more than $10 million, a less expensive stabilization plan will immediately be developed to stabilize where we are, and the proposed listing is sent to the U.S. Congress. It will then be, Mr. President, the U.S. Congress as the representative of the people responsible for raising taxes and paying the Government's bills that will finally determine if the U.S. Government will pay the cost of recovery. The Congress has three options. It can reorder the recovery to take place. It can order a less expensive stabilization plan to continue or they can order the species not to be listed. If they do nothing, the species is automatically delisted.

I believe these changes are absolutely essential if we are to finally address the endangered species controversy with the goal of accomplishing something and solving the problem.

Mr. President, I thank the indulgence of my colleagues and the Chair, and I hope there will be other Senators who will join in the cosponsorship of this legislation. I know my colleague from Idaho, Senator CRAIG, and a few others have sponsored it. I send to the desk the bill to be introduced and assigned to the correct committee for myself, Mr. CRAIG, Mr. GARN, Mr. HATCH, Mr. LOTT, Mr. THURMOND, and Mr. HELMS, and invite all Senators to join in this effort.

EXHIBIT 1

FOREST CONSERVATION COUNCIL,
November 26, 1991.

Re Notice of Intent to File Citizen Suit Under the Endangered Species Act for Unlawful Taking of Northern Spotted Owls by Private Timber Operations

MANUEL LUJAN,
Secretary, Department of the Interior, Washington, DC.

JAMES BROWN,
State Forester, Oregon Department of Forestry, Salem, OR.

JOHN TURNER,
Director, U.S. Fish & Wildlife Service, Washington, DC.

MARVIN PLENART,
Regional Director, U.S. Fish & Wildlife Service, Portland, OR.

DEAR SECRETARY LUJAN AND OTHER NAMED PARTIES: I am writing on behalf of the Forest Conservation Council (FCC) to notify each of you named above, as well as those commercial forest landowners and timber operators named in the service list attached herein, of our intent to file a citizen suit to enforce the duty of all public and private parties named and served notice herein to prevent an unlawful take of northern spotted owls under Section 9 of the Endangered Species Act.

The U.S. Supreme Court has observed that it is "beyond doubt" that "Congress intended endangered species to be afforded the highest of priorities" in enacting the Endangered Species Act. Tennessee Valley Authority, 437 U.S. 153, 174 (1978). "The plain intent of Congress in enacting this statute was to halt and reverse the trend toward species extinction, whatever the cost." Id. at 184.

Section 9 of the ESA prohibits any person, including private parties, as well as state and federal agencies, from taking endangered or threatened species. 16 U.S.C. 1538(a)(1)(B). The term "take" includes harassment and harm. 16 U.S.C. 1532(19). U.S. Fish and Wildlife Service regulations and federal case law establish that a "take" includes acts causing habitat modification or degradation that significantly impairs "essential behavioral patterns including breeding, feeding, or sheltering." See Palila versus Hawaii Department of Natural Resources, 852 F.2d 1106 (9th Cir. 1988) (Palila II); Palila versus Hawaii, 639 F.2d 495 (9th Cir. 1981) (Palila I); 50 C.F.R. 17.3.

All of the private operations identified by Oregon Department of Forestry Notification Number in Exhibits "A" and Exhibits "B" are proposed logging and herbicide applications activities which will affect both the habitat and behavior patterns of northern spotted owls nesting on adjacent Bureau of Land Management forests. These private operations will occur in close proximity to, or within, lands recognized by BLM, the U.S. Fish and Wildlife Service, and the Interagency Scientific Committee on the Northern Spotted Owl as essential owl habitat areas for nesting and forage of individual owl pairs, and as essential for the long term recovery of spotted owl populations in the region.

The ISC strategy expressly recognizes that ecologically sensitive management of private lands in and around federally protected reserves are an integral part of maintaining effective spotted owl habitat and recommends that "resource managers of . . . private lands use forestry and silvicultural techniques and practices that maintain or enhance habitat characteristics associated with spotted owls." (ISC at 29–30).

Specifically, all of these operations are located in proximity to or on: (1) lands designated as "Habitat Conservation Areas," by the Bureau of Land Management; (2) lands designated as "Critical Habitat" by the U.S. Fish and Wildlife Service; (3) lands within the same 1.3 mile radius of nest sites for northern spotted owls as timber sales on BLM lands found to "jeopardize the continued existence" of northern spotted owl; and, (4) lands within a 1.3 mile radius of northern spotted owl nest sites where suitable owl habitat is less than 40% coverage. These proposed operations, both individually and cumulatively, will cause a take of northern spotted owls, in clear violation of Section 9 of the ESA.

Both the BLM and the U.S. Forest Service have recognized that sales impacting northern spotted owl nest sites on public lands with similar attributes as described above would constitute a take, and would therefore be prohibited. In fact, many sales on public lands in the vicinity of these private operations have been voluntarily suspended by the federal land management agencies. However, the Oregon Department of Forestry has allowed potential taking activities to go forward on private lands, and allowed private operators to proceed under circumstances that unequivocally will result in violation of the ESA.

The operations listed in Exhibits "A" are logging activities on private lands that will disrupt normal behavior patterns of owls nesting on adjacent public lands, and will weaken or nullify adopted strategies of the federal agencies for protecting the long term viability of owl populations. The northern spotted owl is recognized as in indicator species for large, undisturbed old growth forest stands. Logging activities such as those proposed in Exhibit "A" will remove essential breeding, feeding, and sheltering habitat for existing pairs, and will cause injury in fact by allowing increased predation by competitor species, loss of nest sites, disturbance of breeding patterns, and reduction of food sources and shelter. (See 50 C.F.R. 17.3).

The operations listed in Exhibit "B" involve other intensive forest management activities including application of chemical herbicides, insecticides, and fertilizers, road building, slash burning, precommercial thinning, and other disruptive activities which will cause direct and indirect impacts to northern spotted owl pairs and their essential habitat. For example, aerial spray operations will cause direct impacts to northern spotted owl pairs by physical harassment involving low flying helicopters and other aircraft in the vicinity of nesting and activity centers. These disturbances will cause owls to flee nest sites and will disrupt normal breeding activities. In addition, direct harm will occur from chemical exposure.

Other indirect impacts from chemical applications involve bioaccumulation in the food chain, especially in prey species such as the northern flying squirrel, woodrats, voles, and rodents which graze on grasses in open clearcuts and ingest these chemicals. Many of these chemicals have been shown to cause tumors, skin sores, eye damage, and kidney enlargement in laboratory animals. Some of these chemicals are accompanied by manufacturers warnings stating "do not graze treated areas or feed treated forage." Other intensive forest management activities listed herein, including slash burning, salvage, thinning, and road building are equally disruptive to northern spotted owls, and, in fact, are prohibited activities on federal lands in the vicinity to protect this species. (*See e.g.*, ISC Report at pg. 30).

FCC believes that because the operations listed in Exhibits "A" and "B" will cause a take of spotted owls in violation of ESA, private landowners and operators, or the State of Oregon, must seek a prior "incidental take permit" from the U.S. Fish and Wildlife Service. (16 U.S.C. 1539(a)1(B).) Such a permit could, if granted, provide permission to take listed species "incidentally" in the course of an otherwise lawful activity. *Id.* However, an applicant for an incidental take permit must submit to the U.S. Fish and Wildlife Service, a Habitat Conservation Plan (HCP). The HCP must specify: (1) the effects of the proposed activities on the northern spotted owl; (2) steps that will be taken to monitor, minimize, and mitigate adverse impacts; (3) consideration of alternatives that could prevent a taking; and, (4) other measures specified by the U.S. Fish and Wildlife Service that are necessary and appropriate. 50 C.F.R. 17.32(b)(1).

We have reviewed all the notifications listed herein, and have consulted with the Department of Forestry, the Oregon Department of Fish and Wildlife, the U.S. Fish and Wildlife Service, and the Office of the Governor, and have determined that neither private operators and landowners nor the state of Oregon has requested or received an incidental take permit for any of these activities.

We encourage you, as responsible land managers and private foresters, to follow the requirements of the ESA in seeking incidental take permits for each of the activities named above. We also encourage the State of Oregon to take a systematic approach to this problem by developing a state-level HCP. By doing this, the State would enable private landowners and operators to participate in a state conservation strategy, and minimize the administrative and legal costs associated with obtaining hundreds of individual incidental take permits.

REQUEST FOR RELIEF

Forest Conservation Council hereby requests that the parties named herein cease and desist from all of the specific operations described in Exhibits "A" and "B" (attached herein), and comply with Section 9 of the Endangered Species Act to prevent and avoid the unlawful taking of Northern Spotted Owl. FCC further requests that these parties request an incidental take permit from the U.S. Fish & Wildlife Service for each of the operations listed herein.

If you wish to discuss any of the points in this letter, please contact my office at (503) 686-3277. I am hopeful that the parties involved can cooperate to avoid any violations of law, and, thereby, obviate the need for litigation.

Yours Truly,

DANIEL J. STOTTER,
Attorney At Law.

By Mr. REID (for himself, Mr. BRYAN, Mr. D'AMATO, and Mr. GRAHAM):

S. 3160. A bill to amend the Fair Labor Standards Act of 1938 to ensure that inmates are not treated as employees for purposes of such act, and for other purposes; to the Committee on Labor and Human Resources.

TREATMENT OF INMATES UNDER THE FAIR LABOR STANDARDS ACT

Mr. REID. Mr. President, a court has ruled that prisoners must be paid minimum wage if they work. I think this is wrong. Today, I am introducing legislation on my behalf and that of my colleague, Senator BRYAN, and my friend from Florida, Senator GRAHAM, to clarify the intention of Congress in regulating the employer-employee relationship under the Fair Labor Standards Act.

Mr. President, I regret that the introduction of legislation is necessary. However, we have at this time Federal courts in conflict.

We have State governments, already staggering from budget deficits, who are concerned they may owe millions to prisoners. And we have prisoners, who may lose their job training, lose the opportunity to produce something during their incarceration, and lose the incentive to reform themselves and return to society.

The Fair Labor Standards Act of 1938 was enacted as a progressive measure to insure all able-bodied working men and women a fair day's pay for a fair day's work. Further, this act had a humanitarian purpose: To provide a minimum standard of living necessary for health, efficiency, and the general well-being of workers.

Much to the surprise of the State governments in the ninth judicial circuit—the circuit covering California, Nevada, and the Western part of The United States—this act has been held to cover prison labor. The goals of the act in regulating the labor of nonincarcerated workers are completely separable and distinguishable from the reasons that prisoners work.

Prisoners do not earn wages in order to pay for their room and board. That is obvious. The State has complete control over them and responsibility for the living conditions of these prisoners. That is obvious. The taxpayers pay for their cells, food, and entertainment.

And now, should the taxpayers pay minimum wage and overtime for work performed while they are having their room paid for, their food paid for, and their cable TV paid for, among other things?

The legislation I am introducing today clarifies that the protections in the Fair Labor Standards Act were intended for hard-working individuals, and not for criminals in our prisons. This bill removes prisoners from the act, and allows States to continue their successful work programs. One of the few good things coming from the prison system is the work program.

This legislation is necessary today because of confusion by the courts. And I am sorry to say that most of the confusion comes as a result of decisions from my circuit, the ninth circuit.

The Ninth Circuit Court of Appeals has said in Hale versus Arizona, that the act covers prison labor and concluded that inmates are entitled to receive minimum wage for their work.

Further, the court feels that it would be an encroachment upon the legislative prerogative for a court to hold that a class of unlisted workers is excluded from the act. I must add that I try to understand all reasonings of the courts. This is difficult to do.

This body—this Congress—has a duty to clearly express our intention in this matter.

The eighth circuit has found in Wentworth versus Solem, that a working prisoner is not held to be a State employee and, therefore, is not entitled to minimum wages under the act.

The sixth circuit has said in Sims versus Parke Davis & Company, that prisoners who work for private corporations at the prisons and are paid by the State are not covered by the act.

The fifth circuit held in Alexander versus SARA, Inc., that prisoners were not covered, but in Watson versus Graves, held that they were covered, and without overruling the previous case, which is also difficult to comprehend.

The second circuit has held in Carter versus Dutchess Community College, that the act may apply to inmates, but since Congress did not expressly exempt them, it would be improper for the courts to do so. Further, the U.S. Claims Court has held in Emory versus U.S., that the act does not cover Federal prison inmates.

Only one court has said definitively that prisoners are covered. The other courts have found that they may be covered, or they are covered, under limited circumstances. Most courts have found, consistently, that they are not covered. This legislation merely maintains the status quo.

The Hale case to which I referred earlier, overruled a case decided a year before in the same circuit.

We have been called upon by the courts to dispose of this issue with legislative action.

They have asked Congress to step in and decide. And I am grateful that the courts would invite that because I think this is something that should be corrected. I think it is wrong that prisoners, whose room and board and other necessities are paid for by the taxpayers, that the taxpayers are also called upon to pay minimum wage for the work that they do in prison.

My bill takes the necessary action by interpreting the original intent of this act, and providing that prisoners are not within the act's definition of "employee."

Prisoners currently perform a variety of jobs and, in some cases, actually produce goods. Prisons, however, in employing their inmates, incur great overhead costs. Why? Because security in the prison is both enhanced by prison labor, and also made more costly.

The prisons benefit from the fact that prison laborers are expending their energies in work and production, rather than on other less-constructive activities. However, prison guards must closely watch those working with tools and machinery, and those given a certain amount of freedom in their labor.

To require States to pay prisoners minimum wage would render the prison labor effort uneconomical and unsustainable.

At the Northern Nevada Correctional Institution, nearly 50 prisoners are currently employed in the production of waterbeds for the Vinyl Products Co.

The program has been running since 1985, and pays the prisoners between $3 and $4.25 per hour. This is a unique program authorized under Federal legislation which mandates what costs may be recovered and wages paid. More importantly, the prisoners are in a job training program that will benefit them upon their release.

In all of Nevada's prison industries programs, there are under 300 prisoners employed in various industries, including upholstery, woodworking, and ranching. The State of Nevada has estimated that imposing the Federal minimum wage would incur an additional cost to the state of up to $12,5000 per week.

If I may stress again, the dramatic increase in costs is on a program that assists a small number of the State's prisoners. Most prison industry programs are designed to reduce the costs of goods and services to State and local governments.

Elimination of the program would undoubtedly increase the costs of goods and services to these units of government at a time when one State is even issuing IOU's in place of checks.

Increased wages, without addressing whether prisoners will also be entitled to unemployment and worker's compensation, will certainly render prison labor not worthwhile. Remember, if they are going to pay them minimum wage is it next they are entitled to unemployment compensation? Worker's comp, if they get injured on the job? I think it is ridiculous. I do not believe this is a decision we want to force our States to make. The most critical finding of the Hale decision is that prisoners are considered State employees and therefore entitled to coverage under the act. In Nevada, there are between 1,200 and 1,500 prisoners employed by the Forestry Service and the Bureau of Land Management to fight fires and perform land projects. We just finished fighting a costly fire where these people were involved.

These inmates are compensated at a very low wage. To increase their salaries to the Federal minimum wage would cost millions of dollars per year. In Nevada, there are in excess of 500 prisoners who assist in institutional maintenance, such as cooking and cleaning. To raise their wages to minimum wage would also cost millions of dollars per year.

As I mentioned before, if the State cannot afford to engage these employees in meaningful work with some small compensation, and if these prisoners are forced to sit idle in their cells all day long, then we must prepare ourselves for the likelihood of disruptive behavior.

Legislation already exists to govern these programs. My legislation will not expand any current programs nor authorize new ones. But for those States that rely upon their prisoners to produce and supply anything from license plates to mattresses, this court decision has been and will be devastating.

We must express our intention not—and I underline not—to include prisoners in the protections afforded laborers under the Fair Labor Standards Act.

Mr. President, this legislation should not be controversial.

If a State wants to contract with the prisoners it houses for services, such as data entry for the university system, or running an informational phone bank for the State travel bureau, or hammering out State road signs, why should the Fair Labor Standards Act interfere with their relationship? Why should it hold that the prisoners are State employees, and require the State to pay them minimum wage?

The decision I refer to, the Hale decision, I respectfully submit is ridiculous and I think we as a Congress should rectify it and do it quickly.

Mr. GRAHAM. Mr. President, I would like to take this opportunity to commend my colleague from Nevada for coming forward promptly with this legislation to reverse what is clearly an irrational interpretation of the Minimum Wage Act, and also to point out what the potential, pernicious impacts of this are, both in terms of the effect inside the prison setting and in terms of the life of the inmates after they leave the prison.

We know one of the principal causes of disruptive behavior and violence in a prison setting is idleness. Thus, the prescription of effective work programs, programs that help the institution function, such as in the food service areas, the maintenance areas, the health care areas as well as those that prepare persons for employment after they leave the prison, are an extremely important component of functioning within an incarceration setting.

Beyond that, there are positive things that can happen inside a prison setting that will contribute to the likelihood that the individual, upon release, will live a peaceful, law-abiding, and contributing life. And probably the most significant thing that the prison can do is provide this individual with the skills of gainful employment after they leave the prison.

Most persons who come into a prison have never held a job, certainly never held a steady job. One of the reasons they have taken to a life of crime is because they have been unable to find another alternative as a means of supporting themselves.

So it makes eminent good sense, as many States, including the State of Nevada and the State of Florida have done, to establish prison industry programs to prepare people so when they leave, they can have a job making furniture, printing, in construction trades, or all the other areas that are in need of skilled personnel and where that training can be provided inside a prison setting.

So this, I think, very misguided judicial interpretation, which would make it much more difficult for States to provide exactly those kinds of services, would, in my opinion, have a negative impact both in terms of increasing the likelihood of violence within a prison setting and increasing the likelihood of recidivism for those who leave the prison no better prepared for life than they were when they entered.

So, Mr. President, I commend our colleague for his action today. I am very pleased to join as an original cosponsor in this amendment. I hope this Congress will not adjourn without dealing with this issue.

Mr. REID. Mr. President, through you to my friend from Florida—my friend from Florida understands probably as well as anybody in this Chamber the importance of productivity from the prison sector, having been chief executive of one of the largest States in the Union and having been involved in rehabilitation programs. There is no question that we must pass this legislation. We have to have more people in the prison system involved in productive labor, not less.

As my friend from Florida indicated, many, many, if not most of the people who go to prison for the first time have never had a job. They have never had a job.

So it is important while they are incarcerated that they learn how to work—how to report to work on time, to meet certain goals. These seem simple but it is very important.

This legislation must be passed. I think the court decisions which are in conflict, principally as a result of the ninth circuit, we must do something to change and change quickly.

Mr. BRYAN. Mr. President, I join Senator REID today as sponsor of S. 3160 to clarify the status of prison inmates under the Fair Labor Standards Act. This bill will exempt State prison inmates from the definition of "employee," and therefore from coverage under the Fair Labor Standards Act.

In April 1991, the Ninth Circuit Court of Appeals concluded in Gilbreath versus Cutter Biological, Inc., that it was "highly implausible that Congress intended the Fair Labor Standards Act's minimum wage protection be extended to felons serving time in prison." The court held that neither the Arizona State Department of Corrections nor the operator of a plasma treatment center located in the State prison was an employer under the Fair Labor Standards Act. It further held that State prison inmates who worked in the center were in an entirely custodial status, which was obviously not within the traditional meaning of an employee, therefore an employment relationship did not exist.

However, in June of this year, the ninth circuit in Hale versus State of Arizona, et al., has now held that prison inmates are indeed covered under the minimum wage requirements of the Fair Labor Standards Act. Hale concluded an employer-employee relationship under the Fair Labor Standards Act's "economic reality test" existed between the State prison inmates and Arizona Correctional Industries. This decision was written by the dissenting judge in the earlier Gilbreath decision.

Since the inmate-made products would compete in interstate commerce, the court also found that unless the inmates making the products received minimum wages, the products would

have an unfair competitive advantage over other products subject to the Fair Labor Standards Act requirements.

The Fair Labor Standards Act has a detailed listing of employees exempted from the act's minimum wage requirements, 29 U.S.C. 213. Prison inmates, however, have never been included in this listing, although additions and deletions to the list have been made. Given the ninth circuit's Hale decision, it now appears time to clarify FLSA's relationship to prison inmates.

As a former Governor, I have been among those who encouraged the creation of State prison employment programs, both to ensure inmates' working time be used productively, and to enable inmates to learn an employable skill. No one, however, contemplated that these programs would result in the establishment of an employer-employee relationship between the prison and the inmates, and coverage under the Fair Labor Standards Act. As the ninth circuit stated in its earlier decision in *Gilbreath*, 931 F.2d 1320, 1991, "* * * it is highly implausible that Congress intended the FLSA's minimum wage protection be extended to felons serving time in prison." Id. at 1324.

In my home State of Nevada, inmates work in many State prison employment programs ranging from traditional kitchen and dairy activities to soap and furniture manufacturing. Inmates involved in these programs are paid by the hour—at rates that begin at 70 cents an hour. The average inmate earns between $20 and $100 monthly.

Additionally, Nevada has agreements with private industries to provide inmate workers in the prison with other opportunities to participate in a work situation. Inmate earnings from these programs are reduced through deductions for prison room and board, and a 5 percent contribution to the State's victims' compensation fund.

There is a legitimate concern that products made by prison inmates, who are unpaid or paid less than minimum wage, would have an unfair advantage when competing in interstate commerce against businesses required to meet the Fair Labor Standards Act. The Federal Criminal Code has already addressed this concern by criminalizing the transportation of prison-made goods in interstate commerce, through a fine of no more than $1,000 or more than 1 year imprisonment, unless the employer has paid wages at a rate which is not less than that paid for work of a similar nature in the locality in which the work was performed, 18 U.S.C. 1761.

Hale opens the gates for inmates to file lawsuits to recover minimum wage payments under FLSA for work done as an inmate in prison. Add to this the potential for lawsuits seeking retroactive payment of minimum wages, and the magnitude of the problem created by Hale is readily apparent.

The Hale decision has already impacted the State of Arizona. Inmates are requesting information on their work hours; the reason for the request is obvious. Inmate lawsuits will soon be filed in Arizona and across the country.

Many of our State governments are already under serious budget duress—California exemplifies how great that duress can become. My own State of Nevada has had to make very substantial funding cuts to its programs this year. Approximately 34 other States also were required to adjust their budgets this year to address budget shortfalls. To add the possibility of Fair Labor Standards Act inmate lawsuits with retroactive award potential will result in State budget chaos. For many States, the result may also be the termination of prison employment programs altogether.

Given current budget situations, States simply cannot survive another round of lawsuits and retroactive awards. Our States cannot wait to have this issue settled through the court appeal process.

I encourage my colleagues to join Senator REID and me to resolve this problem before all of our States are unduly harmed by the Hale decision.

By Mr. INOUYE (for himself and Mr. SIMON):

S. 3161. A bill to designate May of each year as "Asian/Pacific American Heritage Month"; to the Committee on the Judiciary.

ASIAN/PACIFIC AMERICAN HERITAGE MONTH

• Mr. INOUYE. Mr. President, I am pleased to introduce legislation that will designate the month of May as Asian/Pacific American Heritage Month. Last year, we had over 50 cosponsors and previous legislation had expanded the week to a full month. This new legislation will make the observance an annual event.

Since its inception in 1978, Asian/Pacific American Heritage Month has helped to foster a greater public appreciation of the contributions of Asian and Pacific Island Americans to our national heritage. It has also engendered a greater sense of pride among Americans of Asian and Pacific Island ancestry, ranging from Pacific islanders whose Polynesian ancestors inhabited the islands long before Captain Cook discovered them, to the most recent immigrants from Southeast Asia. It is rewarding to note that Asian/Pacific American Heritage Month has been observed not only by Federal, State and local government agencies throughout the country, but in public schools, public libraries, art galleries, and by many civic organizations.

As you may know, 1990 census figures show that Asian/Pacific American population is the fastest growing population in the United States. The population of Asian/Pacific Americans has increased in every State in the past 10 years as have their contributions to all walks of American life. This is also the case historically. The month of May holds great significance for the more than 8 million Americans who can trace their roots to Asian/Pacific ancestors. The month of May has been chosen in order to recognize Golden Spike Day, May 10, 1869, when the first transcontinental railroad in the United States was completed with significant contributions from Chinese American pioneers and to commemorate May 7, 1843 when the first Japanese immigrants arrived in the United States.

Over the years, these loyal Americans have achieved prominence in science, the arts and architecture, education, business, and politics at all levels. They have helped make our country the great Nation that it is today, yet all too often even those who were born and raised here are treated as foreigners. The observance of Asian/Pacific American Heritage Month would help make their achievements more visible to their fellow Americans, and would also engender a greater appreciation of their ancestral roots among Asian and Pacific Americans.

Mr. President, I hope that my bill will receive early, favorable consideration in committee and on the Senate floor.

I request unanimous consent that a copy of my bill be printed in the CONGRESSIONAL RECORD at this point.

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

S. 3161

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

SECTION 1. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) on May 7, 1843, the 1st Japanese immigrants came to the United States;

(2) on May 10, 1869, Golden Spike Day, the 1st transcontinental railroad in the United States was completed with significant contributions from Chinese pioneers;

(3) in 1979, at Congress's direction, the President proclaimed the week beginning on May 4, 1979, as Asian/Pacific American Heritage Week, providing an opportunity for the people of the United States to recognize the history, concerns, contributions, and achievements of Asian and Pacific Americans;

(4) in 1990, 1991, and 1992, Congress designated, and the President proclaimed, the month of May as Asian/Pacific American Heritage Month;

(5) nearly 8,000,000 people in the United States can trace their roots to Asia and the islands of the Pacific; and

(6) Asian and Pacific Americans have contributed significantly to the development of the arts, sciences, government, military, commerce, and education in the United States.

SEC. 2. ANNUAL COMMEMORATION.

(a) DESIGNATION.—May of each year is designated as "Asian/Pacific American Heritage Month".

(b) FEDERAL PROCLAMATION.—The President is authorized and requested to issue annually a proclamation calling on the people of the United States to observe the month designated in subsection (3) with appropriate programs, ceremonies and activities.

(c) STATE PROCLAMATIONS.—The chief executive officer of each State is requested to issue annually a proclamation calling on the people of the State to observe the month designated in subsection (a) with appropriate programs, ceremonies and activities.

(d) DEFINITION.—For purposes of subsection (c), the term "State" means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshal Islands the Federated States of Micronesia, and Palau.•

By Mr. JEFFORDS (for himself and Mr. DURENBERGER):

S. 3162. A bill to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to improve pension plan funding; to the Committee on Finance.

PENSION FUNDING IMPROVEMENT ACT

• Mr. JEFFORDS. Mr. President, today, my distinguished colleague, Senator DURENBERGER, and I are introducing a bill to improve the deteriorating financial condition of the Pension Benefit Guaranty Corporation [PBGC], the Government agency that insures the defined benefit pension plans of over 40 million Americans. I am extremely pleased to say that Congressman JAKE PICKLE, chairman of the Subcommittee on Oversight, House Ways and Means Committee, will also be introducing a companion bill. Congressman PICKLE has been a leader on PBGC and other pension matters for years and I am honored to be introducing a bill with him today. Congressman PICKLE's subcommittee will hold a hearing on this important issue tomorrow.

The problem, simply put, is that big companies in troubled times are taking advantage of our pension insurance system. They promise big pensions to workers and regularly increase benefits while making the most minimal funding contributions permitted under the law. The troubled companies then terminate their pension plan and pass along their pension debt to the PBGC.

Our solution is the Pension Funding Improvement Act of 1992, a three-part bill we are introducing today. Part I includes stronger funding rules for underfunded plans, to ensure the faster funding of present pension obligations. Part II prevents a bad situation from getting worse, by requiring plan sponsors to immediately fund their plan or put up collateral in order to increase pension benefits. Part III includes a Congressional Budget Office study of what premiums would need to be for the PBGC insurance program to be actuarially sound.

As of today, the PBGC has a deficit of $2.5 billion, largely as a result of the following recent pension plan terminations; First, in 1990, Eastern Airlines terminated its plan with $700 million in unfunded liabilities. Next, in 1991, Pan American Airlines terminated its plan with $900 million in unfunded liabilities. Then, this past February, Blaw Knox terminated with $81.6 million in unfunded liabilities. Finally, in March, C.F. & I Steel Co. terminated with $270 million in unfunded liabilities.

And the trend is expected to increase. This is not surprising since current pension law has provided a way for struggling companies to shift the costs of their pension benefits. These companies routinely grant employees increases, knowing full well that if their company continues to be financially troubled they will be able to terminate their pension plans and dump the pension plans obligations onto the PBGC. The PBGC predicts that it is significantly at risk for about $13 billion in benefits provided by pension plans of companies in the steel, auto, airline, tire, and rubber industries.

Each year the PBGC publishes a list of those top 50 underfunded pension plans who are the most at risk. When one compares corporate funding over the last 3 years, the facts unfortunately show that plan funding for the top 50 has gone down by $9 billion since 1989. Collectively, the top 50 are $21.5 billion in the red. This means that the PBGC is more at risk than ever before.

Last week the Wall Street Journal reported that TWA, in emerging from bankruptcy, is beginning to settle with its creditors. The article goes on to say that PBGC will be lucky to collect even $500 million of TWA's current $1.2 billion pension debt. And who is going to pay or the other $700 million in promised benefits the company hasn't funded for? This is my concern.

For some time now, underfunded pension plans have been promising significant amounts of new benefits in lieu of wage increases. Approximately 80 percent of these benefits are guaranteed by the PBGC. And while the trend is occurring in the steel, tire, and rubber industries, I must say that the automobile industry is the worst offender. The latest round of auto industry negotiations has left Chrysler and GM with an additional $5 to $7 billion in underfunding. Before this increase in benefits, these companies had less than three-quarters of the money needed to pay previously promised benefits.

If this isn't bad enough, earlier this year, we witnessed further corporate practices that are just obscene: Companies already in bankruptcy are agreeing to retroactive benefit increases.

In January, TWA filed for bankruptcy. It was considered 84 percent funded for guaranteed benefits. However, this number is misleading. Since then, it gave a retroactive increase in benefits that caused an additional $53 million in underfunding. It is now $1.2 billion underfunded.

In April, a bankruptcy court approved benefit increases for Continental Airlines pilots that will almost double the plan's underfunding to about $191 million.

