

## SENATE—Friday, October 29, 1993

(Legislative day of Wednesday, October 13, 1993)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut.

## PRAYER

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

Let us pray:

*Love suffereth long, and is kind; love envieth not; love vaunteth not itself, is not puffed up; Doth not behave itself unseemly, seeketh not her own, is not easily provoked, thinketh not evil; Rejoiceth not in iniquity, but rejoiceth in the truth; Beareth all things, believeth all things, hopeth all things, endureth all things.—I Corinthians 13:4-7*

Gracious Father in Heaven, perfect in love, help us to learn the power of love. Help us to learn to love God, our families, our neighbors, even our enemies. Help us understand that love is more volitional than it is emotional, that it prevails when all else fails.

We thank You for the words of Teilhard de Chardin: "Someday, after conquering the winds, the waves, the tides and gravity, men and women will harness the awesome power of love for the Creator; then, for the second time in history, mankind will have discovered fire!"

This weekend, Father, help us especially to love our families who often are low in our priorities.

We pray in His name who is Love Incarnate. 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, October 29, 1993.

To the Senate:

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

ROBERT C. BYRD,  
President pro tempore.

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

## RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senate majority leader.

## MODIFICATION OF ORDER FOR MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order regarding morning business be modified to provide that the Senator from Washington be recognized for 4 minutes.

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

## SCHEDULE

Mr. MITCHELL. Mr. President, before we proceed to morning business, I want to set out the schedule for the information of Senators.

This morning, at 11 a.m., we will take up the Indoor Air Quality Act, and I hope we will complete action on that bill today.

At noon on Monday, there will be a vote in the Senate. That will be followed by consideration of the Ethics Committee resolution regarding Senator PACKWOOD. There is no time limitation on debate on that resolution, so Senators can expect to be in session Monday for several hours. I do not know whether we will complete action on that resolution Monday. That is possible. It is also possible it could go over to Tuesday, depending on how many Senators wish to speak.

Including next Monday, there will be 16 legislative days left prior to Thanksgiving, and that includes Saturday, November 20, and the Wednesday before Thanksgiving. There are a large number of measures to be acted on, including, but not limited to, the North American Free-Trade Agreement, the Education 2000 bill, the crime bills, the balanced budget amendment, the rescission and spending cut measure, the independent counsel measure, the two remaining appropriations bills—Defense and Interior—and, since I am speaking here without notes and from memory, probably one or two others which do not immediately come to mind.

I have been the principal advocate of the Senate adjourning by Thanksgiving. And for that, I have received—and I am grateful for it—the encouragement and private applause of almost all of my colleagues, almost all of

whom then, however, say that we ought not to have a session on Monday or Friday or Thursday or Tuesday.

I just want to say that if we are to complete our work by Thanksgiving, it will be necessary to be in session each of those 16 days for lengthy sessions, with votes possible at any time and with the cooperation by Senators. Any one Senator can thwart the will of the Senate. We all know that. Any one Senator can prevent, delay, obstruct at any time.

I will simply say to the Members of the Senate, I have made it clear from the outset that completing action and adjourning by Thanksgiving is contingent upon finishing the important legislation that we have before us.

Our highest and primary responsibility is to the people we represent and to complete action on those measures that are necessary. And we are only going to leave at Thanksgiving if we have completed action on those measures. If we have not, then we are going to stay in session until Christmas, if necessary, to do that.

I just thought of another one that I had forgotten and, of course, that is final action on the unemployment compensation bill, which the Senate completed action on yesterday and which now will go to conference with the House.

So I ask of my colleagues their cooperation and their patience in these matters. I know there are disagreements on the substance of bills. That is understandable. That is part of our process. And I do not mean in any way to suggest that we not have a vigorous debate. But we can have vigorous debate without delaying tactics and if we stay here and put our minds and efforts to completing action on these measures. I hope very much that we will do so.

I will, in the near future, meet with the Republican leader to go over a final list.

I repeat, the list I have set forth this morning is not intended to be exclusive or exhaustive. I am speaking here without notes and from memory and I may not have included one or more measures we want to complete action on. It is illustrative only to indicate how much we have to do in this short time.

I repeat, the 16 legislative days includes Saturday, November 20, and the following Wednesday, which is the day before Thanksgiving. So Senators should be prepared to be here on that Saturday and on that Wednesday, if necessary.

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

Mr. President, I thank my colleagues. I thank the Senator from South Carolina for yielding time to the Senator from Washington. I now yield the floor.

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11 a.m.

Mr. GORTON addressed the Chair.

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair recognizes the Senator from Washington [Mr. GORTON].

Mr. HOLLINGS. Will the distinguished Senator yield?

Mr. GORTON. Yes.

Mr. HOLLINGS. Can we amend that? Because morning business would have to go beyond 11 a.m.

Can I go, after the distinguished Senator from Washington, for 40 minutes? I have 30.

Mr. President, I ask unanimous consent that, at the conclusion of the remarks of the distinguished Senator from Washington, I be recognized for a period of 40 minutes.

The ACTING PRESIDENT pro tempore. Hearing no objection, that will be the order.

The Senator from Washington is recognized.

#### NATIONAL CONSUMERS' WEEK

Mr. GORTON. Mr. President, this week marks the 12th annual National Consumers' Week and is being observed by hundreds of consumer organizations across the country. It is an opportune time to look back and draw attention to the successes of America's consumer protection movement, and to look forward and highlight the areas in which consumer protection will continue to be a concern.

Looking back over the years, increased attention to consumer education, safety, and protection has given American consumers greater access to information about the products they purchase and greater assurance that the products on which they spend their hard-earned dollars will live up to their manufacturers' and salesmen's claims.

Since I began my tenure as ranking Republican of the Consumer Subcommittee, Congress has taken a number of remarkably bold steps on behalf of American consumers. I am proud to have played a role in these achievements, most particularly in the area of auto safety. As we deliberated the Intermodal Surface Transportation Efficiency Act, Congress answered our call for mandatory airbags in all passenger cars, and eventually in all light trucks. Although manufacturers are not required to install airbags until 1997, many have already done so. This

provision is estimated to result in saving 12,000 lives per year and thousands of severe head injuries.

We were also successful in including rulemakings on head injury, rollover protection, multipurpose passenger vehicle side impact protection, child booster seat safety, improved seatbelt design, and antilock brake systems for automobiles. Each provision is vital to improving the safety of automobiles in the United States, and in combination, they will assuredly improve our safety record and significantly reduce the number of tragic automobile accidents each year.

My constituents in my State of Washington should also be applauded for bringing an important consumer issue to the attention of Congress. Truckers in Yakima decided in 1990 that they could no longer allow the public unknowingly to purchase food products that had been carried in tank trucks that had just hauled toxic, nonfood loads. They came forward, at great professional risk, and blew the whistle on this unconscionable and dangerous practice—known in the trucking industry as backhauling. As a result of their actions, I introduced legislation which would put an end to backhauling. The measure was signed into law in November 1990.

Looking to the future, it is clear that consumers still have hills to climb. Although we tend to think of consumer issues as those that affect us only at our local stores, it is important to recognize that the majority of today's most pressing issues will have an impact on American consumers. If we think of consumer issues as those that affect the range of choices in goods and services, their price, or their safety, everything from NAFTA to health care is a consumer issue.

It is easiest to see how the issue of cost is affected by Congress' actions. As we consider new taxes on different industries, we must remember that those industries must devise a plan to come up with the funds to pay those additional costs. If they do not do it by cutting their labor costs, they are likely to raise the prices of their products—passing the additional costs on to consumers.

Our actions on health care will also have a tremendous impact on consumers, not only with respect to cost, but also the issue of choice. The final product of our debate on this issue may affect the prices of everything from prescription drugs to major surgery. It may limit, or expand, the choices of doctors, and procedures currently available to America's health care consumers.

Our action, or inaction, on the National Airline Commission recommendations may have a dramatic impact on the choices available to airline consumers. If this industry continues to decline, and airlines continue to

file for bankruptcy, the broad range of air carrier choices that consumers enjoy today will be limited.

The Senate Consumer Subcommittee is considering several pieces of legislation to enhance product safety. I have introduced a bill that will provide parents with more effective warnings about toys with small parts that present choking hazards to small children. This legislation also sets up safety standards for children's bike helmets. Senator EXON, Senator PRESSLER, and I are also working on the issue of used car fraud, which involves both salvage and lemon vehicles. This type of fraud not only affects consumer safety, but it also causes consumers across the country to get ripped off when they buy certain used cars.

We are also working on legislation to combat telemarketing fraud. This legislation will provide enhanced law enforcement by giving the Federal Trade Commission the tools it needs to crack down on telemarketing scam artists.

And so as "National Consumers' Week" comes to a close, I encourage my colleagues to look back at past successes, but also to look forward and consider the impact of our future actions on the American consumer. As \$2 out of every \$3 in this economy are spent in the marketplace by individual consumers, we cannot allow our deliberations to neglect the evolving needs of the American consumer.

I thank the graciousness of my colleague from South Carolina who is, of course, the chairman of the parent committee through which all of this legislation goes, and who has strongly supported all the efforts of both Senator BRYAN and myself in that regard.

The ACTING PRESIDENT pro tempore. Under the previous order the Senator from South Carolina [Mr. HOLLINGS] is recognized for up to 40 minutes.

#### NAFTA AND HUMAN RIGHTS IN MEXICO

Mr. HOLLINGS. Mr. President, I thank the distinguished Senator from Washington. The debate over NAFTA has degenerated into almost a ping-pong game of back and forth, will it lose jobs or gain jobs, increase exports, accelerate immigration, and so on. For the layman, it is extremely difficult to sort out the truth.

It makes me nostalgic for the days of Senator Arthur Vandenburg after World War II, when the Senate had a thoughtful authority on foreign relations. Similarly, when I came to the U.S. Senate in the mid-1960's, we had a thoughtful authority in Senator William Fulbright. Today, we have many thoughtful Senators and experts in the foreign policy field, including our own distinguished chairman of the Foreign Relations Committee, Senator PELL, and over on the House side Mr. HAMILTON of the Foreign Affairs Committee.

Nonetheless, today, there is no bipartisanly accepted authority in the foreign affairs arena, neither in the executive branch nor in the legislative branch. Accordingly, there is no senior statesman who can speak with authority and credibility on the subject of NAFTA, Mexico, free trade and democracy.

I note that the Clinton administration's approach to foreign policy has been one of extraordinary continuity—continuation of the Bush policy in every key foreign policy area. This continuity was especially striking at the outset of the Clinton administration. When it came to domestic policy, whether it was education, deficit reduction, crime, the environment, you name it, the theme was change, change, change. It was a constant sing-song of change. But with respect to foreign policy the theme of the Clinton administration has been one of continuity and status quo. We have seen continuity of the Bush policy in Haiti, the Bush policy vis-a-vis Yeltsin and Russia, the Bush policy on Iraq, the Bush policy with respect to Bosnia, and, yes, the Bush policy toward Mexico and NAFTA.

On NAFTA, the President has resorted to fog and finesse—most recently with his tent show on the White House lawn, attempting to highlight exports to Mexico. The White House has tried desperately to portray their support of NAFTA as a token of change and reform, and not giving the Good Housekeeping seal of approval to the corrupt political status quo in Mexico.

As I noted in floor remarks yesterday, the President has given pep talks reassuring Americans that, yes, they can compete successfully with little Mexico. But that is not the point. Of course, the U.S. worker is extraordinarily competitive and productive. Every study demonstrates that the United States worker is far and away the most productive in the world—significantly more so than the Japanese or German worker, for instance.

The American worker is competing. It is this Government in Washington that is not competing. The administration is engaged in the folly—inherited from President Bush—of entering into a free-trade agreement with a country that has neither a free government nor a free economy.

It was to avoid exactly this kind of incongruous mixing of unequal economies that Europe organized into the European Common Market. The Common Market put in place a massive development fund to boost the economies of Ireland, Spain, Portugal, and Greece prior to their admittance to the Common Market. It took 23 years for Spain to have free elections and then be admitted. It took \$5.7 billion for Greece and Portugal to build up their economies so as to gain entry to the Common Market.

As Lester Thurow of MIT says, free-trade agreements don't work, but common markets do—common markets premised on roughly comparable levels of political and economic development. Members of Congress understand this. That is why my bill to create a Common Market for the Americas has gained so much support—especially among Members who genuinely want to improve our relations with Mexico, who want to have free trade with Mexico.

We have tried for decades to boost our neighbors to the south. We pursued the Good Neighbor Policy under Roosevelt; Operation Pan America, under Dwight Eisenhower; the Alianza para Progreso, or Alliance for Progress, under John Kennedy; the Caribbean basin initiative under Ronald Reagan.

In each case, the grand idea was to give aid to the impoverished masses, to develop them into a middle class and, thereby, to make possible free elections and democracy. In practice, these policies have failed. It has been like delivering lettuce by way of a rabbit. The money has not gotten to the hungry poor. It has gone to the generals and the oligarchies, into Geneva bank accounts. And this has been particularly true with respect to Mexico, where the ruling party the PRI, has enforced iron control of the economy and political system for more than six decades.

So we have tried these approaches and we have seen them fail. I have urged the President to adopt the common market approach. But he has said no, opting to continue the Bush policy. President Clinton has married his fate to a failed and flawed agreement, one terribly to the detriment of the economic and security interests of the United States.

In his ongoing campaign to sell NAFTA under false pretenses, we find this morning the President of the United States up at Harvard at the dedication of the Kennedy Museum. I quote from a morning newswire story:

It is an opportunity for the President of the United States to highlight John F. Kennedy's role in world events and his commitment to democracy, Press secretary, Dee Dee Myers, said:

In his museum speech, Clinton will discuss the Kennedy legacy of engagement in the world, his commitment to democracy and America's tying that to NAFTA.

Nothing could be more misleading than to put John F. Kennedy on the side of NAFTA. Indeed, he would have rejected NAFTA's narrow economic and trade focus. He would have been aghast at NAFTA's total neglect of political and human rights reform. As evidence, I would cite President Kennedy's own words in promoting his Alliance for Progress in 1961. In a letter to then President Kubitschek of Brazil, JFK wrote:

No program which is restricted to the technicalities of economic development can fully answer the needs of the Americas. Only an

approach to economic progress and social justice which is based on a wide acceptance of the fundamental ideals of political democracy and human dignity can hope to conquer the many ills of our hemisphere and respond fully to the aspirations of our people.

Heavens above, look again at that remarkable statement. It says, "No program which is restricted to the technicalities of economic development"—and that is exactly what NAFTA is. You cannot find in the 2,000 pages of the NAFTA agreement the one simple word "democracy." You will not find it. And I can assure you that President John F. Kennedy would have had no use whatsoever for this narrow NAFTA agreement. He understood the imperative of human rights, the imperative of democratic commitment. He understood the folly of a free-trade agreement with countries that lack free economies and free political systems.

On this same score, I would quote the distinguished Secretary of State, Warren Christopher. In the Carter administration, when he was the Deputy Secretary of State back in 1980, he said, and I quote:

There has been vigorous criticism of our human rights policy on the ground that it smacks of a fuzzy-headed idealism that is unrelated to the pursuit of our basic national interest. Some critics have suggested that human rights are a millstone around the neck of U.S. foreign policy; that it is injected into our diplomacy and an interventionist element that can only weaken our position in the world and even destabilize other governments.

Deputy Secretary Christopher, after 3½ years of deep involvement in human rights issues during the Carter administration, went on to say, and I quote:

I'm more convinced than ever that this point of view is simply and starkly wrong. I will go further. To abandon the pursuit of human rights would not only damage the hopes of millions abroad but also the foreign policy and long-term security of the United States.

Then Christopher goes on to assert the elements of our foreign policy and he says first, and I quote then Deputy Secretary Christopher:

Our human rights policy directly serves our long-term interest in peace and stability. The misleading quiet of oppression too often turns out to be the calm before a violent revolutionary storm.

That is exactly the feeling of the Senator from South Carolina, and others. I have been to Mexico recently. If you think there is unanimous approval and joy regarding NAFTA in Mexico, I can tell you the opposite is true. You can go to the region of greatest opportunity, the maquiladora zone just south of the U.S. border. Administration officials in testimony before my Commerce Committee last week said that Mexicans in the maquiladora areas have more freedoms because of the stronger economy.

But the Mexicans themselves do not think so. The truth of the matter is, Mexican workers stay an average of

only 18 months in the maquiladoras. According to the Johns Hopkins study and the Harvard Business Review, the experience of maquiladora workers is not one of joy, prosperity, and opportunity. On the contrary, they leave at the earliest opportunity. They keep going up to California. And why is that? You only have to go to Tijuana or Juarez to see for yourself the terrible living conditions there—condoned and exploited by U.S. companies that have set up operations there.

The crowd sponsoring NAFTA is the same rich business elite that put beautiful maquiladora plants in Mexico with fine mowed lawns and handsome flags. But right beside the plant is desperate depravity, filthy living conditions, tens of thousands of exploited and oppressed Mexican workers.

So NAFTA supporters, who claim that NAFTA, like the maquiladoras, would pump money into the working class in Mexico, should go down there and talk to people in Juarez, in Tijuana, in Matamoros. You will see the pollution, the dump sites, the grinding poverty of the working poor.

This is the most damning indictment of NAFTA. It will lock in the status quo in Mexico. It will bolster the oligarchy. It will legitimize the oppression. NAFTA fails to offer change.

To bring this issue into focus, I ask rhetorically, why not a free trade agreement with the People's Republic of China? You can use the same statistical analyses about the vast consumer market that we will gain access to. We can gain access to a market there of 1.2 billion people. But we say no to the People's Republic of China. Indeed, we threaten to deny China most-favored-nation status in trade as punishment for their political repression. Senators run all over the floor expressing horror about Tiananmen Square, but when it comes to Mexico, they avert their eyes from the same evil. They do not want to look at the record.

Indeed, Mexico's record is worse. I know it would be an oxymoron to talk about an honest dictatorship and a dishonest dictatorship, but that is the way this Senator sees it.

You have to give backhanded respect to an honest dictatorship. You knew what you were dealing with under Stalin and Mao Tse-tung; they made no bones about their totalitarianism. But Salinas and the Mexican oligarchy try to hide their authoritarian control. It is an insidious thing. In the words of the famous Peruvian novelist, Mario Vargas Llosa, Mexico is "the perfect dictatorship." I quote from Vargas Llosa:

The perfect dictatorship is not communism, not the Soviet Union, not Cuba, but Mexico, because it is a camouflaged dictatorship. It may not seem to be a dictatorship, but it has all the characteristics of dictatorship: the perpetuation, not of one person but of an irremovable party, a party that allows sufficient space for criticism, provided such

criticism serves to maintain the appearance of a democratic party, but which suppresses by all means, including the worst, whatever criticism may threaten its perpetuation in power.

The London Economist, in its February 13, 1993 issue, addressed the issue of whether things have changed under Salinas. And I quote:

The ugly truth is that Salinas and his band of bright technocrats, adored though they are by the great and the good on the international conference circuit, wield power courtesy of PRI fixes and worse in the countryside. Mexican politics is not without its violent side. The left wing opposition Party of the Democratic Revolution claims that, up to last September, 164 of its members have been murdered since 1988.

If that is not bracing enough, let me cite Morton Kondracke in Roll Call on October 25—this past Monday. I quote from Mr. Kondracke:

Mexico is far from being a democracy. The Institutional Revolutionary Party has been in power continuously since 1929 and historically has maintained its rule by bribery, rigged elections, intimidation and violence. Police tend to be brutal. Drug lords rule some states. And 100 people have been killed in election-related violence since 1988. In 1988, most independent observers believed Salinas lost the Presidential election to leftist Cuauhtemoc Cardenas, but was awarded a 50.4 percent victory by Government.

Can I repeat that. This must be heard.

In 1988, most independent observers believed Salinas lost the Presidential election.

So Salinas comes in as a fix. What do I mean by a fix? I mean just exactly what Vargas described as a perfect dictatorship. I call it a dishonest dictatorship—as opposed to an honest dictatorship—because it has all the patina of constitutional rights, with all the illusion, with all the accouterments of democracy and yet no genuine democracy.

Yes, they have a Constitution, and we have a Constitution, but we have had 26 amendments across two centuries. Mexico has had more than 400 amendments. They will amend the Constitution this afternoon to get rid of me. I can tell you that right now. Anything they do not like they just amend the Constitution. They have a President and a legislature, but that is a fix.

Now, NAFTA supporters talk about free elections in Mexico. Let me just say that back in 1990 Salinas put in the Federal code of election procedures and put in a Federal Electoral Institute. But the Federal Electoral Institute is not independent and it is stacked with the members of the PRI. In addition to being the final arbiter of elections, it is controlled by Patrocinio Gonzales Garrido, former Governor of the state of Chiapas. And, of course, it is widely recognized, Mr. President, that his term as Governor was marked by widespread electoral fraud, the imprisonment of Indians, teachers, and the Catholic priests who dared to challenge the ruling party.

The oligarchy remains fully in command. Even the privatization in Mexico chiefly meant selling off corporations to the well-placed cronies and elites connected to the PRI. Salinas may not have built up the Mexican middle class, but he has produced 22 billionaires at a time when the real income of Mexican workers has plummeted.

Morton Kondracke writes about the corrupt process by which a Mexican president raises money. I quote from the October 25 Roll Call:

Despite his current 80 percent popularity rating and the near certain election of the successor he picks, Salinas earlier this year hit up major industrialists for \$750 million in campaign contributions—at one dinner!

Now, how do you like that? Great Lord have mercy. Consider the Salinas crony who was given the television rights. He gave \$25 million at that fundraising dinner, and he said it was peanuts. He said he would have been glad to give three times that amount in gratitude for the fortune he made out of the privatized state TV.

Freedom of the press is also a sham in Mexico. There have been some, according to the New York Times, 58 journalists killed in the last 10 years—26 of them since Salinas became president. Let me quote from the Human Rights Watch World Report for 1993:

In mid-July, 1992, Carlos Menendez Navarrete, director of the independent *Diario de Yucatan*, was the target of two attacks following his newspaper's critical coverage of the Government's handling of the UCD demonstrations led by Severino Salazar Castellanos. Earlier, on July 21, unidentified persons pelted Menendez's house with stones, attempted to force open the front door, and damaged two automobiles. The following week, a bomb was found on the premises of the *Diario de Yucatan*. Police have released no information about the progress of their investigation.

I quote further from the same Human Rights Watch report:

In response to petitions from journalist associations, the federal government's human rights office, CNDH, undertook to investigate 5 attacks on journalists. By late 1992, recommendations were issued in 15 of the cases but, according to the CNDH, none of the recommendations has been implemented in full.

I would cite another disturbing incident regarding the government's campaign against critical journalists. I quote from the Minnesota Advocates for Human Rights, December 1992:

The climate of tension among human activists in Mexico has been raised even further by the killing of journalist Ignacio Castillo Mendoza on November 13, 1992. Mr. Castillo had long been a critic of corruption within the Government of Quintana Roo, the judicial system, and the Federal Judicial Police. The case is particularly disturbing for human rights activists because Castillo Mendoza, who had received death threats, was given personal assurances of his safety from President Salinas and representatives of CNDH earlier on the day he was killed.

There you go. I ask unanimous consent to have the entire article from the

### Minnesota Advocates for Human Rights printed in the RECORD.

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

[Minnesota Advocates for Human Rights, December 1992]

#### NO DOUBLE STANDARDS IN INTERNATIONAL LAW

Linkage of NAFTA with hemispheric system of human rights enforcement is needed—Canada, Mexico & the United States must become full partners in the Inter-American System of Human Rights.

The North American Free Trade Agreement (NAFTA) creates new opportunities for hemispheric cooperation, including a new commitment to the existing hemispheric system of human rights enforcement. Minnesota Advocates for Human Rights<sup>1</sup> calls on Canada, Mexico and the United States to link the new international trade agreement with an agreement to enforce international human rights law.

A hemispheric international human rights enforcement mechanism is already in place: the inter-American system of human rights of the Organization of American States ("OAS"). In conjunction with the approval of NAFTA, Minnesota Advocates for Human Rights urges all three countries to insist on the full participation of each party in the inter-American system of human rights enforcement.<sup>2</sup>

Minnesota Advocates for Human Rights takes no position on the trade portions of NAFTA, but it is our view that any trade agreement must take place in a hemisphere in which international human rights are enforced. This report is not intended to be for or against a trade agreement—trade need not be incompatible with the protection of human rights. Warren Christopher as Deputy Secretary of State under President Carter pointed out that "[r]espect for human rights creates an atmosphere for stability in which business and investment can flourish."<sup>3</sup>

As an organization that has monitored human rights conditions in North America over the past several years, Minnesota Advocates for Human Rights finds that human rights abuses in North America have all too often inhibited political participation and chilled the atmosphere for the discussion of pressing social and political concerns. Furthermore, those abused have limited opportunities to seek redress through domestic courts.

This report sets out recent examples of such abuses in the United States and Mexico: violence against migrants on the Mexico-United States border by agents of the United States Immigration & Naturalization Service (INS); the lack of domestic remedies for such abuses in United States courts, and the failure of the United States judiciary to fully incorporate international human rights into United States law; ongoing electoral fraud in Mexico, police abuses and corruption within Mexico's judicial system, and the intimidation and abuse of Mexican human rights, labor, and environmental rights activists. The purpose of this report is not to catalogue all human rights abuses in North America. Rather, it is to demonstrate the link between human rights violations and the capacity of citizens in each country to respond to NAFTA through the political and judicial process.<sup>4</sup>

#### LINK BETWEEN NAFTA AND PROTECTION OF HUMAN RIGHTS

The NAFTA draft released by the Bush Administration on September 6, 1992, makes no provision for the enforcement of international human rights under the new regional system. Although United States "fast-track" legislation requires this draft of the agreement to be presented to Congress for a yes-or-no vote, President-elect Clinton has promised that he "will not sign legislation implementing the North American Free Trade Agreement until we have reached additional agreements to protect America's vital interests."<sup>5</sup> In particular, Clinton suggested the establishment of commissions to set minimum environmental and labor standards to be enforced in each country, and a "supplemental agreement which would require each country to enforce its own environmental and worker standards."<sup>6</sup> To assure the protection of citizen participation, Clinton added that "we ought to make sure the NAFTA, the trade agreement, doesn't override the democratic process."<sup>7</sup>

Mexican President Carlos Salinas de Gortari has endorsed the idea of establishing commissions to address problems that arise under NAFTA, including environmental issues. He added that such commissions must also examine other Mexican concerns, such as restrictions on the entry of Mexicans into the United States and better protection of Mexicans against abuse by United States authorities in the border region. President Salinas also asked for assurances that the United States not kidnap criminal suspects in Mexico for trial in the United States, as this is a violation of international law and an affront to Mexican sovereignty.<sup>8</sup> Finally, President Salinas reiterated the promise made in his recent State of the Union Address to ensure free elections through changes in Mexico's electoral laws.<sup>10</sup>

These promises by President-elect Clinton and President Salinas are important, but they can only be fulfilled by a new commitment to enforce international human rights law. Labor rights, environmental rights, the rights of migrant workers, and the many other pressing issues raised by NAFTA in all three countries cannot be examined in isolation. A guarantee of impartial and effective judicial process in each country is also essential, so that redress is available to any person whose internationally recognized human rights are violated under the new hemispheric system.

As NAFTA establishes common policies that affect labor, the environment, and a wide range of living conditions in each country, there is also a growing inter-relation of human rights conditions from country to country.<sup>11</sup> The need for a common human rights enforcement policy is a reflection of the growing global inter-relation of countries on every level—economic, political, social, and legal. NAFTA significantly speeds up this process and the need for full partnership in the inter-American system of human rights becomes ever more pressing.

NAFTA, as it is now proposed, creates a binding enforcement mechanism for violations of the new international trade law.<sup>12</sup> The agreement of Canada, Mexico and the United States to such binding enforcement mechanisms under NAFTA makes clear that enforcement of international law will be supported when governments have the political will to do so.

Canada, Mexico and the United States must now adopt a mechanism to enforce their international human rights obligations. To do otherwise would be to legislate

a double standard within international law—violators of trade law would be sanctioned, violators of human rights law would not. In order to demonstrate a commitment to the enforcement of human rights, the North American partners should agree to the binding enforcement of international human rights law.

#### THE INTER-AMERICAN SYSTEM OF HUMAN RIGHTS

There is no substitute for the enforcement of international human rights through domestic courts. Where domestic courts have failed to provide for redress of abuses, however, an international mechanism can provide the independent oversight needed to assure the consistent enforcement of international law. The inter-American system serves that need.

The cornerstone of the inter-American system is the American Convention on Human Rights, which guarantees the right of people in each country to "participate in public affairs, directly and through freely elected representatives."<sup>13</sup> The American Convention also guarantees a full range of civil and political rights, along with the independent and effective system of judicial recourse for the violation of those rights.<sup>14</sup>

In addition to guaranteeing international human rights, the inter-American system creates a mechanism to enforce them. Canada and the United States must first ratify the American Convention to participate in this system of enforcement.<sup>15</sup> All three governments should then unconditionally accept the power of the Inter-American Commission on Human Rights to conduct on-site human rights investigations without restrictions within each country.<sup>16</sup> Finally, each country should submit to the mandatory jurisdiction of the Inter-American Court, which will have the authority to issue binding decisions enforcing international law for the protection of human rights in the American hemisphere.<sup>17</sup>

#### THE RECORD: UNITED STATES

International human rights abuses occur within the borders of the United States. While domestic courts provide some relief for these abuses, adherence to the hemisphere-wide human rights enforcement mechanism would provide additional protection. The need for United States participation in the hemisphere-wide enforcement mechanism is illustrated by a case currently before the Inter-American Commission concerning human rights abuses against undocumented migratory laborers in the United States-Mexico border region.

#### *Lack of domestic remedies for victims of border violence*

Over the last four years, abuses by agents of the INS and the United States Border Patrol have been well documented by human rights groups in the United States and Mexico, including arbitrary detention, beatings, sexual abuse, and the use of excessive force in interrogations, which in some cases lead to death.<sup>18</sup> According to official United States statistics, sixteen Mexicans were killed by United States law enforcement officials from 1988 to 1990. Reports of beating and sexual assault are widespread, but these abuses are thought to be significantly under-reported by undocumented individuals who fear deportation.<sup>20</sup>

In August 1992, the Center for Human Rights and Constitutional Law filed a petition before the Inter-American Commission on behalf of victims of border violence.<sup>21</sup> The petition alleges that the United States Government has "tolerated and thereby encouraged shootings, improper use of firearms and

Footnotes at end of article.

other weapons, beatings, physical abuse and racially motivated verbal abuse of immigrants, refugees and United States citizens travelling across or in close proximity to the United States-Mexico border."<sup>22</sup>

The Petition contains a disturbing litany of alleged abuses. It alleges, for example, that a Border Patrol agent restrained a pregnant Mexican woman by stepping on her stomach. Having done so, the agent then shot her husband twice when he attempted to protect her. The second shot hit the husband in the back while he was running away.<sup>23</sup> It further alleges that Border Patrol agents, after subduing a United States citizen who appeared to be Mexican, continued to strike him while he was on the ground, causing him to suffer serious permanent injuries.<sup>24</sup> It also alleges that INS agents failed to administer even rudimentary first-aid to a female Mexican detainee who displayed clear signs of physical and emotional distress, "manifested by difficulty in breathing, spitting up, loss of vision, incoherence, profuse sweating, and comments from her that she was dying."<sup>25</sup> Ten minutes later, the detainee went into cardiac arrest and died.<sup>26</sup>

As the petition describes, Mexican nationals who seek redress for human rights violations in United States courts are confronted by a multitude of impediments. Many victims are deterred from filing complaints or seeking redress through United States courts for fear of deportation (by the very INS agents who have abused them).<sup>27</sup> Others are unable to afford the high cost of litigation in United States courts.<sup>28</sup> If they pursue their claim, petitioners soon learn that INS and Border Patrol agents enjoy numerous statutory and judge-made "immunities" to liability for their acts.<sup>29</sup> Cumulatively, these impediments establish a virtually insurmountable obstacle to human rights protection for Mexican nationals via United States court action.

Unfortunately, even if the Inter-American Commission finds that the United States has violated its treaty obligations in this case, the Commission is not able to issue binding decisions. Since the United States has not ratified the American Convention and submitted itself to the mandatory jurisdiction of the Inter-American Court, that body, which does have the capacity to bind the parties before it, has no authority to rule on this case.

*Failure to integrate international human rights law into US jurisprudence: the Alvarez-Machain case*

Many of the victims of abuse at the Mexico-United States border fear the United States legal system because of the danger that they will be repatriated if they attempt to take action against their abusers. But even if these claimants sought relief through the United States courts, the effectiveness of international human rights protections those courts will provide is debatable. The need for a new enforcement mechanism for international law is underscored by inadequate enforcement of international human rights law in United States Courts.

While the United States Constitution provides that international treaties are the "supreme law of the land,"<sup>30</sup> a recent decision by the United States Supreme Court, *United States v. Alvarez-Machain*,<sup>31</sup> severely limits the protections available in United States courts for individual rights protected by international human rights treaties. The decision also upholds a United States policy of abducting criminal suspects abroad for trial in United States courts. The government of Mexico lodged a formal protest to the Alva-

rez-Machain decision as an affront to its sovereignty and a violation of international law. President Salinas has demanded a guarantee against future abductions of this kind.<sup>32</sup>

The Alvarez-Machain case arises out of the abduction in Mexico of Dr. Humberto Alvarez Machain by agents of the United States Drug Enforcement Agency (DEA) so that he could be tried in United States courts for his alleged involvement in the killing of a DEA agent. The Ninth Circuit Court of Appeals found that United States Courts lacked the jurisdiction to try the defendant because his abduction violated a United States-Mexico extradition treaty. The Government of Mexico protested the abduction as a violation of the treaty and an intrusion upon Mexico's sovereignty. The United States Supreme Court overturned the Ninth Circuit decision, finding that the abduction did not violate the extradition treaty because such actions were not specifically prohibited within the treaty.

In July 1992 the Permanent Council of the Organization of American States asked the Inter-American Juridical Committee to review the Alvarez-Machain decision.<sup>33</sup> The Inter-American Juridical Committee found that the "kidnapping [of Dr. Alvarez-Machain] constitutes a serious violation of international public law, because it constitutes a violation of Mexican territorial sovereignty."<sup>34</sup> As a result, the United States should not try Dr. Alvarez-Machain in United States courts, but is "obligated to repatriate" him. The Inter-American Committee also found that the United States Supreme Court's reading of the extradition treaty "disregards the precept according to which treaties are to be interpreted pursuant to their objective and purpose and in relation to the applicable rules and principles of international law."<sup>35</sup> By adopting the principle that any action is permissible so long as it is not specifically prohibited by a treaty, the United States Supreme Court seriously limited the protections available to individuals under international human rights law. The Committee found that if the principles invoked by the Supreme Court were taken to their logical extreme, "the international legal order would irremediably break down. . . ."<sup>36</sup>

In its Amicus Curiae brief to the United States Supreme Court in Alvarez-Machain, Minnesota Advocates for Human Rights warned that "the breakdown of respect for the rule of law has resulted in kidnapping, torture, death and other suffering for thousands of innocent persons" throughout the hemisphere.<sup>37</sup> By failing to respect international human rights law in United States courts, the United States contributes to degradation of the law in the United States and throughout the hemisphere. The new United States administration can reverse this decline by ensuring that United States protection of human rights will be subject to review by the Inter-American court.

THE RECORD: MEXICO

The link between human rights protection and Mexico's participation in NAFTA is particularly clear, because human rights abuses in Mexico are closely linked with the functioning of the country's political process. Mexico's participation in the inter-American system of human rights enforcement would help ensure a more accessible political process within Mexico.

*Electoral Fraud*

Years of electoral fraud have limited participation by opponents of official govern-

ment policies in the political system at the local, state, and federal levels. Since the outcry in Mexico over electoral fraud in the 1988 elections, the Partido Revolucionario Institucional (PRI) promised reforms.<sup>38</sup> In 1990, the Mexican government adopted a new federal election code ("COFIPE") and established a new Federal Electoral Institute (FEI) to monitor the electoral process.<sup>39</sup> At the same time the government created the Comisión Nacional de Derechos Humanos (CNDH) to address alleged abuses of human rights in Mexico.<sup>40</sup> However, issues of electoral fraud and labor unrest were specifically excluded from the areas over which the CNDH has jurisdiction.<sup>41</sup>

Since the electoral reform, the National Action Party (PAN) has won elections for governor in three of thirty-one states in Mexico (the first time in the last sixty years that any gubernatorial election has been won by a non-PRI candidate).<sup>42</sup> Evidence from recent elections, however, demonstrates that the new law's effectiveness in reducing fraud has been limited. Independent electoral observers in Mexico have recently released reports documenting electoral fraud in the July and August 1992 elections in Michoacán<sup>43</sup> and in Veracruz.<sup>44</sup> In just over a year, five governors and governors-elect in Mexico have resigned after electoral fraud was alleged.<sup>45</sup>

The ongoing problem of electoral fraud is illustrated by the events during and after the summer 1992 gubernatorial election in Michoacán, in which PRI candidate Eduardo Villaseñor was challenged by Cristóbal Arias of the Revolutionary Democratic Party (PRD). The elections were monitored by Convergencia, a non-partisan coalition of Mexican groups which observed slightly more than 10% (375 of 3600) of the polling places.<sup>46</sup> According to Convergencia's report, the right to a secret ballot was violated in more than a quarter of voting booths, and coercion to vote for the PRI took place in 18% of the polling places observed.<sup>47</sup> There were fewer ballots than voters in 33.5% of polling places, and more ballots than voters in 17%. The Michoacán report also documented extensive violations of COFIPE before and after voting, including the use of state and federal resources to induce voters to choose the PRI candidate.<sup>48</sup>

PRI candidate Villaseñor was declared the winner of the election, with the official tally showing that he received 418,000 votes to 290,000 for Arias.<sup>49</sup> Villaseñor was sworn in September 15, 1992 but was never able to enter the Governmental Palace due to the presence of crowds protesting the validity of his election. On October 6, 1992, the governor-elect stepped down for what he said would be a one year absence. PRI officials have not admitted any wrongdoing, and the State Congress named PRI member Ausencio Chaves as interim governor. Indeed, the President of the PRI's National Executive Committee, Genaro Borrega Estrada, released a statement that Villaseñor and the PRI won an "overwhelming victory in the gubernatorial elections, the people know that, and the [PRD party] also knows that."<sup>50</sup>

The Government of Mexico has disregarded findings by the Inter-American Commission on Human Rights that its electoral laws violate the American Convention. In 1989-91, the National Action Party (PAN) brought a series of cases before the Inter-American Commission alleging electoral fraud.<sup>51</sup> The Commission found that the 1987 electoral law of Nuevo Leon "does not fully and effectively protect the exercise of political rights and

does not provide for simple, swift, and effective recourse to independent tribunals. Hence, it must be adjusted to conform to the requirements under the Convention."<sup>52</sup> Despite the unequivocal findings of the Inter-American Commission, elections under Nuevo Leon's Electoral Law were not voided and corrections of the law were not made. As one observer noted, "[s]ince the electoral law of Nuevo León is essentially identical to every other electoral law in the country, including the federal law enacted by President Carlos Salinas in 1990, the decision was in effect a judgment on Mexico's electoral system. Not surprisingly, Mexico lobbied vigorously to have the cases dismissed. Having lost, it refused to honor either judgment."<sup>53</sup> Indeed, the Mexican government refused to recognize the competency of the Inter-American Commission to examine petitions regarding "collective rights" such as the Convention's Article 23 guarantee of public participation and free elections under the American Convention.<sup>54</sup>

In his annual State of the Union address on November 1, 1992, President Carlos Salinas de Gortari once again promised new electoral reforms to "guarantee the impartiality of the electoral process."<sup>55</sup> The government of Mexico could make good on Salinas' guarantee by bringing Mexico into full participation in the inter-American human rights system, including recognition of the competence of the Inter-American Commission to examine the enforcement of Article 23 of the American Convention.

Mexico now has an opportunity to adopt this new policy. The PRD has challenged the outcome of the July 1992 Michoacán elections in a case before the Inter-American Commission.<sup>56</sup> Minnesota Advocates for Human Rights calls on the government of Mexico to recognize the competence of the Inter-American Commission to conduct a full review of the Michoacán elections under Article 23 of the American Convention.

#### *Chilling Effect of Human Rights Abuses*

In addition to limiting citizen participation through the ballot box, the existence of serious human rights abuses against individual government critics—including political killings, arbitrary detention, disappearances, torture, and forced confessions<sup>57</sup>—creates a chilling effect on all citizen participation in matters of public concern.

Many of these abuses stem from harsh government responses to those protesting electoral fraud.<sup>58</sup> The opposition party PRD charges that 162 of its leaders and activists have been murdered since July 1988 and that the rate of attacks in the last six months is almost double that of last year.<sup>59</sup> The CNDH has initiated investigations into 140 alleged abuses against PRD members, including 90 cases of murder, 17 cases of rape, and 12 cases of illegal arrest.<sup>60</sup> The CNDH has issued recommendations in 22 cases,<sup>61</sup> but according to the PRD, only two of the CNDH recommendations have actually been executed.<sup>62</sup>

Over the past five years, Minnesota Advocates for Human Rights has monitored Mexico's criminal justice system, with a particular focus on systems of investigating serious human rights abuses. This is particularly important because thorough investigation and proper prosecution of human rights abuses signal the commitment of the government to root out further human rights abuses.

In its 1990 review of the Mexican Criminal Justice system, Minnesota Advocates found that "police abuse of the average citizen was the most pervasive and chronic form of

human rights abuse in Mexico. Arbitrary detentions and torture by local, state, and federal security forces were so widespread as almost to go unremarked."<sup>63</sup> These abuses are all the more disturbing, since they are systematically incorporated into the system of criminal investigation. Police routinely collect evidence through unofficial agents known as *madrinas*, who pay no heed to the constitutional rights or human rights of the individuals they are assigned to investigate or intimidate. Torture is used by the police to extract confessions and the use of confessions as evidence at trial is commonplace.<sup>64</sup>

Mexican law regarding the use of confessions has recently been amended to provide that a confession is admissible only if it is obtained in the presence of the presiding judge and a defense attorney, family member or friend of the defendant.<sup>65</sup> The lack of effective judicial review of police abuses of the investigative process, however, creates an incentive for continued corruption.

Despite these problems, many critics of the government remain outspoken and large numbers of independent human rights organizations do exist. Yet such activity clearly occurs at great personal risk to the individuals involved.

On May 21, 1990, the President of the Sinaloa Human Rights Commission, attorney Norma Corona Sapién, was assassinated.<sup>66</sup> The former commander of the Federal Judicial Police, Mario Alberto Gonzalez Treviño, was charged with masterminding her murder. As Treviño's trial is pending, three key witnesses have been killed, including one in the Mexico City East Prison. According to Jorge Madrazo of CNDH, the case against Treviño now hinges on the testimony of one remaining witness, one of the alleged gunmen, who is being held in a secret location by the Mexican government.<sup>67</sup> Minnesota Advocates has written to Attorney General Morales Lechuga asking that the trial against Treviño proceed in accordance with strict international standards of due process.<sup>68</sup>

On July 3, 1991, Dr. Víctor Manuel Oropeza, a journalist and outspoken critic of police abuse and electoral fraud, was also killed.<sup>69</sup> Minnesota Advocates conducted an in-depth inquiry into the investigation of Oropeza's killing which reveals how the judicial system's tolerance for abuse fails to assure accountability for wrongdoers. Sergio Aguirre Torres and Marco Arturo Salas Sánchez, two young men, were detained and charged with murder based upon little evidence other than their confessions. Minnesota Advocates found that relevant medicolegal evidence in the case was not properly collected, and was therefore lost; Aguirre Torres and Salas Sánchez were denied access to counsel; and the confessions of Aguirre Torres and Salas Sánchez, which both defendants recanted, were coerced.<sup>70</sup> Following the release of Minnesota Advocates' report, Aguirre Torres and Salas Sánchez were exonerated. Charges of abuse of authority were brought against Special Prosecutor Rafael Aguilar García, who conducted the original investigation of Oropeza's killing. On May 29, 1992 a federal judge in Juárez denied an order of arrest against Aguilar García based on lack of "facts and documentation."<sup>71</sup> According to the CNDH, an order of arrest for Aguilar García on charges of abuse of authority and torture are expected before the end of 1992.<sup>72</sup> Minnesota Advocates will continue to monitor this case closely to determine whether the investigation and prosecution proceed impartially and thoroughly. To date, however, no one has been charged with Dr. Oropeza's killing.

In October, November and December 1992, respected human rights attorney Maria Teresa Jardí received a series of death threats.<sup>73</sup> The first threat came two days after an announcement that Jardí would head the new Human Rights Department of the Archdiocese of Mexico.<sup>74</sup> At least one of the threats attacked Jardí for her role in the investigation of the murder of Dr. Oropeza. Although a high level investigation was initiated in October, the perpetrator of the death threats has still not been found, and Ms. Jardí is forced to live under 24-hour guard.<sup>75</sup>

The climate of tension among human rights activists in Mexico has been raised even further by the killing of journalist Ignacio Castillo Mendoza on November 13, 1992.<sup>76</sup> Mr. Castillo Mendoza had long been a critic of corruption within the government of Quintana Roo, the judicial system, and the Federal Judicial Police.<sup>77</sup> The case is particularly disturbing for human rights activists, because Castillo Mendoza, who had received death threats, was given personal assurances of his safety from President Salinas and representatives of CNDH earlier on the day he was killed.<sup>78</sup>

The evidence of abuse against human rights workers, and the failure of the government to root out this abuse does not bode well for the rights of environmental activists, independent labor leaders, and others who may oppose government policies under NAFTA. Individuals advocating better protection of environmental laws are reported to have been subject to threats and harassment by the government.<sup>79</sup> Unions are heavily regulated in Mexico, and the major ones are closely linked with the ruling PRI party, substantially limiting their independence.<sup>80</sup> Official labor union leaders have often been accused by Mexican workers of acting more in the interests of foreign corporations than of their Mexican employees.<sup>81</sup> There have also been repeated allegations that legitimate labor activists have been subjected to arbitrary detention and violence by police agents.<sup>82</sup>

The need for public debate free from intimidation and human rights abuses is illustrated in the series of recent events concerning the state-owned *Petroleos Mexicanos* (PEMEX). Following the PEMEX disaster in April 1992,<sup>83</sup> the Salinas administration ordered a restructuring of PEMEX, including a layoff of some 15,000 workers this summer.<sup>84</sup> The plan to restructure PEMEX, an enormous and inefficient government monopoly, had been considered for some time.<sup>85</sup> Within the oil industry, the restructuring is widely thought to be the only way the company can remain competitive with United States oil companies under NAFTA.<sup>86</sup>

The PEMEX restructuring, along with other moves toward economic liberalization, was accompanied by a summer of labor unrest in Mexico. Seven thousand current and former PEMEX workers conducted a 38 day sit-in at the National Palace in Mexico City to oppose further job cuts and demand better severance benefits.<sup>87</sup> They were joined by fishermen and farmers protesting the pollution of fishing areas and farmland by PEMEX.<sup>88</sup> In addition, former PEMEX workers staged protests at the PEMEX headquarters in Mexico City.