Now, some people will argue that financially distressed companies need to minimize contributions to the pension plan so that this money can instead be put into the company, to increase productivity and competitiveness. I personally would argue that it is precisely because a company is financially vulnerable, that an extra effort should be made to be sure that the pension plan is financially sound. So if workers need to take early retirement due to financial downsizing resulting from problems in the global marketplace, at least that money will be there.

Others will argue that the PBGC was deliberately designed to subsidize companies in ailing industries. They are, however, at direct odds with the many who believe the PBGC should operate like a private sector insurer and set premiums more precisely related to the risk that a company would have of defaulting on its pension promises.

Regardless of what one thinks about the purpose of the PBGC, the reality is our public policy options on how to rectify the PBGC's deficit problem are limited. Furthermore, it is in the best interest of the 40 million workers who currently have PBGC insurance protection, as well as the defined benefit plan system, that we review our objectives for the PBGC and act quickly to resolve the PBGC's deficit problems.

What are our options? The PBGC is currently financed exclusively from premiums plan sponsors pay into the system, those pension assets remaining in terminated underfunded plans and interest. Given this fact, one alternative would be to raise PBGC premiums that employers pay into the system. This may be inevitable, given the PBGC's current deficit. The PBGC estimates that it would have to significantly increase premiums, even if it takes on only $500 million a year in underfunded liabilities, which is business as usual for them. If the economy gets worse, and distressed companies start to terminate at greater frequency, premiums paid by all single employer plan sponsors will rise to $58 per person for well funded plans, and to as much as $219 per participants for poorly funded plans. We have already raised premiums considerably from those days in 1974 when all plan sponsors paid a dollar a head for each plan participant.

How much is too much? When will responsible employers with well funded plans say they've had enough of premium increases to pay for obligations promised by other companies, terminate their own defined benefit plans and instead offer to make contributions to a defined contribution plan under which employer liabilities are fixed and employees have no insurance

protection. I'm not sure. Even at present premium levels, the trend I am sure is to stay away from defined benefit plans. Pension experts from all political philosophies, who don't always agree on other matters, agree that the defined benefit plan universe is shrinking. The number of defined benefit plan terminations is increasing, and fewer and fewer new defined benefit plans are entering into the system.

On August 4, the Senate Labor Subcommittee held a hearing on current pension trends. At this hearing our knowledgeable subcommittee Chairman, Senator METZENBAUM, spoke of his deep concern about the future of the defined benefit plan system. I completely agree with his point and would like to quote from his statement, "Employers are abandoning defined benefit pension plan which are designed to provide specific levels of retirement income." He goes on to say that the effects of this trend are devastating for low-income workers. At this same hearing, the American Academy of Actuaries stated that one of the main reasons for this trend away from defined benefit plans is the unsound PBGC. To quote from the group's testimony:

> Congress and the Executive branch must work to restore confidence among defined benefit plan sponsors, that the PBGC can properly fulfill its mission of guaranteeing private defined benefit plans. Continuing speculation about the PBGC premium increases and comparison of the PBGC to the Federal Deposit Corporation (FDIC) only intensifies the pressure, subsequently driving employers away from defined benefit plan sponsorship.

Another option Congress has would be to try to stabilize the premium, so as not to deter plan sponsors away from the system, and instead let the Federal Government absorb the loss. This option is a reality which even the administration cannot deny. In the President's budget for fiscal year 1993, the administration has already introduced the idea of budgeting for fixed and expected future PBGC liabilities. Unfortunately, it did not accurately assess how much would be obtained from premium income and collections of plan assets. Therefore, the likely long term impact on the budget could not be realistically assessed. But one thing is for certain, adding billions to our $4 trillion national debt is no way to help balance the budget.

Our third option is to be sure that companies fund their pension promises and promise within their means. This can be done through stricter funding rules for underfunded plans, to require the faster funding of present obligations. An additional requirement, that companies fund up their plan or put up collateral if they increase benefits, will prevent presently underfunded plans from getting worse.

It might seem cruel to some to force companies to promise within their means. But it is far more cruel for workers to expect a certain level of benefits when they retire, only to find out later that the money they expected to have for their retirement isn't there. After all even the PBGC only guarantees, on average, about 80 percent of what is currently promised.

Our bill incorporates the principles embodied in the third alternative, because as one can deduce, it is the only choice that ensures a responsible national retirement income policy.

Time and time again we as legislators need to be reminded that there is no such thing as a free lunch. Programs need to be paid for with real money, not I.O.U's. Retirement benefits need to be paid for. As workers live longer they will need a sufficient amount of pension money to be assured some quality of life. All segments of society need to play a role in this. Social Security alone will not suffice. Employees at all income levels need to save. Employers need to offer pension plans and responsibly fund for what they promise to provide. Government needs to encourage adequate funding so that pension money can earn interest. Companies should not have the stress of needing to use this year's corporate earnings to pay for this year's retirees. This is especially dangerous for companies in cyclical and declining industries.

So let's act now to enact the Pension Funding Improvement Act. Let us not wait until 10 years down the road when the Federal Government is forced to step in to examine the debris leftover from the defined benefit plan system. Let's act now and send a message to America that the defined benefit plan system, and indeed our Nation's retirement income policy as a whole, needs to grow and flourish. While enactment of the Pension Funding Improvement Act is not the total answer to our country's retirement policy problems, it will greatly diminish our PBGC deficit problem by ensuring that workers have funded pensions today in order to be sure they are not a burden to their children tomorrow. It's a positive step in the right direction, deserving the serious attention of all those concerned with the future.

Hopefully, all my colleagues will consider it worthy of their serious attention today.●

By Mr. RIEGLE (for himself and Mr. JEFFORDS):

S. 3164. A bill to establish a program to demonstrate the environmental, economic, and social benefits and feasibility of carrying out response actions to remediate environmental contamination and redeveloping or reusing land blighted by environmental contamination; to the Committee on Environment and Public Works.

ECONOMIC OPPORTUNITY AND ENVIRONMENTAL IMPROVEMENT THROUGH RECYCLING LAND ACT

● Mr. RIEGLE. Mr. President, today I rise to introduce with Senator JEFFORDS the Economic Opportunity and Environmental Improvement Through Recycling Land Act of 1992.

This legislation addresses a basic issue of environmental and economic policy in this country: whether we allow contaminated industrial and commercial sites to be abandoned, or whether we reinvest in the infrastructure of these sites and recycle them for new uses that will help rehabilitate and provide jobs in some of our Nation's most distressed areas.

The legislation I am introducing today seeks to demonstrate the wisdom of conserving public and private capital by recycling this Nation's industrial and commercial sites and facilities where economically feasible.

For several years now the U.S. Congress has been debating the need to reinvest in the infrastructure that supports the efficient operation of our economy.

I believe that this country cannot afford to abandon the sites that have employed thousands of our Nation's workers. We do not have the capital to be so profligate. We should conserve our resources as much as possible.

This legislation responds to those needs. In my State of Michigan alone, thousands of sites are contaminated from past industrial or commercial uses. These sites where previously successful businesses lie in some kind of economic limbo, need rehabilitation to make them viable for reuse. This legislation provides funds and assistance for that regeneration.

In fact, the Michigan State Legislature is creating a special committee to consider aggressively what initiatives the State might take to facilitate the recycling of these sites for contemporary uses that will attract or retain private employers. And, Michigan is not alone in its focus on this problem. States and cities throughout America, from California to New Jersey, from Long Beach and Oakland to Trenton and Newark, are similarly seeking to conserve resources and reuse abandoned industrial sites and facilities.

The legislation I am introducing today will complement and support these efforts at the State and local level and enhance the capacity of those governments to respond to the very pressing demand to act now to remediate those facilities and improve the economic prospects of its citizens—particularly the disadvantaged and chronically unemployed who live near these areas. This focus is good social policy as well as good environmental and economic policy.

Mr. President, there are some who argue that protection of the Earth's natural environment is our most urgent national and international goal. There are others who argue that providing economic opportunity for our citizens—particularly during the current, protracted recession—is our most

urgent national purpose. I argue—and my bill demonstrates this—that we can and must both protect the environment and create economic opportunity, especially for the benefit of the unemployed and disadvantaged. My bill is designed to protect the environment by recycling, where feasible, land—one of this Earth's obviously limited resources—and the improvements to that land.

Land reuse has the same environmental goal and benefit as recycling other resources in limited supply. This country is becoming more aware of the need to recycle newspapers, glass bottles, aluminum cans, and other materials and products. Recycling our land and the very substantial public and private utilities and other infrastructure that has improved the value of that land is the next logical step.

Mr. President, representatives of State economic development agencies and environmental regulatory agencies, counties, cities, economic and community development organizations, Federal Reserve System banks, environmental and land policy organizations, the Office of Technology Assessment, and other groups and individuals have contributed to the development of this legislation and support its purpose and concept.

I intend the bill to be part of the community revitalization initiatives that I hope the Congress will act during the balance of this session. Members of my staff and staff of members of the Environment and Public Works Committee have discussed this bill. I look forward to working closely and intently with my colleagues on that Committee to move aggressively on this legislation.

Mr. President, I ask unanimous consent that the text of the bill be included in the RECORD.

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

S. 3164

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 Opportunity and Environmental Improvement Through Recycling Land Act of 1992".

SEC. 2. FINDINGS.

The Congress finds that—

(1) past uses of land in the United States for industrial and commercial purposes have created many sites throughout the United States that are blighted with environmental contamination;

(2) the Congress and the governments of States and political subdivisions of States have enacted laws to prevent future environmental contamination and to carry out response actions to correct past instances of environmental contamination;

(3) many of the sites are located in or near the cities and urban communities in which large portions of the population, including poor and unemployed individuals, have concentrated;

(4) the manner in which the population of the United States is distributed and the manner in which communities accommodate the growth of the national economy affects employment opportunities, the availability of capital to provide economic opportunity, environmental conditions, and the availability of natural resources for the enjoyment of the people of the United States;

(5) the private market demand for sites impacted by environmental contamination is reduced or eliminated;

(6) the capital available for the redevelopment or reuse of the impacted sites is limited by the continuation of environmental contamination at the sites;

(7) the abandonment or underutilization of the impacted sites impairs the ability of the Federal Government and the governments of States and political subdivisions of States to provide economic opportunities for the people of the United States, particularly the poor and unemployed;

(8) the abandonment or underutilization of the impacted sites also results in the inefficient use of public facilities and services as well as land and other natural resources, and extends conditions of blight in local communities;

(9) cooperation among Federal agencies, State and local departments and agencies and between the departments and agencies and private persons is required to accomplish timely response actions and redevelopment or reuse of impacted sites; and

(10) there is a need for a program to demonstrate the public purposes and benefits of response actions and redevelopment or reuse of impacted sites.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) ENVIRONMENTAL CONTAMINATION.—The term "environmental contamination" means the existence at a facility of one or more hazardous substances that may pose a risk to public health or the environment for which a response action is required under law.

(3) FACILITY.—The term "facility" has the meaning provided under section 101(9) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(9)).

(4) HAZARDOUS SUBSTANCE.—The term "hazardous substance" has the meaning provided under section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(14)).

(5) IMPACTED SITE.—The term "impacted site" means a facility (other than a facility used primarily or exclusively for a residential use) or a combination of economically related facilities within the same unit of general local government that has environmental contamination that prevents the timely redevelopment or reuse of the facility primarily for an employment purpose in accordance with State or local community development strategies.

(6) RESPONSE ACTION.—The term "response action" has the same meaning as given the term "response" under section 101(24) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. (42 U.S.C. 9601(24)).

(7) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(8) STATE.—The term "State" has the meaning provided under section 102(a)(2) of the Housing and Community Development Act of 1974 (42 U.S.C. 5301(a)(2)).

(9) UNIT OF GENERAL LOCAL GOVERNMENT.—The term "unit of general local government" has the meaning provided in the first sentence of section 102(a)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(1)).

SEC. 4. DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Administrator, in consultation with the Secretary, shall establish and carry out a program to provide grants to States to establish a State program to provide grants to units of general local government, or a direct grant program to provide grants to units of general local government to demonstrate—

(1) the economic feasibility of redevelopment or reuse of impacted sites;

(2) the environmental, economic, and social benefits to distressed communities from focusing financial resources and cooperative action on the redevelopment or reuse of impacted sites;

(3) the beneficial impacts on patterns of community development and use of public resources of redevelopment or reuse of impacted sites;

(4) the feasibility of timely, cooperative action among Federal agencies and departments and agencies of States and political subdivisions of States that have jurisdiction over response actions and redevelopment or reuse of impacted sites, as well as between those agencies and private parties; and

(5) the use of response actions as an integral part of a facility redevelopment or reuse project.

(b) SCOPE OF PROGRAM.—

(1) IN GENERAL.—In carrying out the demonstration program established under subsection (a), the Administrator, in consultation with the Secretary, may award a grant to a State pursuant to section 5, or unit of local government that submits an approved application to the Administrator pursuant to paragraph (2).

(2) GRANT APPLICATION.—An application for a grant under this section shall include a proposal for a response action and redevelopment or reuse of an impacted site, and shall be in such form as the Administrator, in consultation with the Secretary, determines to be appropriate.

(3) SELECTION OF SITES.—For each of the fiscal years 1993 and 1994, the Administrator, in consultation with the Secretary, may select not more than 50 impacted sites as the subject for a grant award. For each of the fiscal years 1993 and 1994, the Administrator, in consultation with the Secretary, shall select not more than 3 impacted sites in any State as the subject of a grant award. If the Governor of a State establishes a State demonstration program pursuant to section 5, the Governor shall select the impacted sites to receive assistance under the grant program.

(4) GRANT AWARDS.—Except as provided in paragraph (5), the aggregate amount of grants awarded for response actions at an impacted site for fiscal years 1993 and 1994 shall not exceed—

(A) $4,000,000; or

(B) an amount equal to 75 percent of the total eligible costs of carrying out a response action at the impacted site,

whichever is lower. Each unit of general local government that receives a grant award under this Act shall be required to make a non-Federal contribution in an amount equal to 25 percent of the total eligible costs of carrying out a response action at the impacted site that is the subject of the grant award.

(5) EXCEPTION.—Subject to section 9, the Administrator, in consultation with the Secretary (or in the case of a State demonstra-

tion program under section 5, the Governor) may fund up to 100 percent of the total eligible costs of carrying out a response action at an impacted site if the Administrator (or the Governor) obtains satisfactory assurances from the grant recipient that—

(A) a transfer of the impacted site to be remediated will occur as part of a response action and redevelopment or reuse of the site;

(B) the net proceeds realized from the transfer of the site will reasonably approximate at least 25 percent of the eligible costs of carrying out a response action at the site; and

(C) an amount reasonably approximating 25 percent of the eligible costs referred to in subparagraph (B) from the net proceeds referred to in subparagraph (B), will be paid promptly by, or on behalf of, the grant recipient to the Administrator (or the Governor) as reimbursement for funds to be received pursuant to a grant to be awarded pursuant to this section.

SEC. 5. DELEGATION OF IMPLEMENTATION TO STATE DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Administrator, in consultation with the Secretary, may, in lieu of awarding grants to individual units of general local government, award a grant to the Governor of each State that submits an approved application to the Administrator to conduct a State demonstration program to award grants to carry out the purposes referred to in section 4(a). Subject to the limitations referred to in section 4(b), under a State demonstration program, the Governor of a State shall have the authority to select impacted sites and allocate assistance from amounts awarded to the Governor pursuant to this section.

(b) ALLOCATION OF FUNDS.—If the Administrator, in consultation with the Secretary, chooses to establish a demonstration program to provide grants to States, the Administrator, subject to the limitations of section 4(b), and in coordination with the Governors of the States that submit an approved application, shall allocate the amount of assistance made available pursuant to this Act for each fiscal year among those States. In allocating the assistance, the Administrator, in consultation with the Secretary, shall consider—

(1) the relative commitment of each State to achieving successfully the purposes referred to in section 4(a);

(2) the need to allocate funds in amounts that will contribute to achieving successfully the purposes referred to in section 4(a); and

(3) the desirability of carrying out demonstration projects that vary in location, characteristics, issues, and types of participants.

SEC. 6. NON-FEDERAL CONTRIBUTION; WINDFALLS.

(a) IN GENERAL.—The non-Federal contribution required by section 4(b)(4) may be made in the form of grants, loans, abatement of past due or future property or income taxes, in-kind contributions, private party contributions, or other direct or indirect financial contributions approved by the Administrator, in consultation with the Secretary. The unit of general local government that is the recipient of the grant may make the contribution or another person may make the contribution on behalf of the unit of general local government.

(b) AVOIDANCE OF WINDFALL TO GRANT RECIPIENT.—A grant recipient under this Act, must, as a condition to receiving a grant award, enter into an agreement with the Administrator (or in the case of a State demonstration program under section 5, the Governor) that states that, if the grant recipient recovers compensation for any cost of carrying out a response action at an impacted site that is the subject of a grant award under this Act from another person, other than as contemplated by section 4(b)(5), the grant recipient shall pay the Administrator (or the Governor)—

(1) if the amount recovered is greater than or equal to the aggregate amount of grant awards received under this Act by the grant recipient, the aggregate amount of the grant awards received under this Act by the grant recipient; and

(2) if the amount recovered is less than the aggregate amount of grant awards received under this Act by the grant recipient, the full amount recovered.

(c) OTHER RECOVERY OF FEDERAL ASSISTANCE.—

(1) IN GENERAL.—As part of the agreement referred to in subsection (b), a recipient of a grant award under this Act, must, as a condition to receiving the grant, agree that if, with respect to the impacted site that is the subject of the grant—

(A) a response action for the facility has not been initiated by the date that is 1 year after the date that the grant is awarded;

(B) redevelopment or reuse has not been initiated by the date that is 1 year after the date of completion of all required response actions; or

(C) the redevelopment or reuse has not been completed in a timely manner (as determined by the Administrator, in consultation with the Secretary, or, in the case of a State demonstration program under section 5, the Governor),

the grant recipient shall be required to repay the full amount of the grant award (in addition to making the non-Federal contribution described in subsection (a)), plus interest accrued from the date of the awarding of the grant. Any such repayment shall be due immediately following notice to the grant recipient by the Administrator (or the Governor) that any of the conditions described in subparagraphs (A) through (C) has been met.

(2) INTEREST.—Any interest payable under this Act shall be accrued at the same rate as specified for interest earned pursuant to section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(a)).

(3) WAIVER.—The Administrator (or the Governor) may waive (in whole or in part) the requirement for repayment under paragraph (1) if the Administrator, in consultation with the Secretary, (or the Governor) determines that—

(A) the grant recipient acted in a manner consistent with the requirements of the grant program and the purposes described in section 4(a); and

(B) exigent circumstances contributed to the delay.

SEC. 7. CRITERIA FOR SITE SELECTION.

(a) IN GENERAL.—The Administrator (or in the case of a State demonstration program under section 5, the Governor) after receiving completed applications for grant awards under this Act, shall select impacted sites and allocate assistance by taking into account the following criteria:

(1) The extent to which the environmental, economic, and social benefits of the response action and redevelopment or reuse are likely to exceed the costs of the response action and redevelopment or reuse. The benefits referred to in the preceding sentence shall be measured by factors that include a consideration of the amount of job opportunities to be retained or created, expected increases in economic activity and synergy within the community, expected increases in local tax revenue, and capital and natural resources to be conserved.

(2) The extent of contribution of non-Federal resources, including capital investment by private parties, expected to occur in connection with the response action and redevelopment or reuse of the site.

(3) The level of economic and social distress of the unit of general local government in which the site is located, measured by any community employment loss in the industrial sector, the rate and period of unemployment, and any decline in economic activity, population loss, or population growth disproportionate to local economic opportunity.

(4) The degree of cooperation among appropriate governmental agencies, as well as between those agencies and private persons.

(5) Whether or not the State or unit of general local government has established an ongoing program for response actions at impacted sites.

(6) Whether or not the environmental contamination at the site will be satisfactorily and efficiently addressed by the proposed response action.

(7) Such other factors as the Administrator considers relevant to the purposes of the program authorized by this Act.

(b) PRIORITY.—The Administrator (or in the case of a State demonstration program under section 5, the Governor) shall give the greatest degree of priority to the criteria referred to in paragraphs (1) through (6) of subsection (a), and shall give equal priority to each criterion referred to in such paragraphs.

SEC. 8. FEDERAL SUPERFUND SITES AND FEDERAL MILITARY FACILITIES EXCLUDED; UNDERGROUND STORAGE TANKS.

(a) EXCLUDED SITES.—The impacted sites selected by the Administrator (or in the case of a State demonstration program under section 5, the Governor) shall not include—

(1) a site on or expected to be included on the National Priority List maintained by the Environmental Protection Agency under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.); and

(2) a site controlled or to be remediated by a military department, Defense Agency, or the Department of Energy.

(b) SITES WITH UNDERGROUND STORAGE TANKS.—The Administrator (or in the case of a State demonstration program under section 5, the Governor) shall provide no assistance under this Act for the removal or replacement of, or other response action with respect to, any underground storage tank for which assistance for such activities may be obtained pursuant to subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) from the Leaking Underground Storage Tank Trust Fund established under section 9508 of the Internal Revenue Code of 1986.

SEC. 9. ELIGIBLE COSTS.

(a) ELIGIBLE COSTS.—For the purposes of the grant program established under section 4, eligible costs for response actions under this section shall include administrative and nonadministrative costs.

(b) NONADMINISTRATIVE COSTS.—For the purposes of this section, the term "nonadministrative costs" shall include the cost of—

(1) identifying the probable extent and nature of, and preferred manner of carrying out a response action at an impacted site;

(2) fees relating to applications for agency approvals necessary to response actions;

(3) costs of removal, or on-site or off-site treatment of contamination; and

(4) costs of monitoring ground water or other natural resources.

(c) ADMINISTRATIVE COST LIMITATION.—Not more than 10 percent of the amount of a grant award under this Act may be used for administrative costs.

SEC. 10. LIABILITY UNDER OTHER LAW; AVOIDANCE OF WINDFALL.

(a) LIABILITY UNDER OTHER LAW.—Nothing in this Act shall be construed or interpreted to relieve any person from liability under, or the requirements of, any other law regarding environmental contamination.

(b) AVOIDANCE OF WINDFALL.—The Administrator, in consultation with the Secretary (or in the case of a State demonstration program under section 5, the Governor) shall implement the grant program under this Act in a manner that does not—

(A) relieve from liability under any other law regarding environmental contamination any person who, prior to the initiation of a response action assisted by a grant award under this Act, was potentially liable for the response action with respect to the impacted site that is the subject of the grant; and

(B) reduce the incentive of a person described in subparagraph (A) to participate in funding the non-Federal contribution required under section 6.

SEC. 11. EVALUATION AND REPORT.

(a) EVALUATION.—

(1) IN GENERAL.—Not later than March 31, 1995, the Administrator, in consultation with the Secretary, shall conduct an evaluation of the grant program established under section 4. The evaluation shall be based on information available at the time of the evaluation.

(2) DATA COLLECTION.—As a condition to receiving a grant under this Act, the Administrator (or the Governor) shall require each grant recipient to submit data that indicate the actual costs, benefits, sources and uses of funds, and results of an assisted response action and redevelopment or reuse project.

(b) REPORT.—Upon completion of the evaluation referred to in subsection (a), but not later than March 31, 1995, the Administrator shall submit a report to Congress that describes the findings and recommendations of the Administrator.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated (from funds other than the Hazardous Substance Superfund established under subchapter A of chapter 98 of the Internal Revenue Code of 1986), to carry out this Act, $100,000,000 for fiscal year 1993, and $100,000,000 for fiscal year 1994, to remain available until expended.●

● Mr. JEFFORDS. Mr. President, I am pleased to be an original cosponsor of Senator RIEGLE's bill to promote the reuse of abandoned manufacturing facilities. These idle facilities—mining operations in the West, textile mills in the South, steel mills in the Northeast, and machine tool shops along the Great Lakes—represent a tremendous waste of physical resources and capital. And too often, the abandonment of these facilities and sites has led to the deterioration of the surrounding communities, many of which are located in our inner cities.

This bill builds upon the pioneering work the Northeast-Midwest Institute has done to promote industrial facility reuse. It convened a conference on the subject last year and has published "New Life for Old Buildings," which contains scores of successful reuse case studies from around the Nation. I successfully offered an amendment to the highway bill directing the Department of Transportation [DOT] to conduct a study of the impediments to reuse. Transportation Secretary Card has informed me that in addition to conducting the study, DOT will also compile an inventory of abandoned facilities nationwide. I anxiously await their report.

Mr. President, abandoned manufacturing facilities have tremendous potential. Infrastructure—roads, utilities, rail sidings, and the like—already is in place. Surrounding communities usually are economically distressed and hungry for good jobs. We have to reinvest in our cities, and in our manufacturing. The bill that Senator RIEGLE and I are introducing tonight is a start in the long process of bringing these sites and communities back to life.●

By Mr. REID:

S.J. Res. 331. Joint resolution to designate the month of January 1993 as "National Cowboy Poetry Month"; to the Committee on the Judiciary.

NATIONAL COWBOY POETRY MONTH

● Mr. REID. Mr. President, each year, in the last week of January, ranchers, cowboys, and lovers of the West travel long distances to a remote town in northeastern Nevada called Elko. Arriving from many different parts of the country, these individuals meet to celebrate the long tradition of the American West by listening to cowboys share their poetry about life on the range. The Cowboy Poetry Gathering is a unique cultural event providing entertainment for those men and women who treasure the memory of our western heritage. The nature of this heritage is re-created and retold in poems depicting the emotion, character, and environment of the cowboy.

The first poetry meeting was held in 1985 in Elko, a town rich in the cowboy tradition. Since then, the Cowboy Poetry Gathering has flourished as a cultural event, attracting thousands of participants including folklorists, academics, musicians, artists, journalists, and tourists. Cowboy songs, music, and dance, as well as handcrafted paraphernalia, create an exciting atmosphere that preserves and invigorates the undying legacy of the cowboy. As Darrell Arnold wrote in "The Western Horseman," "No amount of words and pictures can truly convey the mood of the assemblage, the excitement of the participants, and the joy of reuniting with people who share a philosophy of the West that is akin to one's own."

This year, the eighth Cowboy Poetry Gathering drew 10,000 people for 6 extraordinary days of poetry reading. Cowboy poets have been featured on National Public Radio and the "Tonight Show." As a result of its success, the Cowboy Poetry Gathering has inspired similar meetings in Texas, Montana, Oklahoma, North Dakota, Utah, New Mexico, Colorado, Wyoming, and Idaho. Additionally, poetry readers can now subscribe to their own cowboy poetry magazines.

The cowboys of yesterday and today stand as living embodiments of a vital aspect of our national character. They represent those qualities of independence and fortitude that contributed so much to the building of this Nation.

We should be grateful that this tradition is carried on in the present day by those who still dedicate themselves to life on the range. Why do they do it? William Kittredge, author of "Hole in the Sky: A Memoir," perhaps said it best:

> People stick to ranching because they love the feel of a quick little horse moving intently after cattle, or the smell of greasewood after summer rain or new-cut alfalfa on a spring morning, or the stretch of damp rawhide as they work at braiding a riata, or the look of a mother cow as she trails her dusty way back to her calf after a long walk to water. People stick to it because they enjoy the feel and smell and sound of things, and because they share those mostly unspoken loves with other people they can trust as being somewhere near to decent.

> All over the American West, cowboys and ranchwomen . . . have been gathering to declaim their verse to one another . . . These are celebrations of things ranchland people respect and care about most deeply—the land they have chosen to live on, their work, and, right at the center, one another, this companionship.

To designate the month of January 1993 as "National Cowboy Poetry Month" is to proclaim our appreciation and regard for the history of the U.S. cowboy. May the efforts of these active poets and their readers continue to commemorate the age-old tradition of writing poems of historic and traditional value.●

ADDITIONAL COSPONSORS

S. 25

At the request of Mr. MITCHELL, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 25, a bill to protect the reproductive rights of women, and for other purposes.

S. 1361

At the request of Ms. MIKULSKI, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of S. 1361, a bill to remedy the serious injury to the U.S. shipbuilding and repair industry caused by subsidized foreign ships.

S. 1677

At the request of Mr. DASCHLE, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cospon-

sor of S. 1677, a bill to amend title XIX of the Social Security Act to provide for coverage of alcoholism and drug dependency residential treatment services for pregnant women and certain family members under the Medicaid Program, and for other purposes.

S. 1931

At the request of Mr. STEVENS, the names of the Senator from Missouri [Mr. BOND], the Senator from Virginia [Mr. WARNER], the Senator from Ohio [Mr. GLENN], the Senator from Hawaii [Mr. INOUYE], the Senator from New York [Mr. D'AMATO], the Senator from North Carolina [Mr. HELMS], and the Senator from Kansas [Mr. DOLE] were added as cosponsors of S. 1931, a bill to authorize the Air Force Association to establish a memorial in the District of Columbia or its environs.

S. 2083

At the request of Mr. CRAIG, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of S. 2083, a bill to provide for an extension of regional referral center classifications, and for other purposes.

S. 2103

At the request of Mr. GRASSLEY, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 2103, a bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for nurse practitioners, clinical nurse specialists, and certified nurse midwives, to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 2104

At the request of Mr. GRASSLEY, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 2104, a bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for physical assistance, to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 2268

At the request of Mr. CRANSTON, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 2268, a bill to make the import alert issued by the Food and Drug Administration with respect to the drug RU-486 ineffective and for other purposes.

S. 2400

At the request of Mr. PRYOR, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 2400, a bill to amend title XVIII of the Social Security Act to extend special payments under part A of Medicare for the operating costs of inpatient hospital services of hospitals with a high proportion of patients who are Medicare beneficiaries.

S. 2484

At the request of Mr. KASTEN, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 2484, a bill to establish research, development, and dissemination programs to assist State and local agencies in preventing crime against the elderly, and for other purposes.

S. 2769

At the request of Mr. D'AMATO, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 2769, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives for economic growth and affordable housing, and for other purposes.

S. 2810

At the request of Mr. SASSER, his name was added as a cosponsor of S. 2810, a bill to recognize the unique status of local exchange carriers in providing the public switched network infrastructure and to ensure the broad availability of advanced public switched network infrastructure.

S. 2837

At the request of Mr. HARKIN, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from Connecticut [Mr. DODD], the Senator from Maryland [Ms. MIKULSKI], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from Washington [Mr. ADAMS] were added as cosponsors of S. 2837, a bill to amend the Public Health Service Act to provide for a program to carry out research on the drug known as diethylstilbestrol, to educate health professionals and the public on the drug, and to provide for certain longitudinal studies regarding individuals who have been exposed to the drug.

S. 2873

At the request of Mr. BREAUX, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 2873, a bill to amend the Internal Revenue Code of 1986 to establish medical care savings benefits.

S. 2904

At the request of Mr. MURKOWSKI, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 2904, a bill to amend the Internal Revenue Code of 1986 to permit rollovers into individual retirement accounts of separation pay from the Armed Forces.

S. 2940

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 2940, a bill to reduce to 100,000 the number of members of the Armed Forces of the United States assigned to permanent duty ashore in NATO countries of Europe by the end of fiscal year 1995.

S. 3002

At the request of Mr. ROCKEFELLER, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 3002, a bill to amend title XIX of the Social Security Act to provide for optional coverage under State medicaid plans of case-management services for individuals who sustain traumatic brain injuries, and for other purposes.

S. 3008

At the request of Mr. ADAMS, the names of the Senator from Tennessee [Mr. SASSER], and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of S. 3008, a bill to amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 1992 through 1995; to authorize a White House Conference on Aging; to amend the Native Americans Programs Act of 1974 to authorize appropriations for fiscal years 1992 through 1995; and for other purposes.

S. 3085

At the request of Mr. LAUTENBERG, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 3085, a bill to amend the Internal Revenue Code of 1986 to provide that amounts in individual retirement plans not be counted in determining eligibility for aid to families with dependent children, to allow withdrawals from such plans to pay for higher education expenses, and for other purposes.

S. 3118

At the request of Mr. CONRAD, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 3118, a bill to increase employment and business opportunities for Indians, and for other purposes.

SENATE JOINT RESOLUTION 321

At the request of Mr. KOHL, the names of the Senator from North Carolina [Mr. SANFORD] and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of Senate Joint Resolution 321, a joint resolution designating the week beginning March 21, 1993, as "National Endometriosis Awareness Week."

SENATE CONCURRENT RESOLUTION 126

At the request of Mr. SHELBY, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of Senate Concurrent Resolution 126, a concurrent resolution expressing the sense of the Congress that equitable mental health care benefits must be included in any health care reform legislation passed by the Congress.

SENATE CONCURRENT RESOLUTION 133

At the request of Mr. AKAKA, the names of the Senator from Maryland [Mr. SARBANES], the Senator from Hawaii [Mr. INOUYE], the Senator from Wisconsin [Mr. KOHL], the Senator from Virginia [Mr. WARNER], the Senator from Alabama [Mr. SHELBY], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Pennsylvania [Mr. WOFFORD], and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of Senate Concurrent Resolution 133, a concurrent resolution concerning Israel's recent elections and the upcoming visit by Israeli Prime Minister Yitzhak Rabin to the United States.

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of Senate Concurrent Resolution 133, supra.

SENATE CONCURRENT RESOLUTION 134

At the request of Mr. CRANSTON, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of Senate Concurrent Resolution 134, a resolution to commend the people of the Philippines for successfully conducting peaceful general elections and to congratulate Fidel Ramos for his election to the Presidency of the Philippines.

SENATE RESOLUTION 325

At the request of Mr. D'AMATO, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of Senate Resolution 325, a resolution expressing the sense of the Senate that the Government of the Yemen Arab Republic should lift its restrictions on Yemeni-Jews and allow them unlimited and complete emigration and travel.

SENATE RESOLUTION 332—AUTHORIZING TESTIMONY AND PRODUCTION OF DOCUMENTS BY MEMBERS AND EMPLOYEES OF THE SENATE

Mr. PELL (for Mr. MITCHELL, for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 332

Whereas, in the case of United States of America V. Clair E. George, Crim. No. 91-521, pending in the United States District Court for the District of Columbia, counsel for the defendant has requested the production of documents from the custodians of records of the Committee on Foreign Relations and the Select Committee on Intelligence;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members and employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, by Rule VI of the Standing Rules of the Senate, no Senator shall absent himself from the service of the Senate without leave;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That the custodians of records of the Committee on Foreign Relations and the Select Committee on Intelligence, and current or former Members and employees of the Senate from whom testimony may be necessary, are authorized to testify and produce documents in the case of United States of America v. Clair E. George, except, with respect to Members of the Senate, when their attendance at the Senate is necessary for the performance of their legislative duties, and except concerning matters for which a privilege should be asserted.

Sec. 2. That the Senate Legal Counsel is authorized to represent the custodians of records of the Committee on Foreign Relations and the Select Committee on Intelligence, and current or former Members and employees of the Senate from whom testimony may be necessary, in connection with their testimony in United States of America v. Clair E. George.

AMENDMENTS SUBMITTED

AUTHORIZATION OF MULTILATERAL ACTION IN BOSNIA-HERCEGOVINA

WARNER (AND OTHERS) AMENDMENT NO. 2925

Mr. WARNER (for himself, Mr. DOLE, and Mr. STEVENS) proposed an amendment to the resolution (S. Res. 330) relating to authorization of multilateral action in Bosnia-Hercegovina under article 42 of the United Nations Charter, as follows:

At the end of the resolution, add the following new paragraph:

(4) The United States Senate strongly supports the measures announced by the President on August 6, 1992.

MCCAIN AMENDMENT NO. 2926

Mr. MCCAIN proposed an amendment to the resolution (S. Res. 330), supra, as follows:

Strike the words "giving particular considerations to the possibility of demonstrations of force," from section 1.

BROWN AMENDMENT NO. 2927

Mr. COHEN (for Mr. BROWN) proposed an amendment to the resolution (S. Res. 330), supra, as follows:

In the resolved clause, add the following new subsection:

"(4) No United States military personnel shall be introduced into combat or potential combat situations without clearly defined objectives and sufficient resources to achieve those objectives."

BYRD (AND OTHERS) AMENDMENT NO. 2928

Mr. PELL (for Mr. BYRD, for himself, Mr. MITCHELL, Mr. BOREN, Mr. DECONCINI, Mr. REID, Mr. SPECTER, Mr. D'AMATO, Mr. FOWLER, Mr. MURKOWSKI, Mr. BIDEN, Mr. PRESSLER, Mr. DODD, Mr. KERREY, Mr. MOYNIHAN, Mr. LIEBERMAN, and Mr. KENNEDY) proposed an amendment to the resolution (S. Res. 330), supra, as follows:

At the end of the resolution, add the following:

SEC. . (a) Congress makes the following findings:

(1) National elections for the President and Parliament of Romania are scheduled to be held on September 27, 1992.

(2) Romania lacks an historical tradition of political democracy.

(3) The Romanian elections of 1946, in a major step toward the Soviet and Communist enslavement of Eastern Europe, were fraudulently manipulated to bring the Communists to power.

(4) Romania, since the violent overthrow of the Communist Ceausescu regime in 1989, has professed to pursue a democratic course.

(5) Progress toward achieving democracy has been marred by acts of violence, perpetrated by groups of miners in June 1990 and September 1991, that were aimed either at suppressing political dissent or at undermining the democratic institutions of the Romanian government.

(6) In February 1992, the first free and fair local government elections in a half century were held in Romania.

(7) There are many encouraging signs that the parliamentary and presidential elections scheduled for September 27, 1992, can be fairly and democratically conducted.

(8) Among those signs is the recent enactment of legislation in Romania that creates an audiovisual council with the responsibility for fairly allocating radio and television access to the various candidates.

(9) Although international human rights monitors have observed that Romania has made progress in the area of human rights, the monitors have also identified significant unresolved problems with regard to free speech, the activities and control of the Romanian Intelligence Service, and the rights and treatment of minorities.

(10) Recent press reports indicate that Romania may be serving as a conduit for the transport of goods to Serbia and Montenegro in contravention of United Nations sanctions.

(11) A bilateral United States-Romanian trade agreement, which was signed on April 3, 1992, has been submitted to the Senate.

(12) To become effective, that trade agreement must be approved by the Senate.

(13) The support of the Senate for extending the favorable aid and trade treatment needed to help improve the performance and growth of the Romanian economy will depend heavily on the conduct of the fall election campaign and on the election day procedures.

(14) In considering the trade agreement, the Senate will also take into account Romania's record on human rights and its compliance with the United Nations sanctions against Serbia and Montenegro.

(15) The development of democratic procedures and institutions in Romania is at a critical stage, and the elections scheduled for September 27, 1992, represent an historic test of the commitment of the Romanian leadership and political system to developing such procedures and institutions.

(b) It is the sense of the Senate that—

(1) the elections for the President and Parliament of Romania that are scheduled to be conducted on September 27, 1992, will be an important measure of Romania's progress toward democracy;

(2) those elections should be conducted in a free and fair manner that includes reasonably equal access to the mass media by the major candidates;

(3) the Secretary of State should initiate an international effort to ensure that a sufficient number of United States and international observers are placed in Romania to monitor the scheduled elections, and any run-off elections that may be held, in order to ascertain whether such elections are conducted in a free and fair manner; and

(4) consideration by the Congress of any legislation to grant nondiscriminatory (most-favored-nation) trade status to Romania should be withheld until the Secretary of State has certified to the Senate that the elections in Romania scheduled for September 27, 1992, and any subsequent run-off elections that may be held, are conducted in a free and fair manner.

STEVENS AMENDMENT NO. 2929

Mr. STEVENS proposed an amendment to the resolution (S. Res. 330), supra, as follows:

At the end of the resolution, insert the following new section.

(4) The United States Senate pledges to provide such funds as are necessary for United States participation in such humanitarian relief and multilateral military force activities, pursuant to such mandates as may be adopted by the United Nations Security Council, consistent with the terms of this resolution.

NOTICES OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that an oversight hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests. The purpose of the hearing is to receive testimony on grazing management and grazing fee issues.

The hearing will take place Thursday, September 3, 1992, beginning at 9 a.m. and concluding at approximately 4 p.m. The hearing will be held at the Wyoming Oil and Gas Conservation Commission Building, 777 West First Street, Casper, WY.

A number of witnesses representing a cross-section of views and organizations will be invited by the subcommittee to testify. Time will also be set aside to accommodate as many other individuals as possible who would like to make a brief statement of no more than 3 minutes.

Although the subcommittee will attempt to accommodate as many individuals desiring to speak as time permits, it may not be possible to hear from all those wishing to testify.

Written statements may also be submitted for the hearing record. It is only necessary to provide one copy of any material submitted for the record. Comments for the record may be brought to the hearing or submitted to the Subcommittee on Public Lands, National Parks and Forests, room 304 of the Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact Mona White in Senator WALLOP'S Casper office at (307) 261-5415 or David Brooks of the subcommittee staff in Washington, DC at (202) 224-9863.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. PELL. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Monday, August 10, at 9 a.m. for a hearing on the subject: The Effects of Traffic Radar Guns on Law Enforcement Officers.

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

SUBCOMMITTEE ON AGRICULTURAL CREDIT

Mr. PELL. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry Subcommittee on Agricultural Credit be allowed to meet during the session of the Senate on Monday, August 10, 1992, in SR-332 on S. 3119, the USDA National Appeals Division Act of 1992.

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

ADDITIONAL STATEMENTS

ROBERT WOODS JOHNSON FOUNDATION ARTICLE

• Mr. BRADLEY. Mr. President, I recently read an excellent statement, included as part of the annual report of the Robert Woods Johnson Foundation in Princeton, NJ, concerning a new nemesis facing our country. The article points out that the longtime political rival of the United States, the Soviet Union, has disintegrated into a number of smaller republics struggling for democracy. That political rivalry between our two countries has now changed from competition to one of cooperation and assistance as we work to encourage democracy throughout Eastern Europe.

However, the foundation correctly points out there is a new nemesis that is threatening the safety and health of our citizenry—one that is embedded within all of the serious problems we face, from crime, to poverty, to drug abuse, to jobs and education. One that transcends economic, social, and ethnic classifications and affects the poor, the elderly, our children, families, the unemployed as well as the working men and women all across America. The new Nemesis is the health care crisis, where tens of millions of Americans have little or no access to basic health care and all of us face a growing threat from skyrocketing costs. The foundation has authored an eloquent nomination to designate the health care crisis as our Nation's "New Nemesis." I second that nomination and ask that the statement be printed in the RECORD at this point.

The statement follows:

STATEMENT: THE NEW NEMESIS

There is nothing quite so shattering, politically or philosophically, as having one's nemesis inconveniently die—as this nation is beginning to discover upon the demise of the Soviet Union. It will be interesting to see whether we have the maturity and courage to look for a replacement archenemy within our own borders and souls.

There are plenty of worthy candidates: ignorance, crime, intolerance or any of a host of social inequities.

And every one of them—every moral, political and economic fault or failing—figures in our present health care crisis. Every problem a society experiences ultimately presents itself in some form at the hospital door.

A pessimist may find in that interconnectedness reason to despair of any solution to this crisis. But there might be equal reason to see it as an opportunity to learn how our society really works—or doesn't work.

If we are to solve the country's health care problems, we can't limit ourselves to dealing with them at the door of the emergency room or the doctor's office. We will be obliged to discover where they originate, how they mutate into medical problems, and how to stop the process. And stopping the process will mean solving those original problems or, at the very least, greatly reducing their effect.

That would be a worthy undertaking for a great nation—and a sound approach to the myriad problems we confront as a society. The health care crisis is an ideal focal point for such an endeavor. It is acknowledged to be a matter of the utmost urgency by virtually every leader of every political persuasion; it leads back to the most diverse array of problems; it is an issue of great importance and cost to the nation; and the success or failure of its reform can be readily measured.

Moved that the forces depriving this nation of comprehensive, cost-effective health care be declared the new Nemesis.

Do we hear a second?•

(At the request of Mr. DOLE the following statement was ordered to be printed in the RECORD)

NATIONAL HOSIERY WEEK—AUGUST 10-16

• Mr. HELMS. Mr. President, the week of August 10-16 marks the 21st annual observance of "National Hosiery Week." It is with great pride that I use this occasion to recognize an industry which has contributed so much to the free enterprise system of our Nation as well as to the economy of North Carolina.

During the past year, the hosiery industry has made great strides in the area of foreign trade. Exports in 1991 leaped 30 percent over 1990 levels to 8,949,962 dozen pairs. This increase in exports helped push total U.S. production to 320,149,000 dozen pairs—and that, Mr. President, is a lot of hosiery.

At a time of rising levels of imports, it is vital that we continue to support the textile and apparel industry which employs so many American workers. The hosiery industry represents significant portion of the textile and apparel complex. It alone employs more than 70,000 people in 417 plants around the Nation and continues to grow. The large size of the hosiery industry makes it a major contributor to our Nation's economy.

But Mr. President, it is in the many smaller communities where the hosiery industry makes its most significant contribution, because it is there that these companies constitute a large part of the local economy. In many cases, a hosiery company will serve as the major employer in the area, providing good, stable jobs for its employees.

Mr. President, members of the National Association of Hosiery Manufacturers produce and distribute 85 percent of U.S. hosiery, contributing more than $6 billion to the U.S. economy each year. The hosiery industry has made great strides in improving productivity in its mills and in improving the quality of its product. These efforts to make the hosiery industry more competitive have resulted in significant technological and design improvements in the manufacture of hosiery.

Mr. President, National Hosiery Week is of special importance to me because North Carolina is the leading textile and hosiery State in the Nation. North Carolina is proud of the leadership of the hosiery industry and the fine quality of life that it has provided for so many people.

On behalf of my fellow North Carolinians, I extend my sincere thanks and congratulations to the hosiery industry and to its many thousands of employees for their outstanding contribution to our State and Nation.•

TAKING THE LEAD ON EDUCATION

• Mr. KASTEN. Mr. President, we all know that education is the highway of hope—the sure-fire way for young people to start building a successful future. I would like to draw the attention of my colleagues to one Wisconsin community that takes education very seriously.

The River Cove Apartments in Stevens Point, WI, are a 40-unit subsidized section 8 HUD housing project. But they are a housing project with a difference.

Fact: One out of every four tenants at the River Cove Apartments is currently enrolled at an institution of higher education.

These tenants know that what you earn depends on what you learn. They are taking their future into their own hands and mounting the ladder of economic opportunity. Dozens of River Cove tenants have already succeeded in finding better jobs, and others are on their way.

The key to educational success is creating a climate where learning is respected and encouraged. I commend Jane Staples, the owner and operator of River Cove Apartments, for her work in making this happen. And I hope all my colleagues will join me in applauding the River Cove tenants, who are fighting for their own dreams—and in succeeding, setting an example for us all.•

CORPORATE RESPONSIBILITY

• Mr. SIMPSON. Mr. President, I realize we have a short time agreement, and I appreciate the opportunity to briefly express my appreciation to Senator BYRD and Senator DOMENICI for bringing this amendment to the consideration of the Senate. I am very pleased to be cosponsor of the amendment.

The first amendment is a sacred right which all of us possess—yet it does not preclude the right to condemn the speech of others which acts to desensitize a civilized society. The lyrics of "Cop Killer" are beyond disgusting.

I also found the lyrics of a little ditty entitled "KKK Bitch"—which is found on that same recording—to be particularly offensive. If any one of my colleagues wishes to have me send a copy of the lyrics of these songs—if you can call them that—I certainly shall. I believe you will agree that anyone with any degree of human sensitivity would be appalled by these lyrics. Corporations should demonstrate more civic responsibility than that. And I shall name names for Time-Warner has shown us very little of that attribute with this recording.

I cannot speak more eloquently than Charlton Heston did to a meeting of the shareholders of Time-Warner on this topic. He laid it all out very succinctly—and he named names. I have written to Mr. Heston to commend him for the position he took. It is a position which I am confident is overwhelmingly supported by a vast majority of the American people.

He is owed a debt of gratitude from all of us in the Senate. So are Senators BYRD and DOMENICI for sponsoring this resolution.•

TRIBUTE TO J. EMMANUEL WILLETT, Ph.D.

• Mr. MCCONNELL. Mr. President, I rise today to pay tribute to a gentleman whose career has had a positive impact on countless Kentuckians. J. Emmanuel Willett will be retiring at the end of this month after a 25-year career of serving the northern Kentucky community in the field of mental health.

During the past quarter of a century as president and chief executive officer of the Comprehensive Care Centers and Children's Psychiatric Hospital of Northern Kentucky, Mr. Willett has build a wealth of services for those suffering from mental health disabilities.

Mr. Willett's path to the office of executive director of Northern Kentucky Mental Health/Mental Retardation Regional Board and the Comprehensive Care Centers it operates has been no simple walk in the park. His trek began as a University of Kentucky graduate student. At that time Mr. Willett was supported by a State stipend program which included working summers at the Albert B. Chandler Medical Center. After finishing his internship, he worked full time at Thomas Moore College.

To repay his stipend, Mr. Willett became involved in organizing the regional board and construction plans for the new Northern Kentucky Comprehensive Care Center. After his task was completed he was offered the position of executive director of the center. Mr. Willett was not only the first, but has been the only executive director employed by the center.

During the past 25 years, Mr. Willett has worked dutifully to ensure that the center remains a model of quality mental health care. During Mr. Willett's tenure, the regional board has developed a number of innovative services to help the community.

Mr. President, please join me in honoring this doctor, educator, and visionary who has realized his dream of being able to help others. J. Emmanuel Willett, Ph.D., is a point of light to the many citizens of Kentucky who have received the special care they needed at the Comprehensive Care Center and Children's Psychiatric Hospital of Northern Kentucky.

I wish Mr. Willett a wonderful retirement and the best of luck in his future endeavors.

Mr. President, I would like the following article from the Kentucky Psychological Association Newsletter to be submitted into the CONGRESSIONAL RECORD.

The article follows:

PROFILE OF CENTERS' PRESIDENT

The journey of life is full of turning points, both personally and professionally. For J. Emmanuel Willett, Ph.D., President, two such moments occurred in 1954. It was that year he married his wife, Dorothy, whom he grew up with in his hometown of Fancy Farm, Kentucky. He also visited his sister in Cincinnati who thought he needed to get out of his present construction job and go back to teaching. She lined up interviews for him with a number of local colleges, but it wasn't until six months later that he was offered a position teaching education at Mount St. Joseph College. A few years previously, he had attended St. Mary's College in Lebanon, Kentucky with his eye on the ministry. He realized the ministry wasn't where he belonged, but continued to have a desire to help others. He considered a career in teaching and enrolled in the MA program in Guidance and Counseling at Catholic University.

He taught at Mt. St. Joseph for seven years and at the same time took courses at the University of Cincinnati. It was there Dr. Willett met George Kisker and took an Introduction to Clinical Psychology. He realized then that this could be a means of helping others. Dr. Willett took a sabbatical and finished graduate school at the University of Kentucky, concentrating on clinical psychology. Graduate school included two years of coursework and one year as a clinical psychology intern at the Albert B. Chandler Medical Center. After finishing his internship, he worked at a mental health center on a full-time basis and taught part time at Thomas More College. During his graduate school career, he commuted via Greyhound

bus from Cincinnati to Lexington, staying at a boarding house throughout the week.

Dr. Willett's involvement with the development of the Center began when he was working for the Department of Mental Health in 1964 to repay the state for financial assistance which helped him to complete his doctoral work at UK. To serve out the remaining twelve month indenture, Commissioner Dale Farabee charged him with the task of organizing the newly incorporated Northern Kentucky Mental Health-Mental Retardation Regional Board. This was accomplished in May 1966. His state commitment would be satisfied by December, so he began planning to search for employment elsewhere—only to have the Board offer him the position of Executive Director of Northern Kentucky Community Mental Health Centers. He assumed his new position on October 1, 1966. He was not only the first, but has been the only Executive Director employed by the Center. Never forgetting his commitment to teaching, Dr. Willett taught part time at Thomas More College until 1983, donating his salary back to the institution.

Dr. Willett is a native of Fancy Farm, a small, rural community in Western Kentucky. He was raised on a farm settled in 1821 by his great-grandfather, Samuel Willett. As a high school student at Fancy Farm, he took four years of Latin, English, and Math, along with Chemistry and French classes. In 1942, at age 16, he received his high school diploma. He was too young for the military and decided to stay with his sister in Cincinnati to work as an apprentice glass-blower in a war plant. He later apprenticed as an electrician and then enlisted in the Air Force in 1944. He was a clerical worker until his discharge.

For twenty-five years Dr. Willett has worked faithfully, offering his time and expertise to ensure that the Center remains the best provider of quality services that it can be. Under his leadership, the Center has experienced positive changes and growing pains. With the support of the Regional Board, he and the Center staff have been able to maintain quality, professional mental health and mental retardation services in the Northern Kentucky Region. Dr. Willett's dedicated leadership has provided stability to the Center's history of struggles and successes.•

THE FREEDOM OF CHOICE BILL

• Mr. MOYNIHAN. Mr. President, this bill is an attempt to prohibit States from enacting laws that regulate abortion in a manner inconsistent with the Supreme Court's decision in Roe versus Wade. This attempt arises from a concern over the Court's recent decisions to narrow the scope of the constitutional right to abortion established in Roe, and indeed by a concern over the fact that four sitting Justices now favor overturning Roe outright.

I lend my support to the bill because I share these concerns, although I am not entirely persuaded that a legislative option is truly available to us. It seems likely to me that if this bill ever becomes a law, its application would be challenged as a violation of State sovereignty in these areas. It seems equally likely that the very Court we are trying to circumvent would sustain such a challenge, as conservative Courts are wont to do. I tend to think the current Court would not uphold this bill as an enactment under either the commerce power or section 5 of the 14th amendment. But the question is perhaps close enough to make the attempt worth a try.

In my view, it remains the case that the best, and perhaps only, remedy against further erosion of a woman's right to choose is to elect a President who would make the appropriate appointments to the Supreme Court. I would hope that in the rush to pass this bill, this reality not be overlooked.•

SMALL BUSINESS EQUITY ENHANCEMENT ACT OF 1992

• Mr. KASTEN. Mr. President, I rise today in support of the Senate substitute for H.R. 5191, the Small Business Equity Enhancement Act of 1992, a bill that will positively impact small businesses and job creation by helping to get more investment capital to America's entrepreneurs.

Venture capital is the key to creating new jobs in the United States. Along with a good business idea, venture capital makes it possible for prospective entrepreneurs to take on the risk of jumping in and fighting to make a new business succeed.

This legislation, which will help reform the U.S. Small Business Administration's Small Business Investment Company [SBIC] Program, is the culmination of nearly 2 years of work by the Senate and House Small Business Committees. It addresses the needs of equity-based and debt-based SBIC's, both of which are important to the SBIC Program. Two years ago the SBIC industry was having problems, and the steady flow of capital to small businesses through SBIC's was threatened.

The SBIC Program has had a successful history. Over the years, the SBIC Program has been one of the few constant and effective sources of support for small business entrepreneurs.

The past accomplishments of SBIC's are well documented. Over 70,000 small businesses have created an estimated 1 million new jobs with the help of SBIC financing, and this number is growing. These jobs are created more efficiently—with less venture financing needed to provide each job—than those produced by Fortune 500 companies. In the last 15 years, SBIC's have reported over $2 billion in pretax income, and corporate SBIC's have paid over $500 million in Federal taxes. Clearly the program fills a real need across the country, and in my home State of Wisconsin where we have a number of successful SBIC's.

Recently, however, the available pool of venture capital has been shrinking in the United States, due to the recession and to the changes made in 1986 which dramatically increased the capital gains tax rate. The capital and credit crunch in many parts of the United States makes it urgent that the initiatives in H.R. 5191 be implemented soon.

The biggest problem for SBIC's has been to make equity investments in companies. Under the current program, there is a fundamental mismatch between Government leverage and the needs of the SBIC industry.

The Small Business Act of 1958 currently states that SBIC's making equity investments can only receive debt financing from the Government. In other words, SBIC's would have to pay back SBA loans right away, but might have to wait several years to receive dividend payments from the companies they invested in. New start-up businesses, the kind that SBIC's often invest in, usually don't show a profit during the first several years. SBIC's are often trapped by the mismatch of leverage, and this hinders the effectiveness of equity investments.

Equity investments are important because they help form a lasting partnership between the business and the financier. The level of SBIC funds going toward equity investments increased in the last decade—showing a desire by many in the industry to make more equity investments.

H.R. 5191 creates a new preferred participating security which will allow the Federal Government to share the profits made by an SBIC, and make it easier for SBIC's to make equity investments. I want to stress that this security is an original idea to promote SBIC equity investments. The Government will cover the cost to an SBIC during the early years of an investment. Once the SBIC begins to show a profit, the Government will be first in line to have their money repaid and then will collect a portion of the remaining profits.

Mr. President, I also want to address the question of risk to the Government. This legislation will implement important reforms in the program to protect taxpayers' dollars from risk.

One reform is an adjustment of the leverage ratio between Government and private capital. H.R. 5191 will create a leverage system where the share of Government dollars at risk will decrease as the size of an SBIC increases. In other words, the larger the SBIC, the lower the Government's participation or the more the Government is protected.

The Government will also become the senior investor in SBIC's. This means no money will go to private sources until the SBIC has paid off its debt to the SBA. Profits will then be shared between private sources and the SBA so that everyone can benefit from positive investments.

One important addition in the Senate substitute for H.R. 5191 that is not in the original House version is a provi-

sion included by the distinguished chairman from Arkansas preventing SBIC's from declaring bankruptcy—and leaving the Government with nothing. This section has already passed the Senate as part of the Bankruptcy Reform Act, S. 1985. I believe this is an appropriate addition to H.R. 5191, and that it will help improve confidence in the SBIC Program.

H.R. 5191 also takes the important step of allowing State and local government funds to be invested in SBIC's. Pension funds are the single largest source of investment capital in the United States. Opening up SBIC's to State and local investment will not only increase the pool of capital for the industry, but it will also help government directly contribute to job creation in their community. SBIC's can effectively direct public dollars to stimulate job creation. This will be an important future resource for small business entrepreneurs.

This bill has the strong support of the Bush administration, the SBIC industry, and both Democratic and Republican members of the House and Senate Small Business Committees. Mr. President, I hope that we can reconcile the House and Senate versions of this bill, send it on soon to the President so he can sign it into law, and get back to creating opportunities for entrepreneurs and jobs for Americans.•

GRAZING AND CONSERVATION COMPATIBLE

• Mr. WALLOP. Mr. President, while reading the Sunday, August 2, edition of the Washington Post, I came across a very nice piece about Wyoming rancher Jack Turnell, a longtime friend and fellow cattle producer. The article is a very fitting description of a man who, like so many ranchers utilizing public and private lands throughout our Nation, cares deeply about environmental preservation and is committed to proving that ranching and environmental concerns are compatible. He is a fine example of the ongoing partnership between Government and industry to maintain, utilize, and improve our environment.

The article discusses specific steps which can and are being taken by Jack to "bridge the gap between environmentalists, the bureaucracy, and industry." Although not mentioned in the article, he was appropriately recognized by the National Cattlemen's Association just this year, when he received the National Environmental Stewardship Award. I have stayed with Jack and his lovely wife Lili on their beautiful Pitchfork Ranch in Meeteetsee, and I've seen firsthand the spectacular job being done there.

A few years ago, Jack brought livestock producers, environmental groups, land and water management agencies, and the cattle industry together to form the Wyoming Riparian Association. The association develops workable, environmentally conscious, riparian management programs. The Federal grazing allotment on the Pitchfork is one of many successful efforts underway in the cattle industry nationwide to improve riparian areas.

As we consider various national issues affecting agriculture, this is an opportune occasion to remind ourselves and others that cattle ranchers, like Jack and Lili, throughout our country are committed to the beneficial use of our natural resources. For generations, they have successfully managed America's vast public and private lands while improving water, forage, and other essential resources on those lands for wildlife and livestock. Last year, while improving range resources available for wildlife, the Pitchfork produced 300,000 more pounds of beef than it did 10 years ago. With Jack's permission, the U.S. Forest Service and others utilize his ranch for tours to demonstrate that productive ranching and environmental concerns are complementary.