On October 21, 1992, twenty days after the demonstrations in Mexico city, police arrested two labor lawyers, Guadalupe Marín Sandoval and Julio Guillén Solís, who had been representing the PEMEX workers in the Mexico City protest. According to the National Association of Democratic Lawyers,

the charges against Sandoval and Solis dated back to 1989 and were initiated following a complaint issued by PEMEX officials, suggesting that the timing of the arrest was an act of retaliation for their efforts to assist workers at the PEMEX plant.<sup>89</sup> In addition to the arrests of Sandoval and Solis, there have been reports that PEMEX workers involved in the protest were detained by the police without charge and were beaten and abused while in custody.<sup>90</sup>

According to Jose Lavanderos, an attorney representing Sandoval and Solis, the two were held for longer than three days without being allowed to present a defense regarding the judicial finding of probable cause, in violation of article 19 of the Mexican Constitution; they were not informed of the charges against them and the facts supporting those charges, in violation of articles 14 and 20; and they were held without bail, in violation of article 20.<sup>91</sup> Only after Sandoval and Solis initiated a hunger strike on November 21, 1992 were they released on bail with the charges still pending against them.<sup>92</sup>

The controversy over PEMEX illustrates the need for Mexican participation in the inter-American system of human rights enforcement. The rule of law must be established so that concerned citizens may engage in public debate without fear. Partnership in the inter-American system would not excuse Mexico from the need to bring its domestic courts and criminal justice system into line with international standards, but it would help to ensure a mechanism of redress for those abused that is independent of domestic political forces.

#### Conclusions and Recommendations

As this report describes, a new commitment to the inter-American system of human rights enforcement is needed. Ongoing violations are particularly disturbing because so many of the human rights violations have been well documented over the last decade. If Canada, Mexico and the United States are truly committed to international human rights, they must bind themselves to the enforcement of international human rights law.

Minnesota Advocates for Human Rights calls on the North American partners to link their commitment to free trade to a new commitment to the inter-American system of human rights enforcement. The three trade partners must become full partners in the inter-American system for the enforcement of human rights. To do so, the following steps must be taken:

1. Canada and the United States must ratify the American Convention for Human Rights;
2. Canada, Mexico and the United States must ratify the American Convention without limitations of the authority of the Inter-American Commission to conduct human rights fact-finding investigations in each country or to review domestic laws under the American Convention (including each country's electoral law);
3. Canada, Mexico and the United States must accept mandatory jurisdiction of the Inter-American Court under article 62 of the American Convention.

The adoption of these recommendations by all parties to the NAFTA would express a commitment to enforce international human rights law in North America as fully as trade law is to be enforced under the accord. Important as it is to participate in the inter-American system, however, there is no substitute for the enforcement of domestic and international human rights protections through the courts of all three countries, as

well. Full participation in the inter-American system of human rights is but the beginning of a renewed commitment to international human rights protection at all levels by the governments of Canada, the United States and Mexico.

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#### FOOTNOTES

<sup>1</sup> Minnesota Advocates for Human Rights, founded in 1983, is a nongovernmental organization of 1,000 members that works to promote and protect international human rights. The organization advocates against individual human rights abuses, works to strengthen institutions and laws that protect human rights, researches and investigates human rights conditions in the United States and other countries, and educates the public about human rights issues. Minnesota Advocates has published reports about human rights conditions in over fifteen countries including three previous reports on Mexico: *Conquest Continued: Disregard for Human and Indigenous Rights in the Mexican State of Chiapas*, 1992; *The Homicide of Dr. Victor Manuel Oropeza Contreras: A Case Study of Failed Human Rights Reforms in Mexico*, 1991; and *Paper Protection: Human Rights Violations and the Mexican Criminal Justice System*, 1990.

<sup>2</sup> Full partnership includes: ratification of the American Convention for Human Rights, agreement to the unrestricted power of the Inter-American Commission to conduct human rights fact-finding missions in each state, and acceptance of mandatory jurisdiction of the Inter-American Court. The Inter-American system is described further in notes 15 to 17 and accompanying text.

<sup>3</sup> Warren Christopher, *Human Rights and the National Interest*, Department of State, Bureau of the Public Affairs, Current Policy No. 206 (1980), cited in Frank Newman & David Weissbrodt, *International Human Rights: Law, Policy & Process*, 503 (1990).

<sup>4</sup> This report does not mention human rights abuses in Canada or a host of other serious abuses in the United States and Mexico. The emphasis of this report is in part a reflection of the fact that Minnesota Advocates for Human Rights has for the past five years closely monitored human rights conditions in Mexico. Yet human rights abuses take place in all three countries, and with NAFTA these human rights violations become more inter-related.

<sup>5</sup> Governor Bill Clinton, *Expanding Trade and Creating American Jobs*, remarks, North Carolina State University, Raleigh, NC, October 4, 1992.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* Clinton suggested that the supplemental "agreement should contain a wide variety of procedural safeguards and remedies" to assure "access to the courts, public hearings, the right to present evidence, streamlined procedures and effective remedies."

<sup>8</sup> Tim Golden, *Mexican President Seeks to Address Clinton's Concerns*, New York Times, A1, November 21, 1992.

<sup>9</sup> *Id.* at A1-2. In 1991, the U.S. Supreme Court in *U.S. v. Alvarez-Machain*, —U.S.—, 112 S.Ct. 2188, 119 L.Ed. 2d 441 (1992), upheld such a kidnapping in Mexico. This case is discussed below at note 29, and accompanying text.

<sup>10</sup> *Id.* at A2. Time Golden, *Mexico's Leader Cautiously Backs Some Big Changes*, New York Times, A3, November 2, 1992.

<sup>11</sup> In anticipation of such closer relationship between human rights conditions in Canada, the United States and Mexico under a new trade accord, human rights organizations in all three countries have already started working together to map out common strategies for the defense of human rights in North America. Human rights groups met in Reynosa, Mexico on September 11-13, 1992 to identify common human rights concerns and will continue this discussion under the rubric of the "Trinational Exchange on Human Rights." Interview with Mariclaire Acosta, Director, Comisión Mexicana de Defensa y Promoción de los Derechos Humanos, December 1, 1992.

<sup>12</sup> NAFTA, Chapter 20, "Institutional Arrangements and Dispute Settlement Procedures" (September 6, 1992 draft). There are a number of different dispute resolution mechanisms under the current NAFTA draft which would allow for the imposition of countervailing duties or fines for violations of the NAFTA trade law.

<sup>13</sup> American Convention on Human Rights, art. 23(a).

<sup>14</sup> *Id.* The Convention guarantees an effective system of accountability to protect the rights guaranteed in the treaty as well as the right to a fair trial and due process for those accused (see articles 1, 8, and 25).

<sup>15</sup> As members of the Organization of American States (OAS), Canada, the U.S., and Mexico have all ratified the OAS Charter and are already part of the inter-American system in a limited way. The OAS Charter provides a legal framework for the Inter-American Commission to promote the observance and protection of international human rights. OAS Charter, art. 112. OAS members accept the American Declaration on the Rights and Duties of Man as a normative standard by which the Commission will adjudge the activities of all OAS member states. The American Convention binds States Parties to further international human rights standards and creates additional mechanisms for their enforcement. It grants greater powers to the Inter-American Commission to deal with private and interstate complaints, and it allows States to submit to the jurisdiction of the Inter-American Court. See Thomas Buergenthal, *The Inter-American System for the Protection of Human Rights*, in *Human Rights in International Law: Legal & Policy Issues*, 439 (Theodor Meron, ed. 1984).

<sup>16</sup> Articles 43 and 48 of the American Convention on Human Rights confer power on the Commission to carry out investigations within each State Party to the Convention. It is essential for the effective functioning of the Commission that States ratifying the Convention not make reservations limiting the authority granted to the Commission under these articles. Under article 43, States Parties "undertake to provide the Commission with such information as it may request of them as to the manner in which their domestic law ensures the effective application of any provisions of this Convention." As article 48(d) provides, States Parties agree to furnish "all necessary facilities" to allow the Commission to "verify the facts" alleged in petitions or communications to the Commission.

<sup>17</sup> Article 62(1) of the American Convention allows States Parties to "recognize as binding, *ipso facto*, and not requiring any special agreement, the jurisdiction of the Court on all matters relating to the interpretation or application of the Convention."

<sup>18</sup> See, e.g., Americas Watch, *Brutality Unchecked: Human Rights Abuses Along the U.S. Border with Mexico* (May 1992) (hereinafter Americas Watch (1992)); Mexican National Human Rights Commission, *Report on Human Rights Violations of Mexican Migratory Workers on Route to the Northern Border, crossing the Border and upon entering the Southern United States Border Strip* (1991) (hereinafter CNDH (1991)).

<sup>19</sup> CNDH (1991) at 56. As the CNDH noted, inadequate files in half these cases made it impossible to document the exact details surrounding these killings. In some cases, Mexicans were killed who appeared to be engaging in criminal acts or carrying firearms. In other cases, excessive force by Border Patrol agents and the lack of prompt response by U.S. authorities has been documented. *Id.* at 56–58. The undercover Border Crime Prevention Unit, which was involved in 19 killings between 1984 and 1989, was abolished after an incident in which two handcuffed men were shot. Americas Watch (1992) at 9.

<sup>20</sup> *Id.* at 35.

<sup>21</sup> Petition to the Inter-American Commission on Human Rights of the Organization of American States (OAS Petition on Border Violence), August 12, 1992.

<sup>22</sup> *Id.* at 3.

<sup>23</sup> *Id.* at 6.

<sup>24</sup> *Id.* at 8.

<sup>25</sup> *Id.* at 12–13.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.* at 21.

<sup>28</sup> *Id.* at 19. The Inter-American court has issued an advisory opinion unanimously holding that, if indigence prevents a petitioner from "invoking the domestic remedies necessary to protect a right guaranteed by the American Convention, he is not required to exhaust such remedies." Advisory Opinion No. OC-11/90, *Exceptions to the Exhaustion of Domestic Remedies in Cases of Indigence or Inability to Obtain Legal Representation Because of Generalized Fear Within the Legal Community* (August 10, 1990).

<sup>29</sup> *Id.* at 20.

<sup>30</sup> U.S. Const. Art. VI, § 2.

<sup>31</sup> U.S. —, 112 S.Ct. 2188, 119 L.Ed.2d 441 (1992).

<sup>32</sup> Tim Golden, *Mexican President Seeks to Address Clinton's Concerns*, New York Times, A1, November 21, 1992.

<sup>33</sup> CP/RES. 586 (90/92), July 15, 1992.

<sup>34</sup> Inter-American Juridical Committee, "Legal Opinion Regarding the Decision of the Supreme Court of the United States of America," August 15, 1992.

<sup>35</sup> *Id.* (emphasis added).

<sup>36</sup> *Id.*

<sup>37</sup> Brief of Amicus Curiae Minnesota Lawyers International Human Rights Committee in Support of Respondent, at 3, U.S. v. Alvarez-Machain, — U.S. —, 112 S.Ct. 2188, 119 L.Ed.2d (1992).

<sup>38</sup> Comisión Mexicana de Defensa y Promoción de los Derechos Humanos, A.C., *Elecciones en México: La Sociedad Civil y la Defensa de los Derechos Humanos*, 12 (1992) (hereinafter CMDPDH (1992)); Department of State (1990), at 694.

<sup>39</sup> CMDPDH (1992) at 13.

<sup>40</sup> Ley Orgánica de la Comisión Nacional de Derechos Humanos (1990).

<sup>41</sup> *Id.* at art. 16.

<sup>42</sup> David Clark Scott, *Mexican President Backs Economic Over Political Reform*, Christian Science Monitor, 6, November 4, 1992.

<sup>43</sup> *Convergencia*, A Civil Organization for Democracy, *Report on the Electoral Observation, Michoacán* (July, 1992).

<sup>44</sup> *Convergencia*, A Civil Organization for Democracy, the Citizens Movement for Democracy, the Juvenile Movement for Democracy, and the Union of Residents of Veracruz, *Report on the Observation of the Electoral Process, District of Xalapa, Veracruz* (August, 1992).

<sup>45</sup> Damian Fraser, *Mexican ruling party pushed towards reform*, Financial Times, 3, October 15, 1992.

<sup>46</sup> The number of polling places observed by *Convergencia* was reportedly limited by the fact that, in 15 percent of the installations, electoral observers were not allowed to enter the facility. *Id.* at 19. Findings of electoral fraud were confirmed by a 14 person international delegation, including Professor Robert W. Benson of the Loyola Law School. Robert Benson, *Michoacán Elections*, Letter to the Editor, Los Angeles Times, B7, October 17, 1992.

<sup>47</sup> *Id.*

<sup>48</sup> According to *Convergencia*, PRI agents offered voters construction and home improvement materials, corn grinders, milk, work permits, and cash on the condition that they sign a PRI voting member list and promise to vote for PRI. Those who refused to sign were threatened with having their *credenciales de elector* (voter registration) taken away or losing the union affiliation. *Id.* at 15. (Altogether, the PRI is reported to have spent \$20 million on the campaign, 50 times that spent by the PRD. David Clark Scott, *Mexican President Backs Economic Over Political Reform*, Christian Science Monitor 6, November 4, 1992.

<sup>49</sup> UPI, *Mexican Governor Steps Down Amid Protests*, October 6, 1992.

<sup>50</sup> *Id.*

<sup>51</sup> See cases No. 9768, 9780, and 9828, Inter-Am. C.H.R. 1989–90 (May 17, 1990); Case No. 10.180, Inter-Am. C.H.R. 1990–91 (February 22, 1991).

<sup>52</sup> Case No. 10.1891 at 250.

<sup>53</sup> Andrew Reding, *Bolstering Democracy in the Americas*, World Policy Journal 407 (Summer 1992).

<sup>54</sup> Secretary of Foreign Relations and the General Direction of Human Rights of the Secretary of Government, *Boletín de Prensa*, May 19, 1990; See discussion in Comisión Mexicana de Defensa y Promoción de los Derechos Humanos, A.C., *Informe Sobre los Derechos Humanos*, 18 & n.3 (September, 1992).

<sup>55</sup> *Mexico's Leader Cautiously Backs Some Big Changes*, New York Times, A3, November 2, 1992. President Salinas specified that he would support changes in the electoral law "making the source of party financing transparent, placing limits on the cost of election campaigns, and working on the communications media and procedures that guarantee the impartiality of the electoral process." *Id.*

<sup>56</sup> Case No. 10.979, Inter-Am. C.H.R. (September 1, 1992).

<sup>57</sup> See Minnesota Advocates for Human Rights, *Conquest Continued: Disregard for Human and Indigenous rights in the Mexican State of Chiapas* (October 1992) (hereinafter Minnesota Advocates (1992)); U.S. Department of State, *Country Reports on Human Rights Practices for 1991*, 664 (1992); Human Rights Watch World Report 1992, 277 (1992); Amnesty International, *Mexico: Torture with Impunity* (1991).

<sup>58</sup> The opposition party PRD reports that "[m]ost of the repression has been generated as a result of the attempts by the PRD to 'defend the vote' after electoral fraud has occurred." Human Rights Commission of the PRD, *The Political Violence in Mexico: A Human Rights Affair viii* (1992), cited in, Minnesota Advocates, 29 (1992).

<sup>59</sup> From May to November, 1992, PRD alleges that 26 of its activists have been killed, compared to 23 in 1991. According to Isabel Molina Warner, the reason for this sharp increase is that 1992 is an election year. In the last election year, 1990, PRD alleges that 66 of its activists were killed, also a sharp increase over the previous non-election year of 27 in 1989. Molina Warner interview.

<sup>60</sup> As Jorge Madrazo of the CNDH told Minnesota Advocates, the disparity in PRD and CNDH figures is in part explained by the fact that the CNDH does not have competence to review cases that are currently pending in court and before the judge has issued a final decision. Interview with Jorge Madrazo, CNDH, December 1, 1992 (hereinafter Madrazo Interview); See also Human Rights Commission to Investigate Killings of PRD Activists, Notimex Mexican News Service, September 1, 1992.

<sup>61</sup> *Id.*

<sup>62</sup> According to the PRD, both of these involved recommendations to reinvestigate due to "misconduct of justice." None of the CNDH recommendations have resulted in criminal charges or convictions. Molina Warner Interview.

<sup>63</sup> Minnesota Lawyers International Human Rights Committee, *Paper Protection: Human Rights Violations and the Mexican Criminal Justice System*, ii (July, 1990) (hereinafter Minnesota Advocates (1990)).

<sup>64</sup> *Id.* at 22.

<sup>65</sup> Federal Code of Criminal Procedure, art. 287, as amended (1990).

<sup>66</sup> Minnesota Advocates (1990) at 35. "At the time of her death, she was investigating the torture and murder of a Mexican lawyer and three Venezuelans. Her death followed the killing of the co-founder and former president of the Commission, Lic. Jesus Michel Jacobo, who was gunned down on 16 December 1987." *Id.*

<sup>67</sup> Interview with Jorge Madrazo, Visitador, CNDH, December 1, 1992.

<sup>68</sup> Letter from Barbara Frey to Attorney General Morales Lechuga November 1, 1992.

<sup>69</sup> Minnesota Lawyers International Human Rights Committee, *The Homicide of Dr. Victor Manuel Oropeza Contreras: A Case Study of Failed Human Rights Reforms in Mexico*, 5, December 1991 (the "Oropeza report.")

<sup>70</sup> *Id.* at 14.

<sup>71</sup> Madrazo Interview. Minnesota Advocates had received conflicting information about the exact reasons for the judge's refusal to order the request and is investigating this matter further.

<sup>72</sup> Madrazo Interview.

<sup>73</sup> Interview with Maria Teresa Jardi, director of the Human Rights Department, Archdiocese of Mexico (November 28, 1992) (hereinafter Jardi Inter-

view); see also Amnesty International Urgent Action UA 336/92, October 29, 1992.

<sup>74</sup> Notimex Mexican News Service, *Human Rights Leader Receives Third Death Threat*, October 29, 1992.

<sup>75</sup> Jardi Interview; Interview with Alicia Ely-Yamin, assistant to Ms. Jardi (December 6, 1992).

<sup>76</sup> Interview with Amalia Zavala, assistant to the director of the CMDPDH. Tim Golden, *Slaying in Mexico Spotlights Press*, New York Times, A12, December 1, 1992.

<sup>77</sup> Marjorie Miller, *Killing, Threats Cause Concern in Mexico* 17, November 1992.

<sup>78</sup> *Id.* Mexico City police have arrested one suspect, Salvador Zarazua Ortega, who the police say owed Castillo Mendoza a personal debt and had no political motivation for the killing. Since Zarazua's arrest, the Mexico City Attorney General's Office is reported to have completely ruled out any political motive for the killing. Notimex Mexican News Service, November 30, 1992; Madrazo Interview.

<sup>79</sup> Human Rights Watch and Natural Resources Defense Council, *Mexico: Cutting Through the Haze in Defending the Earth: Abuses of Human Rights and the Environment 65–76* (June, 1992).

<sup>80</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 1991*, 675 (1992).

<sup>81</sup> At the Volkswagen plant in Puebla, for example, workers went on strike on July 21, 1992 after the company announced that it would lay off 14,200 workers. The official labor union did not support the strike, and workers accused the union leaders of collaborating with Volkswagen by accepting employment terms for the rest of the work force far below what the strikers demanded. Without support from the union, the Mexican Federal Conciliation and Arbitration Board found that the strike was illegal and constituted "force majeure" by the workers, justifying a lock-out by company authorities. *Mexico: Mending the People's Car*, The Economist 43, August 22, 1992; Damian Fraser, *NAFTA Sets Mexico on the Path to Industrial Unrest 6*, August 19, 1992; Interview with Manuel Fuentes, National Association of Democratic Lawyers, December 1, 1992.

<sup>82</sup> In the lockout at the Volkswagen plant, described in note 81, police are reported to have used dogs and clubs against striking workers. *Id.* On June 25, 1992, a peaceful demonstration by the *Union Campesina Democrática* (UCD) before the National Palace in Mérida, Yucatán was violently disrupted by counter-demonstrators from a government sponsored union. Police arrested only members of the UCD. UCD leader Severino Salazar Castellanos was reportedly beaten by police in the presence of the crowd and arrested. Francisco López Vargas, *Ataque de fuezas públicas en Mérida*, Proceso 28, July 6, 1992; Javier Aguililar, *Salazar Held by Politicians*, 70(6) Los Angeles Loyolan, September 30, 1992. To date, Salazar Castellanos has been held without bail. The CNDH will be issuing a recommendation on this case by January 1993. Madrazo Interview. In 1991, the brother of a labor union protester, Braulio Aguilar Reyes, was arbitrarily detained and beaten by agents of the Federal Judicial Police. According to the Lawyers Committee for Human Rights, there is "evidence of police attempts to cover up the incident, and to coerce individuals into confessing to the crime." Lawyers Committee for Human Rights, *Critique 226* (July 1992). See also discussion of the detention of labor lawyers Guadalupe Marin Sandoval and Julio Guillén Solís, in text accompanying notes 89–92.

<sup>83</sup> An explosion at a PEMEX oil refinery in Guadalajara on April 22, 1992, wounded 1,400 and killed 200 people. The explosion was traced to gas leaks that had permeated the city's sewer system. A report by the Federal Attorney General of Mexico, Ignacio Morales Lechuga, blamed the explosion on a pattern of failure to enforce environmental laws governing the oil industry, as well as negligence by PEMEX officials who did not respond to reports of people who smelled the gas leaks. Since the incident, similar gas leaks were located in pipelines throughout Mexico. On November 29, 1992, Morales Lechuga announced that the PEMEX investigation was complete and that there would be no further charges brought as a result of the explosion. Agence France Press, *PEMEX facilities in dangerous state of disrepair*, May 5, 1992; Bureau of National Affairs, *Fallout from the Guadalajara Explosions Expected to Impact Industry, Politics, Environment Daily*, May 5, 1992; The News (Mexico City), Nov. 29, 1992 at 1.

<sup>84</sup> Lucy Conger, *The PEMEX Paradox*, Institutional Investor, 99, (September 1992) (hereinafter Conger (1992)).

<sup>85</sup> Jane Baird, *Mexico's oil revolution: drastic restructuring, labor conflicts, and pressing cash needs are*

changing PEMEX, considered Mexico's "petroleum cow" and guardian of the nation's oil wealth, Houston Chronicle, Business Section, 1, September 7, 1992.

<sup>88</sup> Conger (1992); Stephen Baker, *Free Trade Isn't Painless*, Business Week, 28, August 31, 1992; Damian Fraser, North American Free Trade Agreement: Pemex Open Wider But Not For Sale, Financial Times, 3, August 13, 1992.

<sup>89</sup> David Clark Scott, *Clearing Protest Off Capital's Central Plaza*, Christian Science Monitor, 3, September 8, 1992.

<sup>90</sup> *Id.*; Notimex Mexican News Service, *Protest Encampment Ends as Accord Reached with PEMEX*, September 7, 1992.

<sup>91</sup> Interview with Manuel Fuentes, National Association of Democratic Lawyers (Dec. 1, 1992).

<sup>92</sup> Report of Comisión Mexicana de Defensa y Promoción de los Derechos Humanos, A.C., June 11, 1992 (on file with Minnesota Advocates for Human Rights); Statement of Braulio Aguilar Reyes, April 29, 1991 (on file with Minnesota Advocates for Human Rights).

<sup>93</sup> Interview with Jose Lavanderos (Dec. 1, 1992).

<sup>94</sup> *Id.*

Mr. HOLLINGS. Mr. President, I also ask unanimous consent to have printed in the RECORD an article from the March 8, 1993, Christian Science Monitor by Richard Seid titled, "Mexico: Much Press, Little Real Freedom."

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

MEXICO: MUCH PRESS, LITTLE REAL FREEDOM  
(By Richard Seid)

What does freedom of the press mean in Mexico? Neither the government nor the media moguls in Mexico want to talk about it. Neither understands or admits to understanding the necessity of a free press to the functioning of a democracy. As Mexico approaches full partnership in free trade with the United States and Canada, there is no real guarantee of the public's right to hear all sides of political issues, so that informed choices can be made at the polls. Canada and the US may have fully discussed the ramifications of border and tariff changes, but the Mexican public has not.

In retrospect, freedom of political expression has never existed in modern Mexico. For decades, there have been practically no openly discussed political issues. The Institutional Revolutionary Party (PRI), which has been in power since 1929, is more than just the "ruling" political party. It has been virtually synonymous with the government itself. Without real political competition, how and why would freedom of the press become an issue at all?

Times are changing, but slowly. The financial crisis of the 1980s saw the rise of real political competition in some Mexican states, which culminated in the hotly contested 1988 federal election. It is creditably alleged that only election fraud kept the opposition left-center Democratic Revolutionary Party (PRD) from winning the presidency.

Moreover, the challenging parties had virtually no access to television, which is controlled by the PRI. During its decades in power the PRI has secured almost complete control over the rest of the media as well. This is done mainly through payments. Sometimes the process is sophisticated, but more often the payments are blatant gifts or cash given to underpaid reporters and editors, with the complete acquiescence of their employers. There has been a slight improvement: As of last month, by presidential order, government payments to the media are to be accounted for. But there has been no effort to restrain them.

The newspapers themselves are sponsored not only by advertising, but also by govern-

ment-paid articles. There are more than 20 daily newspapers in Mexico City. What looks like a vigorous press is actually heavily dependent on governmental money. It is doubtful that more than a handful would survive under a freely competitive system without government contributions. Thus indebted to the government for their existence, many papers are readily disposed to print the party line. The reason the government keeps all these newspapers going is so that no paper will become dominant.

Until last year, the government held the monopoly on the newsprint supply. Paper supplies could be cut off to a nonconforming publication. The paper supply has been privatized, but now if a newspaper becomes too critical, they are subject to repeated financial audits.

La Jornada, a daily known for its independence as an intellectual left-center newspaper underwent multiple audits last year until it partially buckled under by reducing its criticism. Consequently, it lost some of its best writers.

Worse than these pressures is self-censorship. Last November the only English-language daily, The News, clumsily fired a reporter for critical but accurate reporting. The owner of the paper, a staunch supporter of the PRI, was protecting his political friends. Fortunately, the firing was highly publicized. The Mexican government, trying to convince the US Congress of its commitment to a free press, was embarrassed, and it reduced its subsidy to the owner.

But self-censorship is most extreme in television journalism, from which nearly 90 percent of Mexicans get their news. The huge radio and TV conglomerate, Televisa, which has an overwhelming audience share, is the worst offender. The bias in newscast editing is especially notorious. Televisa's boss, Emilio Azcárraga, claims that since he is running a private enterprise, he can support whichever candidates he chooses. It just so happens, however, that Televisa favors any nominee of the governing PRI—to the extent that opposition candidates are rarely seen and never heard on any Televisa station.

For its complete loyalty to the PRI, the government allows Televisa to maintain and expand its vertical and horizontal hold on practically the entire Mexican entertainment industry. In addition, Televisa pays no Mexican taxes on its enormous income. In exchange for what would be owed, the government is given TV and radio time for "messages," which at times are indistinguishable from political commercials. The government has never addressed Televisa's unfair business practices or its evident abuse of the public trust. There is an implied governmental position that it cannot interfere in the conduct of private enterprise. Of course it does exactly this every day.

As the borders of Canada, the US, and Mexico become more porous, and as the policies and passions of free trade more tightly intermesh, the rights of all North American citizens should be equalized. Opposing abuses of freedom of expression is just as important as regulating businesses that contaminate the air we breathe. Televisa is just one example. But by denying free speech to opposing political groups, it pollutes the air as much as any smokestack.

Most important is the promise from Mexican President Carlos Salinas de Gortari that his country is on the road to full democracy. Without the guarantee of the basic freedoms of speech and press that a democracy needs, Mexicans are hardly full partners in the politics and policies of the approaching years.

#### TELEvisa's MEDIA REALM KEEPS GROWING

Televisa, technically an independent company, is big and getting bigger. It is widely thought to be attempting to expand its Mexico City television channels and going national through existing affiliations with local channels within the states of the Mexican Republic. Televisa's radio station XEW is the oldest and most dominant in the country and the cornerstone of its other extensive radio holdings.

In addition, Televisa controls the following: Telegula, the equivalent of the United States TV Guide; approximately 100 other magazines; the newspaper, *Ovaciones*; its own chain of theaters (which, of course, get free TV advertising unavailable to their competitors); 1,750 Videocentro video rental outlets (which are just now starting to face competition from the first 30 Blockbuster Video stores in the country); all the major dubbing facilities with the exception of Walt Disney studios; as well as night clubs, and its own talent school and agency.

Televisa has reentered the U.S. market by obtaining a minority interest in Univision, the Spanish-language network it had previously been forced to divest after losing a 1986 antitrust action. Although approved by the Federal Communications Commission, this recent purchase was hotly opposed by many Hispanics in the U.S. who feel that Televisa's allegedly mediocre programming will now be imposed on American audiences.

Mr. HOLLINGS. I thank the distinguished Chair.

Last week, Mr. President, we were given our evidence on a silver platter regarding the absence of true freedom of the press in Mexico. I have tried a lot of law cases, but I have never had the other side come up and hand deliver such devastating evidence against their own side.

We had arranged a public hearing on NAFTA in the Committee on Commerce, Science, and Transportation, with a live satellite hookup to five witnesses, authorities down in Mexico City. Just prior to the hookup, the witnesses objected to their having to testify in a studio from which local press had been excluded by the Government. Their own Mexican press was being kept out by the Government.

I said, "Well, that is funny, because there is Mexican press up here in the committee room, here in Washington. So at least we have them covered up here." They said, "Yes, but that is the Government press up there. They will not be allowed to report independently on what we say. We want to be covered by independent journalists here in Mexico."

Nonetheless, we proceeded with the hearing via satellite. The witnesses presented a balanced and objective picture of the situation in Mexico. But right in the middle of the testimony, the Mexican station, Televisa, pulled the plug. You talk about free press. I am an expert witness that they do not have a free press in Mexico. They pulled the plug right in the middle of the hearing. We had agreed that, even if the time ran out, we could keep up the telephone lines and have audio. But

they pulled the plug on the telephone connection, too.

Mr. President, let us turn to labor conditions in Mexico.

I went down to Tijuana and was shocked. They have a plastic coat hanger factory that had moved from Santa Ana, CA, 3 years ago. Earlier this year, there was a terrible flood in the Tijuana area, washing away many houses and shanties. And under the factory rules, if you lose a day, you are docked 3 days. So they lost a day due to that heavy rain. They could not even get to the factory. So they were docked not 3 days but 4. Later in the spring, a worker lost an eye in a factory accident. These incidents drove the workers to consider forming a union. The final straw came when a respected supervisor, a young lady who was expecting at the time, became sick and asked for time off that afternoon. The bosses said, "You have to continue to work." She miscarried.

That really put them all together. They said, "We are going up to get a California lawyer, and we are going to get a union." Do you know what, Mr. President? They found out they already had a union. The company had bought the union. You can go to the Government and buy yourself a union.

Yes, the Mexican Constitution speaks eloquently about labor rights. I am talking about the facts of life. The company had bought the union, and the workers had never seen in 3 years the representative; they never knew who he was. But Mexican law says that if a union already exists in a plant, it

is illegal to try to organize another one, so the organizers were fired and out of a job.

Regarding the labor situation in Mexico, let me quote from the April 19, 1993 Business Week:

Salinas established the new rules for labor last summer in what became a battle for the country's industrial future. While Salinas has never hesitated to hammer union bosses who crossed him politically, the President drew a new economic line with a strike at Volkswagen de Mexico. The battle erupted when the government-controlled union at VW, based in Puebla, signed on to a massive restructuring plan to raise productivity. VW management insisted that the new agreement was vital for global competitiveness. This was hardly idle talk, since VW supplies the entire North American market from Puebla. But a group of dissidents, fearing layoffs, opposed the plan. After weeks of a bitter strike, Salinas gave VW permission to rip up the union contract. The company promptly fired 14,000 workers and rehired all of them, minus some 300 dissidents, under a new contract.

There you go. That is Salinas, the hero. You do not want to hurt his feelings. If you do, he will not approve NAFTA.

Read not just Business Week, but also Rolling Stone and the brilliant reporting of William Greider, one of America's most respected journalists. I quote from the October 28, 1993 issue of Rolling Stone:

At Ford's plant in Cuautitlan, where Mercury Cougars are assembled, long-running conflicts between workers and the company led to bloody confrontations in early 1990. A group of 30 thugs, many reported to be out-of-uniform police officers, attacked and beat several local leaders. Six workers were ei-

ther kidnapped or arrested, then released. Three days later, workers found 200 or 300 armed men inside the plant. In the battle that ensued, 12 workers were wounded by gunfire. One later died. The police did not appear. The workers claimed that the goons were from CTM, the National Labor Federation that is closely allied with Salinas, and the PRI, the political party that has held uninterrupted power in Mexico since the 1920's.

Mr. President, let us face the truth about Mexico. They do not have a free press. They do not have an independent labor union. They do not have the right, really, to organization. They do not have meaningful environmental controls. GAO last year looked at eight blue-chip U.S. corporations based in Mexico and found them all in violation of environmental laws. You can cite all the environmental rules and agreements you want, Mexico has them. But they do not have any idea of enforcing them.

Similarly, they claim they do not have child labor in Mexico.

Mr. President, I ask unanimous consent to have printed in the RECORD two tables from the National Institute of Statistics, Geography and Informatics, sent to me from Mexico City by the official labor body there. In this there are statistics on unemployment; it includes statistics on the population 12 years of age and over that did not have a job the week before the survey, and have been looking for a job.

They have the 12-year-olds included. There being no objection, the table was ordered to be printed in the RECORD, as follows:

HISTORICAL SERIES

Period	Unemployment rate in urban areas <sup>1</sup>			Other employment and unemployment indicators in urban areas						
	General	Men	Women	AVR <sup>2</sup>	ROB <sup>3</sup>	NEUR <sup>4</sup>	EAP <sup>5</sup>	EIP <sup>6</sup>	Employed population <sup>7</sup>	Employed population that earn more than the minimum salary
1987	3.9	3.4	4.9	6.0	7.4	7.9	51.1	48.9	96.1	65.1
1988	3.6	3.0	4.7	5.3	7.1	7.5	51.6	48.4	96.4	73.3
1989	3.0	2.6	3.8	4.4	5.8	6.8	51.8	48.2	97.0	76.7
1990	2.8	2.6	3.1	4.4	5.1	6.1	51.8	48.2	97.2	80.3
1991	2.6	2.5	2.9	4.2	4.8	6.1	53.3	46.8	97.4	82.2

SHORT-RUN INDICATORS

1990:										
January	2.6	2.2	3.1				51.4	48.6	97.4	79.1
February	2.4	2.4	2.6				51.6	48.4	97.6	82.1
March	2.4	2.2	2.9	4.0	4.6	5.8	50.7	49.3	97.6	79.0
April	2.7	2.8	2.6				50.6	49.4	97.3	84.1
May	2.7	2.6	2.8				51.6	48.4	97.3	83.0
June	3.0	2.9	3.1	4.1	5.1	6.2	51.6	48.4	97.0	83.6
July	3.6	3.6	3.6				52.6	47.4	96.4	81.0
August	3.0	2.7	3.7				53.3	46.7	97.0	80.1
September	2.8	2.5	3.3	5.0	5.7	6.4	51.5	48.6	97.2	82.3
October	3.3	3.2	3.6				52.4	47.6	96.7	82.0
November	2.3	2.1	2.8	4.4	5.0	5.6	53.1	46.9	97.7	81.4
December							51.1	47.8	97.9	79.8
1991:										
January	2.8	2.7	2.8				52.2	47.8	97.2	83.4
February	2.5	2.4	2.8				53.0	47.0	97.5	80.5
March	2.9	2.7	3.3	4.4	4.8	6.0	52.2	47.8	97.1	86.3
April	2.6	2.4	3.0				52.6	47.4	97.4	85.6
May	2.3	2.4	2.1				53.1	46.9	97.7	85.6
June	2.1	2.2	2.0	3.8	4.0	5.6	52.8	47.2	97.9	86.7
July	2.7	2.6	2.8				53.8	46.2	97.3	86.2
August	3.2	3.1	3.2				54.5	45.5	96.9	85.4
September	3.1	2.6	4.0	4.4	5.4	6.5	53.8	46.2	96.9	86.6
October	3.2	3.0	3.5				54.2	45.8	96.8	86.0
November	2.7	2.5	3.1				54.3	45.7	97.3	86.7
December	2.2	1.8	2.8	4.1	4.9	6.4	54.3	45.7	97.8	87.4
1992:										
January	2.5	2.8	2.7				53.7	46.3	97.2	84.5
February	3.3	3.1	3.7				54.0	46.0	96.7	85.4

## HISTORICAL SERIES—Continued

Period	Unemployment rate in urban areas <sup>1</sup>			Other employment and unemployment indicators in urban areas						Employed population that earn more than the minimum salary
	General	Men	Women	AVR <sup>2</sup>	ROB <sup>3</sup>	NEUR <sup>4</sup>	EAP <sup>5</sup>	EIP <sup>6</sup>	Employed population <sup>7</sup>	
March	2.6	2.4	3.0	4.5	5.3	6.8	54.7	45.3	97.4	85.5
April	2.8	2.6	3.2				54.1	45.9	97.2	87.4

<sup>1</sup> It includes population of 12 years and over that didn't have a job the week before the survey and have been looking for it.

<sup>2</sup> Alternative unemployment rate, it considered: the employed and the people who have stopped looking for a job thinking that there is no job available for them.

<sup>3</sup> Rate of overall pressure: it registers the percentage of the unemployed population and the occupied looking for a job.

<sup>4</sup> Partial employment and unemployment rate: proportion of unemployed or employed that work less than 15 hours a week.

<sup>5</sup> Economically active population, percentage with respect to the population of 12 years and over.

<sup>6</sup> Economically inactive population, percentage with respect to the population of 12 years and over.

<sup>7</sup> Percentage respect the economically active population.

Source: National Statistics, Geography and Informatics. "National Urban Employment Survey".

Mr. HOLLINGS. I also asked unanimous consent to have printed in the RECORD an article from the April 8, 1991, Wall Street Journal titled, "Working Children: Underage Laborers Fill Mexican Factories, Stir U.S. Trade Debate." This article tells the story of 12-year-old Vicente Guerrero.

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

WORKING CHILDREN: UNDERAGE LABORERS  
FILL MEXICAN FACTORIES, STIR U.S. TRADE  
DEBATE

(By Matt Moffett)

LEON, MEXICO.—When Vicente Guerrero reported for work at the shoe factory, he had to leave his yo-yo with the guard at the door. Then Vicente who had just turned 12 years old, was led to his post on the assembly line: a tall vertical lever attached to a press that bonds the soles of sneakers to the uppers.

The lever was set so high that Vicente had to shinny up the press and throw all his 90 pounds backward to yank the stiff steel bar downward. It reminded him of some playground contraption.

For Vicente this would have to pass for recreation from now on. A recent graduate of the six grade, he joined a dozen other children working full time in the factory. Once the best orator in his school and a good student, he now learned the wisdom of silence: even opening his mouth in this poorly ventilated plant meant breathing poisonous fumes.

Vicente's journey from the front-row desk of his schoolroom to the factory assembly line was charted by adults: impoverished parents, a heedless employer, hapless regulators, and impotent educators. "I figure work must be good for me, because many older people have helped put me here," says Vicente, shaking his hair out of his big, dark eyes. "And in the factory I get to meet lots of other boys."

Half of Mexico's 85 million people are below the age of 18, and this generation has been robbed of its childhood by a decade of debt crisis. It's illegal in Mexico to hire children under 14, but the Mexico City Assembly recently estimated that anywhere from five million to 10 million children are employed illegally, and often in hazardous jobs. "Economic necessity is stronger than a theoretical prohibition," says Alfredo Farit Rodriguez, Mexico's Attorney General in Defense of Labor, a kind of workers' ombudsman.

Child labor is one of several concerns about standards in the Mexican workplace clouding the prospects for a proposed U.S. Mexico free trade agreement. It is being seized upon, for

example, by U.S. labor unions, which oppose free trade and fear competition from Mexican workers.

Recently, Democratic Sen. Lloyd Bentsen of Texas, the chairman of the Senate Finance Committee, and House Ways and Means Committee chairman Dan Rostenkowski of Illinois warned President Bush in a letter of the major hangup: "the disparity between the two countries in . . . enforcement of environmental standards, health and safety standards and worker rights." Mr. Bush yesterday reiterated his support for the trade pact.

Free-trade advocates argue that investments flowing into Mexico would ameliorate the economic misery that currently pushes Mexican children into the work force. Partisans of free trade also point to the aggressiveness Mexican President Carlos Salinas de Gortari has lately shown in fighting lawbreaking industries: Mexico added 50 inspectors to regulate foreign plants operating along the U.S.-Mexico border and shut down a heavily polluting refinery in Mexico City.

LITTLE FOXES

Young Vicente Guerrero's life exemplifies both the poverty that forces children to seek work and the porous regulatory system that makes it all too easy for them to find jobs. In the shantytown where Vicente lives and throughout the central Mexico state of Guanajuato, it is customary for small and medium-sized factories to employ boy shoemakers known as zorritas, or little foxes.

"My father says I was lucky to have so many years to be lazy before I went to work," says Vicente. His father, Patricio Guerrero, entered the shoe factories of Guanajuato at the age of seven. Three decades of hard work later, Mr. Guerrero lives in a tumbledown brick shell about the size and shape of a baseball dugout. It is home to 25 people, maybe 26. Mr. Guerrero himself isn't sure how many relatives and family friends are currently lodged with him, his wife and six children. Vicente, to get some privacy in the bedroom he shares with eight other children, occasionally rigs a crude tent from the laundry on the clothesline crisscrossing the hut.

School was the one place Vicente had no problem settling himself apart from other kids. Classmates, awed by his math skills, called him "the wizard." Nearly as adept in other subjects, Vicente finished first among 105 sixth-graders in a general-knowledge exam.

Vicente's academic career reached its zenith during a speaking contest he won last June on the last day of school. The principal was so moved by the patriotic poem he recited that she called him into her office to repeat it just for her. That night, Vicente told his family the whole story. He spoke of

how nervous he had been on the speaker's platform and how proud he was to sit on the principal's big stuffed chair.

After he finished, there was a strained silence. "Well," his father finally said, "it seems that you've learned everything you can in school." Mr. Guerrero then laid his plans for Vicente's next lesson in life. In a few weeks, there would be an opening for Vicente at Deportes Nike, the athletic shoe factory where Mr. Guerrero himself had just been hired. Vicente would earn 100,000 pesos a week, about \$34.

At the time, money was tighter than usual for the Guerreros: Two members of the household had been laid off, and a cousin in the U.S. had stopped sending money home.

After his father's talk, Vicente stowed his schoolbooks under a junk heap in a corner of the hut. It would be too painful, he thought, to leave them out where he could see them.

Last August Vicente was introduced to the Deportes Nike assembly line. About a dozen of the 50 workers were underage boys, many of whom toiled alongside their fathers. One youth, his cheek bulging with sharp tacks, hammered at some baseball shoes. A tiny 10-year-old was napping in a crate that he should have been filling with shoe molds. A bigger boy was running a stamping machine he had decorated with decals of Mickey Mouse and Tinker Bell. The bandage wrapped around the stamper's hand gave Vicente an uneasy feeling.

Showing Vicente the ropes was the plant superintendent's 13-year-old son, Francisco Guerrero, a cousin of Vicente's who was a toughened veteran, with three years' experience in shoemaking.

When a teacher came by the factory to chide school dropouts, Francisco rebuked here. "I'm earning 180,000 pesos a week," he said. "What do you make?" The teacher, whose weekly salary is 120,000 pesos, could say nothing.

Vicente's favorite part of his new job is running the clanking press, though that usually occupies a small fraction of his eight-hour workday. He spends most of his time on dirtier work: smearing glue onto the soles of shoes with his hands. The can of glue he dips his fingers into is marked "toxic substances . . . prolonged or repeated inhalation causes grave health damage: do not leave in the reach of minors." All the boys ignore the warning.

Impossible to ignore is the sharp, sickening odor of the glue. The only ventilation in the factory is from slits in the wall where bricks were removed and from a window near Vicente that opens only halfway. Just a matter of weeks after he started working, Vicente was home in bed with a cough, burning eyes and nausea.

What provoked Vicente's illness, according to the doctor he saw at the public hospital,

was the glue fumes. Ingredients aren't listed on the label, but the glue's manufacturer, Simon S.A. of Mexico City, says it contains toluene, a petroleum extract linked to liver, lung and central nervous system damage. The maximum exposure to toluene permitted under Mexican environmental law is twice the level recommended by recently tightened U.S. standards. And in any event, Deportes Nike's superintendent doesn't recall a government health inspector coming around in the nine years the plant has been open.

When Vicente felt well enough to return to work a few days later, a fan was installed near his machine. "The smell still makes you choke," Vicente says, "but el patron says I'll get used to it."

El patron, the factory owner, is Alfredo Hidalgo. "These kinds of problems will help make a man of him," Mr. Hidalgo says. "It's a tradition here that boys grow up quickly." Upholding tradition has been good for Mr. Hidalgo's business: Vicente and the other zorritas generally are paid less than adult workers.

Mr. Hidalgo doesn't see that as exploitation. "If it were bad for Vicente, he wouldn't have come back after the first day of work," he says. "None of the boys would, and my company wouldn't be able to survive."

"The system makes protecting the zorritas very, very difficult," says Teresa Sanchez, a federal labor official in Guanajuato state. The national labor code gives the federal government jurisdiction over only a limited number of industries that make up just 3% of businesses in the state. "The important industries, like shoes," she says, "are regulated by the states, and the states . . ." She completes the sentence by rolling her eyes.

At the state labor ministry, five child labor inspectors oversee 22,000 businesses. The staff has been halved in the decade since Mexico's economic crisis erupted, says Gabriel Eugenio Gallo, a sub-secretary. The five regulators make a monthly total of 100 inspections. At that rate it would take them more than two decades to visit all of the enterprises under state jurisdiction. Because child labor violations weren't even punishable by fines until very recently, state regulators say they have a hard time getting the tradition-bound employers they do visit to take them seriously. "Ultimately, the schools must be responsible for these kids," Mr. Gallo concludes.

Located just four blocks from where Vicente Guerrero labors, the Emperador Cuauhtemoc school employs two social workers to reclaim dropouts. (Children are required by law to stay in school through the sixth grade.) One-third of the students at Cuauhtemoc never finish the Mexican equivalent of junior high. With their huge case-loads, the two social workers certainly have never heard of Vicente Guerrero. "Ultimately, it's the boy's own responsibility to see to it that he gets an education," says Lourdes Romo, one of the counselors.