Mr. President, once again, my congratulations to Jack Turnell, one of America's outstanding land managers. I request that the Washington Post article "The Lesson of the Black-Footed Ferret: Grazing and Conservation Compatible, Preaches Wyoming Cattleman" be entered into the RECORD.

The article follows:

[From the Washington Post, Aug. 2. 1992]

THE LESSON OF THE BLACK-FOOTED FERRET: GRAZING AND CONSERVATION COMPATIBLE, PREACHES WYOMING CATTLEMAN

(By Tom Kenworthy)

MEETEETSE, WY.—If Wyoming rancher Jack Turnell were rewriting the lyrics to that old standard "Home on the Range," it might begin something like this: "Oh give me a home, in a riparian zone."

At a time when ranchers and environmentalists throughout the West are at each others' throats over an assortment of issues involving cattle grazing on federal land, Turnell is something of an oddity, a cowboy who gets along with the greens and talks about biodiversity and streamside ecology as fluently as he talks about Herefords.

"I guess I've learned how to bridge the gap between the environmentalists, the bureaucracies and the industry," Turnell said as he took a visitor on a tour of the Pitchfork Ranch, a spectacularly beautiful spread south of Cody that extends into the Absaroka Mountains on the Shoshone National Forest. The ranch takes in 120,000 acres, including 40,000 acres of Forest Service land where Turnell has grazing rights.

This is a ranch rich in history: Butch Cassidy committed his first crime here—horse theft—and did his drinking at a saloon in town that is still in business.

Since he was converted to more environmentally sensitive range management techniques several years ago, Turnell has become something of a shuttle diplomat between cattlemen and the environmental movement. This year, for example, he spoke at the annual meeting of the Greater Yellowstone Coalition, a conservation group active in efforts to protect America's oldest national park and its larger ecosystem. He also makes the circuit of cattle groups, preaching to ranchers, some of whom "think I've lost my marbles."

For the first decade after he took over management of the Pitchfork Ranch, which has been in his wife's family for four generations, Turnell says he punched cows pretty much as his predecessors always had. He knew little about the plant physiology of native grasses or the sensitivity of riparian (streamside) areas in the mostly arid West.

"I'd never heard the word 'riparian,' even though I went to college," Turnell said.

Turnell's early indifference to range science is not atypical, according to numerous studies by the government in recent years showing the poor condition of much of the 250 million acres of federal forest and grassland used by about 26,000 public land ranchers in the United States.

Critics of livestock grazing on public acreage controlled by the Interior Department's Bureau of Land Management and the Agriculture Department's Forest Service charge that after decades of heavy use, America's fragile public range lands are in lousy shape from overgrazing, erosion of stream banks and depletion of water supplies.

The deterioration of this land has prompted some environmentalist to call for removing sheep and cattle from the public range and returning the land to the antelope and deer. "Cattle Free in '93" is their battle cry. At the same time, congressional efforts to raise the fees that public land ranchers pay the government are gaining strength every year.

Neither makes any sense, said Turnell, who believes that if cattlemen are kicked off the public range, ranches like his will quickly be sold off to developers and chopped up into vacation sites.

What does make sense, he said, is better stewardship of the land, a process that he began about a decade ago with the discovery of a small population of black-footed ferrets on the Pitchfork Ranch. The ferret was supposed to be extinct, and the discovery brought a flood of scientists and environmentalists to the ranch.

"The ferret forced me to cooperate with people who I'd traditionally been an adversary of," said Turnell, who had shared the prevailing western contempt for such agencies as the Fish and Wildlife Service. "I found out, by God, they were people and they were interested in something good."

One thing led to another, and Turnell gradually began changing how he operated the Pitchfork. He systematically began rotating pastures, keeping his cows away from the river and streams that course out of the mountains until the surrounding grasses had matured and spread their seed for the next season, gave up most use of fertilizers and pesticides, and crossed his Hereford and Angus with a French breed that does not like to congregate around water. Most decisions are now made in consultation with range and wildlife scientists, and progress is monitored religiously with photographic studies.

Over time, Turnell said, the results have been impressive. The Greybull River and other streams on the ranch are lined with willow and other plant life, providing lush habitat for an expanding population of wildlife. Antelope scamper almost everywhere , and the ranch is host to deer, moose, elk, bear and mountain lion.

And Turnell makes more money because better quality grass puts more meat on his cattle. "We're selling 300,000 more pounds of beef per year than we did in 1987," Turnell said. "It makes sense to do it right."

"Sure, we graze cattle on the top of that mountain," said Turnell, pointing up at the 13,000-foot peaks of the Absarokas and the Shoshone National Forest. "But we don't hassle the elk and the antelope and the deer when they come down here in the winter. To me, that's a fair trade."•

ACCESSIBILITY AND AFFORDABILITY OF PRESCRIPTION DRUGS FOR OLDER AMERICANS: A STATUS REPORT

• Mr. PRYOR. Mr. President, today, Senator COHEN, is joining with me in releasing a very shocking and eye-opening report of the Special Committee on Aging. The information in this report confirm what we have been saying all along: that the spiraling costs of prescription drugs are forcing many older Americans to go without taking their lifesaving medications.

Mr. President, just 2 weeks ago, the American Association of Retired Persons released a report that found that about 8 million Americans over 45—almost 10 percent of this age group—say that they have to cut back on food or fuel to pay for their medications. The report also found that about 43 percent of older Americans age 55 and over—23 million in this age group—have absolutely no prescription drug coverage.

The information contained in this Aging Committee report adds to this mounting evidence that Congress needs to address the cost of prescription medications before its too late. More and more elderly are going without their drugs. More and more elderly are not having prescriptions filled. More and more elderly are having to split their tablets in half or skip a dose to stretch out their prescription. How many more stories like these do we have to hear before we are willing to act?

Mr. President, here are the reasons why we have reached this unacceptable situation in our Nation today:

First, older Americans need to take more prescription medications because they usually have more than one medical condition, such as high blood pressure, diabetes, and arthritis. In fact, the average older American takes about 15 prescriptions each year—more than 3 times the number of prescriptions taken by the average American under 65.

Second, although they take a significant number of medications, it is very difficult for older Americans to find or afford any type of private insurance coverage that will pay for the cost of medications. Because of this, most older Americans pay for their drug costs out-of-pocket.

Third, drug industry has pushed up prices at three times the rate of inflation over the past 10 years. Since 1982, prescription drug price increases have made many elderly forgo the medicines that they need to stay alive.

Fourth, older Americans' prescription drug buying power has dropped sharply. While the average annual increase in the typical older American's Social Security check has only been 3.8 percent since 1985, the average prescription drug price has increased 8.8 percent since that time.

Mr. President, some will say, "Well, we have Medicaid and Medicare for older Americans that cannot afford their medications. Medicaid and Medicare covers the cost of drugs for most poor older Americans." Unfortunately, nothing is further from the truth. Only about 2 million poor or near poor older Americans qualify for the Medicaid prescription drug program, only 16 percent of all indigent elderly. The fact is that about 10 million near poor or poor elderly—84 percent—do not have the Medicaid safety net for prescription drugs. And, while Medicare does a good job of covering hospital and doctor bills, it does not cover the cost of medications for our older Americans. Medicare does not have a drug benefit.

When we look to Canada or to Europe, we see that other countries have done a much better job of providing prescription drugs at a reasonable cost for their citizens. Government-funded health care programs in many other industrialized nations pay for the majority—if not all—of the costs of prescription drugs. In contrast, only a small percentage of the costs of precription drugs—12 percent—are paid for by Government-funded programs in the United States.

In spite of the industry's pronouncements that drug inflation is slowing down, between June 1991 and June 1992, while the overall rate of inflation was 1.5 percent, drug manufacturer inflation was 6.3 percent, more than four times the increase. Mr. President, older Americans do not believe that drug inflation is slowing down, I do not believe it, and data from the Bureau of Labor Statistics do not show it.

What we can believe is that drug manufacturers are making more profits than ever off the backs of the sick and poor. While most Americans are trying to survive the longest economic downturn since the Great Depression, second quarter 1992 data show that drug manufacturers are still on the economic gravy train. Older Americans are sick and tired of subsidizing the obscene profits of the drug industry.

Mr. President, drug manufacturers say that they have special programs that provide their medications free-of-charge to poor people that have no means to pay for them. The unfortunate truth is that very few older Americans or their doctors know that these programs exist or take advantage of them. Drug companies simply do not do enough to publicize them. Even when a poor American does use one of these programs, it often takes weeks for the patient to get their drugs. In short, these programs are woefully inadequate and poorly publicized. This report will help to correct this unfortunate situation. It lists 36 drug companies that have these programs, and tells poor people and their doctors how to use them. I call on the drug manufacturers to do more to make the American public aware that these programs exist.

Mr. President, this report and the AARP report should make every Senator become committed to bringing the cost of medications under control. We must work together as the health care reform debate continues to ensure that we enact strong cost containment measures for drugs, and expand private and public prescription drug coverage insurance for all Americans, especially older Americans. Only then will reports like these become a thing of the past.

The report follows:

EXECUTIVE SUMMARY

The purpose of this report is to provide an update on the accessibility to and affordability of prescription drugs for older Americans. The report makes the following findings:

Finding 1: In 1990, over 10 percent of all health care expenditures in the United States—about $67 billion—were for prescription drugs. Without some form of pharmaceutical cost containment enacted under health care reform, these expenditures are expected to increase to $145 billion by the year 2000 (Chart 1).

Finding 2: Unlike costs for hospitalization and physician services, most prescription drug costs in the United States are paid out-of-pocket. In fact, while only 5 percent of hospital costs and 19 percent of physician costs, are respectively paid out-of-pocket, over 70 percent of prescription drug costs in the United States are paid out-of-pocket (Chart 2).

Finding 3: The inability of many older Americans to afford their prescription medications has reached a crisis point in the United States. Contributing to this crisis are many factors, which include:

Prescription drug price increases in the United States that have tripled the rate of general inflation increases since 1980 (Chart 3);

Prescription drug price increases that have far outpaced increases in the income of the average older American (Chart 4);

The fact that the average older American takes about 15 prescriptions each year to treat multiple chronic medical conditions—more than three times the number of prescriptions taken by the average American under 65 (Chart 5); and

The lack of affordable public or private outpatient prescription insurance coverage for older Americans in general.

Finding 4: The majority of prescription drug costs for older Americans—over 64 percent—are paid out-of-pocket. However, for older Americans classified as poor or near poor—those within 100 to 200 percent of the poverty level—out-of-pocket outpatient prescription drug costs increase to a staggering 75 percent.

Finding 5: Medicaid is the primary public (Government) prescription drug insurance program for the elderly. However, only about 16 percent of older Americans—about 1.9 million—that are classified as poor and near-poor elderly qualify for Medicaid and its prescription drug program. Almost 84 percent of

poor or near poor older Americans—about 10 million—do not qualify for Medicaid prescription drug coverage, and must pay for their medications out-of-pocket.

Finding 6: Government-funded health care programs in many other industrialized nations pay for the majority—if not all—of the costs of prescription drugs for their citizens. In contrast, only a small percentage of the cost of prescription drugs—12 percent—is paid for by Government-funded programs in the United States. This coverage is provided primarily through the Medicaid program (Chart 6).

Finding 7: Medigap plans—which help to pay for those medical services not covered by the Medicare program—are a very inadequate source of prescription drug coverage for many older Americans. Many elderly Americans, already living on very limited incomes, cannot afford the additional premiums necessary to purchase these policies. Therefore, Medigap policies are unlikely to meet the growing need for prescription drug insurance coverage for older Americans.

Finding 8: As a result of the inability of many older Americans to afford their medications, quality of care is suffering and therapeutic outcomes may be compromised in certain patients. Many older Americans are not taking their drugs as scheduled because they are trying to "stretch" a prescription by splitting tablets in half, or simply not having prescriptions filled or refilled. By not complying with their prescriptions as directed, the health care system may be incurring more costs in hospitalizations and other medical care services because older Americans are not getting better, or because their medical conditions are going uncontrolled.

Finding 9: Almost all major brand name pharmaceutical manufacturers have programs to make prescription drugs available free of charge to indigent patients. These are patients who are not poor enough to qualify for Medicaid, or that cannot afford private drug insurance, but have high out-of-pocket costs for prescription drugs. While many of these manufacturer-based programs have existed for a number of years, it appears that only a very small number of indigent patients are knowledgeable of, or take advantage of these programs. There is an urgent need to increase awareness among indigent patients about the existence and availability of these programs. In addition, the pharmaceutical industry should undertake major reforms of the programs to make them more "user friendly" for indigent patients and their physicians. (To increase public awareness of the existence of these programs, this report includes a directory of current drug manufacturer indigent patient programs.)•

A CHILD NAMED DISASTER

• Mr. DASCHLE. Mr. President, every hungry child has a name and a face. We sometimes forget that. Perhaps we forget because we leaders and the media fail to give these children the attention they deserve. Perhaps we forget because it is too painful to remember.

But it is our moral duty to remember, and in an editorial in the August 3, 1992, New York Times, Michael Dorris helps us. "The Elements Defy Hungry Zimbabwe" tells the story of "a child named Disaster," whose struggle symbolizes Zimbabwe's, and southern Africa's, struggle to survive a drought much worse than the 1980's drought that inspired the generosity of so many Americans.

Hunger and poverty threaten children on every continent. The images of swollen stomachs in Ethiopia, of Kurdish children barefoot in the snow, of orphans tied to bus seats in Bosnia, will never leave us. For each of those children we see, there are hundreds of thousands who suffer beyond the camera's eye.

In the face of the deteriorating human conditions brought on by the combination civil war and drought, Disaster, Zimbabwe, and much of the world depend, as Dorris writes, "on sustained human empathy, even over long distances, even with the repetition of demand."

How shall we sustain our empathy? By opening ourselves up to stories like Disaster's.

Mr. President, I ask that the full text of "The Elements Defy Hungry Zimbabwe" be printed in the RECORD following these remarks.

The article follows:

[From the New York Times, Aug. 3, 1992]

THE ELEMENTS DEFY HUNGRY ZIMBABWE

(By Michael Dorris)

CHUNGA, ZIMBABWE.—I went to Zimbabwe, the House of Stone, and met a child named Disaster. She was born in September 1991, a daughter of the Tonga tribe, and now—and until she reaches her fifth birthday or dies—she is eligible, through a joint emergency program of Save the Children and the Zimbabwean Government, to receive one meal of corn mush a day. Even so, she hasn't gained any weight since April.

Sometimes when she's able, her mother, Angeline, who cares for four other children, including two whose parents died of AIDS, varies the diet with a wild fruit she must gather, cook, peel and cook again with ashes, to neutralize its natural poison.

"Is it good? I ask her in the way of ordinary conversation.

Angeline looks at me as if we have experienced a language problem. "It's food," she corrects.

Most Zimbabweans, unlike their counterparts in Ethiopia, the Sudan or Somalia, have never before had to worry about basic sustenance. Their 13-year-old country normally exports grain, and in and around Harare, the aquifer-fed sprinklers still keep golf courses and lawns green. The prosperous city looks like the rest of Zimbabwe before the rains stopped coming in February, before this year's crops failed, before the river beds turned to dust. For those who still manage to live as they used to, depleting in the process the finite underground water, the imminent prospect of famine seems the stuff of someone else's very bad dream.

And yet by most estimates Southern Africa has an immediate and desperate need to import five times the tonnage of food that the nations of the Horn required during the worst hungry years of the 1980's.

When Disaster—whose name was chosen not for its meaning but because it sounded exotic—grows up, she'll spend most of her time walking the eight miles to the shallow well near the river where she'll compete with impala and elephants for water. She'll try to catch five gallons, lug it home and return again to the muddy hole—hoping not to meet a starving lion like the one that killed a cousin, implicitly trusting, because she has no choice, that the silty, loamy soil will act as an effective filter against typhoid bacteria.

If she takes after her mother, Disaster will be beautiful, smiling, shy and strong. She'll own one dress at a time and no shoes. She'll curtsy to strangers and live in a society of women; the men are mostly off at commercial fishing companies or the mines. Her homeland to the north was flooded to make a dam, and now she dwells in a dusty lower veldt, a place where the January summer temperatures can reach 120 degrees and where, in winter, the skies fill with the smoke of slash-and burn fires.

Several hundred miles to the south, in Mutema, water is the chief concern of a pump minder, Jonathan Bhizeki. Only five of the 35 deep wells and one of the 14 bore holes for which he bears responsibility have water, and they are rapidly becoming exhausted. For the 12,000 people in and around this plateau, it has been a calamitous year. Not a single crop could be harvested, there is no food in the shops and no rain is expected until November. Handsome and distracted, Jonathan Bhizeki looks almost embarrassed, as if the sky's failure were his own.

Dressed formally, as befits his position, in a tan tie beneath a maroon and white argyle sweater, Clever Gwenzi, principal of the local elementary school, is not hopeful. Even his father, born fewer than 15 miles away, has never seen such a drought. Children are fainting in the classrooms from lack of food. And it would cost an impossible 700 Zimbabwean dollars (about $140) to provide healthful lunches to the 423 students each week. If the well that serves the community clinic and the school—in addition to much of the area's population—fails, everything will close down.

In the dazzling African sunset, aridity is invisible. Stark white buildings stand in relief against a red-orange cloudless sky, and not even the sound of birds intrudes on the silence. There's a dying tree in the center of a circle of stones, a gesture toward landscaping. I ask the species, but no one knows. It's not indigenous.

"I had a farm in Africa," quotes Gerry Salole, Save the Children's regional director. And I understand my host's allusion to Isak Dinesen, for indeed, the romantic European view of Africa is gentler than the parched bed of the nearby Sabe River, marred with animal carcasses.

One of the worries of emergency relief workers is that Zimbabweans are not psychologically prepared for catastrophe. The country, formerly the British colony of Southern Rhodesia, has had a healthy, varied economy, and so the population is schooled in optimism. "Rain will no doubt come," I was told again and again by urban and rural people. "It always has. It must."

But, according to meteorologists, it won't, barring a miracle. And even with ideal weather, no crops will be ready for harvest before late May. In the interim there are several crucial needs, none of them impossible to meet. Existing wells must be deepened, at an average cost of $600 each. New dug wells cost $3,000. Trucks to transport the emergency food supplies en route must be leased or brought.

Philanthropic and supplementary feeding programs now in place must be sustained at current levels, despite the decline in contributions experienced by many international charities—often attributed to a malaise on the part of the fortunate known

as "famine fatigue." Enough goats and cattle need to be kept alive through the next six months to form the core of communal livestock herds.

These things are matters of life and death. The longer-term social issues will have to wait: a minimum monthly wage roughly equivalent to the cost of 10 Wimpie double cheeseburgers (about $30); the residual "racialism," as it's locally termed; the fact that most of the affluent believe they must hire a poor man to stand outside their homes all night to deter intruders. In the advent of a disaster, complication is a luxury necessarily deferred.

Zimbabwe, after all, even with about half of its population in need of food assistance, is the success story of a region that includes Mozambique, Angola, Malawi and Zambia—all far worse off in one way or another. Zimbabwe has the political infrastructure, the good roads, the system of dependable communications to be stable—but not if it must impoverish itself in order to merely survive, not if it must buy food with money set aside for economic development.

There are 641 foreign nongovernmental organizations registered in Zimbabwe. Some, like CARE, Save the Children, the Red Cross and Africair, are working directly to mitigate the suffering caused by the drought, but they depend upon philanthropy and that, in turn, depends on sustained human empathy, even over long distances, even with the repetition of demand. If the font of global generosity dries up, along with the water, Southern Africa will face a food and water crisis of truly enormous proportions.

Disaster, Angeline's daughter, needs a response, and she needs it before her stomach swells with hunger, before pellagra sets in, before her shallow bowl is completely empty. When it doesn't rain, she simply needs a deeper well.•

THE 100TH ANNIVERSARY OF AFRO-AMERICAN

• Mr. SARBANES. Mr. President, this year marks the 100th anniversary of one of our Nation's foremost African-American owned newspapers, the Afro-American. The Afro, as it is commonly called, is held in the highest regard because of its rich history, tradition, and unswerving commitment to its African-American readership and to the community. That commitment is reflected in its coverage of local, national, and international news that most directly affects African-Americans.

In its early years the Afro declared itself to be "independent in all things, neutral in nothing." The philosophy has been the underpinning of the paper, which has always spoken out decisively on issues dealing with all aspects of African-American life—civil rights, health, education, housing, and employment.

Like most African-American newspapers, the Afro grew from religious roots. In August of 1892, Rev. William M. Alexander, pastor of Sharon Baptist Church, established a paper he called the Afro-American to disseminate church news and advertise his store. John H. Murphy, a 50-year-old former Montgomery County slave and superintendent of St. John A.M.E. Sunday school, started a paper with which he hoped to unite State Sunday schools into a convention. His paper was called the Sunday School Helper. Rev. George F. Bragg, pastor of St. James Episcopal Church, also printed a religious community oriented paper called the Ledger.

Mr. Murphy purchased the Afro-American from Reverend Alexander for $200 and combined the two papers into a commercial enterprise keeping the name Afro-American. In 1970, the Ledger was merged with the Afro-American. John H. Murphy headed the Afro-America until his death in 1922. At his death, John Murphy insisted that the paper be kept in the family. His son Carl then took control of the paper and thrust it into national prominence by reporting on the news of the African-American community which at that time was not covered by the white press.

During this time the Afro, like its readership, fought for equal opportunity on all fronts. On a local level, it fought to integrate Baltimore's police force and the University of Maryland Law School. It also served as a role model for the community by sponsoring campaigns to improve city neighborhoods.

The Afro, however, is and always was much more than a community newspaper. The paper has covered events depicting the horror of lynchings in Georgia and the segregation of black troops in the Armed Forces during World War II. An Afro reporter was covering the first "Freedom Ride" when the bus on which he was riding was firebombed by white racists. Another reporter was on hand to report the bombing of the 16th Street Baptist Church in Birmingham, AL.

Presently, the Afro is one of the oldest and most respected voices in African-American newspapers. The Afro has regional editions in Washington, DC, and Richmond, VA, and also publishes the nationally distributed Dawn magazine. This revered Baltimore institution is celebrating its 100th anniversary with a firm pledge to continue to serve its constituents. Still operated by the family, the paper continues to be a calm steadying voice for African-Americans.

Mr. President, the Afro can be proud of the vital role it has played in Maryland's history. The need for an informed and enlightened people cannot be overstated, and the Afro has consistently provided this service for 100 years. I join in wishing the Afro well as it continues to voice African-Americans' views on the social, economic, and political issues of the time.•

The PRESIDING OFFICER. The majority leader is recognized.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:15 a.m., Tuesday, August 11, that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that immediately following the Chair's announcement, the Chair lay before the Senate the conference report accompanying S. 5, the family and medical leave bill, that the Senate proceed to its immediate consideration; that once the conference report has been reported, and without intervening action or debate, the conference report be adopted, and the motion to reconsider laid upon the table; and that upon adoption of the conference report, there then be 45 minutes for debate on the conference report with the time controlled as follows: Thirty minutes under the control of Senator DODD or his designee and 15 minutes under the control of the Republican leader or his designee; that when the Senate resumes consideration of Senate Resolution 330 at 10 a.m. tomorrow, the only amendment remaining in order be the Stevens amendment on which there be 30 minutes of debate equally divided and controlled in the usual form, with Senator STEVENS being recognized at 10:30 a.m. to offer his amendment; that at the conclusion or yielding back of time on the Stevens amendment and on Senate Resolution 330, the resolution be laid aside until 12:15 p.m., at which time the Senate proceed to vote on the Stevens amendment; that upon disposition of the Stevens amendment the Senate stand in recess until 2:15 p.m., in order to accommodate the respective party conferences. And at 11 a.m. the Senate proceed to the consideration of Calendar No. 590, H.R. 11, the urban aid bill, for debate only, prior to 2:15 p.m.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object I understand the 30 minutes will be used tomorrow but we will use some of the time this evening, is that correct?

Mr. MITCHELL. My understanding of the agreement is that the Senator can use as much time as he wishes this evening and will have an additional 30 minutes in the morning. The 30 minutes tomorrow morning is unaffected by the length of time used by the Senator tonight.

Mr. STEVENS. I thank the Senator. My amendment has been offered. I had offered an amendment that was originally a 2-hour time limit. I do not intend to use the full time this evening. There will be 30 minutes left tomorrow equally divided, is my understanding.

Mr. COHEN. Will the Senator yield? I ask he include in that unanimous-consent request that the Republican time under the agreement be divided as follows: Senator DOLE 10 minutes and Senator WARNER 5 minutes.

Mr. MITCHELL. Mr. President, I so modify my request.

The PRESIDING OFFICER. Is there objection?

Mr. MITCHELL. Mr. President, I would like to add to my request that, following the party conferences, at 2:15 p.m. the Senate vote on adoption of the resolution without any intervening action or debate.

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

Mr. MITCHELL. Mr. President, I thank my colleagues for their courtesy, and I yield the floor.

RECESS UNTIL TOMORROW AT 9:15 A.M.

Mr. PELL. Mr. President, if there is no further business, on behalf of the majority leader, I now ask unanimous consent that the Senate stand in recess as previously ordered.

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

There being no objection, the Senate, at 10:46 p.m., recessed until Tuesday, August 11, 1992, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate August 10, 1992:

DEPARTMENT OF STATE

HARRY J. GILMORE, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ARMENIA.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. HANSFORD T. JOHNSON, [redacted] U.S. AIR FORCE.

EXTENSIONS OF REMARKS

A LONG AWAITED REVOLUTION AT THE U.S. POSTAL SERVICE

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. BROOMFIELD. Mr. Speaker, Postmaster General Runyon's announcement of major changes at the U.S. Postal Service should come as good news to millions of its customers, who are fed up with rising postal costs and declining postal service.

It should also come as good news to the Service's many employees. Recent shootings in post offices around the country have demonstrated that there has been something terribly wrong with the relations between postal management and their employees.

Finally, it comes as good news to me. For a year now, I have been urging Congress to adopt a resolution I introduced which would create a commission to study the Postal Service.

For a long time I have been receiving a large volume of mail from my constituents reporting that the Postal Service has allowed service to deteriorate, that it has closed some of its post offices on Saturdays, reduced window hours at other post offices, and removed collection boxes from convenient locations.

I had hoped that the relevant committees in Congress would welcome the opportunity presented by my resolution to launch a thorough, bipartisan study of the Postal Service. After all, it has been 22 years since the old Post Office has been established as a quasi-independent agency. This would have been a good time to take a fresh look at this organization.

Despite the fact that my resolution had as many as 127 cosponsors, the relevant committees never did take the issue up. They buckled under the pressure from the postal unions.

The new Postmaster General, in a refreshing break with the past, has taken matters into his own hands. Last Friday, August 7, he introduced a major program to, as he put it, "revolutionize the Postal Service."

His new plan addresses many of the concerns that I raised in my attempt to create a bipartisan commission, and many of the concerns, I might add, that were voiced by the 127 cosponsors who signed onto my resolution.

In a meeting in July, he said, "Let me be your commission." He pledged to spend the next 60 days examining the Postal Service from top to bottom and taking corrective action.

The plans he outlined in a speech to his employees last Friday show a commitment to do what he promised. I am impressed by his admission that the Postal Service no longer has a competitive edge and by his intention to do something about it.

I am also impressed that so much of the impetus for institutional reform and better service comes from the employees themselves. A letter from one employee to the Postmaster General sums it up for me: "I'd like to be able to retire from a healthy and viable Postal Service," he wrote. "It's up to you to take us in that direction. I will help you in any way I can."

I feel the same way. The new Postmaster General has stuck his neck out. He has taken the initiative, and we in Congress should make sure he gets the support and the encouragement to thoroughly reform the Postal Service.

Postmaster General Runyon has followed up on his pledge to me to "be your commission." It's now time to make sure that the plans he announced on Friday are carried out throughout the postal system.

Mr. Speaker, I insert Postmaster General Runyon's speech to be printed in the RECORD.

SPEECH BY MARVIN RUNYON, POSTMASTER GENERAL OF THE UNITED STATES

Good afternoon or good morning, depending on where you are.

Thank you for joining me here today. I understand that people in more than 200 locations are participating in today's broadcast, and I've asked that we have as many employees and union and management association representatives present as possible.

Before I begin, I want to apologize that many of you have learned the details of our plans from the media. I have a very strong belief that employees should hear news about their company and their jobs from their company and not from the media.

That is the way we had planned this announcement. However, as you know, we have many constituents with whom we share, in advance, a broad outline of our planned actions.

For that reason, we spoke with these people on an embargoed basis beginning yesterday. Unfortunately, someone felt inclined to notify the media.

It's been 24 days since our last conference, when we outlined the basic criteria necessary for our success as a business. We talked about the importance of making the Postal Service more accountable, more credible and more competitive.

We set three goals, our first steps in changing the Postal Service to be more businesslike. The goals are: one, to improve service quality and customer satisfaction; two, to hold postal rates constant by eliminating the projected $2 billion deficit for 1993; and, three, to reduce layers of bureaucracy and postal overhead, starting at the top.

Many people have participated in helping to formulate the changes we will announce today. I've continued to meet with many groups of postal employees, managers, postmasters, union leaders, and Congressional representatives. I've also talked with large mailers and individual customers.

The result of all of these conversations is that they are convinced that postal employees can do a good job. They feel we are dedicated, loyal, and competent. However, they think that our organization is broken and needs to be fixed.

Ultimately, competition is settled by the customer. They keep score and decide with their dollars who wins and who loses. We must meet their communications needs and expectations, or someone else will.

The Postal Service is being challenged by the competition. Alternative delivery services are going door knob-to-door knob delivering magazines we used to carry.

UPS has so much of the parcel market, they aren't concerned about the large surcharges they've placed on residential deliveries . . . I guess they figure we can't or won't step up to the opportunity. And, electronic technology threatens to siphon off 50 percent of our mail volume and 40 percent of our revenue.

No one is awed by our monopoly . . . customers have alternatives and they are giving them our business. Parcel by parcel, magazine by magazine, piece by piece, we are being privatized a little more each day.

Our own performance isn't helping matters much. Right now, on-hand mail volume in our system is up 65-to-70 percent compared with two years ago and is near Christmas-level record highs. We're seeing a deterioration of two-day and three-day service, too. And, millions of pieces of First-Class Mail are taking the long way home . . . they're taking more than five days to be delivered.

Customer loyalty depends in large part on service quality. According to the Customer Satisfaction Index, 43 percent of all residential customers surveyed would consider dropping us and using a competitor to deliver First-Class Mail if they had the option. Of those who rate us "fair" or "poor," 87 percent would consider switching if they had the option.

All of you are concerned, too. I've received hundreds of letters from employees calling for change, urging us to become more businesslike, asking for the chance to take on the competition.

I'd like to read you a few quotes.

"We have a lot of pencil pushers that should be carrying the mail or selling stamps," writes one employee from Los Angeles. "The Postal Service's job is quite simple. Take in mail, sort, and distribute in the most equitable manner."

From Harrisburg, Pennsylvania, another employee writes, "Our office was cut in hours and we (will soon) close from noon to 2 p.m. We do a lot of business at that time. People are on their lunch breaks, and come to the office and do business. Of course, now they can't."

Another writes, "The Postal Service needs to be taken in a new direction in order to fulfill our obligation to the American public. Another rate increase similar to the last one will surely be a fatal blow to an outstanding institution. I'd like to be able to retire from a healthy and viable Postal Service. It is up to you to take us in that direction. I will help you any way I can."

And, another . . . "In the final analysis, we are all in the same boat, and if the boat sinks, then the supervisors, and clerks, carriers, rural carriers, mail handlers, etc., drown the same. Our objective, if we are to achieve very good or excellent ratings, lies in the public perception of how well we perform."

I have carefully studied the preliminary results of the Employee Opinion Survey that was taken in April, in which 511,000 postal employees took part, and the pilot survey conducted last November involving 37,000 employees. The results point to the need for structural and cultural changes within the Postal Service, changes we are beginning to make today. We'll be sharing with you the final results of the national Employee Opinion Survey when we get them in the near future.

At that time, we'll also tell you the actions we'll be taking to resolve the other issues you've raised.

From all sides, the message is the same. To survive . . . we must compete. To compete . . . we must change. And, continue to change.

Today, we take our next steps to revolutionize the Postal Service. Everyone will have a part to play in our success. And, after today, there is no turning back. The evolution of the Postal Service has begun.

Today, we'll cover five items: First, the new organizational structure and how it reduces bureaucracy, starting at the top; Second, steps we are taking to minimize the impact on employees; Third, additional ways we will reduce the projected $2 billion deficit in 1993; Fourth, new initiatives to improve service quality; and, Fifth, our vision of the Postal Service, our culture, and our partnerships with customers, employees, unions and management associations.

Let's start with the new structure. It reduces senior management by 43 percent, from 42 Officers to 24. It cuts PCES by 40 percent, 450-to-500 positions. And, it affects about 30,000 overhead positions throughout the Postal Service.

In the structure, the purpose of the 12 Vice Presidents of the corporate staff offices is to set policy in all areas, so that we have consistency in all parts of the Postal Service. Each of these will report to me, so that there is a consistency of direction in their activities. Mike Coughlin, as the Deputy Postmaster General, will assist me as needed, much like a chief of staff.

Joe Caraveo will be Executive Vice President and Chief Operating Officer. He'll also report to me and will be responsible for the total operations effort. He'll have the necessary staffs to assist him in his job. In addition, he's the chief customer of all the 12 staff offices reporting to me.

I'd like to take a moment and briefly describe the functions of the offices. The names of the Vice Presidents will be announced in two weeks.

The first office is Vice President for Diversity Development. This is an important new department that will serve as the social conscience of the Postal Service. Being the largest non-military employer in the country, the Postal Service is a reflection of our society.

This department will be responsible for increasing our awareness of and appreciation for ethnic and cultural diversity. It will make sure that in all our vendor programs, the proper attention is paid to women- and minority-owned businesses. It will ensure that all career and succession planning takes advancement for women and minorities into consideration, and that the cultural makeup of our communities is represented in our work force.

The next office is the Vice President for Labor Relations. This department will be responsible for strengthening our partnerships with all the labor organizations.

Then, we have Vice President for Quality. This department will make the Total Quality Process a part of all aspects of the Postal Service.

Next is Vice President for Communications. In addition to its messaging and information responsibilities, this function will also oversee our corporate visual identity.

The next department is that of the Consumer Advocate. This Vice President will serve as my quality control officer for customer satisfaction.

The next office is Vice President for Government Relations. This department will be responsible for working with federal, state and local government.

The next Officer is the Chief Inspector. This function will continue to audit and police the integrity of our system, and safeguard the rights of those who use the mail.

The General Counsel is next. This individual will serve as our corporate lawyer.

Then we have the Judicial Officer. This person will be our independent administrative law judge regarding contract appeals and other legal cases.

The next office is the Vice President for Employee Relations. What's new about this function is that it will now assume responsibility for training and development.

Then we have the Vice President for Information Systems. This person will oversee information technology policies and standards.

Finally, we have the Vice President for Finance and Planning. As its new name suggests, this department has now assumed responsibility for strategic planning.

Now, let's look at the Headquarters structure that will support field operations. Joe will have nine Vice Presidents reporting to him, three with direct responsibility and accountability for customer focus and operational performance.

The first part of our field structure is "Marketing and Sales." This department will be responsible for keeping our products and services focused on meeting customer needs. They will oversee product and service design, pricing, market research, classification, advertising and promotion.

Then, we have "Customer Services." This Vice President will oversee 10 area offices and 85-90 customer services districts focused on delivering the mail and providing top quality retail services. Our more than 29,000 post offices will report to these units.

The third part of our field structure is "Processing and Distribution." This Vice President will manage 10 area Processing and Distribution Offices and 230-235 Mail Processing Facilities focused on mail distribution and logistics. These will include Area Distribution Centers, Bulk Mail Centers and Air Mail Facilities.

We're still working on staffing for the area offices, district offices and facilities offices, so I don't have all the answers yet. We want to talk more with all of you, and hear your thoughts and suggestions to help us complete these changes. I will provide more information on the field structure in my "60-Day Announcement," when we talk about how we will achieve all of our goals.

Six other functional Vice Presidents will report to the Chief Operating Officer.

The first department is Vice President for Engineering Research and Development. All of our engineering and research functions will be combined in this department.

Next is the Vice President for Transportation. This individual will be responsible for managing our air and surface transportation requirements.

Then, we have the Vice President for Operations Support. Among this department's responsibilities are facility activation, delivery policy, and operations requirements.

Next is the Vice President for Customer Service Support. This person will look after retail services and policies, and relations with our medium and small business accounts.

Then comes Facilities. This Vice President will manage our real estate portfolio.

Finally, we have the Vice President for Purchasing. This is a new name for the former procurement and supply department.

We said 24 days ago we would reduce bureaucracy and layers of management, and as you can see we have, starting at the top. We've eliminated Associate Postmasters General, Senior Assistant Postmasters General, Regions, Divisions and Management Sectional Centers as they now exist. The new Headquarters structure will be in place by the middle of September, and the entire restructuring will be completed in 90 days.

To guide our transition, we have created a project management work team. Representatives from each major function are working together to identify the tasks that need to occur and in what timing and sequence. Each Customer Service Center and Mail Processing Area Office will also create transition teams to phase out the old structure and phase in the new.

I want to ask all of you to have patience, as change can be frustrating. And I'm asking for your support and involvement in this process. Changing over to this new structure is a challenge for all of us.

The second item I want to discuss is the impact the new structure will have on a lot of people through no fault of their own. The decisions to restructure and rightsize our organization are being made very rapidly. However, in your letters to me and in individual and group meetings, you have encouraged me to move quickly so that everyone will know where they stand. Many of us who have worked on the restructuring have had to make some very difficult decisions. The toughest decision any manager has to make is to tell a loyal and dedicated employee that their present job no longer exists.

To help achieve our goals and reduce overhead, we will be giving about 140,000 employees who qualify—through a combination of time in service and age—the opportunity to retire and leave with a cash incentive of six months' pay. People who are currently eligible to retire, as well as those who are age 50 or older with 20 years of service, and those who are any age with 25 years of service will have the opportunity to retire from August 17 through October 3 and receive the cash incentive. The exceptions to the early out option and the lump-sum retirement incentive are Rural Carriers, processing equipment maintenance employees, Postal Inspectors, and Postal Police Force employees.

We expect approximately 40,000 people to take advantage of this incentive opportunity. Each eligible employee will receive a letter announcing the special retirement option, a personalized annuity estimate and a benefit summary, all the information they need to make this important decision. These materials are being mailed this weekend. By next Friday, personnel offices will have the necessary forms and information on hand to assist those who want to exercise the retirement option. Personnel offices will receive additional training on the early-out option via satellite.

Many of you are probably wondering what we'll do if we don't get the necessary people to take the early-out option. My position is we just have to wait and see. We'll keep you apprised of the results.

The third item I want to discuss today is what we're doing besides reducing overhead

to eliminate the projected deficit. We're taking three steps: one, reducing funding for Headquarters programs; two, looking at our financial options; and, three, exploring ways to generate more revenue.

First, we've eliminated funding for several Headquarters programs, including the Robotics Applications program and the Licensing Program for Designer Postal Service clothing.

We've also reduced funding for a lot others. We've taken $33 million in funding from the Olympic Marketing Program. We've reduced funding for advertising. And, we are going to reduce and restructure ODIS, including eliminating the monitoring centers.

We're also reducing our capital expenditures and cutting back on furniture, supplies and equipment.

Second, we are looking at several financial initiatives. We plan to covert all of our 20 million check payments per year from Treasury checks to commercial bank checks to get better control of our cash and to realize the full return on our funds until they clear the banking system. We also intend to pursue refinancing of our existing Federal Financing Bank debt.

And, third, we are exploring several steps to generate more revenue and respond to customer needs. A bulk Small Parcel Service would help us become more competitive in the parcel shipping market and enhance our overall lineup of package services. We will look at implementation two new advertising mail services to challenge the competition—"Saturday Certain" delivery and a "Three-Day Delivery Window" service—enhancements customers are asking for. We also want to expand our lineup of international services and market better our 9 million post office boxes.

Through these and other cost-reduction and revenue-generation initiatives, we will succeed in eliminating next year's $2 billion deficit and extending the current postage rates for at least another year.

The fourth item I want to discuss is the aggressive steps we are taking in a variety of areas to improve customer service quality. As a business, we have to look at all of our services the way our customers experience them. We'll expand the concept of external, independent measurement of service quality to other types of mail. In November, we'll request vendor proposals for a measurement system for third-class mail. We hope to submit a similar proposal for second-class mail in late 1993.

For our existing External First-Class measurement system, we are raising the bar on service performance goals. For First-Class Mail intended for overnight delivery, our goal will be 90 percent in 1993, 95 percent in 1994, and 98 percent in 1995, with 100 percent of the mail delivered within one day of the standard. These are aggressive goals, but we can and will achieve them by improving our performance, not reducing our reach and lowering our standards.

Second, in addition to our residential customers, we'll measure the satisfaction level of our business customers, too. We'll introduce a new Business Customer Satisfaction Index system in early 1993.

Third, we're focusing on improving retail service. Six million cash-paying customers visit postal lobbies every day. We've got to make it convenient for them to do so. We're going to examine retail service hours nationwide. I'll be asking our Customer Service Centers to canvass their local communities to identify and meet the shopping needs of our customers.

Finally, we're going to improve our complaint handling process. We'll install toll-free telephone numbers in two locations in September, and evaluate their effectiveness and the customers' response. If it works well, we'll phase it in nationwide.

Some people have told me they don't think we can maintain service quality during this transition. I believe the new structure and the very necessary changes we are making will help us improve our service performance. The new structure gives us more direct control and accountability and will improve communications by reducing the number of levels. You'll have more opportunity for input and responsibility for your actions, and relationships will improve at all levels. I believe this new structure will help improve postal performance.

This brings me to my last point, my vision for the Postal Service * * * our culture * * * and our partnerships with customers, employees, unions and management associations.

I want all employees to be proud to say they work for the Postal Service. That pride, that employee satisfaction, will come from customers satisfaction, from knowing that we're giving them the highest quality service at the lowest possible price.

We will know we have succeeded when customers ask for the Postal Service instead of our competitors, when quality, accountability, competitiveness and value come to their minds each time they think of the Postal Service.

To do that, we have to change our culture throughout the organization. We must move from being adversarial and confrontational to working together in a spirit of cooperation and appreciation. Respect * * * dignity * * * and trust are fundamental tools to help us achieve success, more important than automated equipment or vehicles or stamps. They must become standard operating procedure at every level of our organization.

Each of us today is empowered to engage in a continuous process of change. Each of us plays a part in our achieving the three criteria of business success—accountability, credibility and competitiveness. These are the keys to the future of the Postal Service.

Businesses are accountable. For the Postal Service, accountability has a double edge. It requires that we safeguard the great public trust that we've been granted. And, it demands that we deliver quality service the first time, every time, while keeping our prices in line with the marketplace.

Credibility is essential to our success. Credibility is the bond we have with our customers that allows us to sell our services. We want people to think of the post office in terms of quality, responsiveness, timeliness, reliability and value for the dollar. These are the benchmarks of leadership in the communications business, and we must be a leader if we are to succeed.

When we have accountability and credibility, we also will have competiveness. We will be treating each other as partners. We will be working together to achieve "win-win" solutions, knowing that if any of us loses, we all lose.

We'll be engaged in continuous change * * * striving for continuous improvement in the quality and value of our products and services. We will be forging an alliance that values and balances concern for the customer, concern for our employees and concern for our company.

I realize that the actions we are taking today to revolutionize the Postal Service and begin this process of continuous change represent challenges for all of us. We are making these changes because our survival as a viable communications business is important to this nation and to each and every citizen in it. To survive as an organization, we must be competitive so that we can succeed in meeting the needs of all our 250 million customers.

The changes we make today are just the beginning. We've made a lot of tough decisions. We've got a structural framework set up and we're ready to roll out some solid cost, revenue and service initiatives. But, we're far from having all the answers. We'll be consulting with employee organizations on many issues. We need your help, too. We want you to have a part in shaping the future of the Postal Service. We need you to take ownership and responsibility for our success.

With the commitment of all of our employees and the support of our customers, we can and will make these changes work and bring accountability, credibility and competitiveness to the U.S. Postal Service.

HONORING THE THROGGS NECK HOMEOWNERS ASSOCIATION

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. ENGEL. Mr. Speaker, it is with great pleasure that I recognize today two special events that are being celebrated together this week in my district, the 350th anniversary of Throggs Neck and the 40th anniversary of the Throggs Neck Homeowners Association.

Since 1642, when John Throckmorton set up a colony of 35 families under a charter from the Dutch Governor, Throggs Neck has been characterized by hard work and community spirit. Through the years, immigrants from many nations have built the American dream here, finding jobs and building modest homes for their families.

The Throggs Neck Homeowners Association has continued to keep that community spirit alive. By giving the people of Throggs Neck a place to meet and discuss the future of their neighborhood, the association has helped maintain the quality of life in the community. Be it in a battle to keep an inappropriate homeless shelter out of a residential neighborhood, or sponsoring an antigraffiti program to beautify a shopping district, the association always works with the community's best interests at heart.

I have been proud to be a part of many of the successful projects the Homeowners Association has taken on, and it has been a privilege to serve the people of Throggs Neck. Although reapportionment has moved my district away from Throggs Neck, I will always stand ready to help the community if called upon.

On behalf of my constituents, I thank the members of the Throggs Neck Homeowners Association for their dedication to community.

A LEARNING BANK

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. GINGRICH. Mr. Speaker, I would like all my colleagues to read the following article that appeared in the Atlanta Jewish Times titled "A Learning Bank". This project is a wonderful example of what can happen when not only parents, but those in the community, become involved in their children's education.

A LEARNING BANK

(By Richard Bond)

Textbooks and workbooks just weren't working. Scott Heyman, the 11-year-old son of Gail and Lyons Heyman, could not grasp mathematics. Born with the chromosomal disorder Fragile X Syndrome, the youngster's learning disability made it difficult for him to comprehend numbers in the abstract.

"Children who are mildly intellectually disabled just don't understand numbers unless they are attached to something that has real-life meaning," said Mrs. Heyman, who lit upon an idea that school systems around the state are eyeing with interest.

Using her considerable powers of persuasion, Mrs. Heyman, a bright, eager activist-mother, got Bank South to open a mini-branch for the special education students at East Cobb Middle School. It looks just like any bank would, with teller windows, computers, account forms, a telephone and calculators.

Called the Bank South Branch for Learning, the model allows teachers to devise curricula that can be applied to real life. To open an account, youngsters must be able to read and fill out the proper forms. To maintain the balance of their account, they must be able to add and subtract.

"My students will also be able to learn social skills, like how to wait your turn in line," said special ed teacher Margaret Oliver, whose classroom contains the model bank. "Other teachers in the school can incorporate the bank in their subjects."

Ms. Oliver said the telephone at the bank—supplied by Contel Cellular—will also be an instructional tool. "I can teach them how to make a doctor's appointment, how to call 911 in case of emergency, even how to order a pizza," she said. "They'll be learning how to communicate."

Several dozen people gathered at East Cobb Middle School April 23 to open the Bank South Branch for Learning. Mrs. Heyman led a brief ceremony, which included Bank South senior vice president Lee Sessions, Margaret Gary, vice president of Contel Cellular, and U.S. Rep. Newt Gingrich.

The Republican congressman joked that he might have benefited from an early lesson in banking, a reference to his overdrafts at the House of Representative's bank.

"The functional activities of being alive are being bonded to learning," Mr. Gingrich said of the student bank, which he called a welcome partnership between business and community.

"In the real world, there is no way to achieve what you want simply by paying somebody else to do it," he said. "This bank says that learning has to be in the community and of the community. It cannot just be paying your taxes and walking on."

Mrs. Heyman's Bank South project comes on the heels of a similar one she pushed for through Kroger Supermarkets.

In October of last year, the ribbon was cut to open the first-ever Kroger mini store at Sope Creek Elementary School. The mock store is stocked with actual products supplied by Kroger. Students are taught to shop wisely, comparing price, quantity and ingredients.

"The amazing thing is the power of an idea," said Mrs. Heyman, who notes that Kroger is planning to open other mini stores around the state. "People want to do more for children, but they don't know how," she said. "These (the model bank and the mini store) give them a vehicle."

DARE TO MAKE A DIFFERENCE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. MICHEL. Mr. Speaker, I would like to bring to the attention of my colleagues the dedicated work of one of my constituents, Lt. Tab Turke of the Morgan County Sheriff's Department.

Lieutenant Turke was recently installed as the head of the National DARE Officers Association. He has been head of the DARE, Drug Abuse Resistance Education, Program in Morgan County for several years and was instrumental in the implementation of the program in Morgan County area schools.

The following is an article from the Jacksonville Journal-Courier entitled "D.A.R.E. Leader Puts County on Map" which tells of Lt. Turke's selection as the head of the National DARE Officers Association and his dedicated work in the community.

D.A.R.E. LEADER PUTS COUNTY ON MAP

Morgan County is proud of Lt. Tab Turke. The county's Drug Abuse Resistance Education officer was installed this month as the head of the National D.A.R.E. Officers Association, which makes him the leader of one of the most popular police organizations in the country.

His selection says a lot about Mr. Turke and about the local D.A.R.E. program. It says that leadership comes from communities large and small, and that this nation will need to cultivate such leadership everywhere if we are to win this long-running war against drug and alcohol abuse.

Those problems are not confined to Los Angeles, Chicago, Atlanta and New York; those are problems with which every farming community in the Midwest, every small industrial city in New England, every factory town in the South, every sprouting suburb in the West must contend.

We cannot afford to lose a generation of our children; they are too precious to us, and the futures of our communities too dependent on them to allow them to fall under the spell of drug dependency.

One need only meet Mr. Turke and his counterparts in Jacksonville and other local counties to know how sincere D.A.R.E. officers are about helping our children to resist the lure of drugs. And one need only talk with local children about the police officers who come into their schools to realize that the program works. It helps instill values in preteens that allow them to resist the pressure to use drugs or alcohol at an early age.

We should not pretend that D.A.R.E. is the only answer in the drug war. It is not, as Mr. Turke and other police officers are the first to admit. Older teens face extraordinary pressures to use alcohol particularly, and the lessons D.A.R.E. teaches younger children must be reinforced.

We also must make it easier for those who already are hooked on alcohol and drugs to get help when they seek it and consistently enforce the law against those who sell drugs.

But despite all that, D.A.R.E. is one of the most effective tools at our disposal for arming children to resist, and we are proud of the work that D.A.R.E. officers have done on our children's behalf.

Tab Turke is an example of why the program works, and we are confident that he will do an outstanding job of leading the nation's D.A.R.E. officers in a fight we must win.

H.R. 5231, THE NATIONAL COMPETITIVENESS ACT OF 1992

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mrs. MINK. Mr. Speaker, at this time I would like to submit an essay written by one of my summer interns, Brent K. Yamashita, a student at Princeton University. Brent makes an argument in favor of H.R. 5231, The National Competitiveness Act. He is majoring in electrical engineering and public policy, so I feel that he understands the importance of technology and productivity in the national economy. When H.R. 5231 comes up for a vote, I encourage all of my colleagues to consider the arguments that Brent makes here:

We are living in a historic time. The Cold War has ended, Communism has fallen in Eastern Europe and the former Soviet Union, and for the first time we may have peace between Israel and the Arabs. The European Community will soon unite into an economic bloc, and old adversaries like Germany and France will now become economic allies. We have a tremendous opportunity for unprecedented peace and global cooperation, to create a "New World Order."

This era of peace will usher in an increasingly integrated global economy. What will be the role of the United States? Since the end of World War II, we have been the dominant military and economic power in the world. However, if we are indeed headed towards an era of peace, other nations will become less dependent on our protection, and our military might will become less important. Instead, it seems that economic power, and not military power, will determine who leads the world in the 21st Century.

It is evident that we no longer operate as the lone, dominant economic power in the world. Japan invests a substantial amount of money in Research and Development and in helping new industries to get started, and it has established itself as a major player. The European Community, propelled by a unified Germany that is investing billions in infrastructure and industries, will soon assume its place alongside America and Japan. If America is to maintain its economic strength, we too must invest more to increase our competitiveness.

The areas where we must invest more are *industry, infrastructure, education,* and *technology*. Despite our budget deficit, we must

spend more on these things, and not less. I believe that cutting funds in these areas, although it may reduce the deficit, will have a deleterious effect on the economy in the long-run. Congress will soon consider a bill that increases America's technological and manufacturing capability, and thus, helps us to compete in the global market. H.R. 5231, the National Competitiveness Act, represents a serious commitment on the part of Congress to strengthen America's economic position as we venture on into a new era of global competition.

Manufacturing is a key element of our economy. Its productivity can be greatly enhanced by experimenting with new production methods and by accessing information provided by government agencies. Section 202 of the bill states the findings of Congress that "new developments in flexible, computer-integrated manufacturing, electronic manufacturing communications networks, and other technologies make possible dramatic improvements across all industrial sectors in productivity quality, and the speed with which manufacturers can respond to changing market opportunities."

H.R. 5231 provides the funds to do all of this. Increases in productivity lead to lower costs in the manufacturing of American products, and this makes us more competitive in the global market. On the May 5, 1992, at a hearing before the Technology and Competitiveness Subcommittee of the House Committee on Science, Space, and Technology, Nobel Laureate Robert Solow stated that the United States government should take the lead in a "reformation of manufacturing," and many scholars agree with him. A team effort between government and industry is essential if we are to compete successfully with the European Community and Japan.

Technology also increases productivity, and thus, competitiveness. Examples of this would be the cotton gin, the assembly line, and the computer, all of which revolutionized American industries. Michael Baroody of The National Association of Manufacturers reported to the same Technology and Competitiveness Subcommittee that of the 3.25 percent average annual growth in gross domestic nonfarm output in 1954–90, approximately 29 percent is attributed to technological advance. 39 percent is ascribed to labor inputs, 22 percent to capital inputs, and 6.7 percent to government capital. To maintain America's standard of living and competitiveness, we must continually search for new tools, products, and methods of production, and this is precisely what H.R. 5231 accomplishes.

To authorize $1.4 billion in additional funding for the Advanced Technology Program (ATP), under the auspices of the Department of Commerce. This year the ATP was given $68 million, enough for 38 companies researching such projects as switches for optical computers and new plastics for cars.

One of the main provisions of the bill provides $1.4 billion in additional funding for the Advanced Technology Program (ATP). The ATP is a program under the auspices of the Department of Commerce which provides grants, usually about $2 million, to companies to conduct industry-related research and experiments. This year the ATP was given $68 million, enough for 38 companies to research such projects as optical computer switches and plastics for cars. H.R. 5231 will allow even more industries to explore cutting-edge techniques and products that current credit limitations prevent them from doing. In the past, the government has given several billion dollars a year to the Department of Defense to research and develop in such areas as electronics, communications, and aerospace. As we pare down the defense budget, it seems logical that we reallocate some of those funds into R&D in non-military areas.

Many critics argue that the bill adds to the deficit, authorizing approximately $2.2 billion in fiscal 1993–1997, while creating no new revenue. However, the real payoffs from this expenditure would help our nation's economy much more than, say, the $40 billion Space Station. When considering whether the $2.2 billion is worth it, one has to ask what the cost of becoming more uncompetitive in the world market will be for the United States. Can we afford to fall further behind Japan and the EC? Indeed, investing $2.2 billion now may save us from losing even more money in the international market in future years, and I call this a wise investment.

I do not wish to imply that America's competitive problems can be cured by one bill. What is needed is a strong effort by both government and industry. Industries can do their part by investing in new equipment and training for its workers. In the meantime, government cannot stand idle as our competitiveness deteriorates and other nations pass us by. It is time for our government to take on an active role to assist our industries.

As the global economy continues to integrate, it is in America's best interest to maintain our position as an economic leader. To do this, we must increase our competitiveness. Industry and academia feel that H.R. 5231 is a step in the right direction, and I agree. I urge all Members to vote in favor of H.R. 5231, and in doing so dedicate themselves to maintaining America's tradition of economic strength.

HONORING THE U.S.S. "RADFORD"—DD446

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. APPLEGATE. Mr. Speaker, the success or failure of the United States during times of military conflict has often been determined by the equipment that goes with the men and women who have served in our Armed Forces; and when it comes to the great ships that have achieved naval victories for America, the U.S.S. *Radford* certainly ranks among the most important vessels in our history.

The U.S.S. *Radford* had a history of service to our Nation which spanned 3 major conflicts; World War II, Korea, and Vietnam. The *Radford* was in service for over a quarter of a century, and it was involved in some of the most important naval engagements of the Second World War. This destroyer, launched in May 1942, eventually went on to earn 21 battle stars and 14 campaign ribbons, along with Presidential citations from the United States, Korea, and Vietnam.

During the weekend of October 9th through the 12th of this year, the first ever national reunion of crew members from the *Radford* will be held in New Philadelphia, OH, at which time the U.S.S. *Radford* Association will be founded and a swearing in of officers will be performed. I want to take this opportunity to congratulate Vane S. Scott of Newcomerstown, OH, for all of his hard work and efforts in bringing about this special day for the crew members and the ship which has captured the admiration of many. The U.S.S. *Radford* was one of America's greatest fighting ships.

Mr. Speaker, I would like to take this opportunity to include in the CONGRESSIONAL RECORD the outstanding history of the U.S.S. *Radford* as is detailed in the Dictionary of American Naval Fighting Ships, and I wish to join with all of my colleagues in Congress in paying a special tribute to those, alive and departed, who saw service on the *Radford*. All Americans are deeply proud of them.

"RADFORD"

Rear Adm. William Radford was born in Fincastle, Va., 1 March 1808 and entered the U.S. Navy during 1825. He commanded the landing party from Warren which captured the Mexican warship Malek Adhel at Mazatlan and took part in other Pacific coast operations of the Mexican war. During the Civil War, he commanded the ill-fated Cumberland but was on board the frigate Roanoke as a member of a Court of Inquiry when his ship was attacked by the Confederate casemate ram Virginia. Captain Radford subsequently commanded the armored ship New Ironsides during Union attacks on Fort Fisher in December 1864 and in January 1865. Promoted rear admiral in 1866, he commanded the European Squadron during 1869 and 1870. Rear Adm. Radford died at Washingon, DC., 8 January 1890.

(Destroyer No. 120: dp. 1,090; 1.314'5"; b. 31'8"; dr. 9'9¾"; s. 35 k.; cpl. 142; a. 4 4", 2 3", 12 21" tt.; cl. Wickes)

The first Radford, a steel, flush-deck-type destroyer, was launched 5 April 1918 by Newport News Shipbuilding & Drydock Co., Newport News, Va.; sponsored by Miss Mary Lovell Radford; and commissioned 30 September 1918 at Norfolk Navy Yard, Lt. Comdr. Arthur S. Carpenter in command.

Assigned to the Destroyer Force, Atlantic Fleet, Radford departed Norfolk 12 October on a shakedown cruise to Melville, R.I. She returned to Hampton Roads 21 October 1918 to join the escort force for the Newport News section of Troop Convoy 76 bound for New York and European waters.

Radford subsequently operated on the U.S. east coast into 1919, sailing southward to Cuba 14 January 1919. While based at Guantanamo Bay, she also cruised to Guacanayabo Bay and Santiago, Cuba, before returning north 13 March 1919. Radford operated from Hampton Roads with the Atlantic Fleet from March until July 1919.

Radford was reassigned to the Pacific Fleet in July 1919, and cleared Hampton Roads 19 July for Balboa, C.Z., and San Diego. Upon her arrival at San Diego 7 August, she joined the Destroyer Force, Pacific Fleet. Radford operated from Mare Island Navy Yard, San Diego, and San Pedro into 1922, taking part in training exercises and squadron maneuvers as a unit of Division 12, Squadron 10, Destroyer Flotilla 4. She called at Seattle, Tacoma, and Bellingham, Wash., during September 1919, and at Portland, Ore., in December 1920. Designated DD–120, Radford decommissioned 9 June 1922 and remained in reserve at San Diego for almost 15 years.

Radford was reclassified AG–22 on 16 April 1932 following the decision to convert her to a mobile target vessel. Conversion work was never undertaken and Radford reverted to

DD–120 on 27 June 1932. Struck from the Navy list 19 May 1936, Radford was sunk 5 August 1936 in accordance with the provisions of the London Treaty for the limitation and reduction of naval armament.