Vicente is still getting an education, but it's a different sort than he would be getting in school. On a factory break, the superintendent puts a zorrita in a headlock to act out the brutal murder of a member of a local youth gang. This pantomime is presented to Vicente and a rapt group of boys as a cautionary tale. "Boys who don't work in the factory die this way on the street," the superintendent warns.

Vicente hasn't missed work again, though he always has a runny nose and red eyes. "One gets accustomed to things," he says. It's lucky for him that he is adaptable. The

plant was expanded recently and Vicente's window, once his source of fresh air, now swings open onto a sewing room where several new boys labor.

The zorrita tradition is unlikely to fade any time soon. "We eat better now that Vicente works," says Patricio Guerrero, watching his wife stir a skillet of chicken in sweet mole sauce. "And Vicente has few pesos left over so he can enjoy being a boy."

But Vicente doesn't have the time. Even though he's the captain, he recently missed an important Saturday match of his soccer team. A rush order of soccer shoes had to be filled at Deportes Nike. His friends tell him that "I stink as bad as the patch on a bicycle tire," he says. "But I know that's just the smell of work."

Mr. HOLLINGS. Mr. President, I also ask unanimous consent that relevant pages from our own State Department's report on human rights in Mexico be printed in the RECORD.

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

STATE DEPARTMENT HUMAN RIGHTS REPORT:  
MEXICO

Mexico is a federal republic with a President, a bicameral legislature and a constitutionally independent judiciary. The Institutional Revolutionary Party (PRI) has dominated the Government since its founding in 1929. Following political reforms in recent years, the opposition expanded its stake in the political system. Opposition parties currently hold a significant number of seats in the Chamber of Deputies, three major governorships, and numerous mayoralties, reflecting progress achieved by the Salinas Administration toward a fairer electoral process. Nevertheless, the PRI maintains predominant political control through a combination of voting strength, organizational power, access to governmental resources not enjoyed by other political parties, and—according to credible charges from the principal opposition parties and other observers—electoral irregularities.

In 1992 elections were held for 11 governorships, as well as many state legislatures and municipal governments. Despite opposition gains, including winning the governorship of Chihuahua and control of the state's Congress, many respected nonpartisan observers, both domestic and international, cited a variety of actions, including electoral fraud, by election authorities and PRI supporters in several states that they charged had distorted the electoral process. The election proceedings were seriously contested in four states. In the races for governor in Durango, Tamaulipas, and Sinaloa, electoral tribunals rejected opposition complaints that the elections were unfair, and the PRI candidates took office. In Michoacan, which has traditionally been plagued by violence on both sides, protests continued long after the elections, and the elected PRI governor eventually requested a year's leave of absence, which was tantamount to resignation.

Mexican security forces include Federal and State Judicial Police, specialized forces such as Mexico City's Traffic Police, the Federal Highway Police, local police, and the military. Mexican military expenditures represent a small share of the overall national budget. According to the U.S. Arms Control and Disarmament Agency, total military expenditures for 1989 were \$875 million. Despite an increasing role in counternarcotics operations for the military, the defense budget has remained at the same level. Although

the Salinas Administration has made some progress in controlling abuses, members of the Federal and State Judicial Police continue to be responsible for many human rights abuses.

Mexico has a mixed economy that combines domestic market capitalism with some state ownership of major industries. The Government's economic reform program has been very successful in reducing inflation, promoting growth, and restoring economic confidence. Negotiations were concluded for a free trade agreement with Canada and the United States that is awaiting legislative approval. Growing confidence in Mexico has led to increased foreign investment.

A wide range of individual freedoms is provided for by the Mexican Constitution and honored in practice, but there continue to be human rights abuses in Mexico, many of which go unpunished, owing to the culture of impunity that has traditionally surrounded human rights violators. These violations include the use of torture and other abuses by elements of the security forces, instances of extrajudicial killing, and credible charges by opposition parties, civic groups, and outside observers that there are flaws in the electoral process. Police brutality is widespread in Mexico. According to the National Human Rights Commission (CNDH), however, as well as state and local human rights advocates, allegations of such abuse declined in 1992. This decline reflects the work of government and nongovernmental human rights agencies and a commitment by the Salinas Administration to prosecute offenders. The Mexican Government established the CNDH in 1990 to investigate human rights violations, and the Salinas Administration has given substantial support to it. Through November 1992, 588 police and other public employees had been disciplined as a result of CNDH investigations into human rights-related complaints. Of these, criminal charges were brought against 246 employees, and investigations were still pending in 141 cases. The CNDH was also largely responsible for the Government's early release of 500 indigenous people from prisons during 1992.

RESPECT FOR HUMAN RIGHTS

Section 1. *Respect for the Integrity of the Person, Including Freedom from*

a. *Political and Other Extrajudicial Killing.*—Several political and human rights activists were killed in 1992. As in previous years, the identities and motives of the perpetrators often have not been established conclusively, but a number of the killings may have been politically motivated. The most notable was the November slaying in Mexico City of Quintana Roo journalist Ignacio Mendoza Castillo. Mendoza was slain the day after he had visited the CNDH to denounce threats against himself and other Quintana Roo journalists. While a police investigation concluded on November 29 that Mendoza had been shot by one of his private business debtors, whom he was threatening to foreclose, the CNDH is also investigating the Mendoza slaying. The Commission reported on December 15 that, while preliminary review suggested the Mendoza killer had been identified, it would not close its investigation until it had finished examining the Attorney General's report.

Most public attention in 1992, however, remained focused on murders that occurred in earlier years, including the 1991 murder of physician and journalist Victor Manuel Oropeza and the 1990 killing of lawyer and prominent human rights worker Norma Corona. Former Mexican Federal Judicial Police (MFJP) Commander Mario Alberto Gonzalez Trevino, accused of planning the 1990

murder of Corona, remains under arrest, and the trial against him is proceeding. On July 14, 1992, Miguel Angel Rico Urrea, a principal witness for the prosecution, was fatally shot in prison, and there is strong evidence linking his murder to Gonzalez Trevino. He is the fourth prosecution witness killed in the Corona case.

In another earlier case involving police, the CNDH concluded its investigation into the deaths of three Quijano brothers at the hands of police in January 1990. Its report was sharply critical of the Attorney General's investigation of the case, noting that the evidence implicated several MFJP agents, and hinting that the physical evidence suggested attempts at a coverup. Arrest warrants were issued against five MFJP agents involved, but only one had been served as of December 1992. Investigations also continue into the death of Victor Oropeza and the 1988 killings of the two aides to Party of the Democratic Revolution (PRD) leader Cuauhtemoc Cardenas. New special prosecutors were appointed in both cases but, as of December 1992, had not resolved either.

Five PRD supporters in Michoacan were killed by persons unknown in violence related to the July 12 election. Complaints have been filed with the NDH in these and other cases denounced by the PRD as politically motivated killings and investigations continue into the killings.

There continue to be cases of extrajudicial killing by police. There are also repeated allegations of involvement by judicial police agents in narcotics-related killings. At least one judicial policeman has been charged with providing protection to drug traffickers involved in a November shootout in Puerto Vallarta that left at least six persons dead. In September nine persons were kidnapped in Mexico City, tortured and killed. While their murders were attributed to a conflict between drug gangs, the murders have not been identified. In addition, "madrinas"—civilians unofficially recruited by police—continue to be accused by human rights monitors of human rights abuses.

In Mexico's rural states, violent disputes over land sometimes result in extrajudicial killings. Paramilitary bands, "madrinas," and local police controlled by political bosses and landowners have threatened and sometimes killed peasant activities. In one instance, a local policeman in Trinidad Yaveo was charged with homicide and is now a fugitive after he killed a man in the course of a police-led eviction of a group from a parcel of land, the title to which was contested.

On July 12, the leader of Mexico City's AIDS movement and two homosexual men were tortured and murdered. At least four other antigay murders took place in Mexico City during the year, and a number were reported in the state of Chiapas. Gay groups accused the police of releasing inflammatory information to the press and of failing to investigate these murders vigorously. At year's end, no one had been arrested and the police reported that they had no suspects.

The U.S. government formally protested and sought investigations of two instances when U.S. citizens died while in police custody, allegedly by suicide.

With the establishment of the CNDH as an independent entity under the Constitution, and with the formation of official Human Rights Commissions in each state, there has been increased attention paid to human rights at both the state and federal levels. However, many of the CNDH recommendations have been implemented only partially.

b. Disappearance.—Unlike previous years, there was no evidence in 1992 that human rights workers, journalists, or political activists disappeared for political motives.

In 1992 the CNDH opened 53 new investigations of reported disappearances and continued working on the more than 270 investigations already under way. During calendar year 1992, the CNDH concluded 20 cases. Of the 20, 12 were found not to be genuine disappearances. The remaining 8 involved murders, and CNDH investigations continue in 6 of these cases. There is a suspect in one murder case, and in another the murderer has been convicted. None of the resolved murders were found to be motivated by political considerations.

With the 20 cases resolved in 1992, the CNDH concluded 60 disappearance cases. Many of these were undertaken as part of a joint program with the Mexican Office of the Attorney General (PGR) to resolve all of the cases in Mexico listed by the U.N. Working Group on Involuntary or Forced Disappearances. (The U.N. list contains a total of more than 200 persons who reportedly disappeared in Mexico over the last 22 years. Mexican independent human rights groups continue to claim that approximately 500 persons disappeared in Mexico over the same period.) The joint CNDH/PGR program ended on June 1, 1992; CNDH officials will continue investigating the remaining cases on their own.

While some nongovernmental human rights activists assert that there were political motives behind many disappearances, the Commission found evidence of a political motive in only one of the disappearance cases it investigated, that of Jose Ramon Gracia Gomez, a political activist who disappeared in Morelos in 1988. The Commission issued two recommendations in the case. Several suspects in Grazia Gomez' disappearance, including former police officials, were arrested on criminal charges while another, the former state police chief, is being sought. "Amparos" (judicial orders that quashed the arrest warrants) were issued, and the prosecution was forced to appeal in at least two cases.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Torture is prohibited by the Constitution. However police agents continue to employ psychological and physical torture. The most commonly used methods of torture include threats, beatings, asphyxiation, and electric shock. In its first two years, the CNDH received 736 complaints of torture. According to the CNDH, torture complaints declined sharply during 1992, both in number and as a percentage of all complaints. The Commission received 292 such complaints from December 1991 to December 1992, compared with 422 in the previous year. As a result of the CNDH recommendations issued up to December for complaints concerning torture, the Government brought criminal charges against 16 public officials. Although this represents an improvement, it continues a pattern of failure to try, convict, and sentence to prison police officials guilty of abusing detainees. Despite the decline in torture complaints to the Commission, some nongovernmental human rights monitors assert that there has been little decline in the number of such complaints which they receive.

Through the beginning of September, 41 U.S. citizens complained of police abuse, a decline of 19 from the same period in 1991, and of 56 from that period in 1990. In the 30 cases where victims were able to identify those involved, Federal Judicial Police agents were implicated in less than one-

third, down from earlier years, while state local, and other federal agency officials accounted for the rest. By year's end, the U.S. Government had formally protested 16 cases of torture or other mistreatment through diplomatic channels, down from 27 such protests during 1991 and 43 in 1990.

According to the Mexican Attorney General's reports, PGR investigations undertaken in response to U.S. protests in 1992 resulted in 2 dismissals, 49 suspensions, 26 reprimands, and two other unspecified punishments of officials found to have been involved in the mistreatment of U.S. citizens. In response to CNDH recommendations and investigations, the Government continued efforts begun in 1990 to reduce the incidence of torture and similar abuse by officials.

The federal rules of evidence were amended in February 1991, in response to frequent criticism that confessions are coerced in the period before defendants appear before a judge and are assigned a lawyer. Confessions are now inadmissible unless given before a judge or a Public Ministry official and in the presence of defense counsel or a person in whom the accused has confidence. Similar changes were adopted by several states. Although the new rule is credited by the CNDH and independent human rights activists as partly responsible for the apparent decline in the incidence of torture in 1992, some human rights groups argued that torture is still widespread and that the new rule does not go far enough. They asserted that only confessions before judges should be accepted and that the safeguards in the current law are inadequate.

Most prisons in Mexico are overcrowded and lack adequate facilities for the prisoners. Overcrowding remains a problem despite an early release program pushed by the CNDH and legal reforms reducing the number of crimes that carry mandatory prison sentences. In addition, an entrenched system of corruption has undermined prison authority and led to abuses. Frequently prisoners exercise authority within the prison, displacing prison officials. One particularly egregious case involved a prison in Nayarit whose warden was fired after a long string of abuses at the prison ended in the unexplained death of a prisoner who reportedly had been summoned to the warden's office. Conflicts between rival prison groups, often involved in drug-trafficking, continued to spark violent confrontations. While prison officials have been prosecuted for abusing prisoners, they usually were charged with only minor offenses and have avoided serious punishment. The CNDH and Government have embarked on a major prison building program designed to reduce the overcrowding, lack of security, and the mixing of male and female prisoners and of accused and sentenced criminals that have added greatly to prison violence.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution requires that those arrested be brought before an officer of the court as soon as possible, generally accepted as within 24 hours of their arrest. That person takes their statement and informs them of the charges against them. A prisoner must be arraigned before a judge and found by that judge to have probably committed a crime, if the prisoner is to be held more than 72 hours from the time when he was charged by an officer of the court. Failure to observe the deadline is a violation of the law and prisoners can file an "amparo" petition (similar to filing for habeas corpus) requesting immediate release if the time limits are not met. However, police and judges often

fail to meet these constitutional and procedural deadlines.

Incidents of arbitrary arrest and imprisonment occur frequently: CNDH figures show that illegal deprivation of liberty is the most common complaint among its human rights cases. From June 1990 to June 1992, out of 10,244 complaints received by the CNDH, 826 alleged arbitrary detention. In one case, a young PRD political activist, Morelos Madrigal Lachino, was kidnapped by unknown persons dressed as policemen, held incommunicado for more than 3 days, and beaten before being released.

Generally, arrests may be made only upon authority of a judicially issued warrant. The law permits suspects caught in the act of committing a crime to be arrested without a warrant. It has been frequent police practice to arrest a suspect without a warrant even when not caught in the act and for judges to overlook the irregularity. That practice has only recently begun to abate with the dismissal of several cases based on improper arrests. In order for the protection against arbitrary arrest to be given full effect, human rights advocates assert that defense counsel must regularly raise the issue and judges must be prepared to recognize it.

Frequent credible reports continue to be made of human rights violations, including forced expulsions and unlawful arrests, in connection with conflicts in rural areas. These incidents often involve indigenous people evicted by landowners with local police and government support. In September 1991, a group of indigenous protesters and a Catholic priest were arrested by police during a protest in Palenque, Chiapas. After reportedly suffering beatings and other hardships, most were not charged and were released within several days. Several others were held for more than a month, and one for more than three months, before being released on suspended charges, the equivalent of receiving a pardon.

Exile of Mexican citizens is not normally practiced.

e. Denial of Fair Public Trial.—The Mexican judicial system is divided into federal and state court systems, with the federal courts having jurisdiction over most civil cases and those involving major felonies, including drug trafficking. The political opposition and many credible, independent analysts charge that, because judges' appointments must be renewed once before they are given tenure, the judiciary is overly dependent on the executive branch. The Government, in turn, denies that political beliefs have any bearing on the impartial administration of justice. Factors such as low pay and high caseloads contribute to continued corruption within the judicial system.

The Constitution requires that the court must hand down a verdict within 4 months of arrest for crimes that carry a maximum sentence of 2 years or less, and within a year for those with longer maximum sentences. The trial itself, sentencing, and appeals can delay the imposition of a criminal sentence for significant periods of time, sometimes adding a year or more to the entire process. Trial is by a judge, not a jury, in nearly all criminal cases. Defendants have a right to counsel, and public defenders are available. Other rights include protection against self-incrimination, the right to confront one's accusers, the right to a translator if one's native language is not Spanish, and the right to a public trial. Such protections are not always observed in practice. More attention has been paid to ensuring prompt arraignments of current suspects, although unlawful

detention remains a widespread problem. The long trial process is one of the major causes of overcrowding in the prison system, as those who do not qualify for or cannot make bail swell the prison population.

A coalition of nongovernmental human rights groups called for an amnesty for many indigenous prisoners who, it is charged, are political prisoners denied access to fair trials because of language and cultural barriers, as well as poverty. The CNDH launched a program to seek early release for prisoners, including indigenous people, and to improve compliance by federal and state officials with legal requirements that indigenous people be represented fairly. The Government denies charges by human rights groups that many indigenous people are wrongly imprisoned, but it has released more than 500 in 1992 as part of the CNDH-sponsored early release program.

After disputed November elections in the state of Tamaulipas ended in protests, several opposition leaders were imprisoned and charged with committing acts of violence. Most were released, and charges against them were dismissed within 3 weeks of their arrests, but charges remained pending against several at year's end. The opposition claims that these leaders were falsely arrested for political reasons. While the National Front Against Repression (FNCR) stopped keeping a log of those it considers political prisoners, some observers continue to assert that there are political prisoners in Mexico, though the number continues to decline from the 33 reported by the FNCR in 1989. Historically, the FNCR claimed that most political prisoners in Mexico were peasants and peasant activists arrested in land disputes. The Government disputes the appellation "political prisoner," charging that most of those whom human rights groups claim to be political prisoners have been guilty of crimes such as terrorism, criminal association, and damage to property.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—Privacy and freedom from intrusion by the Government into homes, family, and correspondences are rights protected under Article 16 of the Constitution. Although search warrants are required by law, unlawful searches occur frequently in Mexico. Wiretaps placed in violation of the law were found in a meeting room in Morelia, Michoacan, that was to be used by the opposition Nacional Action Party (PAN) central committee. No convictions resulted from the ensuing investigation, and the Government denied any official involvement. Shortly afterward, however, the local representative of the Mexican National Security Agency stepped down, a move interpreted by opposition leaders as a result of the investigation of the incident.

Peasants and urban squatters involved in conflicts over land charged that local landowners, with the compliance of local political leaders and often accompanied by police or bands of civilian thugs, evicted them from their homes without appropriate judicial orders, often with violence. In Chiapas, according to the CNDH and other credible reports, local village leaders expelled from their villages indigenous people who converted from their traditional religion to evangelical faiths. Efforts by the state government supported by the Catholic hierarchy have not been successful in ending the expulsions, largely because the Catholic hierarchy has little influence in some nominally Catholic Indian communities, and because the Government found it difficult to force reintegration into small communities of people who have been ostracized for their beliefs.

#### Section 2. Respect for Civil Liberties, Including

a. Freedom of Speech and Press.—Freedom of speech and of the press are provided for by the Constitution. Opposition leaders freely voice their criticism of the Government, and there are a large number of newspapers and magazines with a wide range of editorial views. However, there are significant restrictions on these freedoms.

The Government's control of a significant advertising budget and its ability to reward favored journalists by providing them access enabled it to use that leverage to discourage unfavorable reports. Also, a number of journalists depend upon receipt of under-the-table payments from the often public entities they cover to supplement low wages. But at least one newspaper revised its wage and advertising revenue distribution policies to reduce or eliminate abuses. Recently, the Government announced that it would no longer cover expenses incurred by reporters accompanying the President on his travels abroad. Plans to privatize two of three remaining government-owned television stations and the government-owned newspaper *El Nacional* had not been carried out by December. After the planned sales are completed, the Government would retain control of an educational television station and another, cultural station will continue to be run with government funding by an independent board headed by leading intellectuals.

The Federal Electoral Code provides opposition parties during an electoral campaign with 15 minutes per month of television time and additional time in proportion to their electoral strength. Despite that provision, the opposition asserts that media coverage is unbalanced and argues that campaign media spending should be controlled. Opposition political parties and independent observers charge that Mexico's two principal television networks, one government owned and the other privately owned, accord the government party inordinate news coverage, particularly at election time.

Violence and threats against journalists continued to be a serious problem in 1992. In the Yucatan, unidentified persons vandalized the offices of a publisher of a newspaper; he received a package bomb shortly after calling for an investigation into the violent eviction by police of protesters from the main town square. The police identified no suspects. As already noted, the death in July 1991 of physician and columnist, Victor Manuel Oropeza Contreras remains unresolved. Two suspects charged with the murder were released in 1992 in compliance with a recommendation from CNDH, and charges are now pending against several police officials accused of fabricating a case against the two. A new prosecutor was named to lead the case in September.

The first stage of a CNDH study of attacks on journalists concluded in 1992, and a second was begun. In response to a complaint by the Union of Democratic Journalists, the Commission began an inquiry in 1990 into 55 cases of alleged denial of human rights to journalists. In December 1992, the CNDH updated its report on that first stage and announced that it had embarked on a second stage, investigating 22 new cases. Of the 55 original cases, 40 were concluded and police investigations pursuant to Commission recommendations continue in the remaining 15. Of those 40 concluded, 12 were dropped from the study as not involving journalists or after a finding that the incident involved a private dispute. The murderers have been convicted in 10 cases, trials are pending

against private suspects in 3 cases (including the murders of Manuel Buendia and Javier Juarez Vazquez), and suspects have been identified in 2 others. Five were dismissed after findings of not guilty, two private citizens accused of murder were acquitted for acting in self-defense, six cases were achieved for lack of evidence, and one policeman was convicted of battery. In none of the cases did the CNDH establish evidence of a political motive. One of the cases, that of Hector Felix, was closed after two men (not public servants) were convicted of murdering him and sentenced to terms of 25 and 27 years. Later, the case was reopened to consider new evidence that others were involved. Six killers involved in the 1986 murder of PAN journalist Linda Bejarano were sentenced to 25- to 27-year terms.

b. Freedom of Peaceful Assembly and Association.—The Constitution grants the right of peaceful assembly for any lawful purpose. A government permit is generally required for major demonstrations. The Government, with few exceptions, permits demonstrations by a broad range of political groups.

c. Freedom of Religion.—The Constitution permits persons to practice the religion of their choice. In January a constitutional amendment was adopted that transformed the legal relationship between church and state in Mexico. Applicable to all faiths, the amendment permits religious entities to acquire legal standing and authorizes them to own property and to run private schools. It permits clergy to vote and wear religious garb in public. These had been illegal since the passing of antichurch laws in the late 1920's but tolerated in practice. The clergy remain barred from holding public office and advocating partisan political positions. Legislation implementing the constitutional change restricts the rights of churches to own businesses and communications media and sets rules for acquiring legal status as a religious association. Individual clergy may be political candidates, but only after a period of separation from their religious roles.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—Movement within and outside the country is unrestricted. The Government has customarily admitted persons recognized as refugees by the U.N. High Commissioner for Refugees. Approximately 43,000 Guatemalan refugees reside in camps and resettlement areas in three southern Mexican states. Since 1990 they have been permitted to accept work outside their camps and may travel freely in the five-state area of Chiapas, Campeche, Quintana Roo, Tabasco, and Yucatan. The Government estimates that an additional 400,000 Central Americans, mostly Guatemalans and Salvadorans, are living and working in Mexico. These pre-1990 undocumented Central Americans lead a precarious existence, are subject to deportation when caught, and are often exploited as a source of cheap labor. Changes in the 1991 Mexican law governing refugee status did not have a measurable impact on the pre-1990 population of Central American immigrants in Mexico.

### *Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government*

Since 1929, Mexico's Government has been controlled by the PRI, which has won every presidential race and every gubernatorial race except the 1989 Baja California Norte election and the 1992 Chihuahua election. (The third opposition governorship, that of Guanajuato, was in interim appointment by President Salinas in 1991.) To maintain power, the PRI has relied on extensive public

patronage, the use of government and party organizational resources, and, according to respected independent observers, electoral fraud.

Eleven governors were selected in 1992, and elections were held for several state legislatures and numerous municipal governments. The most hotly contested races were in the states of Chihuahua and Michoacan. In Chihuahua, the national Action Party candidate won the election in a tight, but apparently clean, election that contrasted sharply with elections in the state 6 years ago when the PAN claimed that its victory was stolen. The Government was responsive to opposition complaints of irregularities before the election, replacing PRI candidates who did not fulfill residency requirements and arresting two government officials who were caught illegally possessing voting credentials. The PAN candidate's clear victory was accepted by the PRI the day after the election.

In contrast to the election in Chihuahua, the Michoacan gubernatorial and state Congress election was dominated by controversy and by allegations of fraud, some of which were credible. Even before election day, the PRD accused the PRI and the government of massive, unfair campaign spending; denying PRD sympathizers the right to vote by removing their names from the official list of voters or not providing them voter credentials; and stacking the election oversight organs with PRI supporters. After the PRI was declared the winner in the gubernatorial and 17 of 18 congressional races, the opposition filed dozens of formal complaints with the state election tribunal, challenging the results from over a third of the voting precincts. However, the state electoral tribunal dismissed all the complaints in a pro forma manner. Moreover, the state electoral college convened secretly—without inviting PRD congressmen—to ratify the PRI candidate's gubernatorial victory, and the congressional electoral college ratified the legislative elections despite lacking a quorum as stipulated by the state electoral law. Because their demands were not met through the legal review process, the PRD took their complaints to the street, resulting in extensive public demonstrations throughout the state. Under continued opposition pressure, PRI governor Eduardo Villaseñor announced he was taking a 1-year's leave of absence, effectively stepping down, and an interim governor was appointed. PRD and PRI negotiators then agreed on ground rules for the December municipal elections designed to avoid a repetition of the gubernatorial race protests. The plan included choosing local election officials by agreement, equal access to the media, and spending restraints. Nonetheless, the PRD also lodged protests in the aftermath of the December 6 municipal elections in Michoacan, claiming irregularities occurred in over 24 municipalities.

Credible allegations of election fraud were also made in several other state elections notably in Durango, Veracruz, and Tamaulipas. In Durango, the PAN complained of illegal pressure on voters to support the PRI. In Veracruz, the PRD said the PRI padded its victory margin, and in Tamaulipas, the opposition coalition candidate denounced the failure of electoral review panels to consider opposition objections. Most observers agreed that such irregularities did not affect the outcomes in these elections.

The electoral process is still heavily weighted in favor of the PRI; nevertheless, in recent years there have been improvements in the federal electoral law, COFIPE. Passed

in 1990, COFIPE introduced several changes into the electoral process, including the complete renovation of the official list of voters and distribution of over 36 million voting credentials to eligible voters. COFIPE also strengthened opposition political party representation at the Federal Electoral Institute, which supervises federal elections, and created a Federal Electoral Tribunal (TFE), an autonomous oversight commission that rules on electoral-related disputes.

Many Mexicans do not have confidence that government electoral oversight and review organs will act impartially. Consequently, nongovernmental human rights organizations and civic and academic groups have taken it upon themselves to serve as independent electoral watchdogs. For example, during the Chihuahua gubernatorial elections, the Council for Democracy, a loosely aligned group of academics, journalists, and politicians, organized a "quick count" of the vote results in the state; its results mirrored the official results. Teams of citizen observer groups also fanned out into several states during the year to serve as independent election monitors.

Despite improvements, the opposition and independent observers continued to assert that the laws do not ensure fair elections. The opposition's strongest criticism continued to be the charge that the official lists of state voters were manipulated by inflating the number of PRI voters, removing the names of opposition supporters, or not delivering voting credentials to them. Opposition allegations of electoral errors were bolstered by the Government's failure to report election results on time and its inability to deliver credentials to everyone who met the registration requirements. The Government responded to opposition pressure by agreeing to discard the existing official voter list, which was only used in one federal election, to compile a new official list of voters, and to issue new voter credentials which for the first time will have a photograph of the holder. These credentials will be used in the 1994 presidential election.

Opposition and independent observers also lodged credible complaints that the Government used public resources to support campaigns of PRI candidates and frequently used patronage, particularly in the form of the Government's social services and development program—the National Solidarity Program (PRONASOL)—for partisan political advantage. In hotly contested elections during the past year, the PRI spent millions of dollars on the campaign, sometimes outspending the opposition by as much as 30 to 1. While this is not illegal in Mexico—Mexico does not have laws regulating campaign spending—critics charge that this imbalance has worked against growing democratic pluralism. President Salinas announced in his November 1 State of the Union speech an initiative to limit campaign spending, advance the impartiality of electoral authorities, ensure separation between the government and the parties, and ensure equal access to the media. The PRI has already begun to obtain alternative financing through public fundraising, but it remains to be seen how fully these initiatives will be implemented.

Under Mexican law, indigenous peoples have the same political rights as all other Mexican citizens. They do not live on independently governed reservations, although many indigenous communities continue to exercise considerable local control over economic and social issues. These communities continue to apply their traditional law to resolve a variety of disputes, including allegations of crimes.

While there is no separate indigenous political party in Mexico, in many states—particularly Chiapas, Oaxaca, and Guerrero—indigenous voters make up an important percentage of the populations. Traditionally, indigenous voters strongly backed the ruling PRI. In return for this support, in many areas the Government permitted the local autonomy noted above. Opposition politicians and human rights advocates stepped up their criticism of elections in indigenous areas, arguing that the reported results often reflect distortion of the voting process and not a genuine consensus to support the PRI.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

The Government permits both domestic and international human rights groups to operate in Mexico without restrictions or harassment. However, human rights monitors continued to be subject to threats, which must be taken seriously since activists in past years were subjected to violence and in some cases killed. In October and November, well-known human rights advocate Teresa Jardi received five death threat letters, urging her to leave Mexico. She met with President Salinas, who lauded her work, denounced the threats, and set in train an investigation into the threats. Together with the killing of Quintana Roo journalist Ignacio Mendoza (mentioned above), the Jardi threats were the most serious attack on human rights monitors in 1992.

Ranking Mexican officials routinely meet with domestic and international human rights activists to discuss rights problems. In June 1990, President Salinas established the semiautonomous National Commission on Human Rights and appointed respected jurist Jorge Carpizo Macgregor as its president. In January 1992, constitutional reforms took effect making the CNDH legally independent. The Commission's advisory council is composed of respected human rights leaders, and Dr. Carpizo has received strong support from President Salinas for CNDH efforts.

The Commission's mandate, however, does not provide it jurisdiction over labor or electoral matters, nor does it have prosecutorial powers. The CNDH, which calls itself an ombudsman, must rely upon the pressure of public opinion and the accuracy of its investigations to induce compliance with its recommendations to state and federal authorities to investigate and prosecute transgressors. Since announcing in June 1992 that too many of its recommendations had been only partially completed, the CNDH has pursued an aggressive campaign to force compliance. In its reports for 1992, the Commission noted that of the 412 recommendations it has issued since it began work in June 1990, 160 have been accepted and fully complied with, 228 accepted but not yet fully implemented (106 of which were issued in the last 6 months), and only 8 had not been accepted by the authorities to which they were addressed. Human rights activists claim that the Government of Mexico should take concrete steps to ensure that public officials who are accused of human rights violations are prosecuted and not transferred to another jurisdiction, or dismissed in one and then rehired in another. The Government has publicly recognized this problem and has announced its plans to develop a national register of police to confront it.

There are more than 90 nongovernmental human rights organizations active in Mexico. In addition to assisting individual vic-

tims of human rights abuse, such organizations have become increasingly active in monitoring elections. Recognizing the advances by the CNDH in the protection of human rights, they decry its lack of jurisdiction in electoral matters and have moved to fill that gap. Their leaders assert that ensuring fair and free elections is the best way to improve the administration of justice and to ensure that human rights violators are prosecuted. Under the constitutional change making the CNDH independent, state human rights commissions will be created by legislation in all 31 states. These entities will handle matters arising under state law, although the National Commission will continue to have review authority.

*Section 5. Discrimination Based on Race, Sex, Religion, Language, or Social Status*

Mexico takes pride in its Spanish and indigenous origins and in the success the country has achieved in fostering a climate of racial harmony. Indigenous groups, many of which do not speak Spanish, are encouraged to participate in political life, and the Government is respectful of their desire to retain elements of their traditional lifestyle. However, these groups remain largely outside the country's political and economic mainstream, a result not of overt governmental discrimination but rather of longstanding patterns of economic and social development. Reform this year of the Mexican Constitution's provision on agriculture, which resulted in the announcement that there is no remaining open land free to be distributed to peasants through government expropriation or grant, may make it more difficult for Indian groups to acquire new land and may increase pressure on those with good lands to sell. As noted earlier, human rights groups continue to complain with some justification that indigenous defendants in criminal cases are not treated fairly, despite the 1991 amendment to federal law requiring an interpreter at every stage of a criminal proceeding for indigenous people not fluent in Spanish.

Historically, women in Mexico have played a subordinate role, economically, politically, and socially. Women are becoming increasingly active economically and politically; one woman is a member of President Salinas' Cabinet, another holds the number two position in the PRI, and others are key congressional and union leaders. Legally, women are equal to men. They have the right to file for separation and divorce and to own property in their own name. The Constitution provides for equal pay for equal work and for maternity leave.

Domestic assault is a crime, but in practice—largely due to social tradition—women are often reluctant to file reports of abuse or to press charges. Police are reluctant to intervene in what is often considered a domestic affair. The CNDH has included programs and publications on women's rights in its training and education campaign, and the Center Against Violence Toward Women (COVAC) has worked to encourage rape victims to come forward and report sexual crimes. Encouraged by the 1991 changes in the law defining rape, stiffening sentences for offenders, and guaranteeing reparations for victims, women's groups are now seeking legislative reform of the family and civil codes regarding domestic violence and sexual harassment at the workplace.

*Section 6. Worker Rights*

a. The Right of Association.—The Constitution and specific provisions of the current Federal Labor Law (FLL) give all work-

ers the right to form and join trade unions of their own choosing. Unions must register with the labor secretariat or equivalent state government authorities. In theory registration requirements are not onerous, involving the submission of basic information about the union in order to give it legal status. There have been repeated allegations by labor activists, however, that the federal and state labor authorities improperly use this administrative procedure to withhold registration from groups considered disruptive to government policies. Privately, trade unionists supportive of the Government and even employers say this occurs.

About 30 to 35 percent of the total Mexican work force is organized in trade unions, most of which are members of several large union confederations, known as labor centrals. Mexican unions may join together freely in labor centrals without the Government's prior approval but require registration in order to have legal status. As with union registration, there is evidence this requirement can be misapplied to function as a restriction. It took from early 1990 until September 4, 1992 for one new labor central whose members were all well established, registered trade unions, to obtain its registration. In this case, although the new central's member unions were all Labor Congress (CT) members, they had been outspokenly critical of traditional leadership of the Congress.

The largest Mexican trade union organization is the Confederation of Mexican Workers (CTM), organizationally a major supporter of the PRI. All PRI-affiliated federations, such as the CTM, and a number of autonomous unions (a total of 37 organizations) belong to the CT, a trade union coordinating body which represents approximately 85 percent of Mexico's organized workers.

The tradition of a significant presence of union officers in the Government, especially in elected positions, and the continued union influence in the nominating process for PRI candidates at all levels of government, perpetuates a symbiotic relationship that limits the freedom of action of unions. For example, union officers, support government economic policies and PRI political candidates in return for having a voice in policy formation. When systemic reforms were instituted in the late 1980's, however, the mainstream labor organizations began to lose strength within the ruling PRI. After the August 1991 federal legislative elections, in which fewer than usual PRI labor candidates participated, the percentage of CT senators and deputies in the federal congress fell to less than 10 percent. In 1992, only one labor leader was named as a PRI gubernatorial candidate. This, and the reality of privatization and economic restructuring of the economy, have prompted a debate within the CT about how best to adjust to changing circumstances.

Mexican law grants workers the right to strike. The FLL requires as a first step that a 6- to 10-day strike notice be filed, followed by a brief, government-sponsored mediation effort. If a strike is ruled illegal, employees must return to work within 24 hours or face dismissal for cause. On the other hand, once a legally recognized strike occurs, by law the company (or its subunit) that is the strike target must shut down totally. Even management officials may not enter the premises until the strike is resolved.

The FLL also permits strikes by public sector employees, although this rarely occurs. Strike figures for 1992 are expected to be higher than for 1990 or 1991, mainly due to

prolonged strikes within the cotton textile industry and at a large Volkswagen plant. During 1991, strike activity was low; 7,006 notices of intent to strike were filed with the Federal Board of Conciliation and Arbitration (JFCA), and 136 actual strikes occurred. The comparable figures for 1990 were 6,395 strike notices and 149 strikes.

Labor leader Agapito Gonzalez Cavazos was arrested in January 1992 in Matamoros. He was accused of tax fraud but, since his union had just instituted legal strikes against a number of "maquiladora" (in-bond export) plants with expired labor contracts, his supporters charged harassment. Mexican government officials denied this. Due to his advanced age and health problems, Agapito Gonzalez was kept under a loose form of house arrest in a private hospital in Mexico City while government prosecutors and his own lawyers worked on his case. He was released on bond in mid-October 1992 and resumed his union activities in Matamoros.

Unions and labor centrals are free to join or affiliate with international labor organizations and do so actively.

b. *The Right to Organize and Bargain Collectively.*—The FLL strongly upholds the right to organize and to bargain collectively. On the basis of only a small showing of interest by employees, an employer must recognize the union concerned and make arrangements either for a union recognition election or proceed immediately to negotiate a collective bargaining agreement, and such agreements are commonplace. According to the employers, FLL bias on this point is so pronounced that it has led many of them to encourage company unionism as an alternative to organization by national or local unions affiliated with the dominant labor centrals. Union representation elections are traditionally open (not secret), and votes are recorded by name. Management as well as competing trade union officials are with the presiding JFCA official when each and every worker votes.

The public sector is almost totally organized. The degree of private sector organization varies widely by states. While most traditional industrial areas are heavily organized, states with a small industrial base usually have few unions. Workers are protected by law from antiunion discrimination, but this law is unevenly enforced, especially in states with a low degree of unionization.

The rate of unionization of maquiladora industries varies by area, but is comparatively low. The Attorney General for Human Rights of Baja California attributes the low rate of unionization of maquiladoras in his state to the fact that the relatively good wage and benefit packages of the large maquiladoras reduce the incentives to unionize. However, other observers report abject working conditions and inadequate wages in these industries and allege government as well as employer efforts to suppress unionization. There is, however, no credible evidence that the central Government has suppressed the unionization of maquiladoras. There are indicators that some state and local government figures and business leaders have discouraged unionization in their respective areas. Critics correctly point out that it is difficult to explain the low level of unionization in some states, given the ease of unionization under the law, yet the trade unions have not instituted any complaints either with the Government or with the International Labor Organization (ILO).

c. *Prohibition of Forced or Compulsory Labor.*—The Constitution prohibits forced labor. There have been no credible reports of forced labor for many years.

d. *Minimum Age for Employment of Children.*—The FLL sets fourteen as the minimum age for employment by children. Children from 14 to 15 may work a maximum of 6 hours, may not work overtime or at night, and may not be employed in jobs deemed hazardous. In the formal sector, enforcement is reasonably adequate for large and medium-size companies; it is less certain for small companies. As with employee safety and health, the worst enforcement problem is with the many very small companies. Eighty-five percent of all registered Mexican companies have 15 or less employees, and 80 percent have 5 or less employees, indicating the vast scope of the enforcement challenge just within the formal economy.

Illegal child labor is largely found in the informal economy, which includes significant numbers of underage street vendors, employees in very small businesses, and workers in rural areas. The ILO reports that approximately 18 percent of Mexican children age 12 to 14 work. Often such children work for their parents or other close relatives. In addition, small-scale employers prepared to disregard company registration, social security, health, safety, and tax laws are often equally prepared to violate child labor laws.

In 1992 the Mexican Government increased from six to nine the minimum number of years that children must attend school. The move was part of a major educational reform effort designed, in large part, to upgrade the skills of the Mexican labor force. The Government recognizes as a long-term goal the need to continue increasing educational opportunities for youth.

e. *Acceptable Conditions of Work.*—The Constitution and the FLL provide for a minimum wage for workers, which is set by the tripartite National Minimum Wage Commission (government, labor, employers). In December 1987, the major labor centrals and unions, along with employers, agreed to a temporary tripartite accord with the Government to limit price and wage increases to compensate for purchasing power losses caused by inflation. The accord has since been renewed annually. By 1991 annual inflation was reduced to 19 percent and was expected to be about 12 percent for 1992. Wages set by collective bargaining agreements and white-collar salaries in the private sector generally kept pace with inflation even though the minimum wage has not. Since the financial collapse of 1982, the minimum wage ceased being adequate. Recent data on urban areas indicate that 14 percent of urban workers earn less than one minimum wage, 41 percent earn between one and two minimum wages, and 32 percent earn between two and five minimum wages.

The FLL sets 48 hours as the standard legal workweek. The FLL provides that workers who are asked to exceed 3 hours of overtime per day or work any overtime on 3 consecutive days must be paid triple the normal wage. For most industrial workers, especially unionized ones, the real workweek has declined to about 42 hours, although they are paid for a full 48 hours. (This is why unions jealously defend the legal ban on hourly wages in favor of daily wages.)

Mexico's legislation and rules regarding employee health and safety are relatively advanced. All employers are bound by law to observe the "General Regulations on Safety and Health in the Workplace" issued jointly by the Secretariat of Labor and Social Welfare (STPS) and the Mexican Institute of Social Security (IMSS). In addition, in late 1991 the maquiladora associations in northern

border states agreed to cooperate in a special program with STPS and IMSS health and safety experts to help their member companies overcome any deficiencies in their compliance.

The focal point of standard setting and enforcement in the workplace is in FLL-mandated bipartite (management and labor) safety and health committees in the plants and offices of every company. These meet at least monthly to consider workplace safety and health needs and file copies of their minutes with federal or state labor inspectors. Government labor inspectors schedule their own activities largely in response to the findings of these workplace committees. Individual employees may also complain directly to the Office of Labor Inspection or the General Directorate of Medicine and Safety in the Workplace. Workers may remove themselves from hazardous situations without jeopardizing their employment. Complaints may be brought before the Federal Board of Conciliation and Arbitration at no cost to the plaintiff. Mexican labor and social security officials report that compliance is reasonably good by most large companies, both foreign-owned and domestic. Most compliance difficulties occur with small businesses, few of which export any goods or services.

Mr. HOLLINGS. I am making this presentation today so that this Congress can open up its eyes. Finally, I cite the June 1993 report by Amnesty International titled, "Mexico: The Persistence of Torture and Impunity." I ask unanimous consent that this report be printed in the RECORD.

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

[From Amnesty International, June 1993]

MEXICO: THE PERSISTENCE OF TORTURE AND IMPUNITY

INTRODUCTION

In September 1991 Amnesty International published Mexico: Torture with impunity, (AI Index: AMR 41/04/91), which summarized the organization's concerns about the extensive practice of torture and ill-treatment by Mexican law-enforcement agents. The publication also included a series of recommendations to the Mexican authorities to help end such abuses. The report launched an Amnesty International campaign against torture and impunity in Mexico.

Since the publication of the report the Mexican Government has adopted legislative and administrative measures which, if effectively implemented, would satisfy some of the recommendations which concluded AI's report. Such measures have included the Law of the National Human Rights Commission (Ley de la Comisión Nacional de Derechos Humanos); enacted in June 1992, which provides for the office's Constitutional status and formal independence, and for the creation, within a year, of similar commissions in every Mexican state, and also the reforms to the Ley Federal para Prevenir y Sancionar la Tortura, Federal Law to Prevent and Punish Torture. Also, the Mexican authorities, including President Carlos Salinas de Gortari, have continued to make public statements vowing to curb the practice of torture and to end the impunity benefiting the perpetrators.

However, despite these positive measures, the widespread use of torture and ill-treatment by law-enforcement agents has continued to be reported in Mexico.

These continuing violations led to strong criticism of Mexico's human rights record by the United Nations Committee Against Torture (CAT) during its November 1992 meeting, when Mexico presented its first periodic report before that body and described the measures it had adopted to implement the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Although the Committee welcomed certain measures adopted by Mexico—including the creation of the National Human Rights Commission—it noted that torture and impunity appeared to be extended in Mexico. The Committee called on the government to take effective steps to enforce the reforms which had been adopted.

Amnesty International has also continued to receive evidence of widespread torture in Mexico. Since the publication of Mexico: Torture with impunity, the organization has continued to monitor the human rights situation there very closely and has sent two delegations, in February and in August 1992, to look into continuing allegations of torture and other human rights violations. The delegates who visited Mexico in February 1992 travelled to remote rural areas to investigate reports about torture and other abuses against peasants and members of indigenous communities. The second delegation carried out research into reports of torture and other violations in the context of the administration of justice, and visited several prisons in the country. Both delegations found evidence confirming reports of continuing torture and ill-treatment in Mexico, and the frequent lack of accountability of those responsible.

#### REFORMS ADOPTED TO REINFORCE THE PROHIBITION OF TORTURE IN THE MEXICAN CRIMINAL JUSTICE SYSTEM

Increasing complaints about the apparent ineffectiveness of the 1986 Federal Law to Prevent and Punish Torture (see page 28 of Mexico: Torture with impunity) led to its modification in December 1991. No government official had apparently ever been sentenced under that law despite hundreds of complaints of torture presented to the authorities since its enactment. The reforms, enacted in January 1992, have incorporated new safeguards to protect criminal defendants from torture or other forms of coercion during criminal investigations; have increased the penalties for the crime of torture to up to 12 years' imprisonment, and include provisions for the payment of compensation to the victim's by the culprit/s. Together with reforms to the Código Penal Federal, Federal Code of Penal Proceedings and to the Código Penal del Distrito Federal, Federal District Code of Penal Proceedings, enacted in 1991 (which, among other things, provide for interpreters for non-Spanish speaking criminal defendants), these legislative measures adopted by the Mexican Government to curb human rights violations have expanded the Constitutional safeguards against torture.

#### LIMITATION OF THE REFORMS

Amnesty International has welcomed the legal and administrative reforms announced by the Mexican Government but the organization remains deeply concerned that torture is still widespread and torturers are rarely held accountable for their actions.

#### Abuses by law enforcement agents

Most of the reports of torture and other human rights violations received by Amnesty International have continued to occur in the context of the administration of jus-

tice, principally during the investigative and prosecutorial phases of criminal proceedings (see page 37 of Mexico: Torture with impunity). The early stages of criminal investigations in Mexico continue to be under the exclusive responsibility of the Ministerio Público, district attorney or public ministry, an office which depends on the federal or state general attorney's office (procuraduría de justicia). Therefore, the Ministerio Público, which is responsible for the judicial police, has a monopoly over criminal prosecutions in Mexico: the office is in charge of investigating and prosecuting crimes under its jurisdiction; procuring, evaluating and presenting evidence before the courts; requesting that sentences be imposed, and ensuring that the legal rights and guarantees of defendants, including the right to due process, are fully respected. The office is also responsible for criminal investigations of human rights violations, including those committed by the police under its responsibility, something which reportedly precludes the objectivity of such investigations.

According to continuing reports received by Amnesty International, torture, ill-treatment and other forms of coercion are still used during the early stages of criminal investigations as a means of obtaining confessions. According to human rights monitors, torture and ill-treatment are still frequently practised by members of the judicial police in charge of an investigation. The most frequently reported methods of torture include beatings and kicks; forcible introduction of carbonated water into the victim's nostrils (Tehuacanazo); semi-asphyxiation with plastic bags (la bolsita), forcible submersion (pozole), and intimidation of the victim with death threats. Other methods reported to Amnesty International include electric shocks with electric prods; suspension from the wrists for prolonged periods and food deprivation.

Many of the victims are reportedly further coerced by the police, under threats of torture, to confirm and sign their forced confession already given before the Ministerio Público. In many cases known to Amnesty International, the district attorney in the Ministerio Público has turned a blind eye to these practices and, on some occasions, has reportedly been present while detainees were being tortured. This practice has been confirmed to Amnesty International by members of the federal judicial police, the Federal District judicial police and the state police interviewed by the organization's delegates who visited the country in August 1992. Therefore, the organization reiterates its recommendations to the Mexican authorities in this regard, included in page 49 of its report Mexico: Torture with impunity, under the sub-title: "Separate the authorities responsible for detention and interrogation".

#### Abuses in the administration of justice

Despite the legislative and administrative reforms adopted by the Mexican government to prevent the use of forced confessions in criminal proceedings, such illegally obtained statements continue to be admitted as evidence by most of the courts involved in such proceedings. Mexican jurisprudence, which gives priority to the initial confessions of a detainee regardless of the circumstances under which they are obtained, has still not been modified in this regard. In many cases reported to Amnesty International, the courts have failed to review statements reportedly obtained under duress, even when the defendant's claims of torture have been substantiated by medical certificates of the injuries.

For example, Pablo María Jonathan Molinet Aguilar, 18 a student and poet, was arrested on 24 March 1992 in Salamanca, Guanajuato, without warrant by members of the state's judicial police. He remained in incommunicado detention for several hours during which he was tortured with beatings, blows to the ears and death threats, and was forced to sign a blank statement. The Ministerio Público, who witnessed his arbitrary arrest, dismissed Pablo Molinet's complaints of torture and, based on his forced confession, presented the defendant to the courts, accusing him of murder. The Ministerio Público failed to respect the maximum period of pre-judicial detention, which should not exceed 24 hours: Pablo Molinet was presented to court on 26 March, 45 hours after his arrest. Pablo Molinet complained to the judge that he had been held incommunicado and tortured. He told the judge that he had been forced to sign a blank statement under torture (which was documented by two independent medical examinations.) Despite the well documented and serious irregularities surrounding Pablo Molinet's arrest and pre-judicial detention including incommunicado detention and torture and the lack of evidence other than his forced confession to substantiate the charges against him, he was remanded in custody in the local prison awaiting trial.

At the time of writing, Pablo Molinet Aguilar remains in prison awaiting sentence. Despite complaints presented to the state and national authorities, those responsible for his torture have not been brought to justice. A complaint on his behalf was also presented before the National Human Rights Commission in March 1992. On 5 April 1993, more than a year after the incident, the Commission issued a recommendation to the Guanajuato State authorities calling for an investigation into Pablo Molinet's arbitrary arrest and torture. To Amnesty International's knowledge the recommendation has not been complied with.

#### Other reforms, same abuses

Other reforms of Mexican legislation purportedly adopted to reinforce the protection of defendant's rights, particularly those intended to prevent arrests without warrants; to provide legal counsel from the moment of arrest and interpreters for non-Spanish speaking defendants; to provide for medical examinations of detainees, and to dismiss confessions as the sole evidence in criminal proceedings are frequently flouted.

For example, Amnesty International has continued to receive reports about non-Spanish speaking indigenous defendants who have had no access to an interpreter during their questioning by the police during their declarations before the Ministerio Público, nor during subsequent court hearings, but who have nevertheless been remanded in custody based on their supposed confessions.

Musician Manuel Manríquez San Agustín, a member of the Otomi indigenous community of Ranchería Piedra Blanca, Tutotepec, in the State of Hidalgo, was arrested without warrant by the Federal District's judicial police in the city of Mexico on 2 June 1990. Manuel Manríquez, who spoke no Spanish at the time, remained incommunicado for four days under police custody and was brutally tortured with beatings, near asphyxiation, burns and electric shocks, and was forced to "sign" papers he could not understand. He was accused of murder and brought before a judge who, based on the defendant's "signed confession" remanded Manuel Manríquez San Agustín to the Reclusorio Preventivo Norte, a prison in Mexico City, on charges of

murder. Despite the illegality of his detention and the clear signs of torture, which were later certified by a prison doctor, and the lack of evidence other than his signed statements without an interpreter to support the charges, Manuel Manríquez San Agustín was sentenced, in July 1991, to 24 years' imprisonment. The sentence was confirmed on appeal on February 1992, despite the lack of any further evidence. His case too was presented before the National Human Rights Commission which has not issued a statement on his behalf. Since his arrest, Manuel Manríquez has learnt to speak and read Spanish and, in September 1991, co-founded a human rights organization with other indigenous prisoners: the Comisión de Defensa Campesina e Indígena del Comité Ricardo López Juárez, which has actively campaigned on behalf of the rights of Indians and peasants imprisoned in the Reclusorio Preventivo Norte and other prisons in Mexico.

Since his imprisonment, Manuel Manríquez has become increasingly involved in campaigning for an end of torture and other human rights violations in Mexico. For example, on the first of April 1993 he joined a hunger strike carried out in several Mexican prisons by more than 50 prisoners. The detainees were calling for an end to torture, and for fair and prompt trials in the Mexican criminal justice system.

#### *Human rights violations against members of indigenous communities*

The victims of torture in Mexico come from most walks of life, but are usually from the poorest sectors of the population. Amnesty International has continued to receive reports of torture and other human rights violations against peasants and members of indigenous communities who often lack the power, knowledge or counselling to defend their individual right against abusive officials. They are the most frequent victims of the ineffectiveness of the reforms adopted by the Mexican Government to prevent such abuses.

For example, on 29 March 1993 thirteen members of the Tzotzil indigenous community of San Isidro el Ocotol, municipality of San Cristóbal de las Casas, Chiapas, were arbitrarily arrested by members of the Mexican Army who claimed the Indians were responsible for the murder of two army officers on 20 March 1993. The detainees remained incommunicado in military custody until their transfer to the headquarters of the Ministerio Público, district attorney, in San Cristóbal de las Casas on 30 March, where they remained in detention.

According to a report issued by the VII Mexican Army Region on 29 March, before the detainees had been presented to the prosecuting authority, they had "confessed" to their participation in the abduction, killing and disposal of the bodies of two army corporals who had allegedly discovered an illegal saw-mill, close to San Isidro el Ocotol, in an area where woodcutting is forbidden.

But according to the detainees and to reports from members of the community of San Isidro el Ocotol; from local human rights organizations, and from Samuel Ruiz García, Bishop of San Cristóbal de las Casas, a renowned campaigner for human rights, the thirteen Indians detained by the Army had been forced to confess, under torture and without an interpreter, to their participation of the killings.

San Isidro el Ocotol is a peasant community inhabited by 46 Tzotzil families. On the days following the abduction and killing of the two army officers, the community was reportedly besieged by an army unit which

carried out arrests, raided houses without warrants and tortured several members of the community to obtain confessions of guilt of the murders. According to reports, torture included beatings and kicks, mock executions in front of relatives and threats of rape.

Following a campaign by local human rights activists on their behalf the thirteen Tzotzil detainees were released on 31 March for lack of evidence linking them to the murder they had been accused of by the army. According to reports, most of the detainees displayed injuries consistent with their allegations of torture. To Amnesty International's knowledge, those responsible for their illegal arrest, torture and ill-treatment have not been brought to justice, nor have the victims received any form of compensation, despite complaints on their behalf presented to local and national authorities.

#### *Ineffectiveness of the recurso de amparo*

The recurso de amparo, similar to a writ of habeas corpus (see page 45 of Mexico: Torture with impunity), has continued to be reported as ineffective in protecting detainees from torture during the initial or early stages of detention—reportedly as a result of the inherent delays in court proceedings. It has also proved to be an ineffective method to challenge court decisions based on forced confessions. For example, in the case of Manuel Manríquez San Agustín discussed above, the victim presented a recurso de amparo in February 1992 against the decision of the Appeal Court confirming his sentence. At the time of writing there is still no decision concerning his recurso de amparo at the time of writing. Manuel Manríquez San Agustín remains in prison in Mexico City and those responsible for his illegal detention and well documented torture have never been brought to justice, nor have they been removed from their posts.

In the case of Pablo Molinet Aguilar, also discussed above, a recurso de amparo was presented on his behalf before the judge on 20 April 1992. The judge ruled favorably on 3 August 1992 and recommended Pablo Molinet's unconditional release. The decision was based on the fact that he had been arrested without a warrant and that he had been coerced by the police to produce a statement of guilt. Despite this favorable ruling, the court in charge of Pablo Molinet's case decided against his release and ordered the trial to continue.

Finally, the recurso de amparo also continues to be largely inaccessible to vast sectors of the population who lack the resources and the legal counselling to pursue this legal remedy.

#### *Torture in Mexican prisons*

Amnesty International has also continued to receive reports about torture and ill-treatment in Mexican prisons. For example, on 28 June 1992 Pablo Rodríguez Santoy, 36, and Francisco Cejudo Pandilla, 27, two inmates at the state prison of San Luis Potosí, accused of preparing a prison escape, were tortured with beatings, kicks and threats of "disappearance" by the prison's director. The director allegedly accused the two of preparing a prison escape, although he never presented a criminal complaint against them. Instead, he ordered their confinement in punishment cells ("tapadas"), with no food, no sanitary facilities and no medical care. They remained in such condition for three days during which they allegedly suffered beatings by prison warders. The prisoners' condition was made known as a result of an enquiry requested on 2 July by a rel-

ative. Both men were then returned to their cells but continued to suffer harassment by prison officials, including members of the prison's psychology department, apparently interested in stopping their complaints. Following the public outcry about the case, the prison director was removed from his post. Also, the National Human Rights Commission issued a recommendation (97/1991) on behalf of the two inmates, calling for full investigations and the prosecution of the culprits. However, to Amnesty International's knowledge, neither the prison director nor other prison officials, who reportedly also participated in the torture and ill-treatment of prison inmates, have been brought to justice.

Mexican law prohibits the use of punishment cells, in any prison establishment or detention facility, although Amnesty International has received several reports of their continuing existence and use in a number of prisons in Mexico. For example, the existence of the punishment cells in the prison of San Luis Potosí where Pablo Santoy and Francisco Pandilla were confined had been reportedly denied by prison officials in the past. Their existence was officially acknowledged only after the public scandal which emerged as a result of the Santoy-Pandilla case. At the time of Amnesty International's visit to the prison in August 1992, when the delegates interviewed Pablo Santoy and Francisco Pandilla, the tapadas had been recently painted, and the prison officials interviewed denied their use as punishment cells.

#### *IMMUNITY FROM PROSECUTION*

Amnesty International continues to believe that the principal reason for the continuing practice of torture and ill-treatment in Mexico is the effective immunity from prosecution commonly enjoyed by law enforcement agents torture. The Mexican authorities, including the National Human Rights Commission, have stated only fully documented complaints of torture would be investigated, thereby failing to comply with their obligation to fully investigate all complaints of torture, as required under international human rights instruments signed and ratified by Mexico. Moreover, impunity has continued to benefit those responsible for some cases where fully documented complaints presented before the Ministerio Público have been supported by corresponding recommendations made by the governmental National Human Rights Commission.

For example, Amir Aboud Sattar was arrested without warrant on 14 June 1991 at his home in San Luis Potosí by federal judicial police officers and a delegate of the Procuraduría General de la República, Republic Attorney General's Office. During his transfer to prison he was tortured with beatings and kicks and was sexually abused. He remained in prison until 27 June, the first four days incommunicado and in a punishment cell. Following widespread complaints about Amir Aboud Sattar's illegal arrest and torture, a delegation of the Republic Attorney General's Office visited San Luis Potosí on 19 June to look into the case. The delegation interviewed the prisoner and ordered medical examinations, which found injuries consistent with the prisoner's allegations that he had been tortured. The delegation recommended the prisoner's immediate release and the prosecution of those responsible for his torture. In August 1991 Amir Aboud Sattar presented a complaint about his case to the National Human Rights Commission, which issued a recommendation (39/92) in March 1992, calling for those responsible to be brought to justice.

Despite the criminal complaints presented against those allegedly responsible for Amir About Sattar's torture, and two official reports confirming the complainant's allegations, those responsible for Amir About Sattar's illegal arrest and torture have not been brought to justice. Furthermore, on 8 July 1992 the Republic Attorney General's Office made a public statement contradicting its initial report on the case of Amir About Sattar, which had been based on forensic findings and several testimonies. The new statement denied the victim's complaints of torture, claiming that these had been based on his "sexual fantasies" (*fantasías sexuales*), and announced that the office would not prosecute those allegedly responsible. The next day, the National Human Rights Commission publicly rejected the Republic Attorney General's Office statements and called for the investigations to continue. To Amnesty International's knowledge, those responsible have remained at large.

Amir About Sattar has now become a renowned human rights campaigner in San Luis Potosí, where he has helped to found the Centro Potosino de Derechos Humanos, the Potosí Centre for Human Rights, a non-governmental organization.

On 25 January 1992, the Mixe and Zapotec indigenous community of Trinidad in Yaveo, in the state of Oaxaca, was raided by several members of the state judicial police who arrested six people, threatened several others including children, and arbitrarily killed Tomás Diego García (See Mexico: Human Rights violations against members of the Mixe and Zapotec indigenous community of La Trinidad Yaveo, Oaxaca, AI Index: AMR 41/01/92). Those arrested were tortured, forced to sign confessions and all except one were remanded in custody on charges of murder. As a result of growing public outcry about the case, the state authorities released those in detention, but have thus far failed to bring to justice those responsible for the torture of members of the community, and for the arbitrary killing of Tomás Diego García.

On 26 March 1992 the National Human Rights Commission published recommendation 52/92 to the Oaxaca state authorities, calling for full investigations into the case, and for those responsible to be brought to justice. In a report published in June 1992, the National Human Rights Commission claimed that the authorities had partially complied with recommendation 52/92, although there was no indication that any official had been brought to justice in connection with the torture or the killing. In October 1992 the Commission informed Amnesty International that the state authorities had not prosecuted those responsible for the crimes in La Trinidad Yaveo because the victims and their relatives had failed to present criminal complaints. This explanation was apparently considered satisfactory by the Commission, despite Mexico's obligations under the international human rights instruments it has signed and ratified—including the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment—to investigate every case of suspected torture and homicide by government officials, irrespective of any complaint.

Amnesty International—which had recommended to the Mexican authorities in its report Mexico: Torture with impunity that the absence of a complaint should not deter a criminal investigation into alleged human rights violations—is deeply concerned about the lack of criminal procedures against those responsible for the brutal torture of six

members of the indigenous community of La Trinidad Yaveo, and for the arbitrary killing of Tomás Diego García. The organization is also concerned about the lack of compensation for the victims and the relatives of the deceased in this indigenous community.

Amnesty International continues to be deeply concerned about the effective impunity which benefits many of those responsible for gross human rights violations in Mexico. Despite recent announcements by the Mexican authorities that several members of the security forces, particularly the federal judicial police, had been dismissed and prosecuted for criminal offenses including torture and other human rights violations, at the time of writing in late May 1993 many officials under criminal investigation remain at large and to Amnesty International's knowledge no official has yet been convicted for torture in Mexico.

In its report Mexico: Torture with impunity Amnesty International also recommended that any law enforcement agent charged in connection with the crime of torture should be immediately suspended from duties directly related to arresting, guarding or interrogating detainees. In August 1992 the Director General de Prevención y Readaptación Social, General Director for Prevention and Social Re-Adaptation, told Amnesty International's delegates that there was no effective mechanism within the Mexican security forces to ensure that officers who are dismissed for human rights violations are not re-employed and given similar duties, particularly in relation to detainees. The organization is deeply concerned about the continuing failure to effectively dismiss many of those officials responsible for torture and other human rights violations, and to effectively prevent their re-employment by other governmental security agencies.

#### LACK OF EFFECTIVE COMPENSATION FOR VICTIMS

Despite legal reforms enshrined in the federal law to prevent and punish torture, which provide for compensation for victims, Amnesty International knows of only one case where a victim of torture and gross miscarriage of justice has received satisfactory official redress: that of Joaquín Gallegos, also known as Joaquín Capetillo Santana, who had been arrested in the town of Villahermosa by the police in May 1986, when he was 13 years old. Following his arrest Joaquín was brutally tortured and detained under false charges based on his forced confessions (see page 7 of Mexico: Torture with impunity). Joaquín was never sentenced but remained in an adult's prison until his release in November 1991, following growing public outcry against his detention and torture. The organization has welcomed the Tabasco state authorities' decision to release Joaquín free of charges, and provide him with compensation, but the organization is still deeply concerned that those officials responsible for Joaquín's torture and for gross abuse of internationally recognized standards for the administration of justice, including the International Covenant on Civil and Political Rights, have not been brought to trial.

Accordingly to several human rights monitors and government officials interviewed by Amnesty International's delegates in Mexico, the organization's campaign against torture had helped to ensure Joaquín's release and compensation, which consisted of a sum of money to ensure adequate treatment for the injuries and psychological trauma he had suffered during so many years of unjusti-

fied detention. Joaquín is presently working on behalf of children's rights in Mexico.

Meanwhile, scores of victims of torture in Mexico have not received any form of compensation even after their torture and ill-treatment has been acknowledged by the authorities.

For example, Guadalupe López Juárez was brutally tortured with her son Ricardo López Juárez in June 1990 by members of the Federal District judicial police and a special attorney. Ricardo died on 24 June 1990 as a consequence of injuries sustained under torture (see page 14 of Mexico: Torture with impunity). Three policemen and the attorney were arrested and tried for Ricardo's murder, but despite the official acknowledgement of Guadalupe's abduction and torture by the police, nobody has been sentenced for her torture; she has not received compensation, nor has the family received any official reparatory measure for Ricardo's brutal killing.

In November 1990 Guadalupe López Juárez was awarded a medal by her municipal council for her continuing struggle for justice on behalf of her son and against human rights violations in Mexico. In 1990 a group of prison inmates in the Reclusorio Preventivo Norte, the prison in Mexico City where Ricardo had been detained, founded a human rights commission which they named in his honour. However, such public sympathy for the victims did not prevent further harassment of Guadalupe's family. In July 1992 another son Julio Octavio, 14, was reportedly abducted in the streets of Mexico City by unknown men, who questioned him under threats about her mother's activities on behalf of Ricardo. Nobody was brought to justice for this incident. Since August 1992 the family has reportedly not received any threats or harassment.

#### THE NATIONAL HUMAN RIGHTS COMMISSION

Amnesty International has welcomed the Mexican Government's decision to grant Constitutional status to the National Human Rights Commission and to create similar offices in each and every state. The government has also provided the commission with substantial resources which include more than 400 staff and a modern building in the outskirts of Mexico City.

Nevertheless, Amnesty International remains deeply concerned about the repeated failure of the Mexican authorities to fully comply with the Commissions' recommendations. For example, in the first two years after its creation, the National Human Rights Commission received 10,244 complaints of alleged human rights violations and issued 269 recommendations based on 235 cases. In its report published in June 1992 the Commission expressed its concerns that 136 of its recommendations had not been fully complied with. These concerns were again made public by the Commission in a report published in September 1992.

Also, although Amnesty International welcomes the Commission's statements calling for full compliance with its recommendations, the organization is concerned that in a number of instances the Commission has reported that recommendations have been fulfilled despite indications to the contrary. For example, in the case of Ricardo López Juárez (see above), the National Human Rights Commission issued recommendation 15/91, calling for full investigations to bring all those responsible to justice, including the director of the prison establishment where Ricardo López Juárez had been detained and the forensic doctor/s who falsified his death certificate. Although Amnesty International

has welcomed the investigation into the case which helped to confirm Ricardo López Juárez' death under torture, the organization remains deeply concerned that several of those allegedly responsible have never been brought to justice. According to reports, the prison director allegedly responsible for allowing the torture of Ricardo López Juárez was never brought to justice, and was instead promoted in the second half of 1992 to the post of Deputy Commander of the Federal District's judicial police.

In the case of the possible extra-judicial executions of the three brothers Erik Dante, Jaime Mauro and Héctor Ignacio Quijano Santoyo, and the torture of the latter, by members of the federal judicial police in Mexico City on 14 January 1990, the National Human Rights Commission issued two recommendations (3/1991 and 50/1992) to the General Attorney's Office calling for full investigations and for those responsible to be brought to justice. To Amnesty International's knowledge, no official has been arrested in connection with this case.

Forensic evidence of the human rights violations suffered by the three brothers first emerged in Amnesty International's report Mexico: Torture with impunity, which summarized the findings of a forensic analysis carried out by an expert, commissioned by the organization, on the autopsy reports and photographs of victim's bodies. Amnesty International's findings, which provided evidence supporting claims that Héctor had suffered torture before his killing, were forwarded on request to the National Human Rights Commission. The findings were confirmed by a second independent forensic examination ordered in 1992 by the Mexican authorities. Despite such supportive evidence of gross human rights violations, those responsible for the torture of Héctor and killings of the three brothers have not been brought to justice at the time of writing. Their victim's father, Francisco Quijano García "disappeared" from his home in Mexico City on 21 June 1991. His body was found in the same city in March 1992. Despite reports that he had been seen in detention in the Attorney General's Office after his "disappearance", the authorities maintained that his abduction and murder had been carried out by a former business partner over money, and further investigations were closed.

In another case, a federal judicial police commander allegedly responsible for the illegal arrest and torture of Salomón Mendoza Barajas and others in the town of Aguillilla, in May 1990 (page 11 of Mexico: Torture with impunity); and for the death under torture of Pedro Yescas Martínez in the town of Durango, in October 1990 (page 20 of Mexico: Torture with impunity), has reportedly remained at large despite repeated recommendations made by the National Human Rights Commission. In a special report issued in September 1991 the National Human Rights Commission said that the officer had been dismissed in connection with the killing of Pedro Yescas Martínez. Nevertheless, on 11 February 1992 the Republic Attorney General's Office said that he had in fact been transferred and promoted, together with another officer also allegedly involved in gross human rights violations.

Amnesty International believes that unless the Mexican government fully abides by its commitment to effectively bring all those responsible for torture and other human rights violations in Mexico to justice, torture will continue to be widespread.

#### MEASURES TO BRING AN EFFECTIVE END TO TORTURE AND OTHER GROSS HUMAN RIGHTS VIOLATIONS IN MEXICO

As illustrated by the above discussion, the measures adopted in recent years by the Mexican Government, albeit welcome steps towards the prevention of human rights violations, have been insufficient to significantly curtail and much less to stop such abuses in the country. Their persistence, and the impunity from which most of the perpetrators continue to benefit, should call into question the effectiveness of the measures implemented so far.

Amnesty International therefore urgently appeals to the Mexican Government to adopt and effectively implement the following recommendations. The majority of these have been included in previous reports which Amnesty International has presented to the government, in particular those contained in the document Mexico: Torture with impunity, and are relevant with respect to other human rights violations apart from torture and ill-treatment about which Amnesty International has continued to express its concerns, including "disappearances" and extra-judicial executions.

#### RECOMMENDATIONS

##### 1. Prevention of arbitrary arrest

Arrests should only be authorized in the case of flagrante delicto or where a judicial warrant exists; authorization in the absence of these conditions should not be granted on the pretext that no judge was available.

All arrests should be carried out under strict judicial control and only by authorized personnel.

Law enforcement officials should adequately identify themselves and present arrest warrants at the time of arrest.

Everyone should be informed, at the time of arrest, of the specific reasons for their arrest.

All detainees should also receive an oral and written explanation, in a language they understand, of how to avail themselves of their legal rights, including the right to lodge complaints of ill-treatment.

The armed forces should be prohibited from arresting, holding in custody or interrogating civilian detainees.

Failure to adhere to these safeguards should lead to the disciplining or bringing to justice of those responsible.

##### 2. Prevention of incommunicado detention

All detainees should be brought before a judge promptly after arrest, and within the period stipulated by law.

The government should oversee the effective elimination of the use of so-called "punishment cells" and other cruel, inhuman and degrading treatment in all the country's prisons.

All detainees should have access to relatives and lawyers promptly after arrest and regularly throughout their detention or imprisonment.

The government should provide free legal assistance to defendants without resources. In addition, interpreters should be provided for non-Spanish speaking defendants, without exception.

Relatives should be informed immediately of any arrest and should be kept informed of the detainee's whereabouts at all times.

Rulings which result from a petition of *recurso de amparo* in cases of detention, including unacknowledged, irregular or arbitrary detention, should be effectively enforceable throughout Mexico.

Detainees and prisoners should be held only in official, known detention centres, a list of which should be widely publicized.

Every detention centre should be required to keep a detailed up-to-date record, bound with numbered pages, of the time of arrest and the identities of those who carried out the arrest, as well as the time the detainee appeared before the Public Ministry Agent and before the judicial authority.

##### 3. Strict controls over interrogation procedures

Interrogation should take place in the presence of a lawyer to ensure that statements taken in evidence from a detainee are given freely and not as a result of coercion.

In addition to a lawyer, a female officer should be present during interrogation of women detainees.

Children should only be questioned in the presence of a parent or next of kin.

The date, time and duration of each period of interrogation should clearly be recorded, as well as the names of all those present during interrogation. These records should be open to judicial scrutiny and to inspection by lawyers and relatives of detainees.

The government should publish current guidelines of interrogation procedures and periodically review both procedures and practices, inviting submissions and recommendations from civil rights groups, defence lawyers, bar associations and other interested parties.

##### 4. Separation of the authorities responsible for detention and interrogation

There should be a clear and complete separation between the authorities responsible for detention and those responsible for the interrogation of detainees. This would allow an agency not involved in interrogation to supervise the welfare and physical security of detainees.

The role of the Public Ministry, which is currently responsible for detention, interrogation and prosecution in criminal proceedings, should therefore be revised.

##### 5. Prohibition of the use of confessions extracted under torture

Confessions obtained as a result of torture of other ill-treatment should never be admitted in legal proceedings, except as evidence against the perpetrators.

Defendants who were convicted on the basis of coerced confessions should have their convictions promptly reviewed.

##### 6. Implementation of judicial safeguards

The government should initiate effective reforms to the administration of justice, with regard to the codes of procedure, the provision for appeal mechanisms and the selection, training and supervision of appropriate personnel.

Respect for the presumption of the detainee's innocence shall be demanded throughout the judicial proceedings.

Judges should be vigorous in examining the legality of detention and the physical condition of defendants, and in investigating all claims of torture.

International standards pertaining to the judiciary, including those contained in the UN Basic Principles on the Independence of Judiciary, should be incorporated in Mexican law and legal practice in the interests of a genuinely independent and impartial judiciary.

##### 7. Implementation of judicial supervision of detention

Any form of detention or imprisonment and all measures affecting the human rights of a detainee or prisoner should be subject to the effective control of a judicial authority.

The government should take particular care to ensure that detainees who are vulnerable for reasons of age or gender are not tortured, ill-treated or harassed.

The confinement of children in prisons for adults should be strictly prohibited.

All detention centres should be visited and inspected regularly by representatives of an independent body. These inspectors should conduct their visits without advance warning.

Any detainee or prisoner should have the right to communicate freely and in full confidentiality with the inspectors. The inspectors should have unrestricted access to all relevant records and should be authorized to receive and deal with detainees' complaints.

The inspection body should prepare detailed reports on the findings of each visit, and should ensure that appropriate action is taken to remedy all shortcomings relating to the treatment of detainees and prisoners.

The inspection body should also make recommendations for improving conditions of detention in accordance with the UN Standard Minimum Rules for the Treatment of Prisoners.

#### 8. Adequate medical safeguards

An independent medical examiner's office should be established, with administrative autonomy, to provide forensic expertise at a national level.

Medical examinations should be provided to detainees and prisoners on a regular basis and should be performed by independent professionals under the supervision of a professional association, in accordance with the following principles:

A medical examination should be carried out on each detainee promptly after arrest and before interrogation.

Detainees should be medically examined every 24 hours during the period of interrogation; on a frequent and regular basis throughout detention and imprisonment; and immediately before transfer or release.

These examinations should be performed personally by the authorized doctor, who should explain to the detainee the importance of having a full and contemporary record on his or her condition.

Detainees should be informed in the importance of these medical examinations in verbal and written notice of their rights.

Examinations should be carried out in private, exclusively by medical personnel. Special care should be taken to ensure that examinations of women prisoners is carried out in an acceptable manner.

Each detainee should have access to a medical officer at any time on the basis of a reasonable request.

Detailed medical records on detainees should be kept including: weight, state of nutrition, visible marks on the body, psychological state and complaints about health or treatment received.

These records should be confidential but should be communicated, at the request of the detainee, to a legal advisor, his or her family, or the authorities charged with investigating the treatment of prisoners.

Each detainee should be entitled to private examinations by his or her own doctor at the request of the detainee or the detainee's lawyer or family.

The medical examination of alleged victims of human rights abuses should only be conducted in the presence of independent witnesses: a health professional designated by the family, the legal representative of the victim or a professional designated by an independent medical association.

Forensic doctors should be provided with the training and resources necessary for the diagnosis of all forms of torture and ill-treatment.

In all cases of deaths in custody, forensic investigation should conform to inter-

national standards including the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions.

#### 9. Investigation of all reports of torture

All reports of suspected torture or ill-treatment should be promptly, thoroughly and impartially investigated.

In cases where detainees allege that their confessions were extracted under torture, the burden should be on the detaining and interrogating authorities to prove that the confession was voluntary and that torture and ill-treatment did not occur.

The investigating authority should have the power to obtain all information necessary to the inquiry; adequate financial and technical resources for effective investigation; and the authority to oblige those accused of torture to appear and testify.

Any government official who suspects that torture has been committed should report it to the relevant authorities, which should fully investigate all such reports.

The absence of a complaint by the victim or relatives should not deter investigation.

The involvement or complicity of health professionals in the torture and ill-treatment of detainees should be thoroughly and impartially investigated. Disciplinary proceedings should be instituted against medical personnel found to have breached the UN Principles of Medical Ethics.

#### 10. Bringing torturers to justice

Any law enforcement agent or person acting under the direction of law enforcement agents who is responsible for torture, or for ordering, encouraging or condoning the practice of torture, should be brought to justice.

Any law enforcement agent charged in connection with the crime of torture should be immediately suspended from duties directly related to arresting, guarding or interrogating detainees. If convicted, he/she should be automatically dismissed from duty, in addition to whatever other punishment is imposed by the court.

The crime of torture should not be subject to any statute of limitations.

Any decision to suspend or dismiss state officials accused or convicted of human rights violations should be made public.

An effective information system should be set up to prevent state officials dismissed for human rights violations from being reassigned to similar posts in other jurisdictions or departments.

#### 11. Protection of victims and witnesses

The government should ensure that all necessary measures are taken to prevent attacks on or threats against victims of torture and their relatives, witnesses to human rights violations and human rights activists; and that all those responsible for such actions be brought to justice.

#### 12. Compensation for victims of torture

All victims of torture should receive medical treatment and rehabilitation where necessary, and financial compensation commensurate with the abuse inflicted.

In cases where a detainee's death is shown to be the result of torture or ill-treatment the deceased's relatives should receive compensatory and exemplary damages.

#### 13. Promoting respect for human rights

An absolute prohibition of torture and ill-treatment as crimes under domestic law should be visibly displayed in every detention centre in the country.

The government should adopt and publish a code of conduct for all law enforcement agents who exercise powers of detention and

arrest. This code should conform to the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

In addition to categorically prohibiting the use of torture and ill-treatment, the Mexican penal code should specify that law enforcement agents must oppose the use of torture or ill-treatment, if necessary by refusing to carry out orders to inflict such treatment on detainees, and report any such abuses of authority to their superior officers and, where necessary, to the authorities vested with review or remedial powers.

Breaches of the code should result in specified disciplinary sanctions and criminal prosecution of the agents involved.

The government should ensure that all law enforcement agents and members of the armed forces receive adequate training on human rights standards, both domestic and international, and on the means for their protection.

#### 14. Compliance with international law

Domestic law and practice should fully conform with international human rights instruments including human rights conventions ratified by Mexico, as well as the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions.

#### 15. Recognition of international procedures for human rights protection

The government should ratify the (First) Optional Protocol of the International Covenant on Civil and Political Rights, which allows individuals who have exhausted all domestic legal remedies to submit a written complaint to the UN Human Rights Committee alleging that their rights under the Covenant have been violated.

The government should declare, under Article 22 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, that it recognizes the full competence of the UN Committee against Torture to investigate complaints of human rights violations lodged by individuals who have exhausted all domestic legal remedies.

The government should recognize the jurisdiction of the Inter-American court of Human Rights over all matters relating to the interpretation or application of human rights safeguards contained in the American Convention.

#### 16. Effective investigations into the "detained-disappeared"

The government should press ahead with investigations under way into cases of forced "disappearance" where the victims are still "disappeared", with the aim of bringing to justice those responsible and clarifying the fate of the victims.

#### 17. Protection of the rights of migrants and refugees

The government should create effective mechanisms to guarantee that persons seeking refugee status are adequately and fairly assessed and categorized.

The authorities should create effective control mechanisms in detention centres for illegal immigrants in order to prevent the use of cruel, inhuman and degrading treatment against them.

Mr. HOLLINGS. Mr. President, we have been supporting dictatorships in Mexico for too long. Where there is no

freedom, how can we have a free trade agreement? Mexicans are disillusioned. I have talked to the councilmen of Tijuana and the workers in Mexico and the professors at the university. I have talked to civic leaders. I can tell you they are unanimously opposed to NAFTA because it gives the Good Housekeeping seal of approval to the corrupt and intolerable status quo in Mexico. NAFTA is not change. If you want change, let us vote down NAFTA and turn instead to a European-style common market arrangement that encompasses democracy and human rights. We have already offered the bill to make this possible. But you will not get political reform from NAFTA. The 2,000 page text of NAFTA does not even once mention the world democracy.

We must work to build democracy south of the border, as John F. Kennedy intended. We must not allow guests at the Kennedy Museum today to be misled with the false notion that President Kennedy would have condoned this flawed NAFTA agreement. I can tell you categorically that JFK would have opposed it because it does not represent change or democracy.

I thank the Chair and yield the floor.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. DASCHLE). Morning business is now closed.

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

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

#### THE INDOOR AIR QUALITY ACT OF 1993

The PRESIDING OFFICER. The clerk will state the bill, S. 656, by title.

The assistant legislative clerk read as follows:

A bill (S. 656) to provide for indoor air pollution abatement, including indoor radon abatement, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works, with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

#### SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) *SHORT TITLE.*—This Act may be cited as the "Indoor Air Quality Act of 1993".

(b) *TABLE OF CONTENTS.*—The table of contents of this Act is as follows:

Sec. 1. Short title and table of contents.

Sec. 2. Findings.

Sec. 3. Purposes.

Sec. 4. Definitions.

Sec. 5. Indoor air quality research.

Sec. 6. Management practices, voluntary partnership programs, and ventilation standards.

Sec. 7. Indoor air contaminant health advisories.

Sec. 8. National indoor air quality response plan.

Sec. 9. Federal building response plan and demonstration program.

Sec. 10. State and local indoor air quality programs.

Sec. 11. Office of Radiation and Indoor Air.

Sec. 12. Council on Indoor Air Quality.

Sec. 13. Indoor air quality information clearinghouse.

Sec. 14. Building assessment demonstration.

Sec. 15. State and Federal authority.

Sec. 16. Authorization of appropriations.

#### SEC. 2. FINDINGS.

Congress finds that—

(1) Americans spend up to 90 percent of a day indoors and, as a result, have a significant potential for exposure to contaminants in the air indoors;

(2) exposure to indoor air contamination occurs in workplaces, schools, public buildings, residences, and transportation vehicles;

(3) recent scientific studies indicate that pollutants in the indoor air include radon, asbestos, volatile organic chemicals (including formaldehyde and benzene), combustion byproducts (including carbon monoxide and nitrogen oxides), metals and gases (including lead, chlorine, and ozone), respirable particles, biological contaminants, microorganisms, and other contaminants;

(4) a number of contaminants found in both ambient air and indoor air may occur at higher concentrations in indoor air than in outdoor air;

(5) indoor air pollutants pose serious threats to public health (including cancer, respiratory illness, multiple chemical sensitivities, skin and eye irritation, and related effects);

(6) up to 15 percent of the population of the United States may have heightened sensitivity to chemicals and related substances found in the air indoors;

(7) radon is among the most harmful indoor air pollutants and is estimated to cause between 5,000 and 20,000 lung cancer deaths each year;

(8) other selected indoor air pollutants are estimated to cause between 3,500 and 6,500 additional cancer cases per year;

(9) indoor air contamination is estimated to cause significant increases in medical costs and declines in work productivity;

(10) as many as 20 percent of office workers may be exposed to environmental conditions manifested as "sick building syndrome";

(11) sources of indoor air pollution include conventional ambient air pollution sources, building materials, consumer and commercial products, combustion appliances, indoor application of pesticides, and other sources;

(12) there is not an adequate effort by Federal agencies to conduct research on the seriousness and extent of indoor air contamination, to identify the health effects of indoor air contamination, and to develop control technologies, education programs, and other methods of reducing human exposure to the contamination;

(13) there is not an adequate effort by Federal agencies to develop response plans to reduce human exposure to indoor air contaminants and there is a need for improved coordination of the activities of these agencies;

(14) there is not an adequate effort by Federal agencies to develop methods, techniques, and protocols for assessment of indoor air contamination in non-residential, non-industrial buildings and to provide guidance on measures to respond to contamination; and

(15) State governments can make significant contributions to the effective reduction of human exposure to indoor air contaminants and the Federal Government should assist States in development of programs to reduce exposures to the contaminants.

#### SEC. 3. PURPOSES.

The purposes of this Act are to—

(1) develop and coordinate through the Environmental Protection Agency and at other departments and agencies of the United States a comprehensive program of research and development that addresses the seriousness and extent of indoor air contamination, the human health effects of indoor air contaminants, and the technological and other methods of reducing human exposure to the contaminants;

(2) establish a process under which the existing authorities of Federal laws will be directed and focused to ensure the full and effective application of the authorities to reduce human exposure to indoor air contaminants where appropriate;

(3) provide support to State governments to demonstrate and develop indoor air quality management strategies, assessments, and response programs; and

(4) authorize activities to ensure the general coordination of indoor air quality-related activity, provide for reports on indoor air quality to Congress, provide for assessments of indoor air contamination in specific buildings by the National Institute for Occupational Safety and Health, ensure that data and information on indoor air quality issues is available to interested parties, provide training, education, information, and technical assistance to the public and private sector, and for other purposes.

#### SEC. 4. DEFINITIONS.

As used in this Act:

(1) *ADMINISTRATOR.*—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) *ADMINISTRATION.*—The term "Administration" means the Occupational Safety and Health Administration.

(3) *AGENCY.*—The term "Agency" means the Environmental Protection Agency.

(4) *DIRECTOR.*—The term "Director" means the Director of the National Institute of Occupational Safety and Health.

(5) *FEDERAL AGENCY.*—The term "Federal agency" or "agency of the United States" means any department, agency or other instrumentality of the Federal Government, including any independent agency or establishment of the Federal Government or government corporation.

(6) *FEDERAL BUILDING.*—The term "Federal building" means any building that is used primarily as an office building, school, hospital, or residence that is owned, leased, or operated by any Federal agency and is over 10,000 square feet in area, any building occupied by the Library of Congress, the White House, or the Vice Presidential residence, and any building that is included in the definition of Capitol Buildings under section 193m(1) of title 40, United States Code.

(7) *INDOOR.*—The term "indoor" means the enclosed portions of buildings, including non-industrial workplaces, public buildings, Federal buildings, schools, commercial buildings, and residences, and the occupied portions of vehicles.

(8) *INDOOR AIR CONTAMINANT.*—The term "indoor air contaminant" means any solid, liquid, semisolid, dissolved solid, biological organism, aerosol, or gaseous material, including combinations or mixtures of substances, known to occur in indoor air that may reasonably be anticipated to have an adverse effect on human health.

(9) *LOCAL AIR POLLUTION CONTROL AGENCY.*—The term "local air pollution control agency"

means any city, county, or other local government authority charged with the responsibility for implementing programs or enforcing laws or ordinances relating to the prevention and control of air pollution, including indoor air pollution.

(10) **LOCAL EDUCATION AGENCY.**—The term "local education agency" means any educational agency as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3381).

#### SEC. 5. INDOOR AIR QUALITY RESEARCH.

##### (a) AUTHORITY.—

(1) **IN GENERAL.**—The Administrator shall, in coordination with other appropriate Federal agencies, establish a national research, development, and demonstration program to ensure the quality of air indoors. As part of the program, the Administrator shall promote the coordination and acceleration of research, investigations, experiments, demonstrations, surveys, and studies relating to the causes, sources, effects, extent, prevention, detection, and correction of contamination of indoor air.

(2) **DUTIES OF ADMINISTRATOR.**—In carrying out this section, the Administrator is authorized, subject to the availability of appropriations, to—

(A) collect and make available to the public, through publications and other appropriate means, the results of research, development, and demonstration activities conducted pursuant to this section;

(B) conduct research, development, and demonstration activities and cooperate with other Federal agencies, State and local government entities, interstate and regional agencies, other public agencies and authorities, nonprofit institutions and organizations, and other persons in the preparation and conduct of the research, development, and demonstration activities;

(C) make grants to States or local government entities, other public agencies and authorities, nonprofit institutions and organizations, and other persons;

(D) enter into contracts or cooperative agreements with public agencies and authorities, nonprofit institutions and organizations, and other persons;

(E) conduct studies, including epidemiological studies, of the effects of indoor air contaminants or potential contaminants on mortality and morbidity and clinical and laboratory studies on the immunologic, biochemical, physiological, and toxicological effects (including the carcinogenic, teratogenic, mutagenic, cardiovascular, and neurotoxic effects) of indoor air contaminants or potential contaminants;

(F) develop and disseminate information documents on indoor air contaminants describing the nature and characteristics of the contaminants in various concentrations;

(G) develop effective and practical processes, protocols, methods, and techniques for the prevention, detection, and correction of indoor air contamination and work with the private sector, other governmental entities, and schools and universities to encourage the development of innovative techniques to improve indoor air quality;

(H) construct such facilities, employ such staff, and provide such equipment as are necessary to carry out this section;

(I) call conferences concerning the potential or actual contamination of indoor air giving opportunity for interested persons to be heard and present papers at the conferences;

(J) utilize, on a reimbursable basis, facilities and personnel of existing Federal scientific laboratories and research centers;

(K) acquire secret processes, technical data, inventions, patent applications, patents, licenses, and an interest in lands, plants, equipment and facilities, and other property rights,

by purchase, license, lease, or donation, and if the Administrator expects or intends that research conducted pursuant to this subsection will primarily affect worker safety and health, the Administrator shall consult with the Assistant Secretary of Occupational Safety and Health and the Director; and

(L) conduct research, development, and demonstration activities through nonprofit institutions on the use of indoor foliage as a method to reduce indoor air pollution.

(b) **PROGRAM REQUIREMENTS.**—The Administrator, in coordination with other appropriate Federal agencies, shall conduct, assist, or facilitate research, investigations, studies, surveys, or demonstrations with respect to the following:

(1) The effects on human health of contaminants or combinations of contaminants (whether natural or anthropogenic) at various levels including additive, cumulative, and synergistic effects on populations both with and without heightened sensitivity that are found or are likely to be found in indoor air.

(2) The exposure of persons to contaminants that are found in indoor air (including exposure to the substances from sources other than indoor air contamination, including drinking water, diet, or other exposures).

(3) The identification of populations at increased risk of illness from exposure to indoor air contaminants and assessment of the extent and characteristics of the exposure.

(4) The exposure of persons to contaminants in buildings of different classes or types, and in vehicles, and assessment of the association of particular contaminants and particular building classes or types and vehicles.

(5) The identification of building classes or types and design features or characteristics that increase the likelihood of exposure to indoor air contaminants.

(6) The identification of the sources of indoor air contaminants, including association of contaminants with outdoor sources, building or vehicle design, classes or types of products, building management practices, equipment operation practices, building materials, and related factors.

(7) The assessment of relationships between contaminant concentration levels in ambient air and the contaminant concentration levels in the indoor air.

(8) The development of methods and techniques for characterizing and modeling indoor air movement and flow within buildings or vehicles, including the transport and dispersion of contaminants in the indoor air.

(9) The assessment of the fate, including degradation and transformation, of particular contaminants in indoor air.

(10) The development of methods and techniques to characterize the association of contaminants, the levels of contaminants, and the potential for contamination of new construction with climate, building location, seasonal change, soil and geologic formations, and related factors.

(11) The assessment of indoor air quality in facilities of local education agencies and buildings used as child care facilities and development of measures and techniques for control of indoor air contamination in the buildings.

(12) The development of protocols, methods, techniques, and instruments for sampling indoor air to determine the presence and level of contaminants, including sample collection and the storage of samples before analysis and development of methods to improve the efficiency and reduce the cost of analysis.

(13) The development of air quality sampling methods and instruments that are inexpensive and easy to use and may be used by the general public.

(14) The development of control technologies, building design criteria, and management prac-

tices to prevent the entrance of contaminants into buildings or vehicles (such as air intake protection, sealing, and related measures) and to reduce the concentrations of contaminants indoor (such as control of emissions from internal sources of contamination, improved air exchange and ventilation, filtration, and related measures).

(15) The development of materials and products that may be used as alternatives to materials or products that are now in use and that contribute to indoor air contamination.

(16) Research, to be carried out principally by the Occupational Safety and Health Administration and the National Institute for Occupational Safety and Health, for the purpose of assessing—

(A) the exposure of workers to indoor air contaminants, including an assessment of resulting health effects; and

(B) the costs of declines in productivity, sick time use, increased use of employer-paid health insurance, and worker compensation claims.

(17) Research, to be carried out in conjunction with the Secretary of Housing and Urban Development, and the Secretary of the Department of Energy for the purpose of developing methods for assessing the potential for indoor air contamination of new construction and design measures to avoid indoor air contamination.

(18) Research, to be carried out in conjunction with the Secretary of Transportation, for the purposes of—

(A) assessing the potential for indoor air contamination in public and private transportation; and

(B) designing measures to avoid the indoor air contamination.

(19) Research, to be carried out in consultation with the Administrator for the National Aeronautics and Space Administration, for the purpose of assessing the use of indoor foliage as a means to reduce indoor air contamination, including demonstration projects to determine the level of pollutants reduced by indoor plants in buildings.