(DD–446: dp. 2,940 (f.); l.376'5"; b.39'7"; dr. 17'9"; s.35 k.; cpl. 3.29; a. 5 5", 10 40mm., 7 20mm., 10 21" tt., 6 dcp., 2 dct.; cl. *Fletcher*)

The second *Radford* (DD–446) was laid down by the Federal Shipbuilding & Dry Dock Co., Kearny, N.J., 2 October 1941; launched 3 May 1942; sponsored by Mrs. Francois E. Matthes; and commissioned 22 July 1942, Lt. Comdr. William K. Romoser in command.

After shakedown off the New England coast, *Radford* towed the burning transport *Wakefield* (AP–21) to Halifax where the fires were extinguished. Antisubmarine patrol off the east coast followed and on 5 December *Radford* got underway for the Pacific.

At Noumea *Radford* joined TG 67.5 with which she bombarded Japanese positions and installations on Guadalcanal 19 January 1943. On the night of 23–24 January, she attacked the enemy staging area on Kolombangara and within the next week had splashed three enemy planes. *Radford* then retired to Tulagi, whence she sailed to cover the occupation of the Russell Islands by U.S. troops. *Radford* shelled Munda Airfield and installations on New Georgia Island on the night of 5–6 March 1943 and, on the nights of 15 and 16 March, bombarded Kolombangara.

On 29 June *Radford* steamed with the First Echelon of the Western Force for Rendova to provide shore bombardment and antisubmarine patrol to cover the landing of troops.

During this action she shot down five planes. On 1 July she damaged a Japanese submarine with gunfire and depth charges. She was involved in the night surface engagement off Kula Gulf, 5–6 July, firing on three enemy ships and picking up survivors of *Helena*. During the night of 12–13 July, *Radford* acted as a screening unit for TG 36.1 while that force conducted an offensive sweep against the "Tokyo Express."

On 17 July, she left the Solomons for the New Hebrides; Auckland, New Zealand; and Noumea, New Caledonia. Returning to Guadalcanal 14 September, she sank a number of enemy barges and on 25 November sent the Japanese submarine *I–40* to the bottom off Makin. After the Gilbert Islands operations, *Radford* steamed for Pearl Harbor and San Francisco where she arrived 15 December for overhaul.

By 2 February 1944 *Radford* was back at Majuro atoll. On the 18th, she screened tankers as they fueled the Truk Island striking force, then escorted the replenishment force to the New Hebrides. In March, she returned to the Solomons and shelled gun emplacements on Bougainville.

Proceeding to New Guinea in April, *Radford* bombarded the beach at Humboldt Bay in support of landings there on the 22d. She steamed back to the Solomons; stopped at Noumea; and returned to the New Guinea area in early June. Into September she continued support of the New Guinea campaign with escort runs and gunfire support missions.

On 12 September *Radford* sailed for Pearl Harbor for repairs. On 20 November she steamed for Eniwetok and Ulithi. On 4 December she got underway escorting a group of merchant vessels to Leyte Gulf. She operated there and off Mindoro until steaming for Lingaven Gulf 4 January 1945. After supporting the landings on Luzon, she delivered fire support on the beaches of the Bataan Peninsula. While maneuvering into Mariveles Harbor to take the mine-damaged *La Vallette* in tow, *Radford* was herself damaged by a mine.

Sailing for Leyte Gulf 20 February, she continued on to Eniwetok Atoll, Pearl Harbor, and San Francisco. She remained there undergoing repairs until 30 September 1945. *Radford* decommissioned 17 January 1946.

After conversion to an escort destroyer (DDE–446), 26 March 1949, especially equipped for antisubmarine warfare, *Radford* recommissioned at San Francisco 17 October 1949. Following shakedown off the California coast, she sailed to her homeport of Pearl Harbor. In May 1950 she escorted *Valley Forge* (CVA–45) to Subic Bay and Hong Kong. With the outbreak of the Korean Conflict, she was dispatched to Korea where she operated until returning to Pearl Harbor 9 November.

Occupied with overhaul and type training at Pearl Harbor for the next year, *Radford* then sailed 19 November 1951 for operations with Task Force 77, a fast carrier striking group, off Korea. Other operations found her with British units off the west coast of the embattled peninsula and steaming close inshore for bombardment and to support minesweeping operations. She also rescued survivors from the grounded S.S. *Easton* off the coast of Japan, before returning to Pearl Harbor 21, June 1952.

Radford cleared Pearl Harbor 4 September 1952 for operations on patrol and in exercises in the western Pacific, based at Eniwetok. She returned to Pearl Harbor 25 November for type training until 3 May 1953, when she headed for the Far East. Once more *Radford* operated with TF 77, bombarding the east coast of Korea. From 12 to 22 July, in company with *Manchester* (CL–83), she steamed off Wonsan Harbor, firing on targets in the vicinity of Hode Pando, and later entered the harbor itself. Following duty on the southern patrol in the Taiwan Strait, she returned to Pearl Harbor 30 November.

During the next 16 years *Radford* alternated operations in the Hawaiian area with deployments to the Far East. During this period she made 11 WestPac cruises, serving on the Taiwan Patrol in 1954, 1955, and 1956 and operating in Japanese waters in 1957, 1958, and 1959. On 25 March 1960 she entered the U.S. Naval Shipyard at Pearl Harbor to begin her 7-month long FRAM (Fleet Rehabilitation and Modernization) II overhaul, which gave her a helicopter hangar and flight deck. During 1961 she operated continuously in the Hawaiian area, picking up the nose cone of Discoverer XXV on 19 June and rescuing 5 fishermen from the sea 16 November.

On 5 February 1962 *Radford* sailed for the western Pacific as a unit of Antisubmarine Warfare Task Group 70.4 composed of *Bennington* (CVS–20) and the eight destroyers of Destroyer Divisions 252 and 92. She participated in joint SEATO operations, was called to the South China Sea to help meet the Laotian crisis in May, and in June was called to the Taiwan Straits due to heavy Communist buildups in the area. She returned to Pearl Harbor 18 July and became DD–446 again 7 August 1962. On 3 October *Radford* was stationed a few hundred miles east of Midway Island in the 4th orbit recovery area for Project Mercury's Sigma 7 flight.

In a 1963 overhaul Variable Depth Sonar and DASH equipment was installed. *Radford* steamed to WestPac again in 1963, 1965 and 1966. During 1967, 1968, and 1969, she operated on Yankee Station and bombarded Viet Cong targets in South Vietnam. *Radford* decommissioned at San Francisco and was struck from the Navy list 10 November 1969, to be sold for scrap.

Radford earned 12 battle stars for World War II service, five battle stars for Korean War service; and four for Vietnam service.

CONGRATULATING DOUGLASS C. JEFFORDS ON HIS RETIREMENT FROM THE U.S. NAVAL RESERVE

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. CLEMENT. Mr. Speaker, I am pleased to join family and friends in congratulating Capt. Douglass C. Jeffords on his retirement from the U.S. Naval Reserve.

Captain Jeffords has had a distinguished and honorable career serving our Nation. A 1958 civil engineering graduate and NROTC scholarship student of Vanderbilt University, he was commissioned a surface line officer and first served aboard the U.S.S. *Lynde McCormick*. He made two deployments to the Western Pacific before serving on the U.S.S. *St. Paul*.

Following his release from active duty in June 1968, he affiliated with the Naval Reserve Surface Division in Nashville. He was an instructor in a number of specialties and commanded a number of reserve units, including the advanced base functional component headquarters which was assigned to the Commander Naval Activities Eastern Atlantic.

In October 1988, he was assigned as commanding officer, Naval Activities United Kingdom Headquarters Detachment 108, and as Chief of Staff, Commander Naval Activities Eastern Atlantic. In this assignment, he was responsible for planning for the mobilization, training, organization and activation of over 600 naval reservists in 20 units located in eight different readiness commands. His efforts resulted in new organizational structures, concepts and procedures for more effective utilization of Reserve forces who provide logistics support to operating forces.

Following Desert Shield/Desert Storm, Captain Jeffords proposed a new Reserve organization to augment logistic support functions. This concept has been adopted for use throughout the Navy.

At present, Captain Jeffords is Assistant Deputy for Readiness in region nine, Memphis. In this position, he is responsible for the training and readiness of over 5,000 naval reservists in a five-State area.

During this time, Captain Jeffords found time to earn a master of science degree in structural engineering from Vanderbilt. He also attended the Naval War College in Newport and is an active member of a number of professional associations. His awards include the Navy Commendation Medal and the Armed Forces Expeditionary Medal.

Mr. Speaker, I commend Captain Jeffords for his dedication and perseverance. A military career has many challenges and hurdles. As we well know, these challenges and hurdles confronted not only Captain Jeffords but also his wife and three sons and they all have met them with distinction and honor.

It is a pleasure to be able to congratulate Capt. Douglass C. Jeffords on his retirement from the Naval Reserve.

A PRESCRIPTION TO PREVENT TAKEOVER MANIA

HON. ROMANO L. MAZZOLI
OF KENTUCKY
IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. MAZZOLI. Mr. Speaker, I commend to the attention of our colleagues the following article authored by Lee Thomas, a longtime friend and a business and civic leader of wide renown in Louisville, KY.

The article appeared in the summer 1992 issue of Business and Society Review. It is entitled, "Hostile Takeovers: When the Vultures Call," and it recommends steps to be taken to prevent the return of the takeover-buyout mania which characterized the 1980's—and whose pernicious economic effects plague us to this very day.

Mr. Thomas is the former president and chairman of Vermont American Corp., headquartered in Louisville. Lee is a trained, perceptive, and knowledgeable business person with a distinctly uncommon characteristic: a social conscience.

Mr. Speaker, Lee Thomas and I have talked about the evils of the takeover binge of the go-go 1980's and the damage it did to the industrial capability of American business and to the health, well-being and prosperity of U.S. workers.

We cannot slip back into the old ways of the decade of the 1980's when greedy, rapacious Gorden Geko-types destroyed old line American businesses and exported abroad tens of thousands of high wage-high skill jobs through leveraged buyouts and hostile takeovers.

Mr. Speaker, I encourage our colleagues to heed the words of my friend, Lee Thomas, for they offer a strong antidote against a recurrence of the takeover-buyout fever of the 1980's.

In 1986, when I was the chairman of Vermont American Corp., the power tool accessories manufacturer, the Newell Company began to acquire shares in our company in a process known as a "creeping tender." As a defensive measure, Vermont American began to buy back its own stock. Then in mid-1989, Newell tendered for a large block of our stock at $30.50 per share; they also went to court and obtained an injunction on the theory that our buyback program was a fraudulent use of company funds by me to enrich myself.

I found out that our second largest shareholder was cooperating with Newell and planned to sell to that company. At this point, we sought a "white knight." A holding company owned by Emerson Electric, Robert Boosch, and Sears Roebuck bought Vermont American just before the end of 1989 for $41 a share. (Just prior to the tender, the stock was selling on the American Stock Exchange for $26 a share.) In the trial, I was found innocent—but the company was lost and I was out.

Since the purchase, three plants have been closed and production has been consolidated. In recent months, the company has done well and morale seems up.

Vermont American fared better than many corporations involved in takeover attempts. Many other companies declared bankruptcy during the recent recession, casualties of overleveraging.

Though merger and acquisition activity has slowed considerably from the frenetic pace of the 1980s, we have not yet adequately identified the dangers corporate takeovers pose to our free-market system. Nor has Congress enacted legislation to guard against the excesses of the past decade from happening again.

Without the enemy of communism to oppose, America seems to be left with a pernicious enemy within: greed. It is a potentially fatal disease. Its symptoms are many: disregard for the environment, monopolistic practices, and insider trading, among others. And the practice of expending enormous sums of capital to make businesses larger and less efficient while lining the pockets of few seems to be the most egregious symptom. Hostile takeovers do not create new markets, produce breakthroughs in research, or result in superior products in the marketplace. The increase in debt strengthens neither our nation's economy nor the world's.

Why have we not examined this problem fully? It may be that we have taken at face value the myths perpetuated by the investment bankers and lawyers who reap enormous profits from engineering takeover deals. Let's examine a few of these myths.

Myth One: Companies being bought out are poorly managed, so it is better to have them weeded out of the system.

While badly run companies may sometimes get taken over, that is not the general rule. Corporate raiders look for firms that bear the marks of good management:

A brand with national recognition is an important asset that reflects good marketing management.

A low debt-to-equity ratio (total debt burden as a percentage of the stockholder's net worth) is very important to the acquiring company. They can use the borrowing capacity of the acquired company. They can use the borrowing capacity of the acquired company to generate cash to help finance the takeover. But a company's conservative balance sheet reflects good management: it keeps business options open, enables a firm to weather unforeseen adversities, and allows for long-term investments in research and development, employee training, and modernizing facilities.

Corporate raiders zero in on companies with a low price-to-earnings ratio (the cost of a share of a company's stock divided by the reported earnings per share for the most recent year). Occasionally, a company's stock is priced low because the stock market has no confidence in the company's management due to poor past performance. Equally possible, if not more plausible, a low price-to-earnings ratio exists because the company's good management insists on operating for long-term gain rather than short-term objectives. In other words, if management puts off spending money on environmental control, quality improvement programs, retraining workers, and other programs for the long term, the earnings will be up for awhile—and the price-to-earnings ratio may be high enough to discourage a takeover. In this scenario, the poorly run company is more likely to remain independent than a well-run firm.

Undervalued assets are extremely attractive to corporate raiders. But assets often appear undervalued as a result of good tax planning. Further, some of a business' most valuable assets do not even appear on the balance sheet: customer trust and loyalty, new products in the pipeline, and, most important, outstanding people who work well together.

Myth Two: Corporate takeovers are a boon to individual investors, who receive an above-market price for their shares.

Investors must remember that people who take over companies do so for their own gain. Raiders may believe that the company is worth more broken up and sold off in pieces. Or, they may wish to establish themselves in a controlling position in order to milk the company for private gain. Or, they may think they are good enough managers to realize the long-term potential of the company for themselves.

Independent shareholders would do well to consider what existing management might be able to accomplish for the shareholder in the long run. Remember that the old management should know the industry—they did build a business worth buying.

The real boon here is to the investment bankers, such as Bear Stearns. If a company wants to hire expert help in defending itself against a takeover, Bear Stearns is at your service. If a company or an individual wants to pursue a hostile takeover with expert help, again, Bears Stearns is at your service. Last year, Bear Stearns Chairman Ace Greenberg made more than $7 million. And the investment bank's president Jimmy Cayne, brought home more than $6.1 million.

The losers are the individual shareholders who have lost the potentially greater gain of long-term growth had the company not been bought out.

Myth Three: Unfriendly corporate takeovers benefit society because they increase efficiency in production and business management.

Size does not contribute to efficiency. True, some industries, such as car manufacturing, require huge capital investment that only a big company can provide. But in most industries, it is small- and middle-sized entrepreneurial companies that experience the greatest growth.

Some investors, of course, might like a merger that creates a monopoly within an industry. The profits could be increased by raising prices. Of course, this practice does not benefit consumers or society. Further, our government enacted antitrust laws to protect us from abuses. Oddly enough, part of our current economic ills is caused by the reluctance to enforce those antitrust laws in the 1980s.

Third, mergers are frequently paid for, in part by selling off divisions and closing plants. This can be enormously disruptive to communities and devastating to displaced workers. The enormous corporation debt taken in the 1980s', also has been cited as a cause of length and depth of the recession.

Nor do hostile takovers necessarily promote good management and efficiency. For example, when Vermont American Corp. first went into the cutting-tool business, its best source of steel was Sharon Steel. Sharon was an extremely well-run, middle-size company, a leader in developing participatory management. Then, Victor Posner, one of the early corporate raiders, bought out the company. Sharon's pricing became chaotic and deliveries became irregular. The company was then leveraged in order to raid other companies. Vermont American scrambled to find other sources of steel, but none was as good as Sharon under its old management. Last year, Sharon filed for bankruptcy under chapter 11.

PARANOIA SETS IN

The management of a well-run entrepreneurial firm invariably panics when the corporate raider calls. Managers know their jobs are in jeopardy. The acquiring company will likely provide the new top management and the larger company will need only one legal department, one benefits department, and one tax department.

When the raider calls, paranoia sets in. Management gets sidetracked from running a good business. It must take defensive measures to protect the company. It hires expensive lawyers and even more expensive investment bankers. Those fees skim off millions of dollars that could have been channeled into improving products, research and development, or other investments.

To block a merger, management sometimes tries to sponsor a leveraged buyback, in which the company borrows huge sums of money to buy back its stock from the raider at an exorbitant price ("green mail"). In other cases, management buys back all of the company's stock and takes the company private. In either case, the debt load leaves the company vulnerable to any downturn in the economy.

One of Vermont American's suppliers, Belknap Hardware, went bankrupt this way. The inventory was liquidated and every employee lost his job. Clearly, this was not a good thing for anybody.

So, do hostile takeovers and mergers help society? In most cases the answer is no. Entrepreneurs, aware of potential takeovers, may well avoid taking their companies public. To keep their firm independent, entrepreneurs may intelligently decide not to tap into public capital markets and instead grow more slowly with whatever funds that can be internally generated. This attitude does not contribute to a healthy capitalist system. For it is the new growth companies with new stock issue traded over the counter or on the American Stock Exchange that stimulate the money markets and fuel a dynamic capitalist system.

SOCIAL COSTS

Hostile takeovers have heavy social costs as well. Small- and middle-size companies are an important presence in communities. Local companies are the big users of the local bank. They buy their insurance through local insurance agents. They use local attorneys and accountants. Top executives are well paid and can be expected to contribute to various good causes including charities, art and culture, and the local college. Local employees keep their money in area banks, buy real estate in town, pay municipal taxes, and shop on Main Street.

When factories and offices are cut back or closed, managers, craftsmen, and workers are dealt a severe blow. When termination benefits run out, it is difficult for people to find comparable jobs. The more specialized a person's skill, the greater the difficulty. Even employees who stay on after a takeover may ultimately lose their job when the company down-sizes in a struggle to make a profit on its investment.

Takeover companies are also subject to the great and evil temptation to raid the bought-out company's pension fund to help reduce debt. The takeover company can reduce its contribution to the pension fund or just remove cash that its actuaries determine is an "overfunded" amount. Conscientious employers, in contrast, want to be overfunded and use conservative actuarial assumptions. Raiding pension funds represents a betrayal of trust and threatens the financial security of workers.

In the long term, hostile takeovers also hurt a community's capital base. In the short term, the sale of a local company benefits shareholders who live in the community. But, as time goes by, these wealthy individuals die off and the absence of the wealth-creating enterprise takes its toll.

What about the top management of a bought-out company? Golden parachutes notwithstanding, successful business leaders and top managers who have built a business and have plenty of valuable experience to offer society are suddenly taken out of a productive field of activity. Although they walk away with lots of cash to invest, they are no longer able to use their expertise in the creative activity they know best.

Age discrimination can prevent senior executives from taking top jobs in other firms. And with so many mergers taking place, there are fewer companies to employ top executives. It is a considerable loss to society and disheartening to those who have proved their leadership capabilities.

It is tempting to compare America's situation with the Japanese. There are few hostile takeovers in Japan. There have, however, been mergers that have created the huge keiretsus that dominate the Japanese economy. We can wonder about the efficiency of these companies in the long run. There is no doubt that their economy has been aided by the education of so many engineers and scientists while ours has been hurt by the education of so many lawyers and investment bankers.

It is also tempting to compare our situation with the former Soviet Union. Hard-liners in the U.S.S.R. believed that business and industry should be centrally controlled. But that approach is 180 degrees off, as history demonstrated. Giant entities like the former Soviet ministries are notoriously inefficient and place too much power in the hands of too few people. They discourage individual initiative, stifle innovation, eliminate healthy competition, and respond poorly to customers.

Indeed, the seeds that brought about communism's failure can be seen in American corporate mergers, especially hostile takeovers. The corporate giants create situations damaging to workers, management, and to the American entrepreneurial spirit.

America needs to cure herself if she wants to regain her economic health. We should use our democratic system to correct the flaws that threaten our economy. Only then do we stand a chance of competing successfully with market economies smart enough to favor long-term growth as essential to innovation and healthy, free enterprise.

LEGAL REMEDIES

Here are some legislative suggestions that address the problem of hostile takeovers:

Eliminate the tax deduction for interest on corporate debt incurred in takeovers.

Require takeover initiators to provide reasonable protection for employees who are displaced or demoted within three years of a takeover.

Require enough equity in a takeover to protect the credit rating and thus the value of existing debt. Such a move would, for example, protect investments of retirees.

Criminal penalties for companies that raid or reduce the percentages of payroll paid into a pension plan within five years after a takeover. Laws now only protect against the worst such abuses.

When a company acquires 30 percent of another company, it should by law offer all shareholders the highest price paid for any shares in the previous twelve months.

Protect pension fund trustees who vote company shares owned by any pension plans. Now, they face lawsuits no matter how they vote.

Protect communities from lost concessions when plants are closed after takeovers. States and cities often offered incentives to lure plants. When plants close, the communities have the expenses to amortize but not the promised jobs.

Strengthen and enforce antitrust laws.

THE MINING LAW OF 1872 DEBATES

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. RAHALL. Mr. Speaker, last week the other body engaged in several hours of debate on the subject of reforming the mining law of 1872.

It was a fascinating debate to watch. The senior Senator from Arkansas offered an amendment to the fiscal year 1993 Interior appropriation bill to place a 1-year moratorium on the issuance of mining claim patents. This amendment would simply have prohibited the BLM from allowing mining claims to be purchased for $2.50 or $5 an acre for a 1-year period. Such a provision would in no way affect the ability of the claimholders to locate mining claims or to mine unpatented claims.

However, watching the debate one would have thought that the lifestyle of the Western United States would end if the amendment was adopted. We heard many touching stories about the western hardrock mining industry. Why, I could just see the lone prospector, pick in hand, accompanied by his trusty packmule, out there staking those mining claims.

In this end, the amendment was not adopted. This is a tribute to the stunning oratorical prowess of those arrayed against the Senator from Arkansas. I was greatly impressed.

The fact is that the mining of hardrock minerals on public domain lands in this country is in the national interest. But I would also submit that of concern is not the lone prospector of old, but the large corporations, many of them foreign controlled, who are mining gold owned by the people of the United States for free, and snapping up valuable Federal land at fast-food-hamburger prices.

The senior Senator from Arkansas made this point, and he made it quite well.

I would also submit that the mining law of 1872 needs to be reformed in a comprehensive fashion. With all due respect to the other body, the mining law amendments that it ultimately approved would not accomplish that goal.

This body may be interested in knowing that the authorizing committee, the Committee on Interior and Insular Affairs, has approved a comprehensive bill to reform the mining law of 1872, H.R. 918. This body may also be interested to know that this legislation has a great deal of support from the folks in the West.

We have many touching stories relating to their predicament as well.

As the sponsor of H.R. 918, I have received many letters from westerners in support of the bill. At this point in the RECORD I am submitting a sampling of the letters, but have removed the names and street addresses from them in order to protect the privacy of the individuals who wrote them.

BOZEMAN, MT,
June 16, 1992.

Hon. NICK JOE RAHALL,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVE RAHALL: The opportunity for reform of the Mining Law of 1872

comes on June 24th. The Mining Subcommittee Chairman, Nick Joe Rahall will offer a strengthened substitute for H.R. 918, which has been the vehicle for widespread debate in the past two sessions of Congress. I urge you to support this legislation by resisting amendments that may be offered to weaken the bill and, in turn, consider a royalty provision that will bring to the government fair return for extraction of the public mineral resource. This bill should then be marked up and passed out of the House Interior Committee for consideration in the Senate.

I am native to the west, and am proud of a mining heritage that saw its beginnings with my great grandfather in California in 1852, and continued in the family through the 40s. I have lived in communities where mining is the primary development, and in towns where the conversion to non-extractive industry is proceeding. I am equally proud to have been active in environmental organizations for the past 30 years in Colorado and Montana.

I am not opposed to all mining, but I am opposed to the right to mine in all places. I realize that there are areas withdrawn from mineral entry, and that "gold is where you find it". However, I have seen responsible land managers thwarted by the 1872 Mining Law; I have seen abuses and non-mining speculation on patented "mining" claims; I have seen the legacy of polluted land and water (3,000 + miles of streams in Colorado, 1,300 + miles in Montana); I have seen clandestine exploration and development; I have seen intimidated agency personnel in pursuit of their monitoring and enforcement duties and I have seen frightened citizens, without legal resource against onerous proposals. This bill will address these inequities to our land, water, economy and communities.

The reform of the 1872 Mining Law must proceed at this juncture. The industry will not be harmed as they claim, but the industry will join the ranks of the regulated for the public good, and the public, under this legislation, will be assured of responsible land allocation decisions and management. Please support this legislation.

GARDINER, MT,
June 15, 1992.

Representative NICK RAHALL,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVE RAHALL: I am writing to thank you for introducing H.R. 918. I am a born and bred Westerner. I come from a mining family. My father was a hard rock miner all his life. However, my family and I feel very strongly that the country needs a mining law that makes sense not one that only protects the interests of the mining industry. I have sent a similar letter to all the Democrats on the House Interior Committee asking them to support your bill.

I support all the provisions that strengthen your original bill. However, I strongly support the provision that gives federal agencies the right to deny mining proposals in sensitive locations. This provision is very important to me because I live near Cooke City, Montana. This area is facing a very dangerous mining proposal by Canadian-owned Noranda Limited called the New World Mining Project. The project is located two miles from Yellowstone Park. The potential for acid mine drainage is significant. The ability to reclaim the area is extremely doubtful.

Added to this, I have had dealings with Noranda when they were in Salmon, Idaho, I know them to be a company that makes many promises but reneges on agreements once their project is approved. They were embroiled in a law suit with the state of Idaho over broken agreements to clean-up old acid mine drainage problems at the Blackbird Mine.

If the U.S. had a common sense mining law, such a dangerous proposal as the one for the New World Mine site would not even be considered because of its impact to the headwaters of the Yellowstone River, Yellowstone Park and the healthy—and sustainable—recreation economy of Cooke City. But, such is not the case.

Our country needs a mining law that is based on common sense and one that recognizes the value of other resources and the rights of other resource users. H.R. 918 is a good step toward such a law.

COEUR D'ALENE, IDAHO,
14 July 1992.

Hon. NICK J. RAHALL,
Repr. of W.VA.,
Chairman, Subcommittee on Mining & Natural Resources.

re: The 1872 Mining Law and H.R. 918

It is my fervent hope that Congress will reform the mining laws before all the mountain streams of this fair country have been completely destroyed. My chief concern is the destruction wrought by Placer Mining in the West although being a native of West Virginia (born March 3, 1904 in Kingwood—Preston County, graduate of the Univ—El Eng. 1925) I have always been concerned with the sulfur pollution of our once beautiful trout streams. In the West it is unfortunate that most of our mountain streams bear small amounts of placer gold; and be it said that these streams left unspoiled are the loveliest creations of God's handiwork on the face of the Earth. There is no crying need for gold in our economy—enough in Fort Knox to last ten thousand years. Yet for the greed and enrichment of a few, placer mining has already destroyed a goodly portion of streams in the National lands and with the sanction of the 1872 Mining Law little if any will be left in a few more years. (Most of Central Idaho is claimed or in process and much of all the other mountain states). Once placer mined these streams, regardless of what they say will not be restored in a thousand years. Hundreds, perhaps thousands of miles have already been destroyed and no effort worth while has ever been made (and none planned) to improve the gravel piles.

As you may know another side to this problem. Many mining claims are merely a subterfuge to acquire a scenic mt. ranch or retreat or especially real estate development on the 'Cheap'. Properly situated at the lower end of a canyon will guarantee many thousands of acres of Nat. Forest for one's private game preserve.

Thanks for your efforts to stop this fraud, senseless destruction and robbery of the Public Domain.

CUPERTINO, CA,
July 9th, 1992.

Hon. NICK JOE RAHALL,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVE NICK JOE RAHALL, Thank you! for your support of H.R. 918.

I just want to thank you for your key role in the Strengthened Substitute for H.R. 918, the 1872 Mining Law reform.

You already know the virtues of the bill, so I won't restate those here. I want to tell you something else. As I look at the voting record of you and other Democrats, and I compare that to the voting records of the Republicans, I realize that I have left the Republican party.

As a citizen living in the West, I simply cannot support the irresponsible extraction practices with which the Republicans of the West identify themselves. As a citizen of the United States, I must insist on proper stewardship of public lands, as decreed by law, for the benefit of the people.

Your historic action, and that of your colleagues, is more than a single victory in one of many battles. For me, it turns the tide of the war, and I can no longer support the party I so steadfastly upheld for its principals of victory in the cold war and fiscal restraint. From this point, I will support the party that wants to win the peace.

On to the Senate! The fight continues against weakening amendments! We will succeed!

EUGENE, OR,
July 6, 1992.

Congressman NICK JOE RAHALL,
House Office Building, Washington, DC.

DEAR CONGRESSMAN RAHALL: Thanks to your efforts and leadership, mining law reform at last seems possible. Congratulations on the passage of your strengthened version of H.R. 918 by the House Committee. The news was received with much jubilation by those of us who support and work for a saner land ethic and a more just way of dealing with resources from public lands. You have given us new hope.

Thanks again!

INTRODUCTION OF CHRISTIANITY TO AMERICAN INDIANS

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, through Public Law 102–188 (S.J. Res. 217, H.J. Res. 342), Congress and the President designated 1992 as the Year of the American Indian. This law pays tribute to the people who first inhabited the land now known as the continental United States. Although only symbolic, this gesture is important because it shows there is sympathy in the eyes of a majority of both Houses of the Congress for those Indian issues which we as a Congress have been struggling with for over 200 years. In support of the Year of the American Indian, and as part of my ongoing series this year, I am providing for the consideration of my colleagues an excerpt from a speech given by Red Jacket, a member of the Iroquois tribe, as published in a book entitled Native American Testimony. The editorial comment which precedes the article is provided also.