##### (c) **TECHNOLOGY DEMONSTRATION PROGRAM.**—

(1) **IN GENERAL.**—The Administrator may enter into cooperative agreements or contracts with, or provide financial assistance in the form of grants to, public agencies and authorities, nonprofit institutions and organizations, employee advocate organizations, local educational institutions, or other appropriate entities or persons to demonstrate practices, methods, technologies, or processes that may be effective in controlling sources or potential sources of indoor air contamination, preventing the occurrence of indoor air contamination, and reducing exposures to indoor air contamination.

(2) **REQUIREMENTS FOR ASSISTANCE.**—The Administrator may assist a demonstration activity under paragraph (1) only if—

(A) the demonstration activity will serve to demonstrate a new or significantly improved practice, method, technology, or process or the feasibility and cost effectiveness of an existing, but unproven, practice, method, technology, or process and will not duplicate other Federal, State, local, or commercial efforts to demonstrate the practice, method, technology, or process;

(B) the demonstration activity meets the requirements of this section and serves the purposes of this Act;

(C) the demonstration of the practice, technology, or process will comply with all other laws and regulations for the protection of human health, welfare, and the environment; and

(D) in the case of a contract or cooperative agreement, the practice, method, technology, or process—

(i) would not be adequately demonstrated by State, local, or private persons, or in the case of

an application for financial assistance, by a grant; and

(ii) is not likely to receive adequate financial assistance from other sources.

(3) SOLICITATIONS.—The demonstration program established by this subsection shall include solicitations for demonstration projects, selection of suitable demonstration projects from among the proposed demonstration projects, supervision of the demonstration projects, evaluation and publication of the results of demonstration projects, and dissemination of information on the effectiveness and feasibility of the practices, methods, technologies, and processes that are proven to be effective.

(4) PUBLISHED SOLICITATIONS.—Not later than 180 days after the date of enactment of this Act, and not less often than every 12 months thereafter, the Administrator shall publish a solicitation for proposals to demonstrate, prototype or at full-scale, practices, methods, technologies, and processes that are (or may be) effective in controlling sources or potential sources of indoor air contaminants. The solicitation notice shall prescribe the information to be included in the proposal, including technical and economic information derived from the research and development efforts of the applicant, and other information sufficient to permit the Administrator to assess the potential effectiveness and feasibility of the practice, method, technology, or process proposed to be demonstrated.

(5) APPLICATIONS.—Any person and any public or private nonprofit entity may submit an application to the Administrator in response to the solicitations required by paragraph (4). The application shall contain a proposed demonstration plan setting forth how and when the project is to be carried out and such other information as the Administrator may require.

(6) REVIEW.—In selecting practices, methods, technologies, or processes to be demonstrated, the Administrator shall fully review the applications submitted and shall evaluate each project according to the following criteria:

(A) The potential for the proposed practice, method, technology, or process to effectively control sources or potential sources of contaminants that present risks to human health.

(B) The consistency of the proposal with the recommendations provided pursuant to section 8(d)(8).

(C) The capability of the person or persons proposing the project to successfully complete the demonstration as described in the application.

(D) The likelihood that the demonstrated practice, method, technique, or process could be applied in other locations and circumstances to control sources or potential sources of contaminants, including considerations of cost, effectiveness, and technological feasibility.

(E) The extent of financial support from other persons to accomplish the demonstration as described in the application.

(F) The capability of the person or persons proposing the project to disseminate the results of the demonstration or otherwise make the benefits of the practice, method, or technology widely available to the public in a timely manner.

(7) SELECTION OF PROJECTS.—The Administrator shall select or refuse to select a project for demonstration under this subsection in an expeditious manner. In the case of a refusal to select a project, the Administrator shall notify the applicant of the reasons for the refusal.

(8) PERFORMANCE OF PROJECTS.—Each demonstration project under this section shall be performed by the applicant, or by a person satisfactory to the applicant, under the supervision of the Administrator. The Administrator shall enter into a written agreement with each applicant granting the Administrator the responsibility

and authority for testing procedures, quality control, monitoring, and other measurements necessary to determine and evaluate the results of the demonstration project.

(9) AGREEMENTS.—The Administrator shall enter into agreements, if practicable and desirable, to provide for monitoring testing procedures, quality control, and such other measurements as are necessary to evaluate the results of demonstration projects or facilities intended to control sources or potential sources of contaminants.

(10) SCHEDULES.—Each demonstration project under this section shall be completed within such time as is established in the demonstration plan. The Administrator may extend any deadline established under this subsection by mutual agreement with the applicant concerned.

(11) FEDERAL FUNDS.—The total amount of Federal funds for any demonstration project under this section shall not exceed 75 percent of the total cost of the project. If the Administrator determines that research under this section is of a basic nature that would not otherwise be undertaken, or the applicant is a local educational agency, the Administrator may approve a grant under this section with a matching requirement other than that specified in this subsection, including full Federal funding.

(12) REPORTS.—The Administrator shall, from time to time, publish general reports describing the findings of demonstration projects conducted pursuant to this section. The reports shall be provided to the indoor air quality information clearinghouse provided for in section 13.

(d) STUDY OF SCHOOLS AND CHILD CARE FACILITIES.—

(1) IN GENERAL.—The Administrator shall conduct a national study of the seriousness and extent of indoor air contamination in buildings owned by local educational agencies and child care facilities.

(2) ADVISORY GROUP.—The Administrator shall establish an advisory group composed of representatives of school administrators, teachers, child care organizations, parents and service employees and other interested parties, including scientific and technical experts familiar with indoor air pollution exposures, effects, and controls, to provide guidance and direction in the development of the national study.

(3) REPORT.—Not later than 2 years after the date of enactment of this Act, the Administrator shall provide a report to Congress of the results of the national study. The report required by this paragraph shall provide such recommendations for activities or programs to reduce and avoid indoor air contamination in buildings owned by local educational agencies and in child care facilities as the Administrator determines appropriate.

(e) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Administrator shall prepare and submit to Congress a report reviewing and assessing issues related to chemical sensitivity disorders, including multiple chemical sensitivities. The Advisory Committee established pursuant to section 7(c) shall review and comment on the report prior to submittal to Congress.

(f) HEALTHY BUILDINGS BASELINE ASSESSMENT.—

(1) IN GENERAL.—The Administrator and the Director shall conduct research on indoor air quality in commercial buildings to develop baseline information on indoor air quality in the buildings.

(2) REQUIREMENTS OF RESEARCH.—Research carried out under this subsection shall comply with generally accepted principles of the proper design, maintenance, and operation of ventilation, filtration, and other building systems.

(3) PERSONS THAT MAY CONDUCT RESEARCH.—The Administrator and the Director may ar-

range to have all or a portion of the research to be carried out by appropriate private persons and academic institutions.

(4) CONTENTS OF STUDY.—The study shall include—

(A) monitoring of respirable particulate matter, volatile compounds, biological contaminants, and other contaminants of interest; and

(B) identification of the sources of indoor air contaminants.

(g) CLARIFICATION OF AUTHORITY.—Title IV of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 7401 note) is repealed.

#### SEC. 6. MANAGEMENT PRACTICES, VOLUNTARY PARTNERSHIP PROGRAMS, AND VENTILATION STANDARDS.

(a) TECHNOLOGY AND MANAGEMENT PRACTICE ASSESSMENT BULLETINS.—

(1) IN GENERAL.—The Administrator shall publish bulletins providing an assessment of technologies and management practices for the control and measurement of contaminants in the air indoors.

(2) BULLETINS.—The bulletins published pursuant to this subsection shall, at a minimum—

(A) describe the control or measurement technology or practice;

(B) describe the effectiveness of the technology or practice in control or measurement of indoor air contaminants and, to the extent feasible, the resulting reduction in risk to human health;

(C) assess the feasibility of the application of the technology or practice in buildings of different types, sizes, ages, and designs;

(D) assess the cost of the application of the technology or practice in buildings of different types, sizes, ages, and designs, including capital and operational costs; and

(E) assess any risks to human health that the technology or practice may create.

(3) FORMAT.—The Administrator shall establish and utilize a standard format for presentation of the technology and management practice assessment bulletins. The format shall be designed to facilitate assessment of technologies or practices by interested parties, including homeowners and building owners and managers.

(4) SCHEDULE OF PUBLICATION.—The Administrator shall provide that, to the extent practicable, bulletins published pursuant to this subsection shall be published on a schedule consistent with the publication of health advisories pursuant to section 7(b).

(5) PUBLIC REVIEW.—In developing bulletins pursuant to this subsection, the Administrator shall provide for public review and shall consider public comment prior to the publication of bulletins. If the technology or management practice is expected to have significant implications for worker safety or health, the Administrator shall consult with the Director prior to seeking review and comment.

(6) DISTRIBUTION.—The bulletins published pursuant to this subsection shall be provided to the indoor air quality information clearinghouse established under section 13 and, to the extent practicable, shall be made available to architecture, design, and engineering firms, building owners and managers, and organizations representing the parties.

(b) VOLUNTARY PARTNERSHIP PROGRAMS.—

(1) IN GENERAL.—The Administrator shall develop a voluntary partnership program in cooperation with corporations and other entities that own, operate, or occupy buildings.

(2) PARTNERSHIPS.—The Administrator shall enter into the voluntary partnerships as an incentive to promote the implementation of pollution prevention, problem mitigation, and energy-wise technology strategies in exchange for indoor air quality technical support and recognition of the Agency.

(3) **RECOGNITION.**—The Administrator may award recognition to corporations or other persons that comply with management practices that are necessary to improve air quality.

(c) **MODEL BUILDING MANAGEMENT PRACTICES TRAINING.**—

(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Director of the National Institute of Occupational Safety and Health, in cooperation with the Administrator of the General Services Administration and the Administrator, shall develop an indoor air training course providing training with respect to—

(A) principles, methods, and techniques related to ventilation system operation and maintenance, including applicable ventilation guidelines and standards;

(B) the maintenance of records concerning indoor air quality, including maintenance of ventilation systems, complaints of indoor air quality, and actions taken to address indoor air quality problems;

(C) health threats posed by indoor air contaminants, including a knowledge of health advisories published pursuant to this Act and other information concerning contaminant levels;

(D) identification of potential indoor air contaminant sources and options for reducing exposures to contaminants;

(E) special measures that may be necessary to reduce indoor air contaminant exposures in new buildings and in portions of buildings that have been renovated or substantially refurbished within the 6-month period preceding the measures; and

(F) special measures that may be necessary to reduce exposures to contaminants associated with pesticide applications, installation of products, furnishings, or equipment, and cleaning operations.

(2) **TRAINING COURSES.**—Not later than 2 years after the date of enactment of this Act, the Director of the National Institute for Occupational Safety and Health shall provide, or contract for the provision of, training courses pursuant to paragraph (1) sufficient, at a minimum, to ensure training on a schedule consistent with the requirements of section 9(f)(2).

(3) **FEES.**—The Director of the National Institute of Occupational Safety and Health, or firms or organizations operating under contract with the Administrator of the General Services Administration, are authorized to establish a fee for training pursuant to this subsection. The fees shall be in an amount not to exceed the amount necessary to defray the costs of the training program.

(4) **REPORT.**—Not later than 4 years after the date of enactment of this Act, the Director of the National Institute of Occupational Safety and Health, in consultation with the Administrator of the General Services Administration, and the Administrator, shall prepare a report to Congress assessing the training program under this subsection and making recommendations concerning the application of training requirements to classes and types of buildings not covered under this subsection.

(d) **VENTILATION PROGRAM.**—

(1) **IN GENERAL.**—The Administrator, in coordination with other Federal agencies, shall conduct a program to analyze the adequacy of ventilation standards and guidelines to protect the public and workers from indoor air contaminants.

(2) **DUTIES OF ADMINISTRATOR.**—The Administrator shall—

(A) identify and describe ventilation standards adopted by State and local governments and professional organizations, including the American Society of Heating, Refrigerating and Air Conditioning Engineers;

(B) determine the adequacy of the standards for protecting public health and promoting worker productivity;

(C) assess the costs of compliance with the standards;

(D) determine the degree to which the standards are being adopted and enforced;

(E) identify the extent to which buildings are being operated in a manner that achieves the standards; and

(F) assess the potential for the standards to complement controls over specific sources of contaminants in reducing indoor air contamination.

**SEC. 7. INDOOR AIR CONTAMINANT HEALTH ADVISORIES.**

(a) **LIST OF CONTAMINANTS.**—

(1) **IN GENERAL.**—Not later than 18 months after the date of enactment of this Act, the Administrator shall prepare and publish in the Federal Register a list of indoor air contaminants (referred to in this section as "listed contaminants"). The list may include combinations or mixtures of contaminants and may refer to the combinations or mixtures by a common name.

(2) **REVIEW OF LIST.**—The Administrator shall from time to time and as necessary to carry out this Act, but not less often than biennially, review and revise the list by adding other contaminants pursuant to this Act.

(3) **CONTENTS OF LIST.**—The list provided for in paragraph (1) shall include, at a minimum, benzene, biological contaminants, carbon monoxide, formaldehyde, lead, methylene chloride, nitrogen oxide, particulate matter, asbestos, polycyclic aromatic hydrocarbons (PAHs), and radon.

(4) **CONSULTATION AND PUBLIC REVIEW.**—In developing the list provided for in paragraph (1) or in revising the list pursuant to paragraph (2), the Administrator shall consult with the advisory panel provided for in subsection (c), provide for public review, and consider public comment prior to the issuance of a final list.

(5) **JUDICIAL INTERPRETATION.**—The listing of contaminants under this subsection shall not be considered an agency rulemaking. In considering objections raised in any judicial or related action, the decision of the Administrator to list a particular contaminant shall be upheld unless the objecting party demonstrates that the decision was arbitrary or capricious or otherwise not in accordance with the law. The list of contaminants prepared in accordance with this subsection is not intended to indicate that those contaminants not listed are safe for human exposure or without adverse health effect.

(b) **CONTAMINANT HEALTH ADVISORIES.**—

(1) **IN GENERAL.**—The Administrator shall, in consultation with the advisory panel, provided for in subsection (c), and after providing for public review and comment pursuant to paragraph (6), publish advisory materials addressing the adverse human health effects of listed contaminants.

(2) **CONTENTS OF MATERIALS.**—The advisory materials shall, at a minimum, describe—

(A) the physical, chemical, biological, and radiological properties of the contaminant;

(B) the adverse human health effects of the contaminant in various indoor environments and in various concentrations, including the health threat to subpopulations that may be especially sensitive to exposure to the contaminant;

(C) the extent to which the contaminant, or a mixture of contaminants, is associated with a particular substance of material and emissions rates that are expected to result in varying levels of contaminant concentration in indoor air;

(D) any Technology and Management Practice Assessment Bulletin that is applicable to the contaminant and any actions that are identified for the contaminant in the National Indoor Air

Quality Response Plan prepared pursuant to this Act; and

(E) any indoor air contaminant standards or related action levels that are in effect under any authority of a Federal law or regulation, the authority of State laws or regulations, the authority of any local government, or the authority of another country, including standards or action levels suggested by appropriate international organizations.

(3) **STATUTORY CONSTRUCTION.**—Health advisories published pursuant to this section shall in no way limit or restrict the application of requirements or standards established under any other Federal law.

(4) **FORMAT.**—The Administrator shall establish and utilize a standard format of presentation of indoor air contaminant health advisories. The format shall be designed to facilitate public understanding of the range of risks of exposure to indoor air contaminants and shall include a summary of the research and information concerning the contaminant that is understandable to public health professionals and to individuals who lack training in toxicology.

(5) **SCHEDULE OF PUBLICATION.**—The Administrator shall publish health advisories for listed contaminants as expeditiously as practicable. At a minimum, the Administrator shall publish not less than 6 advisories not later than 24 months after the date of enactment of this Act and shall publish an additional 6 advisories not later than 36 months after the date of enactment of this Act.

(6) **SCIENTIFIC INFORMATION.**—Health advisories shall be based on sound scientific information that has undergone peer review.

(7) **REVIEW AND REVISION.**—Health advisories shall be reviewed, revised, and republished to reflect new scientific information on a periodic basis but not less frequently than every 5 years.

(8) **REVIEW AND COMMENT.**—In developing and revising health advisories pursuant to this subsection, the Administrator shall provide for public review and comment, including providing notice in the Federal Register of the intent to publish a health advisory not later than 90 days prior to publication, and shall consider public comment prior to issuance of an advisory.

(c) **ADVISORY PANEL.**—The Indoor Air Quality and Total Human Exposure Committee of the Environmental Protection Agency Science Advisory Board shall advise the Administrator with respect to the implementation of this section, including the listing of contaminants, the contaminants for which advisories should be published, the order in which advisories should be published, the content, quality, and format of advisory documents, and the revision of the documents. The Administrator shall provide that a representative of each of the Agency for Toxic Substances and Disease Registry, the Office of Health and Environmental Research of the Department of Energy, the National Institute for Occupational Safety and Health, and the National Institute for Environmental Health Sciences shall participate in the work of the Advisory Panel as *ex officio* members.

**SEC. 8. NATIONAL INDOOR AIR QUALITY RESPONSE PLAN.**

(a) **AUTHORITY.**—The Administrator shall, in coordination with other appropriate Federal agencies, develop and publish a national indoor air quality response plan. The response plan shall provide for the implementation of a range of response actions identified in subsections (b) and (c) that will result in the reduction of human exposure to indoor air contaminants listed pursuant to section 7(a) and the attainment, to the fullest extent practicable, of indoor air contaminant levels that are protective of human health.

(b) **EXISTING AUTHORITY.**—The Administrator, in coordination with other appropriate Federal

agencies, shall include in the plans provided for in subsection (a) a description of specific response actions to be implemented based on existing authorities provided in—

- (1) the Clean Air Act (42 U.S.C. 7401 et seq.);
- (2) the Toxic Substances Control Act (15 U.S.C. 201 et seq.);
- (3) the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.);
- (4) title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act") (42 U.S.C. 300f et seq.);
- (5) the authorities of the Consumer Product Safety Commission;
- (6) the authorities of the Occupational Safety and Health Administration and the National Institute for Occupational Safety and Health; and
- (7) other regulatory and related authorities provided under any other Federal law.

In implementing response actions pursuant to paragraph (6), the Assistant Secretary for Occupational Safety and Health shall consult with representatives and employees of State and local governments with respect to States over which the Occupational Safety and Health Administration lacks jurisdiction over State and local employees.

(c) **SUPPORTING ACTIONS.**—The Administrator, in coordination with the heads of other appropriate Federal agencies, shall include in the plans provided for in subsection (a) a description of specific supporting actions, including, but not limited to—

(1) programs to disseminate technical information to public health, design, and construction professionals concerning the risks of exposure to indoor air contaminants and methods and programs for reducing exposure to the contaminants;

(2) the development of guidance documents addressing individual contaminants, groups of contaminants, sources of contaminants, or types of buildings or structures and providing information on measures to reduce exposure to contaminants, including—

- (A) the estimated cost of the measures;
- (B) the technologic feasibility of the measures; and
- (C) the effectiveness and efficiency of the measures;

(3) education programs for the general public concerning the health threats posed by indoor air contaminants and appropriate individual response actions;

(4) technical assistance, including the design and implementation of training seminars for State and local officials, private and professional firms, and labor organizations dealing with indoor air pollution and addressing topics such as monitoring, analysis, mitigation, building management practices, ventilation, health effects, public information, and program design;

(5) the development of model building codes, including ventilation rates, for various types of buildings designed to reduce levels of indoor air contaminants;

(6) the identification of contaminants, or circumstances of contamination for which immediate action to protect public and worker health is necessary and appropriate and a description of the actions needed;

(7) the identification of contaminants, or circumstances of contamination, in cases in which regulatory or statutory authority is not adequate to address an identified contaminant or circumstance of contamination and recommendation of legislation to provide needed authority;

(8) the identification of contaminants, or circumstances of contamination, in cases in which the continued reduction of contamination requires development of technology or technological mechanisms; and

(9) the identification of remedies to the "sick building syndrome", including proper design

and maintenance of ventilation systems, building construction and remodeling practices, and safe practices for the application of pesticides, herbicides, and disinfectants, and a standardized protocol for investigating and solving indoor air quality problems in sick buildings.

(d) **CONTENTS OF PLAN.**—In describing specific actions to be taken under subsections (b) and (c), the Administrator, in coordination with the heads of other appropriate Federal agencies, shall—

(1) identify the health effects, and any contaminant or contaminants thought to cause health effects to be addressed by a particular action and to the fullest extent feasible, the relative contribution to indoor air contamination from all sources of contamination;

(2) identify the statutory basis for the action;

(3) identify the schedule and process for implementation of the action;

(4) identify the Federal agency with jurisdiction for the specific action that will implement the action; and

(5) identify the financial resources needed to implement the specific action and the source of the resources.

(e) **SCHEDULE.**—Response plans provided for in subsection (a) shall be submitted to Congress not later than 2 years after the date of enactment of this Act, and biennially thereafter.

(f) **REVIEW.**—

(1) **IN GENERAL.**—The Administrator shall provide for public review and comment on the response plan provided for in this section, including provision of notice in the Federal Register for public review and comment not later than 90 days prior to submission to Congress. The Administrator shall include in the response plan a summary of public comments.

(2) **REVIEW BY COUNCIL.**—The Administrator shall provide for the review and comment on the response plan by the Council on Indoor Air Quality provided for under section 12.

(g) **REPORTS IN PLAN.**—

(1) **MONITORING AND MITIGATION SERVICES.**—In the first plan published pursuant to this section shall include an assessment and report on indoor air monitoring and mitigation services provided by private firms and other organizations, including the range of the services, the reliability and accuracy of the services, and the relative costs of the services. The assessment shall include a review and analysis of options for oversight of indoor air monitoring and mitigation firms and organizations, including registration, licensing, and certification of the firms and organizations and options for imposing a user fee on the firms and organizations.

(2) **VENTILATION PROGRAM.**—The first plan published pursuant to this section shall include an assessment and report on the ventilation program carried out under this Act, including recommendations concerning—

(A) the establishment of ventilation standards that protect public health and worker health and take into account comfort and energy conservation goals; and

(B) ensuring that adequate ventilation standards are being adopted and that buildings are being operated in a manner that achieves standards.

(3) **INDOOR PLANTS.**—The first plan published pursuant to this section shall include an assessment and report on the research program authorized under section 5(b)(20). In preparing the report, the Administrator shall consult with the Administrator of the National Aeronautics and Space Administration.

#### SEC. 9. FEDERAL BUILDING RESPONSE PLAN AND DEMONSTRATION PROGRAM.

(a) **AUTHORITY.**—The Administrator and the Administrator of the General Services Administration shall develop and implement a program to respond to and reduce indoor air contamination

in Federal buildings and to demonstrate methods of reducing indoor air contamination in new Federal buildings.

(b) **FEDERAL BUILDING RESPONSE PLAN.**—

(1) **IN GENERAL.**—The Administrator of the General Services Administration, in consultation with the Administrator, the Assistant Secretary for Occupational Safety and Health Administration, the Director, and the heads of affected Federal departments or agencies shall prepare response plans addressing indoor air quality in Federal buildings. The plans shall, to the fullest extent practicable, be developed in conjunction with response plans developed pursuant to section 8.

(2) **CONTENTS OF RESPONSE PLAN.**—The response plan shall provide for the implementation of a range of response actions that will result in the reduction of human exposure to indoor air contaminants listed pursuant to section 7(a), and the attainment, to the fullest extent practicable, of indoor air contaminant concentration levels that are protective of public and worker health.

(3) **REQUIREMENTS FOR RESPONSE PLAN.**—Each Federal building response plan provided for in paragraph (1) shall include—

- (A) a list of all Federal buildings;
- (B) a description and schedule of general response actions, including general building management practices, product purchase guidelines, air quality problem identification practices and methods, personnel training programs, and other actions to be implemented to reduce exposures to indoor air contaminants in the buildings listed pursuant to subparagraph (A);
- (C) a list of individual Federal buildings listed pursuant to subparagraph (A) for which there is sufficient evidence of indoor air contamination or related employee health effects to warrant assessment of the building pursuant to section 14 and a schedule for the development and submission of building assessment proposals pursuant to section 14(d);

(D) a description and schedule of specific response actions to be implemented in each specific building identified in subparagraph (C) and assessed pursuant to section 14;

(E) an identification of the Federal agency responsible for the funding and implementation of each response action identified in subparagraphs (B) and (D); and

(F) an identification of the estimated costs of each response action identified in subparagraphs (B) and (D) and the source of resources to cover the costs.

(4) **REQUIREMENT FOR RESPONSE PLAN.**—The response plan provided for in this subsection shall address each Federal building identified in paragraph (3)(A), except that a specific building may be exempted from coverage under this subsection. A building may be exempted on the grounds of—

- (A) national security;
- (B) the anticipated demolition or termination of Federal ownership not later than 3 years after the exemption; and
- (C) a specialized use of a building that precludes necessary actions to reduce indoor air contamination.

(5) **SUBMISSION TO CONGRESS.**—The plan provided for in this subsection shall be submitted to Congress not later than 2 years after the date of enactment of this Act, and biennially thereafter.

(6) **PUBLIC REVIEW AND COMMENT.**—The Administrator of the General Services Administration shall provide for public review and comment on the response plan provided for in this section, including the provision of notice in the Federal Register, not later than 90 days prior to the submission to Congress of the plan.

(7) **PUBLIC COMMENTS.**—The response plan shall include a summary of public comments. The Council on Indoor Air Quality provided for

under section 12 shall review and comment on the plan.

(c) **INDOOR AIR QUALITY RESERVE.**—

(1) **IN GENERAL.**—The Administrator of the General Services Administration shall reserve 0.5 percent of any funds used for the construction of new Federal buildings for the design and construction of measures to reduce indoor air contaminant concentrations within the buildings.

(2) **MEASURES THAT MAY BE FUNDED.**—The measures that may be funded with the reserve provided for in this subsection include—

(A) the development and implementation of general design principles intended to avoid or prevent contamination of indoor air;

(B) the design and construction of improved ventilation techniques or equipment;

(C) the development and implementation of product purchasing guidelines;

(D) the design and construction of contaminant detection and response systems;

(E) the development of building management guidelines and practices; and

(F) training in building and systems operations for building management and maintenance personnel.

(3) **REPORT.**—On completion of construction of each Federal building covered by this section, the Administrator of the General Services Administration shall file with the Administrator, the clearinghouse established under section 13, and the Council established under section 12, a report describing the uses made of the reserve provided for in this subsection. The report shall be in sufficient detail to provide design and construction professionals with models and general plans of various indoor air contaminant reduction measures adequate to assess the appropriateness of the measures for application in other buildings.

(4) **EXEMPTIONS.**—The Administrator of the General Services Administration, with the concurrence of the Administrator, may exempt a planned Federal building from the requirements of this subsection if the Administrator of the General Services Administration finds that the exemption is required on the grounds of national security or that the intended use of the building is not compatible with this section.

(d) **NEW ENVIRONMENTAL PROTECTION AGENCY BUILDINGS.**—Any new building constructed for use by the Agency as headquarters shall be designed, constructed, maintained, and operated as a model to demonstrate principles and practices for the protection of indoor air quality.

(e) **BUILDING COMMENTS.**—

(1) **IN GENERAL.**—The Administrator of the General Services Administration, in consultation with the Administrator, the Assistant Secretary for Occupational Safety and Health Administration, and the Director, shall provide, by regulation, a method and format for filing and responding to comments and complaints concerning indoor air quality in Federal buildings by workers in the buildings and by the public. The procedure for filing and responding to worker complaints shall supplement and not diminish or supplant existing practices or procedures established under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) and executive orders pertaining to health and safety for Federal employees.

(2) **LISTING OF FILINGS.**—A listing of each filing and an analysis of the filing shall be included in each response plan prepared pursuant to this section. The listing shall preserve the confidentiality of individuals making filings under this section.

(3) **REGULATIONS.**—The regulations implementing this subsection shall be issued at the earliest practicable date, but not later than 2 years after the date of enactment of this Act.

(f) **BUILDING VENTILATION AND MANAGEMENT TRAINING.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Administrator of the General Services Administration shall designate, or require that a lessee designate, an Indoor Air Quality Coordinator for each Federal building that is owned or leased by the General Services Administration.

(2) **SCHEDULE FOR COMPLETION OF TRAINING COURSES.**—Not later than 4 years after the date of enactment of this Act, each Indoor Air Quality Coordinator shall complete the indoor air training course operated pursuant to section 6(b). Beginning on the date that is 3 years after the date of enactment of this Act, each newly designated Indoor Air Quality Coordinator shall complete the indoor air training course not later than 1 year after designation.

(3) **FAILURE TO DESIGNATE AN INDOOR AIR QUALITY COORDINATOR.**—If the Administrator of the General Services Administration finds that a lessee has failed to designate and train an Indoor Air Quality Coordinator pursuant to the requirements of this Act, the Administrator of the General Services Administration may not reestablish a lease for the building.

**SEC. 10. STATE AND LOCAL INDOOR AIR QUALITY PROGRAMS.**

(a) **MANAGEMENT AND ASSESSMENT STRATEGY DEMONSTRATION.**—

(1) **IN GENERAL.**—The Governor of a State may apply to the Administrator for a grant to support demonstration of the development and implementation of a management strategy and assessment with respect to indoor air quality within the State.

(2) **STRATEGIES.**—Each State indoor air quality management strategy shall—

(A) identify a lead agency and provide an institutional framework for protection of indoor air quality;

(B) identify and describe existing programs, controls, or related activities concerning indoor air quality within State agencies, including regulations, educational programs, assessment programs, or other activities;

(C) identify and describe existing programs, controls, or related activities concerning indoor air quality of local and other sub-State agencies and ensure coordination among local, State, and Federal agencies involved in indoor air quality activities in the State; and

(D) ensure the coordination of indoor air quality programs with ambient air quality programs and related activities.

(3) **ASSESSMENT PROGRAMS.**—Each State indoor air quality assessment program shall—

(A) identify indoor air contaminants of concern and, to the extent practicable, assess the seriousness and the extent of indoor air contamination by contaminants listed in section 7(a);

(B) identify the classes or types of buildings or other indoor environments in which indoor air contaminants pose the most serious threat to human health;

(C) if applicable, identify geographic areas in the State where there is a reasonable likelihood of indoor air contamination as a result of the presence of contaminants in the ambient air or the existence of sources of a contaminant;

(D) identify methods and procedures for indoor air contaminant assessment and monitoring;

(E) provide for periodic assessments of indoor air quality and identification of indoor air quality changes and trends; and

(F) establish methods to provide information concerning indoor air contamination to the public and to educate the public and interested groups, including building owners and design and engineering professionals, about indoor air contamination.

(4) **STATE AUTHORITY.**—As part of a management strategy and assessment under this sub-

section, the applicant may develop contaminant action levels, guidance, or standards and may draw on health advisories developed pursuant to section 7.

(5) **REQUIREMENTS FOR STATES.**—Each State that is selected to demonstrate the development of management and assessment strategies shall provide to the Administrator a management strategy and assessment pursuant to paragraphs (2) and (3) not later than 3 years after the date of selection and shall certify to the Administrator that the strategy and assessment meet the requirements of this Act.

(6) **PUBLIC REVIEW AND COMMENT.**—Each State referred to in paragraph (5) shall provide for public review and comment on the management strategy and assessment prior to submission of the strategy and assessment to the Administrator.

(b) **RESPONSE PROGRAMS.**—

(1) **IN GENERAL.**—A Governor of a State or the executive officer of a local air pollution control agency may apply to the Administrator for grant assistance to develop a response program designed to reduce human exposure to an indoor air contaminant or contaminants in the State, a specific class or type of building in that State, or a specific geographic area of that State.

(2) **REQUIREMENTS FOR RESPONSE PROGRAM.**—A response program shall—

(A) address a contaminant or contaminants listed pursuant to section 7(a);

(B) identify existing data and information concerning the contaminant or contaminants to be addressed, the class or type of building to be addressed, and the specific geographic area to be addressed;

(C) describe and schedule the specific actions to be taken to reduce human exposure to the identified contaminant or contaminants, including the adoption and enforcement of any ventilation standards;

(D) identify the State or local agency or public organization that will implement the response actions;

(E) identify the Federal, State, and local financial resources to be used to implement the response program; and

(F) provide for the assessment of the effectiveness of the response program.

(3) **STATE AUTHORITY.**—As part of a response program pursuant to this subsection, an applicant may develop contaminant action levels, guidance, or standards based on health advisories developed pursuant to section 7.

(4) **VENTILATION RATES.**—As part of a response program established pursuant to this subsection, an applicant may develop a standard establishing 1 or more ventilation rates for a class or classes of buildings. The standard shall include development of the assessment and compliance programs needed to implement the standard.

(5) **RESPONSE PLANS.**—As part of a response program established pursuant to this subsection, an applicant may develop a response plan addressing indoor air quality in State and local government buildings. The plan shall, to the fullest extent practicable, be consistent with response plans developed pursuant to section 9.

(c) **GRANT MANAGEMENT.**—

(1) **AMOUNT.**—The amount of each grant made under subsection (a)(1) shall not be less than \$75,000 for each fiscal year.

(2) **SELECTION CRITERIA.**—In selecting States for the demonstration and implementation of management strategies and assessments under subsection (a)(1), the Administrator shall consider—

(A) the previous experience of a State in addressing indoor air quality issues;

(B) the seriousness of the indoor air quality issues identified by the State; and

(C) the potential for demonstration of innovative management or assessment measures that may be of use to other States.

(3) **FOCUS OF RESOURCES.**—In selecting States for the demonstration of management strategies and assessments under subsection (a)(1), the Administrator shall focus resources to ensure that sufficient funds are available to selected States to provide for the development of comprehensive and thorough management strategies and assessments in each selected State and to adequately demonstrate the implementation of the strategies and assessments.

(4) **AMOUNT.**—The amount of each grant made under subsection (b)(1) shall not exceed \$250,000 for each fiscal year and shall be available to the State for a period of not to exceed 3 years.

(5) **SELECTION CRITERIA.**—In selecting response programs developed under subsection (b) for grant assistance, the Administrator shall consider—

(A) the potential for the response program to bring about reductions in indoor air contaminant levels;

(B) the contaminants to be addressed, giving priority to contaminants for which health advisories have been developed pursuant to section 207;

(C) the type of building to be addressed, giving priority to building types in which substantial human exposures to indoor air contaminants occur;

(D) the potential for development of innovative response measures or methods that may be of use to other States or local air pollution control agencies; and

(E) the State indoor air quality management strategy and assessment, giving priority to States with complete indoor air management strategies and assessments.

(6) **FEDERAL SHARE.**—The Federal share of each grant made under subsections (a) and (b) shall not exceed 75 per cent of the costs incurred in the demonstration and implementation of the activities and shall be made on the condition that the non-Federal share is provided from non-Federal funds.

(7) **AVAILABILITY OF FUNDS.**—Funds awarded as a grant pursuant to subsections (a) and (b) for a fiscal year shall remain available for obligation for the next fiscal year following the fiscal year in which the funds are obligated and for the next following fiscal year.

(8) **RESTRICTION.**—No grant shall be made under this section for any fiscal year to a State or local air pollution control agency that in the preceding year received a grant under this section unless the Administrator determines that the agency satisfactorily implemented the grant activities in the preceding fiscal year.

(9) **INFORMATION.**—States and air pollution control agencies shall provide such information in applications for grant assistance and pertaining to grant funded activities as the Administrator requires.

#### SEC. 11. OFFICE OF RADIATION AND INDOOR AIR.

(a) **ESTABLISHMENT.**—The Administrator shall establish an Office of Radiation and Indoor Air within the Office of Air and Radiation of the Agency.

(b) **RESPONSIBILITIES.**—The Office of Radiation and Indoor Air shall—

(1) list indoor air contaminants and develop health advisories pursuant to section 7;

(2) develop national indoor air quality response plans as provided for in section 8;

(3) manage Federal grant assistance provided to air pollution control agencies under section 10;

(4) ensure the coordination of Federal laws and programs administered by the Agency relating to indoor air quality and reduce duplication or inconsistencies among the programs;

(5) work with other Federal agencies, including the Occupational Safety and Health Administration and the National Institute for Occupational Safety and Health, to ensure the effective

coordination of programs related to indoor air quality; and

(6) work with public interest groups, labor organizations, and the private sector in development of information related to indoor air quality, including the health threats of human exposure to indoor air contaminants, the development of technologies and methods to control the contaminants, and the development of programs to reduce contaminant concentrations.

#### SEC. 12. COUNCIL ON INDOOR AIR QUALITY.

(a) **AUTHORITY.**—There is established a Council on Indoor Air Quality.

(b) **RESPONSIBILITIES.**—The Council on Indoor Air Quality shall—

(1) provide for the full and effective coordination of Federal agency activities relating to indoor air quality;

(2) provide a forum for the resolution of conflicts or inconsistencies in policies or programs related to indoor air quality;

(3) review and comment on the national indoor air quality response program developed pursuant to section 8 and the Federal building response plans developed pursuant to section 9(b); and

(4) prepare a report to Congress pursuant to subsection (d).

(c) **ORGANIZATION.**—

(1) **IN GENERAL.**—The Council on Indoor Air Quality shall include a senior representative of each Federal agency involved in indoor air quality programs, including—

(A) the Agency;

(B) the Occupational Safety and Health Administration;

(C) the National Institute of Occupational Safety and Health;

(D) the Department of Health and Human Services;

(E) the Department of Housing and Urban Development;

(F) the Department of Energy;

(G) the Department of Transportation;

(H) the Consumer Product Safety Commission; and

(I) the General Services Administration.

(2) **CHAIRPERSON.**—The representative of the Agency shall serve as the Chairperson of the Council.

(3) **STAFF.**—The Council shall be served by a staff that shall include an Executive Director and not less than 3 full-time equivalent employees who shall be employees of the Agency.

#### SEC. 13. INDOOR AIR QUALITY INFORMATION CLEARINGHOUSE.

(a) **NATIONAL INDOOR AIR QUALITY CLEARINGHOUSE.**—The Administrator shall establish a national indoor air quality clearinghouse to be used to disseminate indoor air quality information to other Federal agencies, State, and local governments, and private organizations and individuals.

(b) **FUNCTIONS.**—The clearinghouse shall be a repository for reliable indoor air quality related information to be collected from and made available to government agencies and private organizations and individuals. At a minimum, the clearinghouse established by this section shall make available reports, programs, and materials developed pursuant to this Act.

(c) **HOTLINE.**—The clearinghouse shall operate a toll-free hotline on indoor air quality that shall be available to provide to the public general information about indoor air quality and general guidance concerning response to indoor air quality problems.

(d) **CONTRACTUAL AGREEMENT.**—The Administrator may provide for the design, development, and implementation of the clearinghouse through a contractual agreement.

#### SEC. 14. BUILDING ASSESSMENT DEMONSTRATION.

(a) **AUTHORITY.**—

(1) **IN GENERAL.**—The Director of the National Institute for Occupational Safety and Health shall, in consultation with the Administrator, implement a Building Assessment Demonstration Program to support the development of methods, techniques, and protocols for the assessment of indoor air quality in nonresidential, nonindustrial buildings and to provide assistance and guidance to building owners and occupants on measures to improve air quality.

(2) **ONSITE ASSESSMENTS.**—In implementing this section, the Director shall have the authority to conduct onsite assessments of individual buildings, including Federal, State, and municipal buildings.

(3) **STATUTORY CONSTRUCTION.**—Nothing in this section shall in any way limit or constrain existing authorities under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(b) **ASSESSMENT ELEMENTS.**—Assessments of individual buildings conducted pursuant to this section shall, at a minimum, provide—

(1) an identification of suspected building conditions or contaminants (or both) and the magnitude of the conditions or contaminants;

(2) an assessment of the probable sources of contaminants in the air in the building;

(3) a review of the nature and extent of health concerns and symptoms identified by building occupants;

(4) an assessment of the probable association of indoor air contaminants with the health and related concerns of building occupants, including an assessment of occupational and environmental factors that may relate to the health concerns;

(5) an identification of appropriate measures to control contaminants in the air in the building, to reduce the concentration levels of contaminants, and to reduce exposure to contaminants; and

(6) an evaluation of the effectiveness of response measures in the control and reduction of contaminants and contaminant levels, the change in occupant health concerns and symptoms, the approximate costs of the measures, and any additional response measures that may reduce health concerns of occupants.

(c) **ASSESSMENT REPORTS.**—

(1) **IN GENERAL.**—The Director shall prepare—

(A) a preliminary report of each building assessment that shall document findings concerning assessment elements in paragraphs (1) through (5) of subsection (b); and

(B) a final report that shall provide an overall summary of the building assessment, including information on the effectiveness and cost of response measures, and the potential for application of response measures to other buildings.

(2) **SCHEDULE OF REPORTS.**—Each preliminary assessment report shall be prepared not later than 180 days after the selection of a building for assessment. A final assessment report shall be prepared not later than 180 days after completion of a preliminary report.

(3) **AVAILABILITY OF REPORTS.**—Preliminary and final reports shall be made available to building owners, occupants, and the authorized representatives of occupants.

(d) **BUILDING ASSESSMENT PROPOSAL.**—

(1) **IN GENERAL.**—The Director shall consider individual buildings for assessment under this section in response to a proposal identifying a building and the building owner and providing preliminary, background information about the nature of the indoor air contamination, previous response to air contamination problems, and the characteristics, occupancy, and uses of the building.

(2) **BUILDING ASSESSMENT PROPOSALS.**—A Building assessment proposal may be submitted by a building owner or occupants or the authorized representatives of building occupants, including the authorized representatives of employees working in a building.

**(e) BUILDING ASSESSMENT SELECTION.—**

(1) **IN GENERAL.**—In selecting buildings to be assessed under this section, the Director shall consider—

(A) the seriousness and extent of apparent indoor air contamination and human health effects of the contamination;

(B) the proposal for a building assessment submitted pursuant to subsection (d);

(C) the views and comments of the building owners;

(D) the potential for the building assessment to expand knowledge of building assessment methods, including identification of contaminants and other relevant building conditions, assessment of sources, and development of response measures; and

(E) the listing of a building pursuant to section 9(b)(3)(C).

(2) **PRELIMINARY RESPONSE.**—The Director shall provide a preliminary response and review of building assessment proposals to applicants and the applicable building owner not later than 60 days after receipt of a proposal and, to the extent practicable, shall provide a final decision concerning selection of a proposal not later than 120 days after the submittal of the proposal.

**(f) BUILDING ASSESSMENT SUPPORT.—**

(1) **IN GENERAL.**—The Director may enter into agreements with private individuals, firms, State and local governments, or academic institutions for services and related assistance in conduct of assessments under this section.

(2) **OTHER FEDERAL AGENCIES.**—The Director may enter into agreements with any other Federal agency for the assignment of Federal employees to a specific building assessment project for a period of not to exceed 180 days.

**(g) SUMMARY REPORT.—**

(1) **IN GENERAL.**—The Director shall provide, on an annual basis, a report on the implementation of this section to the Administrator and to the Council on Indoor Air Quality established pursuant to section 12.

(2) **GENERAL REPORTS.**—The Director shall, from time to time and in consultation with the Administrator, publish general reports containing materials, information, and general conclusions concerning assessments conducted pursuant to this section. The reports may address concerns related to the remediation of indoor air contamination problems, the assessment of health related concerns and the prevention of the problems through improved design, materials, product specifications, and management practices.

(3) **AVAILABILITY OF REPORTS.**—The reports prepared pursuant to this subsection and subsection (c) shall be provided to the indoor air quality information clearinghouse provided for in section 13 and, to the extent practicable, the reports shall be made available to architectural, design, and engineering firms and to organizations representing the firms.

**SEC. 15. STATE AND FEDERAL AUTHORITY.**

(a) **GENERAL AUTHORITY.**—Nothing in this Act shall be construed, interpreted, or applied to preempt, displace, or supplant any other State or Federal law, whether statutory or common law, or any local ordinance.

(b) **OCCUPATIONAL SAFETY AND HEALTH.**—In exercising any authority under this title, the Administrator shall not, for purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), be considered to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

**SEC. 16. AUTHORIZATION OF APPROPRIATIONS.**

(a) **SECTIONS 5 THROUGH 7.**—There are authorized to be appropriated \$20,000,000 for each of fiscal years 1994 through 1998. Of such sums as are appropriated pursuant to this subsection,

for each of fiscal years 1994 through 1998,  $\frac{1}{5}$  shall be reserved for the implementation of section 7,  $\frac{1}{4}$  shall be reserved for the implementation of section 5(c), and \$1,000,000 shall be reserved for the implementation of section 6(c).

(b) **SECTIONS 8, 9, 11, AND 13.**—There are authorized to be appropriated \$10,000,000 for each of fiscal years 1994 through 1998, to carry out sections 8, 9, 11, and 13. Of such sums as are appropriated pursuant to this subsection,  $\frac{1}{5}$  shall be reserved for implementation of section 9 and  $\frac{1}{5}$  shall be reserved for implementation of section 13.

(c) **SECTION 10.**—There are authorized to be appropriated \$12,000,000 for each of fiscal years 1994 through 1998, to carry out section 10. Of such sums that are appropriated pursuant to this section,  $\frac{1}{5}$  shall be reserved for the purpose of carrying out section 10(b).

(d) **SECTION 12.**—There are authorized to be appropriated \$1,500,000 for each of fiscal years 1994 through 1998, to carry out section 12.

(e) **SECTION 14.**—There are authorized to be appropriated \$5,000,000 for each of fiscal years 1994 through 1998 to carry out section 14.

**Mr. BAUCUS.** Mr. President, in a few moments, the Senate will pass and send to the House of Representatives important legislation to protect indoor air quality.

I want to commend Senator MITCHELL, the sponsor of this legislation, for his commitment to addressing the indoor air pollution problem and his determined effort to assure the enactment of this bill.

I also want to thank Senator CHAFEE, who worked closely with Senator MITCHELL in developing this bill, and Senator LIEBERMAN, the chairman of the subcommittee of jurisdiction, for their important contributions to this legislation.

When I became chairman of the Environment and Public Works Committee earlier this year, I organized a series of hearings I called "the taking stock hearings." I wanted to hear from nationally recognized scientists, the academic community, and interested organizations, on how to identify the most pressing environmental and public health issues and how best to respond to them.

One important conclusion from those hearings was that, with our fiscal limitations, the Federal Government cannot solve every problem. We cannot draw endlessly on the Federal Treasury. We must be smarter about which problems we address. And we must assure that we spend our limited resources where they will do the greatest good for the environment and public health.

With these goals in mind, the Environment and Public Works Committee has reported four major bills so far this year.

We have reported my legislation to provide incentives for the development of innovative environmental technologies. This bill will help assure that we have the most effective and efficient technologies for pollution prevention, treatment, and cleanup.

We have reported Senator REID's bill to reduce the serious public health

problems caused by human exposure to lead, including special attention to the health effects of lead on children.

We have reported Senator LAUTENBERG's bill to expand the national program to reduce the estimated 13,000 lung cancer deaths each year attributed to exposure to radon gas.

And, finally, we reported the indoor air quality legislation we are considering today.

Together, these bills represent a significant step toward addressing several of the most serious threats to public health faced by Americans. In the coming months, I expect that the committee also will be acting on other important issues.

These include legislation cosponsored by Senator CHAFEE and myself to revise the Clean Water Act, a bill I have introduced to reform the Safe Drinking Water Act, and legislation to be developed next year to reauthorize the Superfund.

Why should indoor air pollution be treated as one of our most pressing public health problems? And why does it consistently rank among the top environmental risks to public health in comparative risk assessment studies?

A key reason is that, today, most Americans spend up to 90 percent of their day indoors. Most of the air we breathe is indoor air.

In addition, as our buildings are designed to be more energy efficient, the air we breathe is more likely to have harmful levels of contaminants.

These contaminants range from a naturally occurring substance like radon gas, to combustion byproducts, biological contaminants, and fumes from furnishings.

The costs of indoor air pollution can be measured at several levels.

The most basic level is simple physical discomfort, including skin and eye irritation and respiratory illness.

But indoor air contaminants can also cause lung cancer, reduce heart function, and developmental effects resulting in serious illnesses and deaths each year.

EPA estimates the annual medical costs of indoor air pollution at over \$1 billion.

At another level, illness and sick leave, caused by indoor air pollution is a drain on national productivity. For example, EPA estimates that "productivity losses may be on the order of tens of billions of dollars each year," again, as a consequence of indoor air pollution.

Mr. President, it is time that we recognize the seriousness of this problem and direct the Federal Government to take the lead in developing a coordinated effort to clean up indoor air.

The Indoor Air Quality Act is a solid and responsible answer to the clear scientific evidence of the health threats posed by indoor air pollution.

There are many important provisions of the bill, but I want to mention three that I consider especially constructive.

Section 5 of the bill provides general authority for research by the Environmental Protection Agency on indoor air quality problems. A more thorough understanding of the science of indoor air pollution is necessary if we are to design the best possible response efforts. This bill directs the Agency to study the causes and the extent of indoor air pollution and the technologies and practices needed to correct the problems.

Second, the bill calls on the EPA to take the lead in coordinating the efforts of the many Federal agencies with an interest in indoor air quality. One reason for the slow progress in recognizing indoor air pollution is that our efforts are scattered among at least half a dozen major Federal agencies and departments.

Under this bill, EPA will work with these agencies to develop a national response plan to reduce indoor air pollution. The plan is intended to draw on existing authorities and capabilities within Federal agencies and focus these resources on the most critical indoor air problems. I point out to my colleagues that the bill does not confer any new regulatory authority.

Finally, the bill reaches out to State and local governments to involve them in this effort. States are eligible for grants to develop strategies to identify and respond to indoor air problems. In addition, States or local governments can apply for grant assistance for innovative programs to address a specific indoor air contaminant or a specific class of buildings. This voluntary program will allow those State and local governments most interested in indoor air quality, to demonstrate what works well and what does not.

In closing, Mr. President, I express my high hope that this legislation will be signed into law early next year. We have passed similar legislation before in the Senate and the House has not responded. This year, however, the bill has the endorsement of the administration, and it is advancing in the House.

This is important public health legislation and it is worthy of my colleagues' support, and I urge my colleagues to strongly support this legislation.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. BAUCUS. Mr. President, I see the majority leader on the floor. As I understand it, he would like to give a statement at this time. I wonder if the Senator from Virginia will yield.

Mr. WARNER. Of course. I join in presentation of the bill. I am happy to yield to the majority leader.

Mr. MITCHELL. Mr. President, I thank the chairman and Senator WARNER very much.

Mr. President, I rise in support of the Indoor Air Quality Act of 1993. This legislation, which I introduced earlier this year, is an important step toward

reducing the threats to human health posed by exposure to contaminants in the air indoors.

I am very pleased that Senator CHAFEE, the ranking Republican member of the Environment and Public Works Committee, and Senator LIEBERMAN, the chairman of the subcommittee with jurisdiction over this legislation, have joined me in supporting this bill.

I am also grateful to Senator BAUCUS, the chairman of the full committee, and Senator WARNER, the acting ranking Republican member today, for their support.

I also express my appreciation to Environmental Protection Agency Administrator Carol Browner for her strong support of this important legislation and her constructive assistance in revising the bill.

Mr. President, most Americans spend up to 90 percent of the day indoors. There is growing evidence that exposure to contaminants in the air indoors is a deadly serious problem.

Indoor air quality is an especially serious problem in my home State of Maine. Lung cancer rates in Maine are 23 percent above the national average and chronic obstructive pulmonary disease rates are 35 percent above the national average.

A single indoor air pollutant, radon gas, is estimated by researchers at the University of Maine to cause up to 70 lung cancer deaths in Maine each year. Thirty percent of Maine homes have radon above the level at which EPA recommends action be taken. This is the eighth highest rate of the 42 States surveyed.

In addition, indoor air quality problems have occurred in buildings throughout Maine, ranging from Bridgton Elementary School in Bridgton, ME, to State office buildings in Caribou and Augusta, ME, to the new county courthouse in Bath, ME.

The Environment and Public Works Committee has held half a dozen hearings on indoor air quality problems over the past several years. A number of important points of agreement have emerged from these hearings.

We know that exposure to air pollutants occurs indoors—in residences, workplaces, schools, public buildings, and transportation vehicles—as well as outdoors.

We know that indoor air pollutants include radon, asbestos, volatile organic compounds; for example, formaldehyde, benzene—combustion byproducts; for example, carbon monoxide, carbon dioxide—metals and gases; for example, lead, chlorine, ozone, and respirable particles.

We know that radon is the most harmful indoor air pollutant. The Environmental Protection Agency [EPA] estimates that radon causes an estimated 14,000 lung cancer deaths each year. The EPA estimates that a se-

lected group of other indoor air pollutants causes thousands of additional cancers each year.

We know that sources of these pollutants include commercial products, building materials, combustion appliances, indoor application of pesticides, and outdoor sources.

The medical community reports other health effects of indoor air contaminants, including skin and eye irritation, respiratory function impairment, allergic and infectious diseases, neurotoxicity, immune effects, liver and kidney effects, and developmental effects.

We have clear evidence that the health effects of indoor air pollutants result in substantial costs to society in the form of reduced productivity, sick time, health care costs, and disability costs estimated to be in the tens of billions of dollars.

Much of our information about the indoor air pollution problem is relatively recent. The foundation for our understanding of indoor air pollution problems is a series of Environmental Protection Agency [EPA] research projects that offer compelling documentation of the serious health threats posed by indoor air contaminants.

In September 1989, in response to section 403(e) of the Superfund amendments and Reauthorization Act of 1986, EPA published a major assessment of indoor air quality.

The report indicates the seriousness of indoor air pollution, stating:

Indoor air pollution represents a major portion of the public's exposure to air pollution and may pose serious acute and chronic health risks. This evidence warrants an expanded effort to characterize and mitigate this exposure.

The report further states:

The information available suggests that exposure to indoor air pollutants poses a significant health threat to the domestic population.

The report also documents the wide range of indoor contaminant health effects and states:

Health effects from indoor air pollution cover the range of acute and chronic effects and include eye, nose, and throat irritation, respiratory effects, neurotoxicity, kidney and liver effects, heart functions, allergic and infectious disease, developmental effects, mutagenicity, and carcinogenicity.

The EPA report provides data on the lethal effects of several specific, carcinogenic contaminants. Human exposure to radon gas is cited as causing between 5,000 and 20,000 lung cancer deaths each year. The EPA later revised this estimate to be approximately 14,000 deaths per year.

The report cites studies estimating that between 1,000 and 5,000 lung cancer deaths each year are due to indoor exposure and 6 specific volatile organic chemicals.

The report reviews the issues associated with sick building syndrome and multiple chemical sensitivities. The report concludes:

Building sickness, such as sick building syndrome, building related illness, and multiple chemical sensitivity are issues of potentially great significance but are poorly understood.

Illnesses caused by indoor air contaminants take a toll in death, suffering, and discomfort. These illnesses, however, also have a cost to society in the form of increased medical expenses, increased sick leave, and declines in worker productivity.

The EPA report includes new assessments of the costs of indoor air contamination. The annual national costs of medical care resulting from indoor air pollution are estimated at over \$1 billion.

The report, however, qualifies this statement, noting:

These estimates do not include the costs of many potential illnesses and indoor air pollutants \* \* \* due to limited quantification of health impacts for these pollutants \* \* \*.

The report also cites the costs associated with employee sick days and reduced productivity due to indoor air illness. Using the same conservative assumptions used to calculate direct medical costs, the report estimates costs of reduced productivity at between \$4.4 and \$5.4 billion annually.

Citing more comprehensive studies of productivity declines, the report states:

If these results were applied to the nation's white collar labor force, the economic cost to the nation would be on the order of \$60 billion annually. While this cannot be regarded as a reliable estimate, it suggests quite strongly that productivity losses may be on the order of tens of billions of dollars per year.

In summarizing the overall costs of indoor air pollution, the EPA report concludes:

Many costs of indoor air pollution have not been calculated. Nevertheless, because of the large number of people and buildings potentially affected, as well as the wide range of effects for which there is a cost component, it is reasonable to conclude that the aggregate costs of indoor air pollution amount to tens of billions of dollars per year.

The report proposes a detailed research agenda for the next 5 years, including exposure assessment, and research on health effects, control techniques, and building systems. The estimated cost of this research over the 5-year period is \$99.15 million.

Other studies corroborate these findings. In December 1989, EPA published the results of studies of environmental priority setting in three regions of the country where indoor air pollution was recognized as a serious problem. The Agency concluded:

\* \* \* risk associated with most environmental problems does not differ much across the [geographic] areas studied. For example, indoor air pollution consistently causes greater health risks than hazardous waste sites whether one is concerned with New England, the Middle Atlantic region, or the Pacific Northwest. Such consistent findings should play an important role in setting national environmental priorities.

In September 1988, EPA issued a major report on indoor air quality in public buildings. The summary of the report states:

VOC's (volatile organic chemicals) are ubiquitous indoors. \* \* \* About 500 different chemicals were identified in just four buildings. \* \* \* Almost every pollutant was at higher levels indoors than out. \* \* \* New buildings had levels of some chemicals that were 100 times higher than outdoor levels.

In 1987, EPA published a comprehensive, four volume, multiyear study of total exposure to air pollutants which concluded that exposure to indoor air pollutants is significant relative to exposure to air pollutants in the ambient air. The report states:

The major finding of this study is the observation that personal and indoor exposures to these toxic and carcinogenic chemicals are nearly always greater—often much greater—than outdoor concentrations. We are led to the conclusion that indoor air in the home and at work far outweighs outdoor air as a route of exposure to these chemicals.

Despite all the evidence of the health effects and economic costs of indoor air pollution, the Federal Government still lacks a coordinated and comprehensive response to this problem.

The Indoor Air Quality Act—S. 656—which I introduced earlier this year with Chairman LIEBERMAN and others, establishes a national program to reduce the threat to health posed by exposure to contaminants in the air indoors. Similar legislation was passed by the Senate in the 101st and 102d Congresses.

In developing this legislation, we had five basic principles in mind.

First, we placed a strong emphasis on expanding and strengthening indoor air research.

Second, we sought to improve understanding of specific indoor air pollutants through development of health advisories on indoor air contaminants.

Third, we wanted to foster more effective use of existing authority for controlling indoor air contaminants rather than creating new regulatory authority. The bill provides that existing authorities are to be focused and directed in a national response plan.

Fourth, we provide for grant assistance to States and local governments to demonstrate effective controls over indoor air pollution.

Finally, we sought to create an institutional base for indoor air programs at the Environmental Protection Agency and assure coordination of related efforts throughout the Federal Government.

I will provide some additional explanation of the major elements of this legislation.

The bill expands research of indoor air pollution by providing the EPA and other agencies with authority to conduct general research on indoor air contamination and research on specific problem areas.

New authority is provided to demonstrate various technologies which

may contribute to the reduction of indoor air contamination. The bill also calls for the issuance of technical and management practice bulletins providing assessments of technologies for controlling and measuring indoor air contaminants.

An important provision of the bill provides for a report to Congress on the subject of chemical sensitivity disorders, including multiple chemical sensitivities. The study is to address the underlying causes of chemical sensitivity disorders, identify the prevalence of these disorders, and make recommendations for actions to prevent and respond to such illnesses.

The bill also provides for the Director of the National Institute for Occupational Health and Safety, in consultation with the Administrator, to develop an indoor air quality training course for managers of Federal and other buildings. Training courses are to address building management methods for reducing indoor air contamination.

The Administrator is to conduct a program to analyze the adequacy of existing ventilation standards and guidelines to protect public health and report on it to the Congress within 36 months.

The bill provides that the EPA will develop a list of indoor air contaminants and health advisory documents for the contaminants.

Health advisory documents are to include descriptions of the characteristics of each contaminant and the health threats posed at various concentrations.

A key section of the bill directs the EPA to develop a national response plan identifying actions to be taken to reduce contaminants in indoor air. The plan is to identify and schedule needed actions by EPA and other Federal agencies under the authority in existing statutes. The plan also will outline Federal agency activities related to indoor air information, education, and technical assistance. The response plan is to be submitted to Congress within 24 months of enactment of this act and biennially thereafter.

The section of the bill providing for the national response plan does not confer new or additional regulatory authority over indoor air contaminants to the EPA, Occupational Safety and Health Administration, or other Federal agencies. It provides for a coordinated research and assessment effort which may be used by Federal or State agencies during consideration of appropriate responses to indoor air pollution, including new regulations.

The Federal Government must play a leadership role in developing effective responses to indoor air pollution problems. The bill provides for a Federal building response plan to address air quality in Federal buildings.

The plan is to identify general management practices for improving indoor air. Buildings with identified indoor air quality problems are to be considered for assessment under the sick building section of the act. The plan is to be submitted to Congress 24 months after enactment of the act and biennially thereafter.

Another key objective of the bill is to demonstrate very basic indoor air quality management strategies and assessments at the State level.

States have proven to be essential partners in implementing many of our environmental programs and I hope that this provision of the bill will foster an improved understanding of the role of State governments in responding to indoor air quality problems.

The bill provides grants to States for demonstrating indoor air quality management and assessment strategies. Each State is to identify a lead agency for protecting indoor air quality, describe existing programs at the State and substate levels, and assure coordination with programs addressing ambient air quality.

State assessment programs are to identify contaminants of concern by geographic areas experiencing problems and provide for periodic assessments of indoor air conditions and trends.

States or other air pollution control agencies also may develop response programs to address a particular indoor air contaminant, class of buildings, or buildings in a specific geographic area.

Several provisions of the bill expand the institutional base for attention to indoor air pollution.

An Office of Radiation and Indoor Air Quality is established within the EPA to manage indoor air quality activities and to work with other Federal agencies.

The bill also addresses the problem of coordination of indoor air quality activities among Federal agencies. The nature of indoor air pollution problems requires that a wide range of Federal agencies participate in assessment and control efforts. The bill establishes a Council on Indoor Air Quality to oversee the indoor air activities of various Federal agencies.

Agencies represented on the Council include EPA, the Occupational Safety and Health Administration, the National Institute of Occupational Safety and Health, the Department of Housing and Urban Development, the Department of Transportation, the Department of Energy, the Consumer Product Safety Commission, and the General Services Administration.

The bill also addresses the problem of sick buildings. The Director of the National Institute of Occupational Safety and Health [NIOSH] is to carry out a program to demonstrate methods of assessment and mitigation of indoor air contamination in sick buildings.

This expanded effort will help develop the most effective measures to identify the causes of sick building syndrome and the most effective measures to mitigate these problems. This provision establishes a process for the assessments and is based on an existing NIOSH effort.

The bill authorizes total funding of \$48.5 million for each fiscal year from 1994 to 1998 including: \$20 million for research and health advisories; \$10 million for EPA operations; \$12 million for State management and response grants; \$1.5 million for the National Indoor Air Quality Council; and \$5 million for the sick building assessment program.

Mr. President, each year the evidence of the health threats and economic costs of indoor air pollution grows and grows. My legislation is intended to recognize the importance of indoor air pollution and get the Federal Government and the States actively involved in solving the problem.

I urge all my colleagues to join me in supporting this important legislation. With your support, we can assure that Americans have clean, safe air to breathe indoors as well as outdoors.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wish to compliment the distinguished majority leader and the chairman of the committee, on which I am privileged to serve, and Senator CHAFEE, the ranking member, for bringing this piece of very badly needed legislation to us today here on a fast track in the Senate.

I say to my distinguished leader, why did we not think of this two decades ago when we started on the clean air legislation? When you stop to think of it, the object of the legislation is so essential to our daily life, we should have thought of it yesterday and the day before and the day before.

I am privileged to join, Mr. President, as an original cosponsor of this legislation.

Mr. MITCHELL. I thank my colleague for his kind comments and for his constructive assistance in the committee in getting this bill written and approved.

Mr. WARNER. I thank the leader.

Mr. CHAFEE. Mr. President, I am pleased to join the majority leader, Senator MITCHELL, in bringing S. 656, the Indoor Air Quality Act of 1993 to the floor for consideration by the full Senate. This legislation will result in significantly improving the quality of the air we breathe indoors. Before I describe the bill and its importance in protecting human health, I want to note that similar legislation was approved by the Senate during the 102d Congress by a vote of 88 to 7.

The Indoor Air Quality Act of 1993 establishes a national program to reduce the threat to human life posed by expo-

sure to contaminants in the air indoors. The bill will provide for a substantial research and development initiative to uncover harmful pollutants in our indoor environment, and will focus the efforts of the Federal Government to address this problem.

By directing our efforts at providing clean indoor air, we will make strides toward preventing health problems before they occur. Our Nation spends billions of dollars each year on health care, unfortunately often after the fact. Many of the illnesses we experience, however, are preventable. In terms of public health, this bill will provide us with a much-needed ounce of prevention, and help us to avoid the costly pound of cure in treating respiratory illnesses.

Over the last decade we have made considerable progress in abating some of the most harmful pollutants of our outdoor environment. Emissions from cars are no longer as injurious to air quality, and, under the Clean Air Act, auto emissions will be reduced even more. Leaded gasoline, known to cause health serious negative effects in children, is being phased out. Once unsightly rivers are now returning to a state where they are fishable and swimmable.

Yet for all this progress, we have not turned our attention in a significant way to the environment where Americans spend an average of 90 percent of their time: Indoors. Much is known about the effects of some indoor contaminants, such as radon, asbestos, and tobacco smoke. However, there are several other contaminants prevalent in the indoor environment about which very little is known. These include formaldehyde, volatile organic chemicals, and combustion byproducts.

The threat from these contaminants may be heightened by the fact that many of us live and work in virtually airtight buildings. Soaring energy costs over the past two decades have spurred conservation efforts which led to the construction of office buildings in which you cannot open the windows. These well insulated, energy efficient buildings often seal in potentially hazardous substances while reducing the amount of fresh air available to breathe.

To date, relatively little attention has been given to the quality and potential health effects of the air inside our homes and offices. But there is mounting evidence that the air we breathe indoors may be at least as polluted with cigarette smoke, radioactive radon gas, and formaldehyde as the smog outside.

In a significant development, EPA now concludes that the risk to human health from indoor air contaminants may be at least as great as those from the outdoor environment. In a report on indoor air contamination, EPA notes that:

Sufficient evidence exists to conclude that indoor air pollution represents a major portion of the public's exposure to air pollution and may pose serious acute and chronic health risks. This evidence warrants an expanded effort to characterize and mitigate this exposure.

This statement represents a major step forward in the Agency's thinking about what needs to be done to address indoor air pollution.

At a hearing on the health effects of indoor air pollution before the Committee on Environment and Public Works, it became painfully clear that there is not an adequate effort by Federal agencies or States to conduct research on indoor air contaminants. This bill will direct the various agencies responsible for indoor air quality to coordinate their response plans to address these contaminants. The bill will place the Environmental Protection Agency squarely in the lead in developing the Federal response to indoor air contamination.

Let me describe the key elements of this legislation.

First, the bill establishes a research program for indoor air. This is an appropriate Federal role, to identify the risk posed by our indoor environment. Information developed by this research must be shared with the States and the private sector.

Second, the legislation will require EPA to establish health advisories. These advisories must be written in plain English, and must make it clear to the average citizen how he can best minimize exposure and adverse health effects from indoor contaminants.

Third, the measure also provides for limited grant assistance to States for development of management strategies and response programs.

Fourth, the bill will authorize the National Institute of Occupational Safety and Health [NIOSH] to conduct assessments of sick buildings. Estimates of lost worker productivity due to symptoms attributable to sick buildings is in the billions of dollars.

Also, I have added a provision to the legislation requiring EPA to conduct an assessment of the seriousness and extent of indoor air contamination in schools. As with radon, children may be at greater risk from harmful chemicals due to a higher respiratory rate, and the fact that their internal organs are still developing.

I would like to make it clear that this legislation does not place the Federal Government in the living rooms of Americans. The bill does not provide authority to regulate indoor air contaminants, but rather takes an informational approach. The health advisories, for example, will indicate the health risks at various concentration levels, and inform homeowners of ways to reduce and minimize the risk from various contaminants.

The best defense we have against an unhealthy indoor environment is an in-

formed consumer. For example, homeowners need to be made aware of the health risks associated with using certain chemicals in the home. If this information can be communicated effectively, the marketplace will send a strong signal to manufacturers: Consumers demand safe products for home use.

Americans need to know how to ensure that the quality of the air inside their homes and offices is healthy. We must begin to address the health threat posed by contaminants of the air indoors. S. 656, the Indoor Air Quality Act of 1993 is a major step in this direction. I urge my colleagues to support the bill.

Mr. WARNER. Mr. President, I am pleased to join Chairman BAUCUS, the majority leader, Senator MITCHELL, and Senator CHAFEE in bringing S. 656, the Indoor Air Quality Act of 1993 to the floor for consideration by the full Senate. This legislation will result in significantly improving the quality of the air we breath indoors. Before I describe the bill and its importance in protecting human health, I want to note that similar legislation was approved by the Senate during the 102d Congress by a vote of 88 to 7.

By directing our efforts at providing clean indoor air, we will make strides toward preventing health problems before they occur. Our Nation spends billions of dollars each year on health care, unfortunately often after the fact. Many of the illnesses we experience, however, are preventable. In terms of public health, this bill will provide us with a much-needed ounce of prevention, and help us to avoid the costly pound of cure in treating respiratory illnesses.

I am most supportive of a provision in this legislation requiring EPA to conduct an assessment of the seriousness and extent of indoor air contamination in schools. Our children are our most important treasure. As with radon, children may be at greater risk from harmful chemicals due to their fragile respiratory systems, and the fact that their internal organs are still developing.

To date we have no information on the quality of air that children are exposed to in their schools—a place where they spend a significant portion of time in their formative years. The information collected as a result of this legislation will allow us to take steps if necessary to improve the quality of the air our children breathe.

The best defense we have against an unhealthy indoor environment is an informed consumer.

Americans need to know how to ensure that the quality of the air inside their homes and offices is healthy. We must begin to address the health threat posed by contaminants of the air indoors. S. 656, the Indoor Air Quality Act of 1993 is a major step in this direction.

## AMENDMENT NO. 1092

(Purpose: To provide for application of the Administrative Procedures Act and judicial review to the designation of indoor air contaminants)

Mr. WARNER. Mr. President, on behalf of Senator BROWN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. BROWN, proposes an amendment number 1092.

On page 96, strike line 1 through line 12.

The PRESIDING OFFICER. Is there any debate on the amendment?

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, we have examined this amendment offered on behalf of the Senator from Colorado. It makes a small change in the rule-making procedures. The amendment is acceptable to the managers of the bill.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment offered by the Senator from Virginia on behalf of the Senator from Colorado, Mr. BROWN.

The amendment (No. 1092) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Is there further debate on the bill?

Mr. LIEBERMAN addressed the Chair.

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

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I rise today to associate myself with the Senators from Montana and Virginia and the distinguished majority leader in strong support of the Indoor Air Quality Act of 1993.

I am proud to be an original cosponsor of this legislation, along with the majority leader, and equally proud to serve as the Chairman of the Subcommittee of the Environment and Public Works Committee which considered it.

I do want to say in this regard that the Senator from Maine is the majority leader, the leader of this Chamber, and that gives him the responsibility for keeping this sometimes unruly group moving in a positive and productive direction. But, besides that leadership, he is also a great leader on substantive matters and none more important than environmental protection. He has been way out front in many areas, including this one, of the problems posed to public health and economic health by indoor air pollution.

In fact, this bill or something quite like it, passed the Senate twice by wide margins. I am confident that in this Congress, with the support of this President, we are going to see these good ideas for protecting people from indoor air pollution finally enacted into law.

Mr. President, in this time of scarce resources—both public and private—it is critically important that we not add layers to our law books without very just and compelling cause. I think this provision meets those tests.

Clearly, the high cost of health care is a priority concern of the American people. I think, therefore, it is particularly fitting to view this legislation in that context, because it not only addresses one of the most serious environmental threats today, it addresses a threat that has vast consequences for health care costs throughout our system.

EPA estimates that the costs to society from indoor air pollution are literally in the tens of billions of dollars per year; that includes medical costs, increased sick leave, and reduced productivity.

The good news is that most of those costs can be avoided and they will be avoided, at least the effort to avoid them will begin with this very sound legislation and sensible behavior in response to it by the American people.

EPA and its Science Advisory Board have consistently ranked indoor air pollution as one of the top four environmental risks to public health. The truth is, when most people think about air pollution, they tend to think of smokestacks belching fumes that turn blue skies into gray or black skies.

But the reality is that Americans spend about 90 percent of our time indoors these days and that pollutants exist indoors at levels two to five times higher than outdoor levels. And the consequences of that are severe—as the majority leader and others have documented—real health problems.

At the May 25 hearing this year before our subcommittee, Deputy Administrator Sussman of the EPA testified:

We know enough about the problem to conclude that the risks, both acute and chronic, are significant and warrant the coordinated and intensive Federal response.

Let me cite a few powerful statistics—unsettling facts. The most significant health effect of indoor air pollution is lung cancer, and that is for real. EPA reports that radon causes about 14,000 lung cancer deaths each year and that passive smoking causes 3,000 lung cancer deaths each year. EPA also cites studies that show that between 1,000 and 5,000 lung cancer deaths each year are due to indoor exposure to 6 volatile organic compounds. Exposure to tobacco smoke is in fact responsible, according to EPA, for 3,000 lung cancer deaths in nonsmoking adults and impairs the respiratory

health of hundreds of thousands of children.

So it is time that the law take the lead in presenting a response and some protection for the American people.

This legislation is a very measured response to what, as I have described it, is a deadly serious problem. This legislation will provide consumers with more information to enable them to protect themselves against indoor air pollution and it will streamline existing authorities to provide a coordinated response to the problem.

During the committee process of considering this legislation, the only significant concern we heard about the legislation was a desire to ensure that the health advisories which EPA will develop be based on sound, scientific information that has undergone peer review. That was an appropriate and sensible suggestion and the committee, agreeing with the concern, has modified the original language of the bill to include just that altered language.

Again, and finally, I thank the majority leader, the Senator from Montana, the Senator from Virginia, the Senator from Rhode Island, and all members of our committee for their leadership in this area in producing this bill which will protect the health of millions of Americans and save our economy and health care system billions of dollars in the process. I urge my colleagues to vote in favor of S. 656. I yield the floor.

**THE PRESIDING OFFICER.** If there be no further debate, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

**THE PRESIDING OFFICER.** The bill having been read the third time, the question is, Shall the bill pass?

So the bill (S. 656), as amended, was passed, as follows:

S. 656

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

**SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the "Indoor Air Quality Act of 1993".

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

- Sec. 1. Short title and table of contents.
- Sec. 2. Findings.
- Sec. 3. Purposes.
- Sec. 4. Definitions.
- Sec. 5. Indoor air quality research.
- Sec. 6. Management practices, voluntary partnership programs, and ventilation standards.
- Sec. 7. Indoor air contaminant health advisories.
- Sec. 8. National indoor air quality response plan.
- Sec. 9. Federal building response plan and demonstration program.
- Sec. 10. State and local indoor air quality programs.
- Sec. 11. Office of Radiation and Indoor Air.
- Sec. 12. Council on Indoor Air Quality.
- Sec. 13. Indoor air quality information clearinghouse.
- Sec. 14. Building assessment demonstration.
- Sec. 15. State and Federal authority.
- Sec. 16. Authorization of appropriations.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) Americans spend up to 90 percent of a day indoors and, as a result, have a significant potential for exposure to contaminants in the air indoors;

(2) exposure to indoor air contamination occurs in workplaces, schools, public buildings, residences, and transportation vehicles;

(3) recent scientific studies indicate that pollutants in the indoor air include radon, asbestos, volatile organic chemicals (including formaldehyde and benzene), combustion byproducts (including carbon monoxide and nitrogen oxides), metals and gases (including lead, chlorine, and ozone), respirable particles, biological contaminants, microorganisms, and other contaminants;

(4) a number of contaminants found in both ambient air and indoor air may occur at higher concentrations in indoor air than in outdoor air;

(5) indoor air pollutants pose serious threats to public health (including cancer, respiratory illness, multiple chemical sensitivities, skin and eye irritation, and related effects);

(6) up to 15 percent of the population of the United States may have heightened sensitivity to chemicals and related substances found in the air indoors;

(7) radon is among the most harmful indoor air pollutants and is estimated to cause between 5,000 and 20,000 lung cancer deaths each year;

(8) other selected indoor air pollutants are estimated to cause between 3,500 and 6,500 additional cancer cases per year;

(9) indoor air contamination is estimated to cause significant increases in medical costs and declines in work productivity;

(10) as many as 20 percent of office workers may be exposed to environmental conditions manifested as "sick building syndrome";

(11) sources of indoor air pollution include conventional ambient air pollution sources, building materials, consumer and commercial products, combustion appliances, indoor application of pesticides, and other sources;

(12) there is not an adequate effort by Federal agencies to conduct research on the seriousness and extent of indoor air contamination, to identify the health effects of indoor air contamination, and to develop control technologies, education programs, and other methods of reducing human exposure to the contamination;

(13) there is not an adequate effort by Federal agencies to develop response plans to reduce human exposure to indoor air contaminants and there is a need for improved coordination of the activities of these agencies;

(14) there is not an adequate effort by Federal agencies to develop methods, techniques, and protocols for assessment of indoor air contamination in non-residential, non-industrial buildings and to provide guidance on measures to respond to contamination; and

(15) State governments can make significant contributions to the effective reduction of human exposure to indoor air contaminants and the Federal Government should assist States in development of programs to reduce exposures to the contaminants.

**SEC. 3. PURPOSES.**

The purposes of this Act are to—

(1) develop and coordinate through the Environmental Protection Agency and at other departments and agencies of the United States a comprehensive program of research and development that addresses the seriousness and extent of indoor air contamination, the human health effects of indoor air contaminants, and the technological and other methods of reducing human exposure to the contaminants;

(2) establish a process under which the existing authorities of Federal laws will be directed and focused to ensure the full and effective application of the authorities to reduce human exposure to indoor air contaminants where appropriate;

(3) provide support to State governments to demonstrate and develop indoor air quality management strategies, assessments, and response programs; and

(4) authorize activities to ensure the general coordination of indoor air quality-related activity, provide for reports on indoor air quality to Congress, provide for assessments of indoor air contamination in specific buildings by the National Institute for Occupational Safety and Health, ensure that data and information on indoor air quality issues is available to interested parties, provide training, education, information, and technical assistance to the public and private sector, and for other purposes.

**SEC. 4. DEFINITIONS.**

As used in this Act:

(1) **ADMINISTRATOR.**—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) **ADMINISTRATION.**—The term "Administration" means the Occupational Safety and Health Administration.

(3) **AGENCY.**—The term "Agency" means the Environmental Protection Agency.

(4) **DIRECTOR.**—The term "Director" means the Director of the National Institute of Occupational Safety and Health.

(5) **FEDERAL AGENCY.**—The term "Federal agency" or "agency of the United States" means any department, agency or other instrumentality of the Federal Government, including any independent agency or establishment of the Federal Government or government corporation.

(6) **FEDERAL BUILDING.**—The term "Federal building" means any building that is used primarily as an office building, school, hospital, or residence that is owned, leased, or operated by any Federal agency and is over 10,000 square feet in area, any building occupied by the Library of Congress, the White House, or the Vice Presidential residence, and any building that is included in the definition of Capitol Buildings under section 193m(1) of title 40, United States Code.

(7) **INDOOR.**—The term "indoor" means the enclosed portions of buildings, including nonindustrial workplaces, public buildings, Federal buildings, schools, commercial buildings, and residences, and the occupied portions of vehicles.

(8) **INDOOR AIR CONTAMINANT.**—The term "indoor air contaminant" means any solid, liquid, semisolid, dissolved solid, biological organism, aerosol, or gaseous material, including combinations or mixtures of substances, known to occur in indoor air that may reasonably be anticipated to have an adverse effect on human health.

(9) **LOCAL AIR POLLUTION CONTROL AGENCY.**—The term "local air pollution control agency" means any city, county, or other local government authority charged with the responsibility for implementing programs or

enforcing laws or ordinances relating to the prevention and control of air pollution, including indoor air pollution.

(10) **LOCAL EDUCATION AGENCY.**—The term "local education agency" means any educational agency as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3381).

**SEC. 5. INDOOR AIR QUALITY RESEARCH.**

(A) **AUTHORITY.**—

(1) **IN GENERAL.**—The Administrator shall, in coordination with other appropriate Federal agencies, establish a national research, development, and demonstration program to ensure the quality of air indoors. As part of the program, the Administrator shall promote the coordination and acceleration of research, investigations, experiments, demonstrations, surveys, and studies relating to the causes, sources, effects, extent, prevention, detection, and correction of contamination of indoor air.

(2) **DUTIES OF ADMINISTRATOR.**—In carrying out this section, the Administrator is authorized, subject to the availability of appropriations, to—

(A) collect and make available to the public, through publications and other appropriate means, the results of research, development, and demonstration activities conducted pursuant to this section;

(B) conduct research, development, and demonstration activities and cooperate with other Federal agencies, State and local government entities, interstate and regional agencies, other public agencies and authorities, nonprofit institutions and organizations, and other persons in the preparation and conduct of the research, development, and demonstration activities;

(C) make grants to States or local government entities, other public agencies and authorities, nonprofit institutions and organizations, and other persons;

(D) enter into contracts or cooperative agreements with public agencies and authorities, nonprofit institutions and organizations, and other persons;

(E) conduct studies, including epidemiological studies, of the effects of indoor air contaminants or potential contaminants on mortality and morbidity and clinical and laboratory studies on the immunologic, biochemical, physiological, and toxicological effects (including the carcinogenic, teratogenic, mutagenic, cardiovascular, and neurotoxic effects) of indoor air contaminants or potential contaminants;

(F) develop and disseminate information documents on indoor air contaminants describing the nature and characteristics of the contaminants in various concentrations;

(G) develop effective and practical processes, protocols, methods, and techniques for the prevention, detection, and correction of indoor air contamination and work with the private sector, other governmental entities, and schools and universities to encourage the development of innovative techniques to improve indoor air quality;

(H) construct such facilities, employ such staff, and provide such equipment as are necessary to carry out this section;

(I) call conferences concerning the potential or actual contamination of indoor air giving opportunity for interested persons to be heard and present papers at the conferences;

(J) utilize, on a reimbursable basis, facilities and personnel of existing Federal scientific laboratories and research centers;

(K) acquire secret processes, technical data, inventions, patent applications, patents, licenses, and an interest in lands,

plants, equipment and facilities, and other property rights, by purchase, license, lease, or donation, and if the Administrator expects or intends that research conducted pursuant to this subsection will primarily affect worker safety and health, the Administrator shall consult with the Assistant Secretary of Occupational Safety and Health and the Director; and

(L) conduct research, development, and demonstration activities through nonprofit institutions on the use of indoor foliage as a method to reduce indoor air pollution.

(b) **PROGRAM REQUIREMENTS.**—The Administrator, in coordination with other appropriate Federal agencies, shall conduct, assist, or facilitate research, investigations, studies, surveys, or demonstrations with respect to the following:

(1) The effects on human health of contaminants or combinations of contaminants (whether natural or anthropogenic) at various levels including additive, cumulative, and synergistic effects on populations both with and without heightened sensitivity that are found or are likely to be found in indoor air.

(2) The exposure of persons to contaminants that are found in indoor air (including exposure to the substances from sources other than indoor air contamination, including drinking water, diet, or other exposures).

(3) The identification of populations at increased risk of illness from exposure to indoor air contaminants and assessment of the extent and characteristics of the exposure.

(4) The exposure of persons to contaminants in buildings of different classes or types, and in vehicles, and assessment of the association of particular contaminants and particular building classes or types and vehicles.

(5) The identification of building classes or types and design features or characteristics that increase the likelihood of exposure to indoor air contaminants.

(6) The identification of the sources of indoor air contaminants, including association of contaminants with outdoor sources, building or vehicle design, classes or types of products, building management practices, equipment operation practices, building materials, and related factors.

(7) The assessment of relationships between contaminant concentration levels in ambient air and the contaminant concentration levels in the indoor air.

(8) The development of methods and techniques for characterizing and modeling indoor air movement and flow within buildings or vehicles, including the transport and dispersion of contaminants in the indoor air.

(9) The assessment of the fate, including degradation and transformation, of particular contaminants in indoor air.

(10) The development of methods and techniques to characterize the association of contaminants, the levels of contaminants, and the potential for contamination of new construction with climate, building location, seasonal change, soil and geologic formations, and related factors.

(11) The assessment of indoor air quality in facilities of local education agencies and buildings used as child care facilities and development of measures and techniques for control of indoor air contamination in the buildings.

(12) The development of protocols, methods, techniques, and instruments for sampling indoor air to determine the presence and level of contaminants, including sample collection and the storage of samples before

analysis and development of methods to improve the efficiency and reduce the cost of analysis.

(13) The development of air quality sampling methods and instruments that are inexpensive and easy to use and may be used by the general public.

(14) The development of control technologies, building design criteria, and management practices to prevent the entrance of contaminants into buildings or vehicles (such as air intake protection, sealing, and related measures) and to reduce the concentrations of contaminants indoor (such as control of emissions from internal sources of contamination, improved air exchange and ventilation, filtration, and related measures).

(15) The development of materials and products that may be used as alternatives to materials or products that are now in use and that contribute to indoor air contamination.

(16) Research, to be carried out principally by the Occupational Safety and Health Administration and the National Institute for Occupational Safety and Health, for the purpose of assessing—

(A) the exposure of workers to indoor air contaminants, including an assessment of resulting health effects; and

(B) the costs of declines in productivity, sick time use, increased use of employer-paid health insurance, and worker compensation claims.

(17) Research, to be carried out in conjunction with the Secretary of Housing and Urban Development, and the Secretary of the Department of Energy for the purpose of developing methods for assessing the potential for indoor air contamination of new construction and design measures to avoid indoor air contamination.

(18) Research, to be carried out in conjunction with the Secretary of Transportation, for the purposes of—

(A) assessing the potential for indoor air contamination in public and private transportation; and

(B) designing measures to avoid the indoor air contamination.

(19) Research, to be carried out in consultation with the Administrator for the National Aeronautics and Space Administration, for the purpose of assessing the use of indoor foliage as a means to reduce indoor air contamination, including demonstration projects to determine the level of pollutants reduced by indoor plants in buildings.

#### (c) TECHNOLOGY DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—The Administrator may enter into cooperative agreements or contracts with, or provide financial assistance in the form of grants to, public agencies and authorities, nonprofit institutions and organizations, employee advocate organizations, local educational institutions, or other appropriate entities or persons to demonstrate practices, methods, technologies, or processes that may be effective in controlling sources or potential sources of indoor air contamination, preventing the occurrence of indoor air contamination, and reducing exposures to indoor air contamination.

(2) REQUIREMENTS FOR ASSISTANCE.—The Administrator may assist a demonstration activity under paragraph (1) only if—

(A) the demonstration activity will serve to demonstrate a new or significantly improved practice, method, technology, or process or the feasibility and cost effectiveness of an existing, but unproven, practice, method, technology, or process and will not

duplicate other Federal, State, local, or commercial efforts to demonstrate the practice, method, technology, or process;

(B) the demonstration activity meets the requirements of this section and serves the purposes of this Act;

(C) the demonstration of the practice, technology, or process will comply with all other laws and regulations for the protection of human health, welfare, and the environment; and

(D) in the case of a contract or cooperative agreement, the practice, method, technology, or process—

(i) would not be adequately demonstrated by State, local, or private persons, or in the case of an application for financial assistance, by a grant; and

(ii) is not likely to receive adequate financial assistance from other sources.

(3) SOLICITATIONS.—The demonstration program established by this subsection shall include solicitations for demonstration projects, selection of suitable demonstration projects from among the proposed demonstration projects, supervision of the demonstration projects, evaluation and publication of the results of demonstration projects, and dissemination of information on the effectiveness and feasibility of the practices, methods, technologies, and processes that are proven to be effective.

(4) PUBLISHED SOLICITATIONS.—Not later than 180 days after the date of enactment of this Act, and not less often than every 12 months thereafter, the Administrator shall publish a solicitation for proposals to demonstrate, prototype or at full-scale, practices, methods, technologies, and processes that are (or may be) effective in controlling sources or potential sources of indoor air contaminants. The solicitation notice shall prescribe the information to be included in the proposal, including technical and economic information derived from the research and development efforts of the applicant, and other information sufficient to permit the Administrator to assess the potential effectiveness and feasibility of the practice, method, technology, or process proposed to be demonstrated.

(5) APPLICATIONS.—Any person and any public or private nonprofit entity may submit an application to the Administrator in response to the solicitations required by paragraph (4). The application shall contain a proposed demonstration plan setting forth how and when the project is to be carried out and such other information as the Administrator may require.

(6) REVIEW.—In selecting practices, methods, technologies, or processes to be demonstrated, the Administrator shall fully review the applications submitted and shall evaluate each project according to the following criteria:

(A) The potential for the proposed practice, method, technology, or process to effectively control sources or potential sources of contaminants that present risks to human health.

(B) The consistency of the proposal with the recommendations provided pursuant to section 8(d)(8).

(C) The capability of the person or persons proposing the project to successfully complete the demonstration as described in the application.

(D) The likelihood that the demonstrated practice, method, technique, or process could be applied in other locations and circumstances to control sources or potential sources of contaminants, including considerations of cost, effectiveness, and technological feasibility.

(E) The extent of financial support from other persons to accomplish the demonstration as described in the application.

(F) The capability of the person or persons proposing the project to disseminate the results of the demonstration or otherwise make the benefits of the practice, method, or technology widely available to the public in a timely manner.

(7) SELECTION OF PROJECTS.—The Administrator shall select or refuse to select a project for demonstration under this subsection in an expeditious manner. In the case of a refusal to select a project, the Administrator shall notify the applicant of the reasons for the refusal.

(8) PERFORMANCE OF PROJECTS.—Each demonstration project under this section shall be performed by the applicant, or by a person satisfactory to the applicant, under the supervision of the Administrator. The Administrator shall enter into a written agreement with each applicant granting the Administrator the responsibility and authority for testing procedures, quality control, monitoring, and other measurements necessary to determine and evaluate the results of the demonstration project.

(9) AGREEMENTS.—The Administrator shall enter into agreements, if practicable and desirable, to provide for monitoring testing procedures, quality control, and such other measurements as are necessary to evaluate the results of demonstration projects or facilities intended to control sources or potential sources of contaminants.

(10) SCHEDULES.—Each demonstration project under this section shall be completed within such time as is established in the demonstration plan. The Administrator may extend any deadline established under this subsection by mutual agreement with the applicant concerned.

(11) FEDERAL FUNDS.—The total amount of Federal funds for any demonstration project under this section shall not exceed 75 percent of the total cost of the project. If the Administrator determines that research under this section is of a basic nature that would not otherwise be undertaken, or the applicant is a local educational agency, the Administrator may approve a grant under this section with a matching requirement other than that specified in this subsection, including full Federal funding.

(12) REPORTS.—The Administrator shall, from time to time, publish general reports describing the findings of demonstration projects conducted pursuant to this section. The reports shall be provided to the indoor air quality information clearinghouse provided for in section 13.

#### (d) STUDY OF SCHOOLS AND CHILD CARE FACILITIES.—

(1) IN GENERAL.—The Administrator shall conduct a national study of the seriousness and extent of indoor air contamination in buildings owned by local educational agencies and child care facilities.

(2) ADVISORY GROUP.—The Administrator shall establish an advisory group composed of representatives of school administrators, teachers, child care organizations, parents and service employees and other interested parties, including scientific and technical experts familiar with indoor air pollution exposures, effects, and controls, to provide guidance and direction in the development of the national study.

(3) REPORT.—Not later than 2 years after the date of enactment of this Act, the Administrator shall provide a report to Congress of the results of the national study. The report required by this paragraph shall

provide such recommendations for activities or programs to reduce and avoid indoor air contamination in buildings owned by local educational agencies and in child care facilities as the Administrator determines appropriate.

(e) **REPORT TO CONGRESS.**—Not later than 2 years after the date of enactment of this Act, the Administrator shall prepare and submit to Congress a report reviewing and assessing issues related to chemical sensitivity disorders, including multiple chemical sensitivities. The Advisory Committee established pursuant to section 7(c) shall review and comment on the report prior to submission to Congress.

(f) **HEALTHY BUILDINGS BASELINE ASSESSMENT.**—

(1) **IN GENERAL.**—The Administrator and the Director shall conduct research on indoor air quality in commercial buildings to develop baseline information on indoor air quality in the buildings.

(2) **REQUIREMENTS OF RESEARCH.**—Research carried out under this subsection shall comply with generally accepted principles of the proper design, maintenance, and operation of ventilation, filtration, and other building systems.

(3) **PERSONS THAT MAY CONDUCT RESEARCH.**—The Administrator and the Director may arrange to have all or a portion of the research to be carried out by appropriate private persons and academic institutions.

(4) **CONTENTS OF STUDY.**—The study shall include—

(A) monitoring of respirable particulate matter, volatile compounds, biological contaminants, and other contaminants of interest; and

(B) identification of the sources of indoor air contaminants.

(g) **CLARIFICATION OF AUTHORITY.**—Title IV of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 7401 note) is repealed.

**SEC. 6. MANAGEMENT PRACTICES, VOLUNTARY PARTNERSHIP PROGRAMS, AND VENTILATION STANDARDS.**

(a) **TECHNOLOGY AND MANAGEMENT PRACTICE ASSESSMENT BULLETINS.**—

(1) **IN GENERAL.**—The Administrator shall publish bulletins providing an assessment of technologies and management practices for the control and measurement of contaminants in the air indoors.