WE NEVER QUARREL ABOUT RELIGION

(In this excerpt from a famous speech delivered in 1828, the Iroquois leader Red Jacket replies to a representative of the Boston Missionary Society named Mr. Cram. The missionary had asked for approval to spread his faith among tribes within the Iroquois sphere of influence in northern New York State. When the meeting was over, Cram refused to shake the Indians' outstretched hands. There could be no fellowship between the religion of God and the works of the devil, he announced. The Iroquois are reported to have smiled.)

Friend and Brother! It was the will of the Great Spirit that we should meet together

this day. He orders all things, and he has given us a fine day for our council. He has taken his garment from before the sun, and caused it to shine with brightness upon us. Our eyes are opened that we see clearly. Our ears are unstopped that we have been able to hear distinctly the words you have spoken. For all these favors we thank the Great Spirit, and him only. . . .

Brother! Continue to listen. You say that you are sent to instruct us how to worship the Great Spirit agreeably to his mind; and if we do not take hold of the religion which you white people teach, we shall be unhappy hereafter. You say that you are right and we are lost. How do we know this to be true? We understand that your religion is written in a book. If it was intended for us as well as for you, why has not the Great Spirit given it to us; and not only to us, but why did he not give to our forefathers the knowledge of that book, with the means of understanding it rightly? We only know what you tell us about it. How shall we know when to believe, being so often deceived by the white people?

Brother! You say there is but one way to worship and serve the Great Spirit. If there is but one religion, why do you white people differ so much about it? Why do not all agree, as you can all read the book?

Brother! We do not understand these things. We are told that your religion was given to your forefathers, and has been handed down from father to son. We also have a religion which was given to our forefathers, and has been handed down to us their children. We worship that way. It teacheth us to be thankful for all the favors we receive, to love each other, and to be united. We never quarrel about religion. * * *

RED JACKET,
Iroquois.

END RACIAL DISCRIMINATION IN EDUCATIONAL TESTING

HON. DANA ROHRABACHER

OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. ROHRABACHER. Mr. Speaker, due to an outrageous decision of a Federal District Court for the Northern District of California intelligence tests in California are administered on a racially discriminatory basis.

Specifically, IQ tests may not be administered to black students even if requested by a parent or guardian in situations where they are routinely administered to students of other races.

In one celebrated case a mother of a student attempted to prevent her son from being held back a grade by having an IQ test privately administered. The Fontana (California) School District refused to consider the test and kept her son back.

If the educational reform legislation, H.R. 4323, comes up this week I intend to offer an amendment that will allow parents to get equal treatment in the administering of educational tests for their sons and daughters.

Mr. Speaker, I insert in the RECORD several articles about this racially discriminatory policy. I commend them to the attention of my colleagues who are interested in righting a terrible wrong.

[From the San Francisco Chronicle Aug. 14, 1991]

LAWSUITS AND DEBATES: NEW CHALLENGES TO SCHOOL IQ TESTS

(By Louis Freedberg)

A lawsuit by a group of black parents demanding that their children be given IQ tests has intensified the controversy surrounding the use of intelligence tests in California schools. The lawsuit is in response to a landmark 1986 court ruling that declared it illegal to use the test to screen slow-learning black students into special education classes in California schools.

The suit has prompted educators to take a closer look at these tests, which have been criticized as culturally biased and measuring only a small portion of a child's abilities. If anything, the lawsuit could hasten the demise of IQ tests in California.

"It has raised the issue of whether we should be using these tests for any kids," California Superintendent of Public Instruction Bill Honig said in reference to the lawsuit.

The state's largest school districts, including San Francisco and Los Angeles, have expanded the 1986 ban to cover all children who are having academic difficulties. However, many districts still use the test to assess non-black students. And the test is widely used to help screen children for gifted programs.

Honig, along with a growing number of educators around the nation, contend that the best measurement of a student's potential is to look at actual performance in or out of the classroom.

"IQ tests are not particularly useful or necessary," said Honig. "The broader point is that we shouldn't be doing high-priced diagnoses of a student's potential—we should be looking at how kids learn and what we are going to do about it."

California is now investigating a relatively new way of measuring a child's ability, called curriculum-based assessment, which is being used in several states, including Pennsylvania, Louisiana and Connecticut. The approach looks at how a child is performing in class, rather than on a standardized test designed to come up with a score of a child's intellectual ability.

"IQ test is still the assessment of choice in most states, but it is losing ground rapidly," said James Tucker, director of special education in the Pennsylvania Department of Education.

"In the 1930s and '40s, there was hardly a workplace or a school that did not reflexively turn to the IQ test, and that is not the case now," said Howard Gardiner, a professor of psychology at Harvard University and a leading critic of IQ tests. "I would value far more what I would get from viewing a kid at the Exploratorium (in San Francisco) way more than what I would get from an IQ test," Gardiner added.

On the other side are school psychologists who say the test is a valuable diagnostic tool. "it's one of the best tests around," said Eva Newbrun, director of A Learning Place, an Oakland testing service.

IQ tests generally refer to the Stanford-Binet test, the first IQ test devised by Alfred Binet in Paris 1906 and later revised by Stanford professor Lewis Terman, and the Wechsler Intelligence Scale for Children, the brainchild of psychiatrist David Wechsler of New York's Bellevue Hospital, who came up with the test in 1939.

To take the test, a child sits down alone in front of an examiner for about an hour, and goes through 12 subtests, ranging from vocabulary to arranging pictures in sequence to tell a story. The examiner then may come up with a single score that measures the child's "general intelligence."

California is the only state that has outlawed using these tests as a tool for screening black children into special education classes.

The ban emerged out of a 1971 court lawsuit, Larry P. vs. Riles, that alleged that IQ tests were biased against black students and were responsible for the disproportionate number of blacks in classes for the mentally retarded in San Francisco.

In 1986, U.S. District Judge Robert Peckham expanded a 1979 ruling and said that IQ tests could not be used to screen black students into any special education classes.

That was the situation when Joyce Pina's son Terrence, who is black, experienced difficulties at Lakeshore Elementary School in San Francisco. His teachers recommended that he repeat kindergarten because he was "immature." Pina suspected that her child might have learning disabilities. So she had him tested at a private testing agency. The results, partially based on IQ tests, showed that he suffered a language handicap that made him eligible for special education classes.

She was shocked when the psychologist at Terrence's school rejected the test results, saying that they could not be used because they were based on IQ tests. Her son was eventually admitted to a class for students with language disabilities, but only after he spent an extra year in kindergarten.

Pina maintains that Terrence, now 11, wasted a year in school. "The decision should be with the parent and not with the board of education," she said.

She then joined a 1987 lawsuit, which was filed by the Landmark Legal Foundation, a conservative public interest law firm in Kansas City.

"It's condescending and demeaning to black children to say that because you're black you can't do something, and that you're not equipped to make a decision that your child can take this test," said attorney Pete Hutchison.

Three weeks ago, Judge Peckham backed down on his earlier ruling, issuing a preliminary ruling allowing two of the plaintiffs to take the test.

Clouding the debate is the test's past association with dubious racial theories. The test was first used by Stanford's Terman to show that 80 percent of immigrants were "feeble-minded." "Their dullness seems to be racial, or at least in the family stocks from which they came," Terman wrote in 1916.

"IQ tests are racially and culturally discriminatory and cannot be used for assessment purposes," asserted Armando Menocol, an attorney with Public Advocates in San Francisco, the public interest law firm that filed the Larry P. case in 1971.

Some leading researchers, however, insist that the scientific evidence shows that the test is not biased against minorities and that if they do poorly on the test, it has to do with cultural and environmental experiences, rather than innate intelligence.

Doing away with IQ tests, said Nadine Lambert, a professor of education at the University of California at Berkeley, would be "like throwing away a blood pressure thermometer because the average blood pressure from different groups was different."

IQ tests have also been criticized for focusing too heavily on intellectual abilities at the expense of a child's potential in other areas.

Yale University psychologist Robert Sternberg says the tests fail to measure creativity, such as the ability to come up with ideas, as well as commonplace practical abilities, such as assessing advertising claims and sizing up people.

Some school psychologists may fight further restrictions on the use of IQ tests.

"You're hamstringing a professional's ability to use certain instruments to assess a child's learning strengths and weaknesses," said Loeb Aronin, who directs psychological services in the Los Angeles schools and also heads the Special Education Committee of the California Association of School Psychologists.

Opponents of the test are equally passionate.

"Tests are like drugs," said Cinthia Schuman, executive director of FairTest, a Boston-based advocacy organization that lobbies against the use of tests. She points out that the "special education" label can be stigmatizing to a child.

"We put warning labels on drugs," said Schuman. "We need to do the same thing for tests. That is how dangerous they can be for human beings."

[From the Los Angeles Times, Aug. 5, 1991]

COURT BAN ON IQ TEST FOR BLACKS SPARKS PARENTS' SUIT

(By Jean Merl)

Mary Amaya was stunned that day in May, 1987, when she opened a letter from Alder Junior High School in Fontana and read what it had to say about her younger son, Demond Crawford. What disturbed her was not the recommendation that her son be tested for learning disabilities. She had been baffled by Demond's recent poor performance in school and welcomed the chance to get to the bottom of things.

What did upset her, she said last week, was the letter's postscript. "Because Demond is black," it began, those first words underlined, "we will be unable to give him an intelligence test per Peckman's decision."

"They made it a racial issue. . . that just didn't sit well with me," Amaya said.

She had never heard of U.S. District Judge Robert F. Peckham and his landmark 1979 ruling. Peckham has barred California public schools from using standardized IQ tests for determining whether academically struggling black students should be placed in special classes for the mildly mentally retarded. Siding with black parents and others who sought to stop the practice, Peckham found that the commonly used tests were racially and culturally biased and resulted in large numbers of blacks being wrongly labeled as retarded and consigned to "dead-end" programs.

But the shock and fury triggered by the letter's postscript led Amaya—and the parents of eight other black children—to Peckham's San Francisco courtroom as central players in a widely watched attempt to overturn the since-expanded decision. Their 1988 suit—boosted by a preliminary ruling last month clearing the way for three of the children to be tested—is likely to quicken the pace of the state Department of Education's efforts to revamp its student evaluation policies.

State Supt. of Public Instruction Bill Honig said last week he will propose that the state stop reimbursing school districts for administering the IQ tests to all students who are having trouble in school.

He said he would prefer to see the expensive and controversial tests, which arrive at an "intelligence quotient," phased out in favor of other assessment methods. He wants to see more emphasis on helping a struggling student do better and less on trying to measure the gap between the student's potential, which an IQ test is supposed to measure, and achievement.

The Crawford case, brought by the conservative Landmark Legal Foundation of Kansas City, Mo., on behalf of the California families, also has fanned the long debate over the usefulness of such tests and whether they discriminate against minorities.

Officials of the National Center for Fair and Open Testing (FairTest) of Cambridge, Mass., one of the leading opponents of standardized tests, contend that the Crawford case is an effort to bring back a practice that was found to be harmful to blacks.

"We viewed (the 1979 ruling) as a watershed case . . . because Judge Peckham did find IQ tests to be racially and culturally biased, and he stopped wholesale indiscriminate testing and tracking," said Bob Schaeffer, public education director for FairTest.

"Since then there has been a whole national movement" away from using IQ tests to segregate children according to ability, Schaeffer said. "Indeed, we believe IQ tests should not be used as the sole criterion for anyone, and certainly not for anyone from a minority culture.

Mark J. Bredemeier, general counsel for Landmark, said the purpose of the Crawford suit "is not to validate standardized tests . . . the purpose is to provide equal access. The whole point of this litigation was to provide equal access to testing for any and all black families who think it may benefit their children."

Bredemeier said his client's beef is not with Peckham's initial ruling that with its 1986 expansion, which, based on complaints that the ban was routinely violated, extended it to include any black students who are being considered for special education or other remedial classes.

"This is a situation in which good intentions have resulted in some bad policy, and that's where we come in," Bredemeier said.

California's court battle over the IQ tests began in 1971 when Public Advocates, a liberal San Francisco legal group, filed a class-action suit on behalf of five black students who had been placed in classes for the mentally retarded based on standardized intelligence tests. Because only blacks were included in the suit and subsequent rulings, there developed a situation in which IQ tests were prohibited for black students having academic difficulties, but not for other minorities or whites having similar troubles.

By the time Amaya got her letter in 1987, several districts in California—including Los Angeles and San Francisco—had stopped using the tests for anyone except to evaluate promising students of any race for their academically gifted programs. (However, most districts still use the exams as a diagnostic tool for non-black students who are doing poorly.)

State education officials, who had discontinued the practice of putting youngsters into classes for the so-called "educable mentally retarded," were beginning to seek new ways to assess students' academic progress.

Amaya said Fontana school officials tried to explain their action by showing her copies of Peckham's 131-page ruling. Because Amaya is a Latina and Demond of mixed racial heritage, officials told her she could have her son reclassified as Latino and he could be tested.

"What was I supposed to do? Deny he had a black father and make him ashamed of half his heritage? I really don't think color should have anything to do with it," Amaya said.

She told her story to a local newspaper, and when the account was picked up by the wire services, it brought a burst of national attention—including the interest of William B. Allen, an appointee by former President Ronald Reagan to the U.S. Commission on Civil Rights. Attorneys for Landmark also heard about it and contacted Amaya and other families about pressing their case. Their suit was filed in Los Angeles but transferred to Peckham's court and consolidated with the earlier case.

Last month's ruling came too late for Demond Crawford, now 19. He graduated this year from Fontana's Citrus High, a small continuation school his mother said gave him the attention he needed to succeed. After touring China this summer with a basketball team, he plans to attend Azusa Pacific College in the fall.

Only three children, two from Redlands and one from San Francisco who are still in school, remain in the case. Landmark attorneys said they will try to get last month's ruling lifting those youngsters' testing ban expanded to cover all blacks whose parents want them to have IQ tests. Blacks account for 8.7% of the state's public school enrollment, state officials said.

Loeb Aronin, a coordinator of psychological services for the Los Angeles Unified School District and chairman of the special education committee for the California Assn. of School Psychologists, thinks IQ tests are more helpful than harmful if used properly.

"So much has changed" since the 1979 decision, said Aronin, who assisted Landmark on the Crawford case. He said special education programs and the use of IQ tests have improved since those days.

Harold E. Dent, a psychologist who specializes in testing and was an expert witness for the plaintiffs in the earlier case, adamantly disagrees.

"I am quite concerned about the Crawford case because I do believe it is a very pernicious effort to undermine the 1979 ruling," Dent said.

"To say IQ tests are helpful is a lot of baloney. That has not been proven to be true. . . . Parents are concerned about an education for their children, and school districts do not need IQ tests to help children achieve," Dent said.

Barry Zolotar, the education department attorney who has been trying to get the Crawford case dismissed, said none of the students in the case were denied special education services.

"What is hard to understand is these parents" maintaining they somehow know in advance their children could not be harmed by a test ruled culturally and racially discriminatory," Zolotar said. He added that the best solution may be Honig's proposal to phase out the use of IQ tests altogether.

"In my judgment they are a waste of time and money," said Honig, who is readying his department's recommendations—in the works for about five years—for the State Board of Education.

"We can go fight in court or we can solve the problem by using a better kind of diagnosis (and shifting IQ testing monies to the classroom)."

INTELLIGENCE TESTS FOR BLACKS

California's court battle over intelligence tests for academically struggling black students has spanned 20 years.

1971: Public Advocates, a liberal San Francisco legal group, files a class-action suit on

behalf of five black students, challenging the use of standardized intelligence tests for evaluating black students. The plaintiffs argue the tests are racially and culturally biased and yielded inaccurate results that permanently damaged the students' educations.

1972: Public Advocates obtains a preliminary injunction to stop the San Francisco schools from using the tests to place black students in classes for the retarded. Students of other races are not included in the ban.

1974: U.S. District Judge Robert F. Peckham extends the temporary ban to the entire state.

1979: In a 131-page opinion, Peckham rules unconstitutional the state's use of IQ tests that placed "grossly disproportionate" numbers of blacks into "dead-end" classes for the mentally retarded.

1984: The U.S. 9th Circuit Court of Appeals upholds Peckham's ruling by a margin of 2 to 1.

1986: At the request of the plaintiffs and the state Department of Education, Peckham expands the ban to prohibit use of the IQ tests for all black students who are candidates for special education or other remedial classes. Only those black youngsters being considered for programs for the academically gifted can be tested.

1988: Landmark Legal Foundation of Kansas City, Mo., files suit on behalf of Mary Amaya and her son, Demond Crawford, and the families of eight other black students, alleging the ban as expanded in 1986 discriminates against black families who want their children to be tested.

July 15, 1991: Saying the 1986 expansion went "beyond the findings" on which he based his 1979 ruling, Peckham issues a preliminary injunction granting the family of two students the right to have their children tested. A third student can be tested if his family moves to a district that uses IQ tests, Peckham rules.

NEXT STEP

Attorneys must decide whether to try to settle or proceed to trail. The education department is considering revamping its student assessment procedures, including discouraging the continued use of IQ tests for all struggling students, not just for blacks.

JOHNSON MATTHEY & CO., LTD.

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. WELDON. Mr. Speaker, I rise today to speak in recognition of Johnson Matthey & Co., Ltd. Over the past 150 years, Johnson Matthey has distinguished itself as a leader in the field of platinum group metals.

Platinum group metals are called precious metals because of their special properties and worldwide scarcity. Some 150 years ago, in 1842, Joaquim Bishop capitalized on these characteristics by melting, refining, and manufacturing various implements made of the platinum group metals. In 1858, with the incorporation of J. Bishop & Co. Platinum Works in Philadelphia, Joaquim Bishop moved the company to Chester County. The operation grew and expanded and in 1931 was purchased by Johnson Matthey & Co., Ltd.

Johnson Matthey has since made tremendous advancements in the field of platinum group metals. While the metals continue to provide the much-needed platinum fabricated products J. Bishop produced in the last century, the metals are today also used in such exciting fields as cancer chemotherapy, auto catalyst, and environmental pollution control.

It is my privilege to recognize the historic achievement of 150 years of discovery and advancement in the field of platinum group metals. The contribution Johnson Matthey has made to the Delaware Valley through the company's progress is commendable, and I would like to take this opportunity to say congratulations to this important local company.

TRIBUTE TO MR. BRIAN KEITH THOMPSON, ALBUQUERQUE

HON. STEVEN SCHIFF

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. SCHIFF. Mr. Speaker, I rise today to pay tribute to the outstanding work of a young New Mexican, Mr. Brian Keith Thompson, of Albuquerque.

Brian was recently honored by the Veterans of Foreign Wars of the United States and its ladies auxiliary as the State winner of their Voice of Democracy broadcast scriptwriting contest.

Brian, the son of James and Barbara Thompson of Albuquerque, turns 18 on Aug. 4, 1992, so I also wish to congratulate him on achieving this important milestone in his life.

Brian is a senior at La Cueva High School and plans to pursue a career in either politics or law. He is a member of his high school's debate team and has won numerous debating awards. He also was recognized by "Who's Who of American High School Students."

It is my honor and privilege to include Brian's speech, entitled "Meeting America's Challenge," with these remarks, and to ask that it be inserted into the CONGRESSIONAL RECORD.

I would also like to pay special tribute to the Veterans of Foreign Wars of the United States and its ladies auxiliary for sponsoring this important scriptwriting program. The program, now in its 45th year, requires high school student entrants to write and record a 3 to 5 minute script on a patriotic theme. The program now offers scholarships to 22 students, totaling $76,500.

MEETING AMERICA'S CHALLENGE

(By Brian K. Thompson, New Mexico Winner, 1991/92 VFW Voice of Democracy Scholarship Program)

As we near the quincentennial of Columbus' discovery of the New World, we are reminded of how divided our planet once was—how entire cultures were isolated by oceans and mountains, how even the colossal empires of Europe and Asia were unaware of the entire western hemisphere. It seems that Roman astronomers often knew more about planets millions of miles away than they did about their own Mother Earth. Today, it's difficult to envision this kind of seclusion when you can pick up the telephone and "reach out and touch someone" halfway around the globe almost instaneously. Long-distance phone calls, transatlantic flights, and international news broadcasts have so innundated our culture that we take our global awareness for granted. Yet to do so is criminal! If we forget or ignore our common bond with the rest of humanity, our morals and our strength will be at grave risk. Indeed, the challenge facing America is to remain concerned in the welfare of other nations and to avoid returning to the isolated conditions so common in the Pre-Columbian Era.

Today, more than ever, we live in an international house of cards—a community in which each and every nation is dependent upon the others for ecological protection, economic prosperity, and political stability. Take away one card, and the house collapses, for as Martin Luther King Jr. once said, "Injustice anywhere is a threat to justice everywhere." America, as leader of the free industrialized world, plays a vital role in this global balancing act. More than any other nation, we possess the ability to have a profound influence on the world around us. We must ensure that this opportunity to help and protect other is not wasted. By utilizing our wealth and power in a productive and positive manner, we can ensure that the American ideals of freedom, justice, and equality are served everywhere, not just here in America. As Nelson A. Rockefeller said in his book, The Future of Federalism, "The federal idea, which our Founding Fathers applied in their historic act of political creation in the eighteenth century, can be applied in this twentieth century in the larger context of the world of free nations—if we will but match of forefathers in courage and vision."

Naysayers both at home and abroad have long complained that America is already too big for its britches—that it interferes too often in the soverign rights of other nations as a sort of global policeman. Yet the cause of serving others is all the more noble when those whom we shelter, feed, and protect live beyond our own borders.

On a philosophical level, it would be morally unjustified to ignore the plights of others simply because of their nationality. Indeed, that is the greatest danger in the wealth, splendor, and power so characteristic of our nation. It's very easy to forget that people are dying of starvation around the world when a five minute drive to an abundantly supplied supermarket will replenish your refrigerator with an endless supply of food. It is also very easy to forget that not everyone enjoys the same democratic rights given to Americans when we are allowed to elect our representatives at local, state, and federal levels. We must avoid, at all costs, the temptation to cloak ourselves behind a rich, democratic version of the iron curtain. By coming out from behind our relative fortunes and becoming a part of mankind, we can redefine our existence in less politically loaded terms and regain the sense of humanity so often lost from our everyday lives. Whether its sending food to starving Muscovites, providing shelter to victims of a Bangladesh hurricane, or freeing Kuwait from an Iraqi invasion, helping other nations out of desire and not obligation is of the highest order.

Yet in an age when the only thing that seems to matter is the bottom line, it's difficult to convince many people, let alone an entire nation, to act generously toward others just for the sake of so. Hard-line pragmatists will always demand some kind of visible reward for their actions. But even they can be appeased through this kind of American role in the New World Order. Al-

though the advantages are typically long-term and less easy to quantify, they are still very real. By encouraging the acceptance of democracy by both old and new nations alike, while helping them overcome adversity, we can secure our own place in the global future. The journey ahead will be much less difficult if we no longer have to worry about confrontations with hostile nations. By helping forge a more harmonious coexistence between the nations of the world, America will benefit as much as anyone else, for a more peaceful global community would significantly decrease the need for the enormous military arsenals currently held by the U.S. We could then devote more of our resources toward internal problems, such as our failing schools, faltering economy, or high crime rate, all without having to worry about major armed conflict. As Dwight D. Eisenhower often emphasized, the greatest risk of continuing the arms race is that we will spend so much time trying to defend our countries from without that we will fail to make them worth defending from within.

By basing our national goals on these altruistic intentions, we can ensure that Bush's vision of a New World Order is more than just a dream, and once and for all put to rest the isolationist mindset that has prevailed since the Pre-Columbian Era.

ELIMINATE WASTE IN MEDICARE

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. DORGAN of North Dakota. Mr. Speaker, today we have an opportunity to save millions of dollars for American taxpayers by reducing fraud and abuse in the Medicare Program.

The Federal Program Improvement Act [H.R. 3837] incorporates recommendations of the Task Force on Government Waste by ensuring that Medicare doesn't foot the bill for health care already covered by another insurance company.

Often, Medicare beneficiaries have private, primary insurers that should pick up the cost of covered medical services and procedures. However, a recent GAO study found that the Health Care Financing Administration was unable to adequately identify when another payer was responsible for reimbursing the health care provider. As a result, Medicare may have been paying as much as $200 million in claims that should have been paid by private insurers.

In testimony before the Ways and Means Committee, GAO cited the case of a single Medicare contractor paid at least $8.8 million in claims that should have been paid by a private insurer. The Federal Program Improvement Act aims to curtail these kinds of abuses by taking the following steps: First, requiring HCFA to poll new Medicare beneficiaries to determine if they have primary insurers; second, requiring Medicare carriers to submit annual reports describing their plans for recovering mistaken Medicare payments; and third, requiring the GAO to study the effectiveness of the Medicare secondary payer program.

This proposal is a testament to my belief that we can reduce Government waste and reduce our national debt without reducing benefits under important Government programs. The Federal Program Improvement Act takes positive steps to stop unnecessary waste, and I wholeheartedly support this bill.

JACOB LEINENKUGEL BREWING CO. CELEBRATES 125TH ANNIVERSARY

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. OBEY. Mr. Speaker, this is a momentous year in Wisconsin, a State recognized worldwide for its brewing excellence. In 1867, Jacob Leinenkugel opened a brewery in Chippewa Falls. Because of his commitment to quality and the acceptance of this legacy by his descendants, the Jacob Leinenkugel Brewing Co. this year celebrates its 125th anniversary.

Over the past 125 years, the Leinenkugel family developed a wonderful local tradition. Today, Leinenkugel's beer is enjoyed by people all across the Upper Midwest. It has won numerous award for its superior taste, and the company is one of the fast-growing small brewers in America. True to its heritage, Leinenkugel has maintained a reputation as a brewer dedicated to brewing beer the way it used be brewed following Old World traditions.

More than just a brewer of fine beer, Leinenkugel has had a positive impact on the residents of northwest Wisconsin by providing steady employment for hundreds of workers through the years. In addition, the company has demonstrated its commitment to the local commonwealth through active participation and continued support of community activities and civic endeavors.

Leinenkugel is known as a company that fully accepts its responsibility to be a good employer, an upstanding corporate citizen and a brewer of a product of unparalleled quality.

On behalf of my constituents in Wisconsin and people everywhere who enjoy the distinctive taste of Leinenkugel's, I would like to wish everyone associated with the Jacob Leinenkugel Brewing Co. a happy anniversary and many more years of continued success.

TRIBUTE TO JAMES A. CARRARA

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. REED. Mr. Speaker, I rise today to pay tribute to the late James A. Carrara as he is honored posthumously on the occasion of the Silverlake Little League Tournament. I am proud to join in this tribute of an outstanding young gentleman who was a true sportsman and a distinguished Rhode Islander.

James Carrara was born on January 25, 1972 and was a lifelong resident of Cranston. He graduated with honors from Cranston East High School and went on to pursue a career in law enforcement at the Community College of Rhode Island. James was a loyal parishioner at St. Ann's Church and served as an altar boy for 8 years.

After attending just 1 short year at the community college, James was diagnosed with cancer. James fought this battle with his winning attitude and an uplifting spirit. He became an honorary member of the Silverlake Little League and was commended by Cranston public officials for his sportsmanship and performance in competition.

On May 17, 1992 James A. Carrara died at the age of 20.

Mr. Speaker, I ask my colleagues to join me in saluting James A. Carrara. He displayed true compassion and faith to his family and friends. James will always have a special place in the hearts of the citizens of Cranston, Providence, and our entire State.

HONORING THE NATIONAL ALLIANCE OF POSTAL AND FEDERAL EMPLOYEES

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. ENGEL. Mr. Speaker, I rise today to recognize the valuable contributions to our country made by the National Alliance of Postal and Federal Employees on the occasion of its 40th biennial convention.

As the Nation's oldest predominantly black labor union, the alliance has been in the front lines of battles for workers rights and civil rights for nearly 80 years. The delegates at this year's convention represent some 18,000 postal and Federal employees, some of the hard-working Americans who are the backbone of our Nation.

The history of the National Alliance is full of great moments, since a group of railroad mail clerks banded together in 1913 to fight discrimination in the postal system. In 1923, it became the first industrial union to open its membership to any postal employee who desired to join, and it has continued its policy of inclusion through the years. In 1964, the National Alliance was the only Federal labor union to support the Civil Rights Act, and in 1965 it opened its membership to all Federal employees.

Some may say the union agenda is no longer relevant in American society, but those of us committed to a strong America know that the struggle for equality in the workplace is far from finished. We need organizations like the National Alliance to speak for the working men and women of our Nation and fight for their rights. Having been raised in a union household, I hold dear to my heart the goals and mission of the union movement.

That is why I extend my warmest regards and best wishes to the National Alliance on this great occasion.

TRIBUTE TO JOHN E. DU PONT

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. WELDON. Mr. Speaker, I rise today to pay tribute to John E. du Pont, the manager of the U.S. Olympic wrestling team and a constituent of mine from Newtown Square, PA. John owns and operates the Foxcatcher Farms where young hopefuls come to train for the chance to represent America in the Olympics.

John is not an ordinary manager; he is very accomplished wrestler in his own right. John is a national champion in the 50 to 54 age category and earlier this year he competed in the Masters World Championship in Columbia. He has tirelessly dedicated his time and financial resources to help younger athletes train.

Wrestling is not the only vocation in which John has made an impact. His accomplishments in sports and public service are too long to recount here, so let me mention the highlights. He took the initiative to organize the first triathlon—swimming, biking, and running—in America on his farm in 1966 with seven competitors—now over 1 million athletes compete in the sport.

John is also an avid photographer whose work has appeared in Life magazine and National Geographic magazine. John believes in giving something back to his community, and he has served as a volunteer officer of the Newtown Township Police Department and was responsible for training rookies at the pistol range on his farm.

John is also a sponsor of the national SwimAmerica Program, that introduces thousands of children to aquatic sports and encourages participation in those sports. He has devoted his life to athletics and to children.

Mr. Speaker and my colleagues, please join me in congratulating John for his leadership. He has helped mold the lives of many young people, and he has inspired these athletes to represent the United States in international competition.

INTRODUCTION OF THE FIREARM THEFT REPORTING ACT

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. SCHUMER. Mr. Speaker, today I am introducing the Firearm Theft Reporting Act which will help law enforcement keep firearms from the hands of violent felons by providing additional means to deter gun theft and to halt black market proliferation. Deterring theft and black market supply is extremely important, if we are serious about keeping guns out of the hands of criminals. According to a recent National Institute of Justice study, 32 percent of felons' handguns were stolen and another 16 percent were purchased on the black market.

The Firearm Theft Reporting Act would require any federally licensed firearms importer, manufacturer, dealer, or collector to report the theft or loss of a firearm to the Bureau of Alcohol, Tobacco and Firearms and local law enforcement officials. The report must be made within 24 hours of discovery of the theft or loss.

These reports will greatly expedite the efforts of BATF and local law enforcement to deter thefts and losses of firearms as well as investigate those which have occurred. In addition by creating criminal penalties for failure to report theft or loss, this bill gives licensees strong incentives not to engage in the illegal albeit lucrative business of peddling firearms to the black market. In addition, stopping these conduits of illegal firearm commerce will alleviate tracing difficulties that BATF and other law enforcement agencies encounter during criminal investigations.

Last, this bill represents a modest and reasonable measure that places no restriction on individual lawful gun owners. It merely requires no more than what common sense dictates—that thefts of firearms be reported so law enforcement has a chance to intercept them before they get into the wrong hands.

INTRODUCTION OF THE ANTARCTIC ENVIRONMENTAL PROTECTION ACT OF 1992

HON. RICK BOUCHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. BOUCHER. Mr. Speaker, today I have introduced a bill to implement the protocol on environmental protection to the Antarctic Treaty. The protocol was signed by the United States last October and submitted earlier this year to the Senate for ratification. The bill was prepared by the Antarctic policy group, which is comprised of the Federal agencies involved in supporting scientific research and in maintaining the U.S. presence in Antarctica.

The protocol establishes specific principles and rules for protection of the Antarctic environment from the effects of human activities. It deals with protection of fauna and flora, imposes strict limitations on discharge of pollutants, and requires environmental impact assessment of planned governmental and nongovernmental activities. The protocol also prohibits all activities relating to Antarctic mineral resources, except for scientific research, and provides that this prohibition cannot be amended by less than unanimous agreement for at least 50 years.

A particularly important aspect of the protocol is its reinforcement of the status of Antarctica as a natural reserve devoted to peace and science. This is entirely appropriate because Antarctica is a unique scientific laboratory of enormous value to the international community.

The upper atmosphere over the pole is a screen for viewing the results of interactions of solar plasmas and the Earth's magnetic field, and for detecting evidence of space physics processes. The extremely stable, clean and dry atmosphere enables astronomers and astrophysicists to probe the universe with unprecedented precision from a ground-based site.

It is an ideal biological laboratory for studying such effects as adaption of organisms under extremes of light, temperature, and moisture, where, for example, a fish has developed natural antifreeze.

Antarctica's extreme climate, which can induce social, psychological and physiological stresses, provides an appropriate location to study human health and performance. NASA will use this natural lab for human studies tied to the manned space program.

Antarctica is also a major part of the global heat engine that determines world climate. The vast Antarctic ice sheet interacts with oceanic and atmospheric circulation to modulate global climate. Accordingly, the behavior of the ocean/atmosphere system in Antarctica is expected to provide an early warning of climate change.

The 2-mile thick ice sheet covering the pole is a repository of the past climate record of great benefit to climatologists and other scientists.

Many naturally occurring global events are greatly magnified in the Antarctic environment, with the result that changes such as ozone layer depletion and climate change are detected there first.

In sum Antarctica is one of the world's most valuable scientific research platforms, and it is essential to ensure its continued availability for a broad range of research.

The value and importance of Antarctic research are well understood. Unfortunately, the United States and other nations which maintain permanent Antarctic research facilities have been less careful about their environmental protection practices than can be either justified or accepted. At the same time, it is recognized that research activity itself will cause some environmental disturbance in this pristine region, where traces of human activity are preserved virtually forever. The goal must be to weigh the environmental effects against the value of the science and develop workable approaches to minimize adverse effects.

I believe this overall goal will be achieved by the comprehensive provisions of the Environmental protocol and its five annexes. Therefore, I have introduced legislation to ensure that the protocol is fully implemented with regard to all activities sponsored under the U.S. Antarctic Program, administered by the National Science Foundation, and with regard to all other activities of U.S. citizens while in Antarctica. The legislation amends the Antarctic Conservation Act, Public Law 95–541, and replaces the Antarctic Protection Act of 1990, Public Law 101–594, with restrictions on minerals activities which conform to the protocol.

The responsibilities of Federal agencies under the provisions of the bill are consistent with their past roles and areas of expertise and with their responsibilities under the Antarctic Conservation Act. The National Science Foundation is responsible for issuing implementing regulations for protection of fauna and flora, for control of discharge of pollutants, and for entry into specially protected areas. The Department of State is charged with implementing the emergency response provisions of the protocol with respect to nongovernmental activities in Antarctica. The Department of State, in conjunction with the Council on Envi-

ronmental Quality, is responsible for issuing regulations for implementing the environmental impact assessment provisions of the protocol with respect to nongovernmental activities in Antarctica. Finally the Department of Commerce is responsible for issuing regulations implementing provisions of the protocol associated with mineral resource activities. A more complete summary of the provisions of the bill follows this statement.

Mr. Speaker, the Antarctic Environmental Protection Act of 1992 represents a comprehensive implementation of the provisions of the environmental protocol and its five annexes. It will allow for the continuation of a vigorous U.S. research program in Antarctica, while ensuring that the pristine environment of the continent is preserved for future generations.

SUMMARY OF THE ANTARCTIC ENVIRONMENTAL PROTECTION ACT OF 1992

Title I of the Antarctic Environmental Protection Act of 1992 amends the Antarctic Conservation Act of 1978 (ACA), PL 95-541, to bring the provisions of that Act into conformity with the Protocol on Environmental Protection to the Antarctic Treaty and annexes. Title II repeals the Antarctic Protection Act of 1990, PL 101-594, replacing that Act with a prohibition on mineral resource activities in Antarctica that is consistent with the Protocol.

Title I of the bill amends the ACA to establish a more comprehensive statutory scheme for the conservation of Antarctic fauna and flora as set forth in the Protocol. Existing authority of the Director of the National Science Foundation (NSF) to promulgate regulations to control waste disposal in Antarctica, and to protect and manage designated areas with great environmental sensitivity or scientific value, is also revised consistent with the Protocol. In addition, Title I expressly extends the NSF Director's current general authority to promulgate regulations to carry out any provision of the ACA, to cover any provision of the Protocol. This provision ensures that regulatory power will exist to address any environmental issues under the Protocol that may arise.

Title I provides for the Secretary of State to prescribe regulations, in conjunction with the Chairman of the Council on Environmental quality, to implement the environmental impact assessment provisions of the Protocol with respect to non-governmental activities, including tourism, in Antarctica, and in conjunction with NSF and the Coast Guard, to require private persons to comply with the provisions of the Protocol related to emergency response action. These tasks can be carried out by the Department as part of its current responsibilities for gathering and circulating information about non-governmental activities in Antarctica.

Title I also strengthens civil and criminal penalties under the ACA to increase the deterrent effect of the legislation. Provisions of the Protocol dealing with environmental impact assessment and emergency response requirements for the U.S. Antarctic Program (USAP) are not addressed in Title I since these provisions can be implemented through existing legislative, executive and regulatory authority already applicable to Antarctica. With the exception of sewage disposal, which is included in the authority granted to the NSF Director to promulgate waste disposal regulations, implementation of the provisions of the Protocol concerning prevention of marine pollution is already provided for in the Act to Prevent Pollution from Ships, 33 U.S.C. SS 1901 et seq.

Title II of the bill implements Article 7 of the Protocol, which states: "Any activity relating to mineral resources, other than scientific research, shall be prohibited." Title II repeals the Antarctic Protection Act of 1990, which was intended as an interim measure pending entry into force of an international agreement providing an indefinite ban on Antarctic mineral resource activities. Article 7, which has no termination date and is not reviewable for fifty years following entry into force of the Protocol, constitutes such as indefinite ban.

Title II prohibits Antarctic mineral resource activities by persons subject to the jurisdiction of the United States. The prohibition covers prospecting, exploration and development activities, as well as collecting, removing or transporting such resources. Activities exempted from the prohibition are those directly related to scientific research, construction, operation and maintenance of facilities, and provision of mineral resource specimens for museums and similar institutions. Title II provides for implementation by the Secretary of Commerce and authorizes the Coast Guard to exercise certain enforcement powers.

RIDGEFIELD NATIONAL WILDLIFE REFUGE INTERPRETIVE CENTER AUGUST 10, 1992

HON. JOLENE UNSOELD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mrs. UNSOELD. Mr. Speaker, I offer Congress a unique opportunity: an opportunity to provide the Pacific Northwest with a regional interpretive center that draws upon the biological richness of the lower Columbia River wetlands; an opportunity to share the rich history and culture of the Pacific Northwest native Americans and settlers; and an opportunity for a partnership with State and local entities to share the expenses of constructing, operating, and maintaining this regional interpretive center.

The legislation I am introducing today would authorize the U.S. Fish and Wildlife, after public comment, to establish an interpretive center at the Ridgefield National Wildlife Refuge in southwest Washington. This facility will provide the public with a regional center for environmental and historical education and research, taking advantage of the refuge's wetland ecosystems, diverse wildlife, and archaeological sites.

With the close proximity of the Portland-Vancouver metropolitan area to this facility, the millions who visit the region will have easy access to its attractions. They will share in the natural history of the Columbia River and its adjacent wetlands—areas of critical importance to migrating and wintering waterfowl, salmon, and many other species.

Historically and culturally this location served as the site of a large native American settlement which was visited by early explorers, including the 1804 Lewis and Clark Expedition. We, as a society, have often neglected to share with our children the valuable and interesting contributions made by native Americans to our culture. This facility will offer future generations a glimpse back in time to the peoples who were caretakes of the land before us.

Perhaps the most unique aspect of this legislation is the opportunity it offers the Federal Government to engage in cost sharing. Already a nonprofit foundation has been established to seek State, local, and private funds toward the construction and operation of this interpretive center. The foundation's goal is to provide a substantial share of the construction costs of the facility, as well as to cover the cost of operation and maintenance.

This bill brings together in this one educational facility the study of nature and its fragile ecosystems, the cultures of Americans before us, and the chance to model a unique funding partnership. This unique opportunity deserves our consideration and approval.

ACCESS TO JUSTICE FOR VETERANS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. EDWARDS of California. Mr. Speaker, in 1988, Congress passed the Judicial Review Act which established the U.S. Court of Veterans Appeals [CVA]. Because of this legislation, our veterans are now able to pursue legal recourse against the Department of Veterans' Affairs [DVA] to obtain rightly earned benefits. All reports indicate that the Court is working well and that veterans are taking full advantage of this appeals process. I commend the Department for its diligence in establishing the court system.

Today, I am introducing two bills which will improve veterans' access to the CVA. The first bill would allow veterans who bring claims before the CVA to recover attorney's fees from the DVA in those instances where the Department's actions in denying a claim were unreasonable. Essentially, this bill would apply the Equal Access to Justice Act [EAJA] to the CVA in the same way that it applies to many other Federal courts.

This legislation is necessary because often veterans cannot afford private attorneys to represent them, and the dollar amounts involved are usually not large enough to attract an attorney on a contingency basis. The Equal Access to Justice Act was adopted so that citizens would not be deterred from seeking the review of unreasonable governmental action. Applying the EAJA statute to the Court of Veterans' Appeals is in keeping with the spirit of that act.

I have also introduced a second bill which would allow veterans to file class action suits in the Court of Veterans' Appeals. This legislation would simply allow veterans to use a procedural tool which is available in other Federal courts.

Although the CVA has done an admirable job in its first few years of operation, I have heard reports from veterans that CVA decisions are not always widely distributed within the Department of Veterans Affairs. For example, the CVA may have established a precedent with respect to certain benefit payments. However, a veteran with an identical claim

may be denied simply because other officials within the DVA are not aware of the CVA decision. This veteran would then have to file his own claim, and start the appeals process for an issue which has already been decided in his favor.

A class action suit would allow all veterans with identical claims to file just one cause of action. The decision of the CVA in such a case would be binding on all veterans with similar claims. This would save veterans the cost of individual litigation and would allow those with future claims on a particular issue to simply point to the decision in the class action suit to support their case.

Mr. Speaker, these two bills represent refinements of an important process, judicial review of DVA administrative rulings. Both of these measures will improve the effectiveness of the court and its accessibility, and I urge my colleagues to support them.

A 20TH ANNIVERSARY TRIBUTE TO THE REDLANDS THEATRE FESTIVAL

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention today a truly remarkable story about how dreams still come true. This dream is the result of years of dedication, commitment, and hard work by many supportive people in my hometown of Redlands, CA.

The Redlands Theatre Festival began as little more than an idea 20 years ago. Equipped with a vision, $300, and a staff of five, festival impresario Cliff Cabanilla saw great potential in a dusty hilltop at Prospect Park. In that first year, with little funding, and dreams of something big down the road, the Redlands Theatre Festival was born.

A successful inaugural season gave supporters great hopes for future growth and success. Early in their endeavor, organizers hoped their creation would become widely recognized for bringing cultural, economical, and educational benefits to the Inland Empire. To achieve this, they outlined a vision for a fully functional theatre, built to complement the beauty of Prospect Park and serve the growing community. By the eighth season, a permanent theatre was constructed and, by the following summer, seating for 450 people completed.

There are many elements needed to sustain a theatre over a long period of time. The talent, time, and energy needed to produce and stage a festival is simply enormous. The diversity of skills—from planning the productions, constructing sets, staging auditions, and, of course, acting the parts—has brought people of various skills, backgrounds, and talents together to create theatre at its very best.

Never overlooked in all of the planning, of course, is one of the most important elements of a successful theatre—the audience. As the Redlands Daily Facts said recently, "the ultimate achievement of the Redlands Theatre Festival as it enters its 20th season is the development of larger, more discriminating audiences." Indeed, the outstanding support of our community has given the Redlands Theatre Festival the means of educating and enriching us all.

Mr. Speaker, I ask that you join me, our colleagues, and the many supportive people in Redlands and the Inland Empire in saluting the Redlands Theatre Festival as it celebrates 20 years of growth and success. By staging productions old and new, and embracing our ever changing world, the Redlands Theatre Festival speaks to us all. Like all of its generous patrons I, too, look forward to another 20 years of success and outstanding contributions to our community.

CONGRATULATIONS FOR SERVICE

HON. BILL SARPALIUS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. SARPALIUS. Mr. Speaker, I rise today to congratulate my good friend, Walter Hagan, who has served American Airlines for 45 years and presently is American's manager of special services. I am submitting an article that was originally printed on June 25 in a Dallas/Fort Worth news publication entitled "DFW People."

The article tells the informative story of American Airlines' overseas service operations to Europe since 1945, which coincide with Walter Hagan's exciting career with the airline that has led him to many parts of the world and put him in the company of many renowned individuals, both heads of state and celebrities. Walter has always shown himself to be a sterling example to others and has touched the lives of all who have known him over the years, from celebrities, to his friends at home.

Being on the ground floor of commercial overseas air travel, Walter has been a goodwill ambassador for not only American Airlines, but the United States as well. Through his friendly and hard working ways, Walter has distinguished himself by being on the forefront of an industry that has flourished during his career. Along the way, Walter has not only helped others, but, has also enjoyed his work and found much satisfaction in performing his job. I hope my colleagues find the story as interesting as I.

AMERICAN AIRLINES—FIRST AIRLINE TO SERVE ALL THREE OF LONDON'S AIRPORTS

(By Bill Leader)

With American Airlines, Tuesday, June 16, inauguration service from Chicago to London's Stansted Airport, the Fort Worth-based carrier is now the only US carrier to fly into all three of London's airports.

Queen Elizabeth II formally opened London's newest airport on March 15, 1991. Stansted is located northeast of London and yet enjoys the same fast rail link (45 minutes) to downtown London as does Gatwick, south of London.

American started direct service into Gatwick Airport in 1982 but the breakthrough came July 1, 1991, when American inaugurated service into London's Heathrow. Heathrow, currently building its fifth terminal, is England's main hub to Europe. It was the plum American especially desired.

For Walter H. Hagan of American Airlines there was a dream-like quality about the July 1, 1991, ceremonies inaugurating flights from London's Heathrow Airport to the United States.

Hagan, American's manager of special services, had seen it all before . . . 45 years ago.

As a relief manager and in his first year with American Airlines, Hagan was present May 31, 1946, when American Overseas Airways—a subsidiary of American Airlines—inaugurated service from London's new airport at Heathrow to the United States. Adding some extra glamour to the event, American Overseas Airways used the occasion for the maiden flight of its latest airliner—the four-engine triple-tailed Lockheed Constellation.

Hagan's executive office in Terminal 3-E at DFW International Airport is a treasure of airline memorabilia with models of the Lockheed Electra and Douglas DC-3. Signed photographs of movie stars and former U.S. presidents and their wives line the walls. Through his job with special services Hagan has met so many of them. Last year he accompanied country 'n western singing star Dolly Parton to the city of Dingle in western Ireland.

Country 'n western music has its roots in Irish folk music and, as a coincidence, Hagan has roots in Ireland—although born in the United States his mother is from Derry, Ireland.

"Since my mother was born in Ireland I am entitled to an Irish passport," Hagan explained.

A Derry newspaper described Hagan as "vice president of American Airlines.' As an amusing acknowledgment of the newspapers' mistake, American Senior Vice President Ralph Richardi had a sign made up for the door to Hagan's office—"Walter H. Hagan—vice president—special assistant to Dolly Parton."

Hagan was present July 1 when American Airlines Chairman and President Robert L. Crandall with Sir John Egan, chairman of the British Airport Authority, cut a ribbon marking the start of American service from Heathrow.

American now has four daily flights between Heathrow and New York; one daily flight from Boston, Newark and Los Angeles. American began service from DFW Airport to London's Gatwick Airport in 1982 having purchased the route from Braniff International.

As exciting as the new service to Heathrow, Hagan wonders why the media didn't pick up on the fact that American was one of the pioneers of flights into London's Heathrow.

Even the advertising slogans haven't changed very much. Hagan produced an old AOA advertisement from a British publication which proclaimed "AOA to the USA." Today's slogan is American to America.

Hagan's association with American actually began when he was with the U.S. Army Air Corps in North Africa and he met Cyrus Rowlett "C.R." Smith, legendary chairman of American Airlines. At the time Mr. Smith was head of the ATC—Air Transport Command. During one conversation Mr. Smith asked Hagan what career he intended to pursue after the war. Hagan said he wasn't sure and Mr. Smith suggested he consider a career with American Airlines.

"I joined American at LaGuardia in New York, January 10, 1946, which happened to be my birthday," Hagan said.

After initial training he was transferred to operations and then sent to Europe as a re-

lief manager. This job involved a lot of travel between the airports, which American Overseas Airways served. These airports included London, Prestwick, Scotland, Rhein-Man Airport, Frankfurt, Germany; Copenhagan, Denmark; and Stockholm, Sweden.

In 1945, shortly after the end of World War II, American Airlines purchased the air service of the American Export Steamboat Line. This acquisition came shortly after Congress enacted a law making it illegal for a steamship company to operate an airline. This was due to anti-trust laws.

Renamed American Overseas Airways, this subsidiary of American Airlines began once-a-week service from Chicago to London, November 19, 1945. At that time there was no Heathrow Airport and AOA airliners landed at Hurn Airport near Bournemouth, on England's southern coast.

On May 31, 1946, AOA transferred its service to London's new airport at Heathrow.

AOA used Douglas DC-4 airliners for its service to England. This airplane carried 34 passengers.

Hagan recalls many trips across the Atlantic aboard the DC-4. This four-engined airliner made the trip in three legs—New York to Gander, Newfoundland; Gander to Shannon, Ireland; and then Shannon to Hurn Airport, England. The longest leg of the trip was Gander to Shannon, a distance of 1,976 miles and which took, depending on winds, about 14 hours. This airplane was unpressurized and flew at about 8,000 feet. The navigator on board kept the aircraft's position over the Atlantic using celestial navigation or "shooting the stars."

In those days the pilots made out a flight plan, which included a PNR—"point of no return."

"The PNR was marked on the route. If for some reason the airplane developed engine trouble but had already passed the PNR it had to keep going forward. You couldn't go back," he explained.

But Hagan recalls these trips with great fondness.

"On the way back to the States we'd stop at Shannon and leave the airplane while it was being prepared for the trip over the Atlantic. They'd give us a great dinner at Shannon Airport," he said.

The galleys on board the DC-4s he remembers as quite elaborate.

"As the airplane approached Gander you could smell the eggs and bacon being cooked in the galley," he recalled.

However the inauguration of London's new Heathrow Airport also coincided with AOA's maiden flight of the latest in airliners—the Lockheed Constellation L49. This airplane had a pressurized cabin and could seat 43 passengers.

The change in Heathrow after 45 years are dramatic.

"When it opened up they were using quonset huts and tents. There were only 43 passengers coming off our airplane. They really didn't need a large terminal," he explained.

AOA purchased a hotel in London for its people in a fashionable area known as Green Park. Hagan, with some time off from the July ceremonies, made a nostalgic trip back to the hotel on Half Moon Street in Green Park.

"It's still a very nice hotel. From the outside it looks just the same. The new owners kept the facade but the inside has been gutted and modernized."

He decided not to introduce himself to any of the staff.

"I was going to and then, you think it was 45 years ago, they wouldn't have remembered any of the people I knew who stayed there. I stood there on the street and looked up and down, watched the action and reminisced about what it was like then.

"I still enjoy London and it hasn't really changed that much. Everybody is so polite, the cab drivers, everyone. It has a lot of class. It was a cosmopolitan city back then and it's still a cosmopolitan city," he said.

He did get to meet some of the British people, who worked for AOA 45 years ago. Mrs. Crandall, he noted, seemed especially interested to meet these people.

On January 25, 1949, an AOA Constellation set a new speed record with a flight from New York to Shannon, Ireland, completed in only eight hours and 47 minutes.

On August 17, 1949, AOA began service with the "last word" in luxurious flying—the Boeing 377 Stratocruiser. The Stratocruiser was actually a double-decked version of the famous Boeing B-29 bomber—the airplane from which the first atomic bomb was dropped on Japan, August 6, 1945. The lower "lobe" of the Stratocruiser as well as the tail section, wings and landing gear were basically a B-29. Known as the "Cadillac of the Skies" the Stratocruiser was the most spacious airliner to date. It could carry 63 passengers and they were invited to spend some time in the "downstairs lounge."

AOA flew to Germany, Denmark, Finland, Sweden and Norway.

In the days before the jetliners, air travel was the exclusive preserve of the rich and famous. In his special services capacity Hagan met many of the movie stars, diplomats and top politicians.

He recalls flights with Lewis O'Douglas, the U.S. ambassador to England and a personal friend of C.R. Smith.

John Wayne, the movie star, became a friend. He met the actor shortly after he had finished filming "The Quiet Man" with Maureen O'Hara in Ireland.

Hagan keeps a letter from John Wayne written to him in 1975 in which Wayne, then in ill-health, complained about not being allowed to drink any liquor.

"And right at the moment, I know how dull it is to be sober, but it hasn't helped me to breathe which has been my problem for the last three months; but to hell with that."

The movie actor signed the letter "Duke."

Hagan has pictures of himself with movie star Jimmy Stewart and 1950s teenage sensation Sandra Dee; Barbara Mandrell; Larry "J.R. Ewing" Hagman.

He recalled flights with presidents including Lyndon B. Johnson—"He was tough. He was a good man but he wanted things right"—and John FitzGerald Kennedy. It was C.R. Smith, Hagan said, who persuaded the presidential candidates to charter one of American's Lockheed Electra airplanes during their presidential campaigns.

Of Kennedy, Hagan said, "He was impressive. I remember the stewardesses were very impressed. He was so charismatic."

In July, 1950, President Harry Truman and the CAB (Civil Aeronautics Board) approved the sale of AOA to Pan American World Airways.

A decade later, with the introduction of the jetliners such as the Boeing 707 and the Douglas DC-8, flying became accessible to the general public. Travel by rail or steamship began to slump as more and more people opted to go "by air."

As the jetliners became larger, the glamour associated with the old piston-driven airlines disappeared.

After taking a flight a person, almost invariably was asked, "Who was on the plane?" It was just assumed a famous politician or movie star would be on board.

Working for an airline in the period just after World War II must have been exciting.

Leaning back in his chair, hands behind his head and a happy smile on his face, Hagan agreed. "It was fun," he said.

LINDA L. KAMPE, PUBLIC SERVANT

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. NEAL of Massachusetts. Mr. Speaker, it pleases me today to inform you of someone who truly symbolizes the hard-working energy of our local public servants. That person is the assistant town clerk for the town of Oxford, MA, Linda L. Kampe.

Service to the community is nothing new to the Kampe family. Linda's grandfather, M. Harold Harrington, and grandmother, Florence Harrington, were both town clerks of Oxford. Linda's mother, F. Pansy Kennedy, is currently the town clerk.

Linda L. Kampe has served the citizens of Oxford for 23 years as the assistant town clerk. Along with being assistant town clerk, Linda has also acted as assistant burial agent, member of Oxford's insurance advisory committee, former secretary to the Oxford Planning Board. She is also a notary public and justice of the peace.

Linda was born in Oxford and attended local school there. She is a graduate of Oxford Memorial High School and New England Municipal Clerks Institute at Salva Regina College at Newport, RI. Linda is married to Kenneth Kampe and has three beautiful children: Nancy, Eric, and Thomas. I must mention that in keeping the spirit of public service in the family, Kenneth is a member of the board of registrars.

Mr. Speaker, on August 14, 1992, a testimonial will be held in Linda Kampe's honor at the Knights of Columbus in Oxford, MA. The citizens of Oxford will come to honor a woman who has made their town a better place in which to live. It is my privilege to commend and thank Ms. Kampe for all her good work for the community.

SUPPORT FUNDING FOR JUSTICE DEPARTMENT PROGRAMS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, August 10, 1992

Mr. MAZZOLI. Mr. Speaker, I rise in strong support of H.R. 5678, a bill making appropriations for fiscal year 1993, for the Departments of Commerce, Justice, State, and related agencies. At this time, I would like to thank the gentleman from Iowa [Mr. SMITH], the gentleman from Kentucky [Mr. ROGERS], and their colleagues on the committee for their diligent

work in bringing this important legislation before the House.

H.R. 5678, I am happy to note, appropriates $1 million for a proven juvenile justice program—the Court Appointed Special Advocate Program, otherwise known as CASA. In my hometown of Louisville, KY, the CASA Program, under the leadership of Ms. Sally Erny, trains volunteers to become advocates for our most vulnerable children—those who have been abused, neglected, or abandoned. This funding will allow for an expansion of an enormously successful program that ensures that the best interests of some very unfortunate children are served.

I am also pleased to note the H.R. 5678 provides $1.9 million to improve prosecution of child abuse cases. This appropriation will support the efforts back home of Jefferson County attorney, Michael Conliffe and Jefferson County District Judges Richard Fitzgerald and Kevin Delahanty, thoroughgoing professionals who are doing excellent work in this area.

The bill's appropriation of $463.5 million to help State and local governments in their drug control and other law enforcement efforts is noteworthy; $389.6 million of that amount is earmarked for formula grants to States, which in turn distribute funds to local governments. In my District, this funding will permit the Louisville and Jefferson County Crime Commission, under the direction of Ms. Kim Allen, to continue its promising drug enforcement, treatment, and prevention programs.

Mr. Speaker, finally, I am sorry that H.R. 5678 provides $5 million below the 1992 level for the operations of the Immigration and Naturalization Service [INS]. I sincerely hope the committee can give consideration in a future supplemental appropriations to fully fund INS. Otherwise, I fear the INS will not have the resources to handle its difficult operational mission.

I strongly support H.R. 5678 and I urge my colleagues to vote for the bill.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, August 11, 1992, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 12

9:00 a.m.

Environment and Public Works

Environmental Protection Subcommittee

To hold hearings on S. 2762, to assure the preservation of the northern spotted owl and the stability of communities dependent on the resources of the public lands in Oregon, Washington, and northern California.

SD-406

Labor and Human Resources

Business meeting, to mark up S. 1622, to revise the Occupational Safety and Health Act of 1970 to improve the provisions of such Act with respect to the health and safety of employees, S. 2837, DES Education and Research Amendments, S. 492, Live Performing Arts Labor Relations Amendments, proposed legislation authorizing funds for the Agency for Health Care Policy and Research, Department of Health and Human Services, proposed legislation relating to breast cancer screening safety, and to consider pending nominations.

SD-430

9:30 a.m.

Governmental Affairs

Permanent Subcommittee on Investigations

To continue hearings to examine alleged corruption in the professional boxing industry.

SH-216

Select on Indian Affairs

Business meeting, to mark up S. 2975, to provide for the settlement of the water rights claims of the Yavapai-Prescott Indian Tribe in Yavapai County, Arizona; to be followed by an oversight hearing on Indian trust fund management.

SR-485

Select on POW/MIA Affairs

To continue hearings to review private sector and official efforts on POWs/MIAs.

SR-325

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine the state of the U.S. economy and competitiveness, focusing on implications for labor changes in the U.S. economy and the increasing globalization of our economy.

SD-538

Joint Economic

To hold a roundtable discussion on the current condition of the economy.

2359 Rayburn Building

12:00 p.m.

Foreign Relations

Business meeting, to consider S. Con. Res. 134, commending the People of the Philippines on their general elections, S. Res. 331, commemorating the Hungarian National Holiday, and pending nominations.

S-116, Capitol

Governmental Affairs

To hold hearings to examine the accuracy of the U.S. Census Bureau's population estimates and its impact on State funding allocations.

SD-342

2:00 p.m.

Judiciary

Business meeting, to consider pending calendar business.

SD-226

SEPTEMBER 9

9:30 a.m.

Commerce, Science, and Transportation

To hold oversight hearings in conjunction with the National Ocean Policy Study on implementation of the Fishery Conservation Amendments of 1990 (P.L. 101-627).

SR-253

SEPTEMBER 17

9:30 a.m.

Energy and Natural Resources

To hold hearings on provisions of S. 2335, National Beverage Container Reuse and Recycling Act, relating to the energy conservation implications of beverage container recycling.

SD-366

SEPTEMBER 22

9:00 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations by the American Legion.

334 Cannon Building