(2) **BULLETINS.**—The bulletins published pursuant to this subsection shall, at a minimum—

(A) describe the control or measurement technology or practice;

(B) describe the effectiveness of the technology or practice in control or measurement of indoor air contaminants and, to the extent feasible, the resulting reduction in risk to human health;

(C) assess the feasibility of the application of the technology or practice in buildings of different types, sizes, ages, and designs;

(D) assess the cost of the application of the technology or practice in buildings of different types, sizes, ages, and designs, including capital and operational costs; and

(E) assess any risks to human health that the technology or practice may create.

(3) **FORMAT.**—The Administrator shall establish and utilize a standard format for presentation of the technology and management practice assessment bulletins. The format shall be designed to facilitate assessment of technologies or practices by interested parties, including homeowners and building owners and managers.

(4) **SCHEDULE OF PUBLICATION.**—The Administrator shall provide that, to the extent

practicable, bulletins published pursuant to this subsection shall be published on a schedule consistent with the publication of health advisories pursuant to section 7(b).

(5) **PUBLIC REVIEW.**—In developing bulletins pursuant to this subsection, the Administrator shall provide for public review and shall consider public comment prior to the publication of bulletins. If the technology or management practice is expected to have significant implications for worker safety or health, the Administrator shall consult with the Director prior to seeking review and comment.

(6) **DISTRIBUTION.**—The bulletins published pursuant to this subsection shall be provided to the indoor air quality information clearinghouse established under section 13 and, to the extent practicable, shall be made available to architecture, design, and engineering firms, building owners and managers, and organizations representing the parties.

(b) **VOLUNTARY PARTNERSHIP PROGRAMS.**—

(1) **IN GENERAL.**—The Administrator shall develop a voluntary partnership program in cooperation with corporations and other entities that own, operate, or occupy buildings.

(2) **PARTNERSHIPS.**—The Administrator shall enter into the voluntary partnerships as an incentive to promote the implementation of pollution prevention, problem mitigation, and energy-wise technology strategies in exchange for indoor air quality technical support and recognition of the Agency.

(3) **RECOGNITION.**—The Administrator may award recognition to corporations or other persons that comply with management practices that are necessary to improve air quality.

(c) **MODEL BUILDING MANAGEMENT PRACTICES TRAINING.**—

(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Director of the National Institute of Occupational Safety and Health, in cooperation with the Administrator of the General Services Administration and the Administrator, shall develop an indoor air training course providing training with respect to—

(A) principles, methods, and techniques related to ventilation system operation and maintenance, including applicable ventilation guidelines and standards;

(B) the maintenance of records concerning indoor air quality, including maintenance of ventilation systems, complaints of indoor air quality, and actions taken to address indoor air quality problems;

(C) health threats posed by indoor air contaminants, including a knowledge of health advisories published pursuant to this Act and other information concerning contaminant levels;

(D) identification of potential indoor air contaminant sources and options for reducing exposures to contaminants;

(E) special measures that may be necessary to reduce indoor air contaminant exposures in new buildings and in portions of buildings that have been renovated or substantially refurbished within the 6-month period preceding the measures; and

(F) special measures that may be necessary to reduce exposures to contaminants associated with pesticide applications, installation of products, furnishings, or equipment, and cleaning operations.

(2) **TRAINING COURSES.**—Not later than 2 years after the date of enactment of this Act, the Director of the National Institute for Occupational Safety and Health shall provide, or contract for the provision of, training courses pursuant to paragraph (1) sufficient, at a minimum, to ensure training

on a schedule consistent with the requirements of section 9(f)(2).

(3) **FEES.**—The Director of the National Institute of Occupational Safety and Health, or firms or organizations operating under contract with the Administrator of the General Services Administration, are authorized to establish a fee for training pursuant to this subsection. The fees shall be in an amount not to exceed the amount necessary to defray the costs of the training program.

(4) **REPORT.**—Not later than 4 years after the date of enactment of this Act, the Director of the National Institute of Occupational Safety and Health, in consultation with the Administrator of the General Services Administration, and the Administrator, shall prepare a report to Congress assessing the training program under this subsection and making recommendations concerning the application of training requirements to classes and types of buildings not covered under this subsection.

(d) **VENTILATION PROGRAM.**—

(1) **IN GENERAL.**—The Administrator, in coordination with other Federal agencies, shall conduct a program to analyze the adequacy of ventilation standards and guidelines to protect the public and workers from indoor air contaminants.

(2) **DUTIES OF ADMINISTRATOR.**—The Administrator shall—

(A) identify and describe ventilation standards adopted by State and local governments and professional organizations, including the American Society of Heating, Refrigerating and Air Conditioning Engineers;

(B) determine the adequacy of the standards for protecting public health and promoting worker productivity;

(C) assess the costs of compliance with the standards;

(D) determine the degree to which the standards are being adopted and enforced;

(E) identify the extent to which buildings are being operated in a manner that achieves the standards; and

(F) assess the potential for the standards to complement controls over specific sources of contaminants in reducing indoor air contamination.

**SEC. 7. INDOOR AIR CONTAMINANT HEALTH ADVISORIES.**

(a) **LIST OF CONTAMINANTS.**—

(1) **IN GENERAL.**—Not later than 18 months after the date of enactment of this Act, the Administrator shall prepare and publish in the Federal Register a list of indoor air contaminants (referred to in this section as "listed contaminants"). The list may include combinations or mixtures of contaminants and may refer to the combinations or mixtures by a common name.

(2) **REVIEW OF LIST.**—The Administrator shall from time to time and as necessary to carry out this Act, but not less often than biennially, review and revise the list by adding other contaminants pursuant to this Act.

(3) **CONTENTS OF LIST.**—The list provided for in paragraph (1) shall include, at a minimum, benzene, biological contaminants, carbon monoxide, formaldehyde, lead, methylene chloride, nitrogen oxide, particulate matter, asbestos, polycyclic aromatic hydrocarbons (PAHs), and radon.

(4) **CONSULTATION AND PUBLIC REVIEW.**—In developing the list provided for in paragraph (1) or in revising the list pursuant to paragraph (2), the Administrator shall consult with the advisory panel provided for in subsection (c), provide for public review, and consider public comment prior to the issuance of a final list.

(b) **CONTAMINANT HEALTH ADVISORIES.**—

(1) IN GENERAL.—The Administrator shall, in consultation with the advisory panel, provided for in subsection (c), and after providing for public review and comment pursuant to paragraph (6), publish advisory materials addressing the adverse human health effects of listed contaminants.

(2) CONTENTS OF MATERIALS.—The advisory materials shall, at a minimum, describe—

(A) the physical, chemical, biological, and radiological properties of the contaminant;

(B) the adverse human health effects of the contaminant in various indoor environments and in various concentrations, including the health threat to subpopulations that may be especially sensitive to exposure to the contaminant;

(C) the extent to which the contaminant, or a mixture of contaminants, is associated with a particular substance of material and emissions rates that are expected to result in varying levels of contaminant concentration in indoor air;

(D) any Technology and Management Practice Assessment Bulletin that is applicable to the contaminant and any actions that are identified for the contaminant in the National Indoor Air Quality Response Plan prepared pursuant to this Act; and

(E) any indoor air contaminant standards or related action levels that are in effect under any authority of a Federal law or regulation, the authority of State laws or regulations, the authority of any local government, or the authority of another country, including standards or action levels suggested by appropriate international organizations.

(3) STATUTORY CONSTRUCTION.—Health advisories published pursuant to this section shall in no way limit or restrict the application of requirements or standards established under any other Federal law.

(4) FORMAT.—The Administrator shall establish and utilize a standard format of presentation of indoor air contaminant health advisories. The format shall be designed to facilitate public understanding of the range of risks of exposure to indoor air contaminants and shall include a summary of the research and information concerning the contaminant that is understandable to public health professionals and to individuals who lack training in toxicology.

(5) SCHEDULE OF PUBLICATION.—The Administrator shall publish health advisories for listed contaminants as expeditiously as practicable. At a minimum, the Administrator shall publish not less than 6 advisories not later than 24 months after the date of enactment of this Act and shall publish an additional 6 advisories not later than 36 months after the date of enactment of this Act.

(6) SCIENTIFIC INFORMATION.—Health advisories shall be based on sound scientific information that has undergone peer review.

(7) REVIEW AND REVISION.—Health advisories shall be reviewed, revised, and republished to reflect new scientific information on a periodic basis but not less frequently than every 5 years.

(8) REVIEW AND COMMENT.—In developing and revising health advisories pursuant to this subsection, the Administrator shall provide for public review and comment, including providing notice in the Federal Register of the intent to publish a health advisory not later than 90 days prior to publication, and shall consider public comment prior to issuance of an advisory.

(c) ADVISORY PANEL.—The Indoor Air Quality and Total Human Exposure Committee of the Environmental Protection Agency Science Advisory Board shall advise the Ad-

ministrator with respect to the implementation of this section, including the listing of contaminants, the contaminants for which advisories should be published, the order in which advisories should be published, the content, quality, and format of advisory documents, and the revision of the documents. The Administrator shall provide that a representative of each of the Agency for Toxic Substances and Disease Registry, the Office of Health and Environmental Research of the Department of Energy, the National Institute for Occupational Safety and Health, and the National Institute for Environmental Health Sciences shall participate in the work of the Advisory Panel as ex officio members.

#### SEC. 8. NATIONAL INDOOR AIR QUALITY RESPONSE PLAN.

(a) AUTHORITY.—The Administrator shall, in coordination with other appropriate Federal agencies, develop and publish a national indoor air quality response plan. The response plan shall provide for the implementation of a range of response actions identified in subsections (b) and (c) that will result in the reduction of human exposure to indoor air contaminants listed pursuant to section 7(a) and the attainment, to the fullest extent practicable, of indoor air contaminant levels that are protective of human health.

(b) EXISTING AUTHORITY.—The Administrator, in coordination with other appropriate Federal agencies, shall include in the plans provided for in subsection (a) a description of specific response actions to be implemented based on existing authorities provided in—

(1) the Clean Air Act (42 U.S.C. 7401 et seq.);

(2) the Toxic Substances Control Act (15 U.S.C. 201 et seq.);

(3) the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.);

(4) title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act") (42 U.S.C. 300f et seq.);

(5) the authorities of the Consumer Product Safety Commission;

(6) the authorities of the Occupational Safety and Health Administration and the National Institute for Occupational Safety and Health; and

(7) other regulatory and related authorities provided under any other Federal law.

In implementing response actions pursuant to paragraph (6), the Assistant Secretary for Occupational Safety and Health shall consult with representatives and employees of State and local governments with respect to States over which the Occupational Safety and Health Administration lacks jurisdiction over State and local employees.

(c) SUPPORTING ACTIONS.—The Administrator, in coordination with the heads of other appropriate Federal agencies, shall include in the plans provided for in subsection (a) a description of specific supporting actions, including, but not limited to—

(1) programs to disseminate technical information to public health, design, and construction professionals concerning the risks of exposure to indoor air contaminants and methods and programs for reducing exposure to the contaminants;

(2) the development of guidance documents addressing individual contaminants, groups of contaminants, sources of contaminants, or types of buildings or structures and providing information on measures to reduce exposure to contaminants, including—

(A) the estimated cost of the measures;

(B) the technologic feasibility of the measures; and

(C) the effectiveness and efficiency of the measures;

(3) education programs for the general public concerning the health threats posed by indoor air contaminants and appropriate individual response actions;

(4) technical assistance, including the design and implementation of training seminars for State and local officials, private and professional firms, and labor organizations dealing with indoor air pollution and addressing topics such as monitoring, analysis, mitigation, building management practices, ventilation, health effects, public information, and program design;

(5) the development of model building codes, including ventilation rates, for various types of buildings designed to reduce levels of indoor air contaminants;

(6) the identification of contaminants, or circumstances of contamination for which immediate action to protect public and worker health is necessary and appropriate and a description of the actions needed;

(7) the identification of contaminants, or circumstances of contamination, in cases in which regulatory or statutory authority is not adequate to address an identified contaminant or circumstance of contamination and recommendation of legislation to provide needed authority;

(8) the identification of contaminants, or circumstances of contamination, in cases in which the continued reduction of contamination requires development of technology or technological mechanisms; and

(9) the identification of remedies to the "sick building syndrome", including proper design and maintenance of ventilation systems, building construction and remodeling practices, and safe practices for the application of pesticides, herbicides, and disinfectants, and a standardized protocol for investigating and solving indoor air quality problems in sick buildings.

(d) CONTENTS OF PLAN.—In describing specific actions to be taken under subsections (b) and (c), the Administrator, in coordination with the heads of other appropriate Federal agencies, shall—

(1) identify the health effects, and any contaminant or contaminants thought to cause health effects to be addressed by a particular action and to the fullest extent feasible, the relative contribution to indoor air contamination from all sources of contamination;

(2) identify the statutory basis for the action;

(3) identify the schedule and process for implementation of the action;

(4) identify the Federal agency with jurisdiction for the specific action that will implement the action; and

(5) identify the financial resources needed to implement the specific action and the source of the resources.

(e) SCHEDULE.—Response plans provided for in subsection (a) shall be submitted to Congress not later than 2 years after the date of enactment of this Act, and biennially thereafter.

(f) REVIEW.—

(1) IN GENERAL.—The Administrator shall provide for public review and comment on the response plan provided for in this section, including provision of notice in the Federal Register for public review and comment not later than 90 days prior to submission to Congress. The Administrator shall include in the response plan a summary of public comments.

(2) REVIEW BY COUNCIL.—The Administrator shall provide for the review and comment on the response plan by the Council on Indoor Air Quality provided for under section 12.

(g) REPORTS IN PLAN.—

(1) **MONITORING AND MITIGATION SERVICES.**—In the first plan published pursuant to this section shall include an assessment and report on indoor air monitoring and mitigation services provided by private firms and other organizations, including the range of the services, the reliability and accuracy of the services, and the relative costs of the services. The assessment shall include a review and analysis of options for oversight of indoor air monitoring and mitigation firms and organizations, including registration, licensing, and certification of the firms and organizations and options for imposing a user fee on the firms and organizations.

(2) **VENTILATION PROGRAM.**—The first plan published pursuant to this section shall include an assessment and report on the ventilation program carried out under this Act, including recommendations concerning—

(A) the establishment of ventilation standards that protect public health and worker health and take into account comfort and energy conservation goals; and

(B) ensuring that adequate ventilation standards are being adopted and that buildings are being operated in a manner that achieves standards.

(3) **INDOOR PLANTS.**—The first plan published pursuant to this section shall include an assessment and report on the research program authorized under section 5(b)(20). In preparing the report, the Administrator shall consult with the Administrator of the National Aeronautics and Space Administration.

#### SEC. 9. FEDERAL BUILDING RESPONSE PLAN AND DEMONSTRATION PROGRAM.

(a) **AUTHORITY.**—The Administrator and the Administrator of the General Services Administration shall develop and implement a program to respond to and reduce indoor air contamination in Federal buildings and to demonstrate methods of reducing indoor air contamination in new Federal buildings.

##### (b) FEDERAL BUILDING RESPONSE PLAN.—

(1) **IN GENERAL.**—The Administrator of the General Services Administration, in consultation with the Administrator, the Assistant Secretary for Occupational Safety and Health Administration, the Director, and the heads of affected Federal departments or agencies shall prepare response plans addressing indoor air quality in Federal buildings. The plans shall, to the fullest extent practicable, be developed in conjunction with response plans developed pursuant to section 8.

(2) **CONTENTS OF RESPONSE PLAN.**—The response plan shall provide for the implementation of a range of response actions that will result in the reduction of human exposure to indoor air contaminants listed pursuant to section 7(a), and the attainment, to the fullest extent practicable, of indoor air contaminant concentration levels that are protective of public and worker health.

(3) **REQUIREMENTS FOR RESPONSE PLAN.**—Each Federal building response plan provided in paragraph (1) shall include—

(A) a list of all Federal buildings;

(B) a description and schedule of general response actions, including general building management practices, product purchase guidelines, air quality problem identification practices and methods, personnel training programs, and other actions to be implemented to reduce exposures to indoor air contaminants in the buildings listed pursuant to subparagraph (A);

(C) a list of individual Federal buildings listed pursuant to subparagraph (A) for which there is sufficient evidence of indoor air contamination or related employee

health effects to warrant assessment of the building pursuant to section 14 and a schedule for the development and submittal of building assessment proposals pursuant to section 14(d);

(D) a description and schedule of specific response actions to be implemented in each specific building identified in subparagraph (C) and assessed pursuant to section 14;

(E) an identification of the Federal agency responsible for the funding and implementation of each response action identified in subparagraphs (B) and (D); and

(F) an identification of the estimated costs of each response action identified in subparagraphs (B) and (D) and the source of resources to cover the costs.

(4) **REQUIREMENT FOR RESPONSE PLAN.**—The response plan provided for in this subsection shall address each Federal building identified in paragraph (3)(A), except that a specific building may be exempted from coverage under this subsection. A building may be exempted on the grounds of—

(A) national security;

(B) the anticipated demolition or termination of Federal ownership not later than 3 years after the exemption; and

(C) a specialized use of a building that precludes necessary actions to reduce indoor air contamination.

(5) **SUBMISSION TO CONGRESS.**—The plan provided for in this subsection shall be submitted to Congress not later than 2 years after the date of enactment of this Act, and biennially thereafter.

(6) **PUBLIC REVIEW AND COMMENT.**—The Administrator of the General Services Administration shall provide for public review and comment on the response plan provided for in this section, including the provision of notice in the Federal Register, not later than 90 days prior to the submission to Congress of the plan.

(7) **PUBLIC COMMENTS.**—The response plan shall include a summary of public comments. The Council on Indoor Air Quality provided for under section 12 shall review and comment on the plan.

##### (c) INDOOR AIR QUALITY RESERVE.—

(1) **IN GENERAL.**—The Administrator of the General Services Administration shall reserve 0.5 percent of any funds used for the construction of new Federal buildings for the design and construction of measures to reduce indoor air contaminant concentrations within the buildings.

(2) **MEASURES THAT MAY BE FUNDED.**—The measures that may be funded with the reserve provided for in this subsection include—

(A) the development and implementation of general design principles intended to avoid or prevent contamination of indoor air;

(B) the design and construction of improved ventilation techniques or equipment;

(C) the development and implementation of product purchasing guidelines;

(D) the design and construction of contaminant detection and response systems;

(E) the development of building management guidelines and practices; and

(F) training in building and systems operations for building management and maintenance personnel.

(3) **REPORT.**—On completion of construction of each Federal building covered by this section, the Administrator of the General Services Administration shall file with the Administrator, the clearinghouse established under section 13, and the Council established under section 12, a report describing the uses made of the reserve provided for in this sub-

section. The report shall be in sufficient detail to provide design and construction professionals with models and general plans of various indoor air contaminant reduction measures adequate to assess the appropriateness of the measures for application in other buildings.

(4) **EXEMPTIONS.**—The Administrator of the General Services Administration, with the concurrence of the Administrator, may exempt a planned Federal building from the requirements of this subsection if the Administrator of the General Services Administration finds that the exemption is required on the grounds of national security or that the intended use of the building is not compatible with this section.

(d) **NEW ENVIRONMENTAL PROTECTION AGENCY BUILDINGS.**—Any new building constructed for use by the Agency as headquarters shall be designed, constructed, maintained, and operated as a model to demonstrate principles and practices for the protection of indoor air quality.

##### (e) BUILDING COMMENTS.—

(1) **IN GENERAL.**—The Administrator of the General Services Administration, in consultation with the Administrator, the Assistant Secretary for Occupational Safety and Health Administration, and the Director, shall provide, by regulation, a method and format for filing and responding to comments and complaints concerning indoor air quality in Federal buildings by workers in the buildings and by the public. The procedure for filing and responding to worker complaints shall supplement and not diminish or supplant existing practices or procedures established under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) and executive orders pertaining to health and safety for Federal employees.

(2) **LISTING OF FILINGS.**—A listing of each filing and an analysis of the filing shall be included in each response plan prepared pursuant to this section. The listing shall preserve the confidentiality of individuals making filings under this section.

(3) **REGULATIONS.**—The regulations implementing this subsection shall be issued at the earliest practicable date, but not later than 2 years after the date of enactment of this Act.

##### (f) BUILDING VENTILATION AND MANAGEMENT TRAINING.—

(1) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Administrator of the General Services Administration shall designate, or require that a lessee designate, an Indoor Air Quality Coordinator for each Federal building that is owned or leased by the General Services Administration.

(2) **SCHEDULE FOR COMPLETION OF TRAINING COURSES.**—Not later than 4 years after the date of enactment of this Act, each Indoor Air Quality Coordinator shall complete the indoor air training course operated pursuant to section 6(b). Beginning on the date that is 3 years after the date of enactment of this Act, each newly designated Indoor Air Quality Coordinator shall complete the indoor air training course not later than 1 year after designation.

(3) **FAILURE TO DESIGNATE AN INDOOR AIR QUALITY COORDINATOR.**—If the Administrator of the General Services Administration finds that a lessee has failed to designate and train an Indoor Air Quality Coordinator pursuant to the requirements of this Act, the Administrator of the General Services Administration may not reestablish a lease for the building.

## SEC. 10. STATE AND LOCAL INDOOR AIR QUALITY PROGRAMS.

### (a) MANAGEMENT AND ASSESSMENT STRATEGY DEMONSTRATION.—

(1) IN GENERAL.—The Governor of a State may apply to the Administrator for a grant to support demonstration of the development and implementation of a management strategy and assessment with respect to indoor air quality within the State.

(2) STRATEGIES.—Each State indoor air quality management strategy shall—

(A) identify a lead agency and provide an institutional framework for protection of indoor air quality;

(B) identify and describe existing programs, controls, or related activities concerning indoor air quality within State agencies, including regulations, educational programs, assessment programs, or other activities;

(C) identify and describe existing programs, controls, or related activities concerning indoor air quality of local and other sub-State agencies and ensure coordination among local, State, and Federal agencies involved in indoor air quality activities in the State; and

(D) ensure the coordination of indoor air quality programs with ambient air quality programs and related activities.

(3) ASSESSMENT PROGRAMS.—Each State indoor air quality assessment program shall—

(A) identify indoor air contaminants of concern and, to the extent practicable, assess the seriousness and the extent of indoor air contamination by contaminants listed in section 7(a);

(B) identify the classes or types of buildings or other indoor environments in which indoor air contaminants pose the most serious threat to human health;

(C) if applicable, identify geographic areas in the State where there is a reasonable likelihood of indoor air contamination as a result of the presence of contaminants in the ambient air or the existence of sources of a contaminant;

(D) identify methods and procedures for indoor air contaminant assessment and monitoring;

(E) provide for periodic assessments of indoor air quality and identification of indoor air quality changes and trends; and

(F) establish methods to provide information concerning indoor air contamination to the public and to educate the public and interested groups, including building owners and design and engineering professionals, about indoor air contamination.

(4) STATE AUTHORITY.—As part of a management strategy and assessment under this subsection, the applicant may develop contaminant action levels, guidance, or standards and may draw on health advisories developed pursuant to section 7.

(5) REQUIREMENTS FOR STATES.—Each State that is selected to demonstrate the development of management and assessment strategies shall provide to the Administrator a management strategy and assessment pursuant to paragraphs (2) and (3) not later than 3 years after the date of selection and shall certify to the Administrator that the strategy and assessment meet the requirements of this Act.

(6) PUBLIC REVIEW AND COMMENT.—Each State referred to in paragraph (5) shall provide for public review and comment on the management strategy and assessment prior to submission of the strategy and assessment to the Administrator.

### (b) RESPONSE PROGRAMS.—

(1) IN GENERAL.—A Governor of a State or the executive officer of a local air pollution

control agency may apply to the Administrator for grant assistance to develop a response program designed to reduce human exposure to an indoor air contaminant or contaminants in the State, a specific class or type of building in that State, or a specific geographic area of that State.

(2) REQUIREMENTS FOR RESPONSE PROGRAM.—A response program shall—

(A) address a contaminant or contaminants listed pursuant to section 7(a);

(B) identify existing data and information concerning the contaminant or contaminants to be addressed, the class or type of building to be addressed, and the specific geographic area to be addressed;

(C) describe and schedule the specific actions to be taken to reduce human exposure to the identified contaminant or contaminants, including the adoption and enforcement of any ventilation standards;

(D) identify the State or local agency or public organization that will implement the response actions;

(E) identify the Federal, State, and local financial resources to be used to implement the response program; and

(F) provide for the assessment of the effectiveness of the response program.

(3) STATE AUTHORITY.—As part of a response program pursuant to this subsection, an applicant may develop contaminant action levels, guidance, or standards based on health advisories developed pursuant to section 7.

(4) VENTILATION RATES.—As part of a response program established pursuant to this subsection, an applicant may develop a standard establishing 1 or more ventilation rates for a class or classes of buildings. The standard shall include development of the assessment and compliance programs needed to implement the standard.

(5) RESPONSE PLANS.—As part of a response program established pursuant to this subsection, an applicant may develop a response plan addressing indoor air quality in State and local government buildings. The plan shall, to the fullest extent practicable, be consistent with response plans developed pursuant to section 9.

### (c) GRANT MANAGEMENT.—

(1) AMOUNT.—The amount of each grant made under subsection (a)(1) shall not be less than \$75,000 for each fiscal year.

(2) SELECTION CRITERIA.—In selecting States for the demonstration and implementation of management strategies and assessments under subsection (a)(1), the Administrator shall consider—

(A) the previous experience of a State in addressing indoor air quality issues;

(B) the seriousness of the indoor air quality issues identified by the State; and

(C) the potential for demonstration of innovative management or assessment measures that may be of use to other States.

(3) FOCUS OF RESOURCES.—In selecting States for the demonstration of management strategies and assessments under subsection (a)(1), the Administrator shall focus resources to ensure that sufficient funds are available to selected States to provide for the development of comprehensive and thorough management strategies and assessments in each selected State and to adequately demonstrate the implementation of the strategies and assessments.

(4) AMOUNT.—The amount of each grant made under subsection (b)(1) shall not exceed \$250,000 for each fiscal year and shall be available to the State for a period of not to exceed 3 years.

(5) SELECTION CRITERIA.—In selecting response programs developed under subsection

(b) for grant assistance, the Administrator shall consider—

(A) the potential for the response program to bring about reductions in indoor air contaminant levels;

(B) the contaminants to be addressed, giving priority to contaminants for which health advisories have been developed pursuant to section 207;

(C) the type of building to be addressed, giving priority to building types in which substantial human exposures to indoor air contaminants occur;

(D) the potential for development of innovative response measures or methods that may be of use to other States or local air pollution control agencies; and

(E) the State indoor air quality management strategy and assessment, giving priority to States with complete indoor air management strategies and assessments.

(6) FEDERAL SHARE.—The Federal share of each grant made under subsections (a) and (b) shall not exceed 75 per cent of the costs incurred in the demonstration and implementation of the activities and shall be made on the condition that the non-Federal share is provided from non-Federal funds.

(7) AVAILABILITY OF FUNDS.—Funds awarded as a grant pursuant to subsections (a) and (b) for a fiscal year shall remain available for obligation for the next fiscal year following the fiscal year in which the funds are obligated and for the next following fiscal year.

(8) RESTRICTION.—No grant shall be made under this section for any fiscal year to a State or local air pollution control agency that in the preceding year received a grant under this section unless the Administrator determines that the agency satisfactorily implemented the grant activities in the preceding fiscal year.

(9) INFORMATION.—States and air pollution control agencies shall provide such information in applications for grant assistance and pertaining to grant funded activities as the Administrator requires.

## SEC. 11. OFFICE OF RADIATION AND INDOOR AIR.

(a) ESTABLISHMENT.—The Administrator shall establish an Office of Radiation and Indoor Air within the Office of Air and Radiation of the Agency.

(b) RESPONSIBILITIES.—The Office of Radiation and Indoor Air shall—

(1) list indoor air contaminants and develop health advisories pursuant to section 7;

(2) develop national indoor air quality response plans as provided for in section 8;

(3) manage Federal grant assistance provided to air pollution control agencies under section 10;

(4) ensure the coordination of Federal laws and programs administered by the Agency relating to indoor air quality and reduce duplication or inconsistencies among the programs;

(5) work with other Federal agencies, including the Occupational Safety and Health Administration and the National Institute for Occupational Safety and Health, to ensure the effective coordination of programs related to indoor air quality; and

(6) work with public interest groups, labor organizations, and the private sector in development of information related to indoor air quality, including the health threats of human exposure to indoor air contaminants, the development of technologies and methods to control the contaminants, and the development of programs to reduce contaminant concentrations.

## SEC. 12. COUNCIL ON INDOOR AIR QUALITY.

(a) AUTHORITY.—There is established a Council on Indoor Air Quality.

(b) RESPONSIBILITIES.—The Council on Indoor Air Quality shall—

(1) provide for the full and effective coordination of Federal agency activities relating to indoor air quality;

(2) provide a forum for the resolution of conflicts or inconsistencies in policies or programs related to indoor air quality;

(3) review and comment on the national indoor air quality response program developed pursuant to section 8 and the Federal building response plans developed pursuant to section 9(b); and

(4) prepare a report to Congress pursuant to subsection (d).

(c) ORGANIZATION.—

(1) IN GENERAL.—The Council on Indoor Air Quality shall include a senior representative of each Federal agency involved in indoor air quality programs, including—

(A) the Agency;

(B) the Occupational Safety and Health Administration;

(C) the National Institute of Occupational Safety and Health;

(D) the Department of Health and Human Services;

(E) the Department of Housing and Urban Development;

(F) the Department of Energy;

(G) the Department of Transportation;

(H) the Consumer Product Safety Commission; and

(I) the General Services Administration.

(2) CHAIRPERSON.—The representative of the Agency shall serve as the Chairperson of the Council.

(3) STAFF.—The Council shall be served by a staff that shall include an Executive Director and not less than 3 full-time equivalent employees who shall be employees of the Agency.

#### SEC. 13. INDOOR AIR QUALITY INFORMATION CLEARINGHOUSE.

(a) NATIONAL INDOOR AIR QUALITY CLEARINGHOUSE.—The Administrator shall establish a national indoor air quality clearinghouse to be used to disseminate indoor air quality information to other Federal agencies, State, and local governments, and private organizations and individuals.

(b) FUNCTIONS.—The clearinghouse shall be a repository for reliable indoor air quality related information to be collected from and made available to government agencies and private organizations and individuals. At a minimum, the clearinghouse established by this section shall make available reports, programs, and materials developed pursuant to this Act.

(c) HOTLINE.—The clearinghouse shall operate a toll-free hotline on indoor air quality that shall be available to provide to the public general information about indoor air quality and general guidance concerning response to indoor air quality problems.

(d) CONTRACTUAL AGREEMENT.—The Administrator may provide for the design, development, and implementation of the clearinghouse through a contractual agreement.

#### SEC. 14. BUILDING ASSESSMENT DEMONSTRATION.

(a) AUTHORITY.—

(1) IN GENERAL.—The Director of the National Institute for Occupational Safety and Health shall, in consultation with the Administrator, implement a Building Assessment Demonstration Program to support the development of methods, techniques, and protocols for the assessment of indoor air quality in nonresidential, nonindustrial buildings and to provide assistance and guidance to building owners and occupants on measures to improve air quality.

(2) ONSITE ASSESSMENTS.—In implementing this section, the Director shall have the authority to conduct onsite assessments of individual buildings, including Federal, State, and municipal buildings.

(3) STATUTORY CONSTRUCTION.—Nothing in this section shall in any way limit or constrain existing authorities under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(b) ASSESSMENT ELEMENTS.—Assessments of individual buildings conducted pursuant to this section shall, at a minimum, provide—

(1) an identification of suspected building conditions or contaminants (or both) and the magnitude of the conditions or contaminants;

(2) an assessment of the probable sources of contaminants in the air in the building;

(3) a review of the nature and extent of health concerns and symptoms identified by building occupants;

(4) an assessment of the probable association of indoor air contaminants with the health and related concerns of building occupants, including an assessment of occupational and environmental factors that may relate to the health concerns;

(5) an identification of appropriate measures to control contaminants in the air in the building, to reduce the concentration levels of contaminants, and to reduce exposure to contaminants; and

(6) an evaluation of the effectiveness of response measures in the control and reduction of contaminants and contaminant levels, the change in occupant health concerns and symptoms, the approximate costs of the measures, and any additional response measures that may reduce health concerns of occupants.

(c) ASSESSMENT REPORTS.—

(1) IN GENERAL.—The Director shall prepare—

(A) a preliminary report of each building assessment that shall document findings concerning assessment elements in paragraphs (1) through (5) of subsection (b); and

(B) a final report that shall provide an overall summary of the building assessment, including information on the effectiveness and cost of response measures, and the potential for application of response measures to other buildings.

(2) SCHEDULE OF REPORTS.—Each preliminary assessment report shall be prepared not later than 180 days after the selection of a building for assessment. A final assessment report shall be prepared not later than 180 days after completion of a preliminary report.

(3) AVAILABILITY OF REPORTS.—Preliminary and final reports shall be made available to building owners, occupants, and the authorized representatives of occupants.

(d) BUILDING ASSESSMENT PROPOSAL.—

(1) IN GENERAL.—The Director shall consider individual buildings for assessment under this section in response to a proposal identifying a building and the building owner and providing preliminary, background information about the nature of the indoor air contamination, previous response to air contamination problems, and the characteristics, occupancy, and uses of the building.

(2) BUILDING ASSESSMENT PROPOSALS.—A Building assessment proposal may be submitted by a building owner or occupants or the authorized representatives of building occupants, including the authorized representatives of employees working in a building.

(e) BUILDING ASSESSMENT SELECTION.—

(1) IN GENERAL.—In selecting buildings to be assessed under this section, the Director shall consider—

(A) the seriousness and extent of apparent indoor air contamination and human health effects of the contamination;

(B) the proposal for a building assessment submitted pursuant to subsection (d);

(C) the views and comments of the building owners;

(D) the potential for the building assessment to expand knowledge of building assessment methods, including identification of contaminants and other relevant building conditions, assessment of sources, and development of response measures; and

(E) the listing of a building pursuant to section 9(b)(3)(C).

(2) PRELIMINARY RESPONSE.—The Director shall provide a preliminary response and review of building assessment proposals to applicants and the applicable building owner not later than 60 days after receipt of a proposal and, to the extent practicable, shall provide a final decision concerning selection of a proposal not later than 120 days after the submittal of the proposal.

(f) BUILDING ASSESSMENT SUPPORT.—

(1) IN GENERAL.—The Director may enter into agreements with private individuals, firms, State and local governments, or academic institutions for services and related assistance in conduct of assessments under this section.

(2) OTHER FEDERAL AGENCIES.—The Director may enter into agreements with any other Federal agency for the assignment of Federal employees to a specific building assessment project for a period of not to exceed 180 days.

(g) SUMMARY REPORT.—

(1) IN GENERAL.—The Director shall provide, on an annual basis, a report on the implementation of this section to the Administrator and to the Council on Indoor Air Quality established pursuant to section 12.

(2) GENERAL REPORTS.—The Director shall, from time to time and in consultation with the Administrator, publish general reports containing materials, information, and general conclusions concerning assessments conducted pursuant to this section. The reports may address concerns related to the remediation of indoor air contamination problems, the assessment of health related concerns and the prevention of the problems through improved design, materials, product specifications, and management practices.

(3) AVAILABILITY OF REPORTS.—The reports prepared pursuant to this subsection and subsection (c) shall be provided to the indoor air quality information clearinghouse provided for in section 13 and, to the extent practicable, the reports shall be made available to architectural, design, and engineering firms and to organizations representing the firms.

#### SEC. 15. STATE AND FEDERAL AUTHORITY.

(a) GENERAL AUTHORITY.—Nothing in this Act shall be construed, interpreted, or applied to preempt, displace, or supplant any other State or Federal law, whether statutory or common law, or any local ordinance.

(b) OCCUPATIONAL SAFETY AND HEALTH.—In exercising any authority under this title, the Administrator shall not, for purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), be considered to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

#### SEC. 16. AUTHORIZATION OF APPROPRIATIONS.

(a) SECTIONS 5 THROUGH 7.—There are authorized to be appropriated \$20,000,000 for

each of fiscal years 1994 through 1998. Of such sums as are appropriated pursuant to this subsection, for each of fiscal years 1994 through 1998, 1/3 shall be reserved for the implementation of section 7, 1/3 shall be reserved for the implementation of section 5(c), and \$1,000,000 shall be reserved for the implementation of section 6(c).

(b) SECTIONS 8, 9, 11, AND 13.—There are authorized to be appropriated \$10,000,000 for each of fiscal years 1994 through 1998, to carry out sections 8, 9, 11, and 13. Of such sums as are appropriated pursuant to this subsection, 1/3 shall be reserved for implementation of section 9 and 1/3 shall be reserved for implementation of section 13.

(c) SECTION 10.—There are authorized to be appropriated \$12,000,000 for each of fiscal years 1994 through 1998, to carry out section 10. Of such sums that are appropriated pursuant to this section, 1/3 shall be reserved for the purpose of carrying out section 10(b).

(d) SECTION 12.—There are authorized to be appropriated \$1,500,000 for each of fiscal years 1994 through 1998, to carry out section 12.

(e) SECTION 14.—There are authorized to be appropriated \$5,000,000 for each of fiscal years 1994 through 1998 to carry out section 14.

The PRESIDING OFFICER. Under the previous order the motion to reconsider the vote is laid upon the table.

The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, parliamentary inquiry. Would it be appropriate at this time to speak as in morning business?

The PRESIDING OFFICER. The Senator is correct.

#### THE NOMINATION OF MORTON HALPERIN

Mr. WARNER. Mr. President, I wish to briefly address the Senate with respect to the pending nomination of Morton Halperin to be an Assistant Secretary of Defense, for Democracy and Peacekeeping, in the Department of Defense. I think it is important to keep the Senate informed on the various steps being taken by the Armed Services Committee in connection with that nomination—I repeat, the Armed Services Committee, because somewhere along the line the misimpression resulted that the Intelligence Committee was brought into this. The chairman of the Armed Services Committee, the chairman of the Intelligence Committee, and I, as the vice chairman of the Intelligence Committee, understand and agree that the Intelligence Committee has no jurisdiction over this nomination, which was referred to the Armed Services Committee. Under the leadership of Chairman NUNN and ranking Republican THURMOND, the Armed Services has the full and exclusive authority to work with this nomination.

The distinguished chairman of the Intelligence Committee, Senator DECONCINI, at my personal request, was prepared to assist other members of the Armed Services Committee and

me, with the appreciation of all concerned, in setting up a meeting with the Director of Central Intelligence that ultimately did not occur. But all inquiries on this nomination have been handled within the framework of the committee of jurisdiction, namely, the Armed Services Committee.

I should like to indicate I have had the opportunity to meet with Director Woolsey and speak with him in connection with this nomination on several occasions. Indeed, yesterday, during the course of a routine meeting that the Director of Central Intelligence had with the chairman of the Intelligence Committee and me, as the Intelligence Committee's vice chairman, I took the opportunity to draw to his attention that certain correspondence would be directed to the executive branch of Government and, hopefully, would come to his attention at the earliest possible time, which contained a specific request by myself and other members of the Armed Services Committee for a further search for information that could be in the possession of the CIA. We feel this information, if it exists and can be found, is very pertinent to a careful, fair, and objective assessment by the U.S. Senate of this nomination if, indeed, it comes to pass that the full Senate considers that nomination.

Yesterday, Armed Services Committee Chairman NUNN and the ranking member, Mr. THURMOND, myself, and others had a meeting with respect to the nomination. Having worked as ranking member of this Armed Services Committee for many years, this nomination, like all others, is being handled, by the chairman and the ranking member with joint preparation to the extent possible. There are certain areas in which a cooperative spirit in this nomination, as in all others, is beneficial, particularly in keeping both the chairman and the ranking member fully informed with respect to certain procedures that are being followed, the initiation of certain correspondence being forwarded, and the timing of possible consideration by the full committee of the nomination.

The chairman and ranking member can best speak for themselves, but it appeared to me, at the conclusion of that very successful meeting, that it would be the hope of the chairman and ranking member to go forward with a hearing on the nomination, again, if it turns out that the committee must consider that nomination. That hearing would occur following the conclusion of the committee's work with the first priority, namely, the conclusion of the conference between the House and Senate on the annual Defense authorization bill.

I have approached this nomination, as I have all other nominations, with an open and fair mind. I still maintain an open and fair mind. But it seems to

me it is timely for the President and the Secretary of Defense to take a second look, and a very careful look, at this nomination. This is a piece of constructive advice from one who has been deeply involved in Department of Defense Presidential nominations for 20 years—15 in the Senate and 5 in the Navy Secretariat. There seems to be a case, which at this point in time is not yet complete in preparation, but it is a strong case, indicating that this individual in all probability is not suited to assume this heavy responsibility. His career of controversy has showed that he possesses a strong intellect but has applied it to advance philosophies that are inconsistent with becoming one of the trustees of the Nation's security. The trail of unanswered questions grows longer.

Yesterday, a second letter to the Director of Central Intelligence seeking information relevant to the nomination was sent under the signature of the ranking member, Mr. THURMOND, to supplement the letter sent on October 4, 1993. This second letter sent at my request to the executive branch requested that the Central Intelligence Agency go back and examine certain areas of its filing system to determine the existence or absence of certain information. I urge the Director to act as expeditiously as possible on that search.

At the request of this Senator, by the earlier letter of October 4, 1993, forwarded through the ranking member, Mr. THURMOND, a search was conducted and, as the chairman of the Intelligence Committee advised the Senate just a day or so ago on the floor, the Senate received a communication back from the executive branch to the effect that the first search for this material did not show the evidence was in existence.

Having just received information from certain witnesses when the communication from the executive branch arrived, I gave the information to the ranking member of the Armed Services Committee and indicated that this additional information could help the Director of Central Intelligence and his subordinates in going back to look into other files with the hope of ascertaining the existence or absence of the information sought. The ranking member then sent yesterday's letter to the Director of Central Intelligence requesting a file search, to which I referred earlier.

I noted from press reports today that a distinguished member of the majority side of the Senate Armed Services Committee has now joined with the Republicans in expressing some deep concerns about the advisability, and I say the suitability, of this individual in assuming this important post.

I joined with other members of our committee in placing a hold on the Senate proceeding to consider the intelligence authorization bill for fiscal

year 1994 (S. 1301). I intend to continue to maintain that hold until the second letter, yesterday's letter, has been answered by the executive branch, presumably based on the Director of the Central Intelligence's having carefully surveyed the files to determine whether or not the information sought exists.

I hope that is done in as expeditious a manner as possible. The main purpose for my addressing the Senate this morning is to give this Senator's impression that the Republicans are proceeding in what I view as a fair manner, a diligent manner, and proceeding because, quite aside from the issue of the particular item for which CIA is searching, based on yesterday's request, information is coming to us which, in my judgment, justifiably puts in our minds the question of whether or not this individual is suitable to take on this very important responsibility.

I assure the Senate of my full cooperation in moving this nomination, if it is to go ahead, in an expeditious and fair manner for the consideration of the Armed Services Committee and the Senate. But again, I urge the President and Secretary of Defense to reexamine the advisability of this nomination in light of a considerable amount of information which is coming to the attention of the committee as a whole.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER (Mr. DECONCINI). Under the previous order, the Senator from Alaska [Mr. MURKOWSKI] is now recognized to speak for not to exceed 15 minutes.

#### MARKET ACCESS IN JAPAN

Mr. MURKOWSKI. Mr. President, I rise today to communicate with my colleagues a significant event that has occurred as a result of our ongoing negotiations with Japan on the issue of market access, an issue that this Senator has been working on for some time.

I think a short chronology would be in order to set the scene for the extraordinary timespan associated with the efforts of many, both of the previous administration and of the current administration, to encourage Japan to open up its construction market to U.S. architectural, engineering, and design construction firms in a manner similar to which Japan has enjoyed access into our market.

Mr. President, as you know, on November 1, the United States Trade Representative was scheduled to announce whether or not we would impose sanctions on the Government of Japan for discrimination against American firms in the construction sector. Under threat of sanctions on Tuesday, we were very pleased to note that the Government of Japan came forward and

announced an action plan, an action plan to reform its public sector construction market. A market that, for all practical purposes, U.S. firms, or for that matter any foreign firms, have been excluded from participating.

Mr. President, this was covered in an article in the New York Times discussing Japan's plan.

I ask unanimous consent that the article from the October 27 New York Times be printed in the RECORD.

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

[From the New York Times, Oct. 27, 1993]

#### UNITED STATES CANCELS A PLAN TO BEGIN SANCTIONS AFTER JAPAN ACTS

(By Keith Bradsher)

WASHINGTON, Oct. 26.—The Clinton Administration today canceled plans to impose trade sanctions next Monday against Japan after Tokyo agreed to open its public sector construction market to international competition.

Mickey Kantor, the United States trade representative, announced this morning that the Administration would not proceed with the sanctions, at least for now, because the Japanese Government had promised to eliminate the practice of restricting the bidding on construction contracts to a few companies. The sanctions would have barred Japanese companies from bidding on some Federal construction projects.

The century-old Japanese restrictions have long been a sore point with American construction companies. Irritation over them has intensified in the last decade, as Japan embarked on an extensive program to build better roads, airports and other public works. Ending the restrictions would eliminate a persistent source of friction between the two countries.

#### A HISTORIC MOVE

"This move today by the Japanese Government is welcome; it is important; it is significant, and it's historic," Mr. Kantor said.

The Japanese plan to end restrictions had only a few details today. Mr. Kantor said that the Administration was still prepared to impose sanctions if the Japanese Government did not provide further details of its plan and carry it out by Jan. 20. But he played down this possibility, saying that the Japanese plan, "indicates for the first time that the Government of Japan is determined to bring about the important reforms in its public sector construction market, including improved access for all foreign firms."

The Japanese decisions to change the Government contracting procedures is more the result of domestic political changes in Japan than any response to the threat of American sanctions, said Seichiro Noboru, the top economics official at the Japanese Embassy here.

Bribery of Japanese Government officials by local construction companies contributed to the downfall of the Liberal Democratic Party this summer and its replacement by a coalition of seven parties championing deregulation and other changes. Prime Minister Morihiro Hosokawa has set up a special council of senior politicians to draft by late December a detailed overhaul of Government construction contracting practices.

By moving the American deadline to January, Mr. Kantor accommodated the Japanese schedule.

Tokyo has agreed to provide further details at next month's meeting in Seattle,

where President Clinton is scheduled to discuss trade and investment issues with Mr. Hosokawa and a dozen other heads of state from countries with Pacific Ocean coastlines, Mr. Kantor said.

The Japanese plan accepted by Mr. Kantor today also called for Tokyo to bar bids by companies convicted of bribery, improve enforcement of its anti-monopoly law and establish objective, published standards for bidding and contracting procedures. All of these steps could limit the discretion of the powerful bureaucrats at the Japanese Construction Ministry, who have successfully resisted previous American efforts to open the Japanese construction market.

#### SENATOR BACKS PLAN

Senator Frank H. Murkowski, the Alaska Republican who has pushed successive administrations for seven years to open the Japanese construction market, said today that the Japanese plan was vague in some places but still ambitious enough to justify the postponement of sanctions. "I think they've accomplished something," he said.

Mr. Murkowski said his concerns centered on the Japanese pledge to apply the changes to all contracts above a certain value, without specifying a value. The value must be set low enough to cover contracts for American architectural and engineering companies, and not just big contracts that include a lot of earthmoving and other work performed locally in Japan, the Senator said.

Charles E. Hawkins, a senior vice president for Associated Builders and Contractors, an American industry group based in Washington, said he was cautiously optimistic that the Japanese offer would make a difference, but wanted to see the details. A Japanese agreement in the late 1980's to open the bidding for the construction of the Kansai International Airport at Osaka initially seemed like a big concession to the United States, but the fine print of that deal later prevented American companies from winning more than a tiny fraction of the contracts for the project, he said.

American companies are interested in Japan because, "you look around the world and it's the one area where there's a lot of construction going on," said Kenneth H. Fraeich, the executive vice president of marketing and strategic business development at AEG Westinghouse Transportation Systems Inc., which tried unsuccessfully to sell a mass-transit system to the Kansai airport project.

"Our business there we couldn't double or triple right now because it's zero," he said, adding that the latest Japanese offer, "is a very encouraging announcement if they do what they say."

#### SIZE OF PROBLEM DEBATED

For years, the United States and Japan have been unable to agree even on the size of the problem. According to Japanese Embassy figures, American companies won \$330 million of public sector contracts in Japan last year, while Japanese companies won \$325 million in contracts in the United States. But Commerce Department figures show that American companies won only \$189 million of a \$700 billion Japanese market last year, while Japanese companies took \$1.5 billion of the \$425 billion American markets.

Some American construction industry executives contend that even the Commerce Department figures underestimate the disparity because Japanese companies have bought large stakes in many American construction businesses, while American companies have had trouble investing in their Japanese rivals.

Mr. MURKOWSKI. Mr. President, this came as a welcome announcement because the Japanese Government committed itself to trashing its closed, corrupt designated bidder system in favor of an open and competitive bidding system. That designated bidder system, Mr. President, known as the dango system, meant there was no competitive bid. There was an agreement among the various contractors as to whose turn it was to get the bid. This extraordinary process came at great cost to the Japanese taxpayer, but it was an established system.

Surprisingly enough, it also moved into the political arena in Japan. Members of the Japanese Diet depended on the construction companies' funding, to a large degree, for their reelection effort. But the new Japanese Government, under the direction of a new Prime Minister, has made a pledge to change that system and to open it up in favor of competitive bidding.

But as usual, Mr. President, the devil is in the details, and we have to look at those details now. I am pleased to support the position of the current administration and the manner in which they have handled this. The USTR postponed the implementation of the sanctions until January 20. Between now and January 20, however, Japan will provide the details of its action plan, and I am committed to continue to work with the administration and with the United States industry to ensure that the final details of the plan legitimately meet United States business concerns.

I want to call on the U.S. industry to pull together to discuss with the administration what details are going to have to be in the plan to make it acceptable and to make it workable so U.S. firms can legitimately and realistically compete.

Yesterday, I sent out a letter to several United States construction firms asking that they work in cooperation with the effort to examine these details in a Japanese proposal, which we understand will be forthcoming as early as November, because we want to evaluate the details of the Japanese plan.

I ask unanimous consent that a copy of that letter 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, October 28, 1993.

Mr. FREDRIC BERGER,  
Vice President, Louis Berger International,  
Washington, DC.

DEAR FREDRIC: The Government of Japan's recent announcement of an "action plan" to reform its public sector construction market indicates that some real progress has been made in opening up the Japanese Construction Market (attached New York Times, October 27, 1993). As usual, however, the devil is in the details, and we are going to have to follow the agreement closely to ensure that

the U.S. interest in Architecture, Engineering and Design, among other issues, is protected when the final action plan is presented.

We intend to work with the Administration before the January 20 deadline for implementation of sanctions to ensure that the agreement is worthwhile. We need to hear from each of you with specific recommendations concerning your firm's ability to do business in Japan under the pending agreement.

Let us hear from you now—contact Deanna Okun of my staff at (202) 224-9320.

Also, a thank you to our trade negotiators is in order: Ambassador Mondale, Secretary Brown, Ambassador Kantor and the others who have stood tall including Majority Searing from the Department of Commerce and Wendy Silberman from the USTR.

I look forward to your reply.

Sincerely,

FRANK H. MURKOWSKI,  
U.S. Senator.

Mr. MURKOWSKI. Mr. President, there are specific areas, such as establishing a threshold level for participation, that have been left without any detail in the Japanese proposal to date. We do not want to see smaller companies, architectural, engineering and design firms, excluded as a consequence of an unrealistic threshold. The threshold levels need to be spelled out to our satisfaction.

Further, the Japanese did not offer to establish any mutually agreed-upon terms for evaluating foreign access. There has been talk from time to time about trying to come up with some agreeable interpretation of terms so that we could both understand that we were talking about the same term. For example, comparing the dollar value of contracts awarded. Nor did Japan say what they would do about current joint venture requirements.

Industry-administration-congressional coordination is more important than ever now because the history of our negotiations over opening Japan's construction market is long on rhetoric and spotty on accomplishments.

Let me refer to a chart because I think it capsulizes, if you will, the lack of progress in comparison to the efforts made during this timeframe.

It started back in 1986 with hearings in the East Asia Subcommittee, of which, at that time, I was chairman. Then, in 1987, I teamed with a House Member, JACK BROOKS, in passing an amendment that prohibited countries that discriminated against U.S. firms from bidding on federally funded construction projects. That amendment resulted in the cancellation of a Japanese contract in Washington, DC, on the subway system.

Then we moved into 1988, with the Trade Policy Review Group voting unanimously to initiate a sanction on unfair trade practices against Japan over the construction issue.

Throughout 1988, United States-Japan construction negotiations continued. The Economic Planning Council made a decision to table rec-

ommendations for a 301 action and instead directed our negotiators to agree on some kind of an access agreement. So the negotiators came up with the Major Projects Agreement [MPA]. The MPA identified projects, 14 major construction projects, that U.S. firms could participate in. But then U.S. companies were advised that they had to have licenses. To get licenses, they had to have experience. How can you get experience without a license? So U.S. firms were caught in the conventional catch-22.

In response to continued discrimination, there was congressional language placed on the Omnibus Trade Bill requiring that USTR initiate a section 302 investigation of barriers to U.S. firms in the construction business.

Also in 1988, I, along with trade associations, testified before the 301 committee that American firms had not been awarded a single major construction contract in Japan since 1965. Mr. President, for the entire time between 1965 and 1988, no major construction contract was awarded to a U.S. firm.

In 1989, the USTR decided not to include any country on a list of those who denied market opportunities, but noted that Japan may be added—may be added. Then, Carla Hills, our trade negotiator, held talks with the Japanese regarding a 301 case. In November 1989, USTR officially ruled that Japan was in violation of section 301, but deemed retaliation inappropriate because of expressed willingness of the Government of Japan to rectify the situation. I communicated to Carla Hills my concerns about that decision.

And then we are on the next chart, Mr. President:

A United States-Japan construction conference was held in 1990. I hosted that in Washington. After that conference, I added an amendment to the Department of Transportation appropriations bill prohibiting U.S. funds for public works to foreign countries which the USTR had listed under Section 301 as discriminating against U.S. firms, also added an amendment to the Energy and Water appropriations bill requiring the USTR to determine by May 1 whether any foreign country denied market opportunities to U.S. firms.

Here we are in 1991. USTR announced its intention to restrict Japanese construction services because the Major Projects Agreement review had not been successful.

Then, the Government of Japan conceded to greater transparency; to conflict resolution; and to extend the Major Projects list, and the USTR decided not to include Japan on a list of countries that block foreign participation in their markets.

In May of 1991, the Bush administration approved sanctions against Japan's construction market. The Major Projects Agreement was revised again,

and USTR announced that no action should be taken because of the agreement.

In 1992, numerous violations were reported in the Major Projects Agreement.

In 1993, in January, IECIC, the major trade association of construction firms, issued a press release voicing concern over the lack of progress in the Major Projects Agreement review talks.

In March of 1993, the Kanemaru construction scandal broke in Japan.

In April 1993, USTR cited Japan in Title VII violations for denying United States firms access to the Japanese construction market. And that leads us up to the present situation.

So that is the chronology, Mr. President, a long, long effort to try and break into the Japanese construction market.

I think a quick examination of two additional charts illustrates the lack of progress in gaining access into the Japanese construction market. The first chart shows the United States market share in the Japanese construction and design market. Our participation in Japanese construction and design has increased from \$123 million in 1988 gradually to \$189 million. Japan's participation in our construction and design market went from \$2 billion in 1988, up to \$3 billion in 1990. There has been a gradual decline, but clearly the comparison of their participation in our market and our participation in their market shows our inability to penetrate the Japanese construction market in design, architecture and engineering. The size of the Japanese market in public works shows that there is a significant area of business potential for United States firms.

It is interesting to note, Mr. President, that the U.S. share of all international construction contracts, all foreign contracts is 45.4 percent. So we successfully compete all over the world in construction, architecture, engineering and design, yet in Japan it is two-tenths of 1 percent—two-tenths of 1 percent compared with 45 percent internationally.

So, Mr. President, my goal, and I believe the goal of the United States negotiators, is total access for Japanese firms. This has not been accomplished, but I think there is reason to believe that the Japanese announcement the other day will lead us to total market access.

I think for the first time we have established, if you will, an understanding that the United States simply wants equity; we want market access under the same terms and conditions that the Japanese firms have enjoyed in our market. But Mr. President, it is going to take consistency from our negotiators, from United States industry, and from us in Congress to ensure that we have a workable compromise from the Government of Japan by January 20.

Mr. President, I also want to take this time to thank our trade negotiators: Ambassador Mondale, Ambassador Kantor, Secretary Brown, and the other negotiators who have stood tall, including Marjory Searing at the Department of Commerce and Wendy Silberman from the USTR.

#### OFFSET LOST REVENUE IN RE: NAFTA

Mr. MURKOWSKI. Mr. President, yesterday the Senate Finance Committee tentatively approved an administration plan to offset lost revenue from forced removal of tariffs if NAFTA is enacted.

Mr. President, the proposal would raise approximately \$2.8 billion over 5 years from the following: It would increase customs-related air travel fees and charges on passenger fares from cruise lines. For cruise lines, it would impose an increase of \$1.50 from current fees (which are \$5), to a new figure of \$6.50. However, and this is an important consideration, it would remove an exemption that is currently prevailing for Canada, Mexico, and the Caribbean. Thus, the fee for cruise passengers traveling in those areas would go effectively from 0 to \$6.50. The proposal is supposed to raise a little over \$1 billion over 5 years.

The administration considers this a gentle increase, in fact, it backed down from an original proposal to simply double the fee—from \$5 to \$10.

It is interesting to note the airlines currently pay over \$5 billion per year in user fees. The cruise industry already pays Government about \$6.5 billion in taxes and fees.

Let us take a look at the cruise ships. A dollar-fifty or even \$6.50 does not sound like a major increase. But remember what happened as a consequence of action taken to impose a luxury tax on yachts a few years ago. We were told it would only affect the rich, would only cost a little bit, and would have no effect on various producers. But the yacht-building industry in this country felt it. It was only a 10 percent increase on the vessel costs over \$100,000, but it virtually killed the yacht-building industry in the United States. It cost us jobs in our shipyards, jobs associated with the crafts persons who built yachts, and jobs for people who sold them, maintained them, and so on.

For the bulk of America's cruise passengers this increase is not a small step from \$5 to \$6.50, it is a giant step from 0 to \$6.50 because the largest part of the trade is on ships that go into the Caribbean and Mexico, and travel to Alaska from Vancouver.

The cruise ship trade in Alaska alone carries over half a million people—almost the population of our State—per year, virtually all of them sailing from Canada.

This proposal would require the Alaska industry alone suddenly to start coughing up an additional \$32.5 million per year. That will indeed have an effect, I assure you, on the industry.

The cruise industry is already paying its fair share of taxes and fees. It is estimated that, even without this increase, the cruise industry will be paying the Government \$8.2 billion a year by 1996.

Is it not curious, Mr. President, as we address NAFTA and the enthusiasm of pressure surrounding it, that now suddenly we are told we must have new taxes to pay for it? The fact is, Mr. President, new taxes are not our only choice. Instead of raising taxes on our airline and ship passengers, we have another alternative. Clearly we do. It is to cut spending.

Where are we headed with all the fudgerol associated with promises to cut spending? We have our Vice President suggesting in his "Reinventing Government" documentation that reforms and cuts are going to save us \$108 billion. The President sent the Congress a \$10 billion savings plan based on the Gore report. In the House a bipartisan group has presented a plan to cut spending by over \$100 billion. There is noise, noise, noise, about cut, cut, cut.

That sounds good. Clearly if we are going to do something associated with reducing tariffs, it should generate more prosperity and give us a broader overall tax base. But now we are told we are going to have to raise taxes on a segment of our industry to pay for it.

Clearly, Mr. President, there are other ways that money can be saved. Why do we have to raise taxes? It is a recurring theme in this administration. But I do not think the public is ready to buy it continually. Did we not learn a lesson from the poorly thought-out luxury tax? Apparently not. Now we are looking at new taxes.

Mr. President, we are going to lose revenue by discouraging economic activity. The justification for it simply is not there. We should be looking at U.S. jobs. The administration says we have to create more jobs. But where are they going to come from? The administration has not identified that source.

But I can tell you where they are going to be lost. They are going to be lost in the cruise industry. Core cruise industry U.S. employment is 63,000; its supply sector provides another 71,000 jobs; and it crates another 315,000 related jobs. Four hundred and fifty thousand U.S. jobs are dependent on a cruise industry that sails from ports in the United States to foreign nations or sails from foreign nations into the United States, such as we have in Alaska.

Finally, Mr. President, I have one more item here that I would like to bring up today.

## PUERTO RICO

Mr. MURKOWSKI. Mr. President, on November 14, the people of Puerto Rico will vote on whether Puerto Rico should become a State, remain in their present status, or become an independent nation. It will be only the second such plebiscite since the United States annexed the island in 1898.

From 1989 to 1991, the Senate Energy and Natural Resources Committee, on which I sit, worked on legislation that would have provided for a congressional authorized plebiscite. I opposed such legislation at that time because I believed that the initiative for a change in political status must come from Puerto Rico, not Congress. Thus, I am pleased to see that the Puerto Rican people have decided to take action on determining their status preference.

I do not feel it would be appropriate for me to come out in support of any one of the three status options. I will say that I believe that the United States should respond to this act of self-determination in a serious and purposeful way. I believe it is incumbent on the U.S. Congress to address the results of the plebiscite in Puerto Rico this November in a forthright and serious manner. It is essential that both the people of Puerto Rico and the people of the 50 United States proceed with a clear understanding of the process and possible outcomes.

As Senator from Alaska, the 49th State to be admitted to the Union, I want to assure the people of Puerto Rico that I am well aware of the magnitude of the decision they face in the November plebiscite. Their choice will affect every aspect of social, cultural, and economic life on the island. The vote will have a very real impact on the people of Puerto Rico for many years to come.

There should be no false illusions if the residents of Puerto Rico choose to alter their present political status. The struggle for statehood for Alaska was long and difficult. Many of us remember that effort. The first Alaska statehood bill was introduced in Congress in 1916 by Alaska's voteless delegate James Wickersham. But this bill did not go far because the delegate was kept busy trying to preserve what little self-government Congress had granted Alaska in The Organic Act of 1912. With only minor changes, this organic act remained in effect until Congress finally approved statehood in 1958.

The Alaska statehood movement was reinstated in 1946 when a referendum was held in the Territory with 9,630 votes for statehood, and 6,822 against. The will of the people and an increasing receptiveness in Congress led the Territorial legislature in 1949 to create the Alaska Statehood Committee, with an initial appropriation of \$80,000 to promote statehood. The Alaska State-

hood Committee, comprised of a bipartisan group of private citizens, Governor Gruening and Delegate Bartlett worked effectively against great odds both in Congress and in the Territory for the statehood goal.

The struggle in Congress shifted from one House to the other with outside opposition trying every desperate tactic to slow down Alaska's gaining momentum. Moves to make Alaska a Commonwealth on the order of Puerto Rico or to partition the Territory were defeated.

In Alaska, the Territorial Governor called a constitutional convention in 1955. The voters approved the constitution in 1956 along with an Alaska-Tennessee plan ordinance allowing for the election of two provisional Senators and one provisional Representative to assist the nonvoting delegate in the congressional fight for statehood.

Finally, in 1958 the hard work and conviction of Alaskans began to pay off. With support from the people of Alaska, the efforts of the Territorial delegate and the Tennessee plan delegation, and endorsements from the administration, the major political parties, and national opinion polls, the House passed the Alaska statehood bill (H.R. 7999) in May 1958 by a vote of 208 to 166. It took a strong bipartisan effort to persuade the Senate to ignore its own bill (S. 50) and to accept the House bill without amendments. After 6 days of debate, the opposition was overcome and the Senate passed the bill on June 30 by a vote of 64 to 20. President Eisenhower signed the bill on July 1, 1958.

Once Congress had passed the Statehood Act the action returned to Alaska. On August 26, 1958, Alaskans ratified the Statehood Act in a referendum election by a vote of 40,452 votes for acceptance, and 8,010 against. Alaska officially became a State with the signing of a Presidential Proclamation on January 3, 1959.

Mr. President, like Alaskans, Puerto Ricans must determine their conviction for statehood and impress that conviction upon the Congress. Just like Alaska's statehood compact, statehood for Puerto Rico will be embodied in a contract between the United States and the citizens of Puerto Rico. Like all contracts, it will reflect many compromises. The terms and conditions of statehood will be determined by Congress after much debate. Political issues like official language designation will receive careful attention. Questions about special tax treatment and new Federal assistance will have to be negotiated and are likely to reflect current budget realities, the interests of the other 50 States, and the interests of the people of Puerto Rico.

The Civil War has taught us that admission to the Union of States is for all intentions final. As much as some who have been disappointed by aspects of

statehood in my State of Alaska would like to secede from the Union, succession is not a realistic possibility. We have learned in Alaska that once a part of the United States we must work within the U.S. Constitution to address our grievances. This is why Alaska has recently turned to the Federal courts to seek compensation for statehood promises which have been eroded and gone unfulfilled by the Federal Government.

Because of the permanency of statehood, Congress must deal seriously with the results of the November plebiscite in Puerto Rico. As a member of the Senate committee of jurisdiction, I await the results of the Puerto Rico plebiscite with great interest. I will continue to work with the representatives of Puerto Rico to address the outcome of the plebiscite within the U.S. Congress, as well as any other issues that face Puerto Rico.

## STREAMLINING AND CODIFYING ACQUISITION LAW

Mr. SMITH. Mr. President, in section 800 of the Defense Authorization Act for fiscal year 1991, Congress required the Defense Department to establish a Government Industry Advisory Panel on streamlining and codifying acquisition law. The motivation for creating this panel was the belief on the part of Senator BINGAMAN, the provision's original cosponsor, that the only way to achieve meaningful reform of the defense procurement process was to charter a group of experts to review all of the current statutes concerning the procurement and to make recommendations in regard to streamlining these laws. In this way, we could have a comprehensive approach to reform, backed by a thorough analysis, and we can avoid the futile piecemeal approach to this issue which Congress has pursued since the early 1980's.

I concur fully with Senator BINGAMAN that that was the correct way to go. It took considerable prodding from Senators BINGAMAN and COATS to get the advisory panel established in 1991 after the law was passed. Nevertheless, the panelists who were assembled at the Defense Systems Management College at Fort Belvoir represented some of the foremost legal scholars, government contract specialists, and acquisition managers in the United States.

These 12 members, under the very able leadership of Rear Admiral Vincent, the Commandant of the college, dedicated hundreds of hours over a year and a half out of their busy professional careers to review these laws and to make recommendations. The report was written by the panel members with staff support—not the other way around. That is a little unusual around here.

The product of this labor is a reflection of the expertise and thoroughness

of the panel members. Divided into 8 chapters, the report exceeds over 1,800 pages and provides detailed legislative and regulatory histories of the major laws driving the acquisition process. It is one of the most comprehensive documents of its type that Congress has ever received. This was not meant by us to be another lengthy report to sit on a shelf somewhere.

Shortly after this report was transmitted to Congress, in January, we instructed our staffs to begin reviewing it and to transform the substance of the recommendations into draft legislation which, after all, is why we wanted the report in the first place.

We all agreed up front that true reform of the acquisition process is so difficult that our effort could only succeed if it were totally bipartisan, and if it applied all reforms of government-wide. I am pleased to commend Senators GLENN, LEVIN, NUNN, BINGAMAN, and BUMPERS for bringing the full resources of the Senate Governmental Affairs, Armed Services, and Small Business Committees to bear on this project, and for their willingness to work side by side with the committee Republican ranking members.

The draft legislation that emerged from this process was a significant step in the process of reform. The legislation would raise the small purchase threshold from \$25,000 to \$100,000, as well as the threshold for the application of a number of laws.

This action would bring administrative savings and reduce the cost of doing business for small business—something that is certainly welcome. In addition, the bill had a number of provisions that would have the effect of increasing the preference for the use of commercial products by Federal agencies. Such actions would eliminate such research and development costs, allow the Government to benefit from market pricing, and reduce costs associated with testing and specifications.

Other areas addressed by the bill include: Consolidation and streamlining of the bid process, as well as addressing frivolous or bad faith protests before the General Services Board of Contract Abuse. The legislation would also streamline and consolidate procurement ethics, so that similar standards could be applied across all Federal agencies.

Finally, the bill would change current statutes to ensure that there exists a uniform procurement system for both the Department of Defense and the civilian agencies.

One of the more frustrating experiences that we have heard about is the different requirements in the buying rules for DOD and other agencies.

Mr. President, we had a good bill, a very good bill. We all worked hard on it. I had hoped to be able to stand here today as a cosponsor of this legislation introduced by Senator GLENN and the

other majority cosponsors earlier this week. In fact, I even gave a speech earlier this week to a group in which I indicated that I would be here on the floor saying I would cosponsor this bill.

Unfortunately, that cannot be the case because of the partisan approach that the administration has taken in dealing with the Senate, culminating in the demand by the administration that we delete two very important section 800 recommendations in the draft as a prerequisite for the Vice President's support. Our staffs were informed over the weekend that the administration had demanded that provisions raising the Davis-Bacon and the Service Contract Act threshold from \$2,000 to \$2,500 respectively to \$100,000 be deleted, and this demand had been acceded to by the majority Senators.

As in their other dealings on this legislation, the administration made absolutely no attempt to consult with either Republican members or our staffs before issuing this ultimatum—and that is what it was. It was presented as a fait accompli, and we were asked to play along for the sake of preserving the appearance of bipartisanship.

I will not do that.

I am deeply disappointed in this action, because it effectively removes the threshold increases, both of which were recommended by the section 800 advisory panel in a bipartisan recommendation, I might add, from further consideration before we can even assess the issues on their merits.

The administration's retreat is all the more objectionable since I note that on page 30 of the Vice President's recent National Performance Review—which has gotten a lot of fanfare these days—the administration recommends increasing the threshold for Davis-Bacon to \$100,000. That is what we did and, yet, the administration took it out.

So if it seems confusing, like it is going in two directions, it is.

Thus, the administration is vetoing the same provision in our legislation that they endorse in the National Performance Review. I think somebody in the administration ought to do some explaining on this matter. I say to my colleagues that it sends a pretty bad signal to other special interests waiting out there to derail reform, and to the American people, that we are not at all serious about this effort.

Let me make clear that this Senator is very committed to meaningful acquisition reform. It is necessary and it is needed, which is why all of us, in a bipartisan manner, staff and Senators and members of the industry as well, worked so hard to put this thing together. I have worked hard to advance the process, as have others, and I was prepared to swallow some bitter medicine in there, some reforms that I did not particularly want to see happen. But we felt that if we put all of the re-

forms in there and did not make exceptions and did not try to cut here and there or add here and add there to please somebody, we could get a meaningful piece of legislation passed. But by taking certain issues off of the table before we even submit the initial draft, we are allowing special interest politics again to undermine the spirit of bipartisanship that is essential to success. When we are criticized around here for that kind of nonsense, it is justified.

The truth is that when we directed our staffs to begin preparing legislation to implement the section 800 recommendations, we knew we were going to take heat—we knew it. Senator BINGAMAN, Senator COATS and I knew it, and others knew we were going to take heat for seeking to change the status quo. You always do, because the status quo dies very hard. We were going to challenge these "sacred cows" in this legislation, and we did.

We also recognized that now more than ever the effort was necessary to better cope with declining defense budgets that cry out for more efficient use. We have a moral obligation to the troops in the field to spend every nickel wisely. We should not be wasting it in the procurement process or anywhere else.

(Mr. KOHL assumed the chair.)

Mr. SMITH. Mr. President, no one in this bill was going to be immune. Both Democrats and Republicans would have to sacrifice and compromise over the course of the legislative process.

I certainly did not start this process believing that we would pass each and every one of the advisory panel recommendations, nor did anyone else. Clearly, there will be some that lack support, and that is what the amendment process is all about. As we go through the process of a bill becoming law, and in other cases, we may very well go beyond the specific recommendation and be cutback for some issues like Davis-Bacon. The Service Contract Act inclusion in the acquisition reform package is only the way to force a new assessment of the public benefits and cost. It is the only way to circumvent the special interest.

Despite evidence that a change in these acts could produce significant savings and paperwork reduction for small business, which again I would emphasize was exactly what Vice President GORE said in the National Performance Review, even though it was recognized, concerted special interests have effectively derailed the whole thing and derailed any action for years.

With both of those provisions now out of the package, it is highly improbable to me that these section 800 advisory panel recommendations will be seriously considered in this body, though I intend to work hard to restore them in the final bill.

Even though I have the greatest respect for my colleagues on the other side of the aisle whom I worked with very closely on this bill, I was disappointed, frankly, that they introduced it under those kinds of guidelines. Three committees jointly adopted a bipartisan approach for the review and drafting of the panel. By dealing with only the Senators in the President's party, the administration abandoned that approach. It will not work this way. It cannot work this way.

Though the potential for the reform of the Federal acquisition process is greater than it has been for many years, a look at recent history indicates that only a bipartisan consensus will ever sustain the effort required to achieve success to overrule the special interest and for a change around here do what is good for the country. I still stand ready to work with my colleagues on the other side of the aisle to make this happen, but it is a two-way street.

#### NOMINATION OF MORTON HALPERIN

Mr. SMITH. Mr. President, I would like to move briefly to another matter before yielding the floor, and that matter is the nomination of Morton Halperin.

Mr. President, I rise today to alert my colleagues to what I believe to be a very dangerous and a very disturbing nomination to the Defense Department of the United States of America.

I do not stand up here very often against a nominee. I happen to be on the Armed Services Committee, and I take very seriously nominations. It is not easy for me to have to come up here and speak out against a nominee no matter what political party he or she is in or what administration they serve to represent. I think about it carefully. I read and I study as much as I can. I regret that I have come to the conclusion that this nomination is dangerous and disturbing to the Defense Department. Those words are very carefully selected. But I must speak out on this nomination.

On August 6, President Clinton formally submitted the nomination of Morton Halperin to be the Assistant Secretary of Defense for Democracy and Peacekeeping. Mr. Halperin is no stranger to Washington, and he is not a stealth nominee either. Indeed, he has a very long and sordid track record dating back to his involvement in the Pentagon papers affair a long time ago and continuing up until last year as the Director of the American Civil Liberties Union's Washington office.

In fact, throughout his career, Mr. Halperin has been quite prolific. But his vast writings, his positions on issues, his activities, and the causes he has embraced reflect a man, in my opinion, who is ideologically commit-

ted to and actively involved in an agenda that the overwhelming majority of American people find objectionable, outrageous, and dangerous.

Again, I choose those words very carefully and deliberately—objectionable, outrageous, and dangerous.

Upon reviewing his background, I have no doubt that the U.S. Senate likewise will find this nominee highly objectionable, dangerous, outrageous, and unsuited to the position for which he has been nominated.

Mr. President, for the benefit of my colleagues, I will very briefly outline some of the more notable and, in my view, disqualifying features of Mr. Halperin's background. Rather than recite my own personal opinions, I want to quote Mr. Halperin directly and summarize some of his countless radical positions on national security issues—and I emphasize I am going to quote Mr. Halperin. I am not going to necessarily use my opinions. I will quote him.

First of all, Mr. Halperin is violently opposed to covert military operations, and his oral and written statements clearly demonstrate this. For instance, Mr. Halperin has stated that secrecy does not serve national security—secrecy does not serve national security. And that Covert operations are incompatible with constitutional government and should be abolished.

Further, Mr. Halperin has stated, and I quote:

Covert intervention, whether through the CIA or any other agency, should be absolutely prohibited \* \* \* covert action violates international law \* \* \* covert actions involve breaking the laws of other nations, and those who conduct them come to believe that they can also break U.S. law and get away with it.

Mr. President, this is a rather unique assessment of our intelligence community. We have all had our problems with it, including this Senator. But it is a rather unique assessment of our intelligence community and its activities, and I daresay that those dedicated professionals who serve our Nation in the national security field would beg to differ with Mr. Halperin's portrayal of them. And there are many others around the world, as we speak, with their lives on the line on behalf of the national security interests of the United States of America.

This man who would be serving in the Defense Department of this administration would have statements on the record like that about those individuals—that is outrageous. I used the term outrageous before and I think now you see why.

Similarly, with respect to classification now of sensitive information, Mr. Halperin advocates a radical and, frankly, absurd viewpoint. Under the guise of first amendment rights, he has consistently defended the right of citizens to disclose the identities of U.S. covert operatives. Let me repeat that.

He has consistently defended the right of citizens to disclose the identities of U.S. covert operatives, and the right to seek to impede or impair the functions of any Federal agency, whether it is the FTC or the CIA. According to Mr. Halperin, secrecy has been used more to disguise Government policy from American citizens than to protect information from the prying eyes of the KGB.

The intelligence community is not perfect, that may be the case sometimes. But, more important, it is interesting when you go back and look at this statement: "Under the guise of first amendment rights, he has consistently defended the right of citizens to disclose the identities of U.S. covert operatives."

If he said I think we ought to stop covert operations, he has a right to say that, and he has a right to believe that. Does he have a right while those operatives are working with their lives on the line to say that we ought to compromise them? That goes against every tenet—every tenet—you can possibly think of of national security in the United States of America today.

We, as Senators, see classified materials. We, as Senators, have rules in terms of where we can see it, how much we can see it, what level what staff could see it. And this man who wants to serve in the Defense Department can say we can compromise those who are out there working with this information.

Mr. Halperin's perverse view on this issue led him to travel to England and testify in defense of Philip Agee, the former CIA employee whose exposition of the identities of CIA agents overseas led to the murder of our CIA station chief in Athens. According to the Supreme Court in an opinion dated June 29, 1981,

Not only has Agee jeopardized the security of the United States, but he has endangered the interests of countries other than the United States—thereby creating serious problems for American foreign relations and foreign policy. Agee recruits collaborators and trains them in clandestine techniques designed to expose the cover of CIA employees and sources. Agee and his collaborators have repeatedly and publicly identified individuals and organizations located in foreign countries.

I would ask my colleagues a very simple question: How is it that Mr. Halperin could possibly defend such heinous activities? Is this a kind of person that we want in a senior position within the Pentagon with access to the highest levels of national security, with access to the names and identities and locations of people who are working in clandestine operations for the CIA and/or intelligence communities around the world?

Mr. President, these are but a few of literally dozens of issues where Mr. Halperin's ideology and activities are well outside of the acceptable mainstream and which I believe disqualify

him for the office to which he has been nominated. I will not elaborate at length on the dozens of other areas, but let me summarize a few of them briefly.

First—and I would ask my colleagues to read the RECORD on this carefully—Mr. Halperin does not believe the United States should ever intervene militarily unless specifically invited to do so by a foreign government.

Well, we would wait a long time for Saddam Hussein to invite us to move him around a little bit in Iraq.

He believes the United States should explicitly surrender the right to intervene unilaterally in what he considers the internal affairs of other countries.

So if we have U.S. citizens there and they are exposing our people to danger, I suppose we have to conduct a survey and get an invitation to see if we could come in and save our people from certain harm or death.

And this man would be in a prominent position in the Defense Department of the United States? I do not know what it says about the President to nominate such a person, I really do not. I am very concerned.

During the gulf war, Mr. Halperin encouraged Defense Department employees to exercise their first amendment rights to leak classified information, even though such action could compromise our military operations and thereby the safety of every single man and woman who served in the U.S. forces in the Persian Gulf—every single one of them.

Mr. Halperin believes that the Federal Bureau of Investigation should be prohibited from conducting counter-intelligence investigations.

Mr. Halperin believes that it is a violation of the Constitution to bar American citizens from acting as agents seeking to advance the agenda of terrorist organizations.

If you have not heard enough, how about a little more?

In 1974, Mr. Halperin testified before Congress that sensitive defense information should be declassified, including American troop deployments, nuclear weapons locations, combat advisors, military assistance, and sensitive research and development programs.

And this man would be nominated to a sensitive position in the national defense of this country by the President of the United States of America?

Mr. President, if you are listening out there, reconsider this nomination. Pull this nomination.

Mr. Halperin was directly involved in compiling the Pentagon papers and, either directly or indirectly, played a role in the unauthorized release of these materials. According to Mr. Halperin, and I quote:

Having had administrative responsibility for the production of the Pentagon papers, I knew they contained nothing which would cause serious injury to national security.

Well, let me just say this: That is not what the Department of Defense said then and it is not what the Justice Department said either. In fact, then National Security Adviser Henry Kissinger had Mr. Halperin's telephone wiretapped due to the concerns he had about him leaking classified information. And that was a Republican administration.

Mr. President, even a cursory review of Morton Halperin's background leaves one with a very distinct and unfavorable impression. But, in particular, two conclusions can be drawn. First, Mr. Halperin exudes an extreme arrogance toward authority and national security considerations. Second, he has consistently demonstrated extremely bad judgment in his professional activities and behavior.

To say that Mr. Halperin falls outside of the mainstream on national security issues is the understatement of the year.

I would ask the American people, after having heard in Mr. Halperin's own words on some of his positions, where you stand in terms of these issues and how you stand in regard to his positions? Because maybe your son, maybe your daughter may be serving; or your brother, or your dad, or your mother may be serving somewhere out there in the intelligence community or in the U.S. military with this man in the Defense Department of the United States of America. If that bothers you, you ought to write to the President and tell him that it bothers you.

And do not believe what I say, check it out. Check it out for yourself so you will be satisfied. We have the documentation and we will provide it to you if you want it.

Mr. Halperin is an extreme radical whose ideology, background, and writings are in direct conflict with the national security requirements of the United States of America.

That is a strong statement and I support it and I will back it up.

Recently, however, Mr. Halperin and his supporters have sought to portray him—on the floor of this Senate, by the way—as a misunderstood libertarian.

No, I do not misunderstand him. I understand him. That is the point.

What we are seeing now from Mr. Halperin is a patented, obvious case of "confirmation conversion." Suddenly he is trying to distance himself from 20 years worth of radical statements, radical actions and radical writings. And the Clinton administration is lining up all kinds of supporters to proclaim his brilliance and attempt to downplay his controversial background.

Let me caution my colleagues. Do not be fooled by this slick repackaging. Do not be fooled by it. The national security of this country very well may be at stake.

Morton Halperin is not misunderstood. He is understood all right. His

writings, his professional activities, and his radical views are clear and well documented. He is clearly and appropriately understood in my opinion as a security risk to the United States of America.

Mr. President, the Senate Armed Services Committee will soon convene hearings on this controversial nomination. And I am glad I am a member, because I am going to have the opportunity to question Mr. Halperin very carefully. I urge my colleagues in the Senate to carefully monitor these deliberations. But it is my sincere hope that it never comes to that, that the President will pull this nomination so that it will not even be brought to the committee.

As Assistant Secretary of Defense, Mr. Halperin would have substantial influence on a variety of critical areas including democracy assistance, human rights, peacekeeping and peacekeeping affairs and counternarcotics policy, to name a few. He would have a major say—and this is very important—he would have a major say in when and where—when and where—U.S. forces may be stationed or may intervene militarily someplace around the world.

Given his paper trail and very controversial positions in these areas it is essential that the Senate carefully evaluate his qualifications and suitability for this position.

I have done so. I have carefully reviewed Mr. Halperin's writings, his professional activities, and his public statements. And, as we speak, I am pursuing more of them and I am going to continue to pursue more information on Mr. Halperin right up until the day of the vote.

I find him ill-suited and incompatible with this position. In fact, in all my years in the House and the Senate I have never seen a more dangerous and inappropriate nomination in either political party for any position, let alone a sensitive national security position in our Government. Never before have I spoken out on the floor in the House or the Senate with the intensity I am speaking about against this nomination. And I am not alone. Some very prominent people who have been around here a long time have done the same thing.

Nor have I ever seen an individual who relishes controversy and strife more than Morton Halperin. That is the exact opposite of what you need in a sensitive defense position, in a sensitive area where you are dealing with classified information. Any of my colleagues, anyone who has dealt with intelligence community people know they are low key. It is very difficult to get information out of them. Lord knows I have had my trouble trying to get my information out of the intelligence community over the years.

Reasonable people can disagree over politics and policy. But Mr. Halperin is

not reasonable on these issues. He is radical and no amount of political polishing or repackaging is going to change that. Nothing is going to change that. Do not be fooled. His record speaks for itself. Halperin is absolutely the wrong person to serve our Nation as the Assistant Secretary of Defense. Let me say it again: Mr. President, please pull this nomination.

I urge my colleagues to examine this nomination closely. We have a constitutional obligation to do so. That is secondary now. We have a moral responsibility to do it. We have a national security responsibility to do it. The stakes are high and the dangers are great. They are too high and too great to allow this individual to implement his radical agenda within our Defense Department.

With the Clinton administration's foreign policy already in complete disarray according to some, the last thing in the world this country needs now is Morton Halperin determining when and where our U.S. military forces are going to be intervening throughout the world, and when and where they may be located anywhere throughout the world—not to mention our intelligence community agents around the world.

How would you like to be an intelligence agent somewhere in the world serving in a clandestine operation and know that Morton Halperin is sitting there, saying he is willing to tell everybody where you are and who you are? How would you like to be that individual?

We need leadership on this nomination. We need leadership. I urge my colleagues to come forth and exercise it and defeat this nomination.

The PRESIDING OFFICER. The Chair will ask the Senator from Arkansas to withhold for one moment.

The Chair would notify the galleries that any expression is prohibited under Senate rules. Anyone who will engage in expression of sentiment, either in favor or in opposition to what a speaker might say, would be removed by the Sergeant at Arms and subject to legal penalty. I want to advise the Chamber it is inappropriate to have any expression while the Senate is deliberating.

#### PREMIUMS UNDER HEALTH SECURITY ACT

Mr. MITCHELL. Mr. President, yesterday during her testimony at the Senate Finance Committee hearing on the administration's health care plan, Secretary of Health and Human Services, Donna Shalala, used a chart which indicated that under the President's proposal approximately 60 percent of those persons currently insured would pay the same or less and approximately 40 percent would pay more.

I believe it is important to understand why this is the case and also im-

portant to understand the breakdown of the 40 percent group whose premiums may increase under the President's plan.

First, of the 40 percent whose premiums may increase, more than half, or about 25 percent, of the total will receive more comprehensive benefits, so while they will be paying a little more they will be getting a lot more in benefits.

Currently, health care benefits vary widely, from the so-called barebones policies that offer little protection or peace of mind, to the comprehensive so-called Cadillac plans offered by some large American companies. Under health care reform, all persons will have a comprehensive benefit package with no lifetime limit on the amount that can be paid in benefits.

Very few existing health policies now have no lifetime limits. That is to say, most of them have a limit on the total amount that can be paid out for a person, and when that limit is reached the person's insurance coverage ends. I have personally talked to people who have run up against the limit and effectively their insurance no longer exists. This will be a huge and important improvement for most Americans, to have a comprehensive benefits package better than they now have with no lifetime limit.

Second, the remainder of the 40 percent whose premiums will rise—and that is about 15 percent of the total—are mostly young, healthy people who, because of current insurance underwriting policies, have relatively low premiums.

It is important to understand that it is largely the impact of what is called community rating practices that would result in higher premiums for anyone in this category of young and healthy workers.

The Health Security Act proposed by President Clinton will outlaw discriminatory insurance practices that now prevent millions of Americans from obtaining any health insurance coverage today. The proposal also returns the concept of health insurance to its basic roots. And that is offering protection to everyone, whether they are healthy or sick, young or old. It will put an end to the practice of insurance companies searching for only the healthiest people to insure, and they tend mostly to be young people.

This is the primary reason why some people will have higher premiums under the President's proposal, but they are a minority of those involved.

Because the President's plan includes strong cost containment provisions, the increase in premiums for those persons will be less in future years than would otherwise be paid without such measures. That is to say, the amount of increase will be at its maximum at the beginning before the cost containment measures take effect and bring the overall cost down for everyone.

It is also very important to note—and this has not been noted by anyone in the press commenting on Dr. Shalala's testimony—that a number of the alternative health care plans which have been presented by Senate Republicans, by Representative COOPER, by Representative MCDERMOTT in the House of Representatives, also include community rating provisions. While each plan's community rating provision is not identical, they all eliminate the medical underwriting that exists in today's health insurance market.

Therefore, these alternative proposals, that offered by Senator CHAFEE in behalf of Senate Republicans, by Representative COOPER and Representative MCDERMOTT would also result in some premium increases for certain young, healthy people, although the specific rates would differ from the administration's since there are technical differences between these plans.

In some of the alternative proposals, strong costs contained in the provisions are not proposed to hold down future increases in premiums. Therefore such increases will be significantly less restrained in the future under the alternative plans than under the President's plan.

Insurance market reforms, including a move toward community rating, is a critical component of comprehensive health care reform. Indeed, insurance market reform is one of the issues upon which most Democrats and Republicans agree. We agree that it must be part of any meaningful reform bill, and it is an issue which Senator CHAFEE, our Republican colleague, has always included in his list of "Common Points," issues upon which there is fundamental agreement between Democrats and Republicans in health care reform. And to repeat, insurance market reform and, specifically an end to medical underwriting and the adoption of community rating, is the primary reason for any increase in premiums for anyone.

Clearly, as we work to reform the Nation's health care system we must assure that all citizens, young and old, male and female, those who work in high-risk occupations or work at a desk, all have access to affordable health care. The young, healthy people who now enjoy low insurance premiums must remember that they too will grow old and need health insurance when they reach 50 or 60 or older.

The President's plan assures that everyone, those young, those middle age, and those elderly, will have access to good quality care that is affordable.

It is a significant, a huge improvement over current practices for the overwhelming majority of Americans. I hope it will be adopted.

I wanted to especially explain this because it has gotten so much attention in the last day, attention not in context and not in comparison with any other plan.

Mr. President, I thank my colleagues. I yield the floor.

MORNING BUSINESS

Mr. PRYOR. Mr. President, I ask unanimous consent there be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

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

KIDS AND GUNS

Mr. PRYOR. Mr. President, today I rise to cosponsor Senate bill 1087, the Youth Handgun Safety Act of 1993.

This important piece of legislation was introduced by my good friend, and I must say the Senate's good friend, the senior Senator from Wisconsin, Senator KOHL. Senator KOHL has been a leader in the area of juvenile justice, as the distinguished Presiding Officer knows, and as all Members of the Senate are aware. I want to applaud his real leadership in crafting this commonsense bill that I take great pleasure in cosponsoring today.

The 1992 FBI Uniform Crime Report contains some disturbing trends and statistics that play directly into this debate over our children and guns. In the last decade, the rate of violent juvenile crime grew by more than 25 percent, the number of juveniles committing homicides with firearms has seen a 79-percent increase, and the number of juvenile weapons arrests has more than doubled. In 1992 alone, 2,829 juveniles were arrested in the United States for murder, and 46,256 juveniles were arrested for weapons violations. It is also said that each day, 130,000 students take guns to school.

You can, unfortunately, pick up the newspaper almost every day in communities large and small across our country and see a story about another murder committed by children. This tragedy is not limited to big cities. It is a plight that pervades American communities both large and small, rural and urban, east and west, north and south.

In 1992, Little Rock, my home State's capital, had one of the Nation's highest homicide rates—about 34 homicides per 100,000 residents, compared to 27 homicides for every 100,000 New York City residents. In 1992, 38 of the 61 homicides in Pulaski County, where Little Rock is located, were against persons 24 years old or younger.

Mr. President, I ask unanimous consent that a list of those victims of homicide be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. PRYOR. Mr. President, this bill is certainly not a panacea to the problem of juvenile violence. There is no silver bullet or magic answer to solve

the erosion of our Nation's social fabric—success will be incremental, and most often difficult to measure and quantify.

Mr. President, this bill is needed because it plugs loopholes in the current Federal gun laws—the loophole that allows nonlicensed gun sellers to sell handguns to minors without it being a criminal offense, and the loophole that does not prohibit the possession of a handgun, regardless of where it came from, by a minor. The Kohl bill would prohibit a minor under 18 possessing a handgun, period.

We think it is time to pass this legislation. We think that moment is now.

Hopefully during the next several days, as we begin to debate the crime bill and the awful statistics of crime in the United States of America—hopefully, before this session ends, we will at least see this measure be made a part of the law of this land.

Mr. President, this bill is important; it sends a message that I wholeheartedly support: Kids and handguns do not mix.

I look forward to working with the Senator from Wisconsin and others interested in this legislation to see that it is included in the upcoming crime bill or any other appropriate legislative vehicle. We need to get behind Senator KOHL and this message and make it become the law of the land.

EXHIBIT 1

PULASKI COUNTY—1992 HOMICIDES AGES 13 TO 24

Name	Race/ sex	Age
1. Lameshia Barton	B/F	14
2. Robert Lee Holmes	B/M	16
3. Kevin Gaddy	B/M	17
4. Andre Waters	B/M	17
5. Sedrick Fowler	B/M	18
6. David Fudge	B/M	18
7. Nathaniel Merriwether	B/M	18
8. Alicia Blackman	B/F	20
9. Rhonda Estes	B/F	20
10. Sheronda Abdullah	B/F	21
11. Marcus Talley	B/M	21
12. Cyrus Lee	B/M	21
13. Yvette Ibra	B/F	22
14. Ronald Givens	B/M	22
15. Marcus Johnson	B/M	23
16. Philip Cordova	W/M	23
17. Sabrina Earl	B/F	23
18. Curtis Mingo	W/M	24
19. Phillip Burts	B/M	24
20. Cedrick Luckadoo	B/M	24
21. Billy Starks	B/M	21
22. Eric Horton	B/M	20
23. Kenneth Wells	B/M	14
24. Johnny Bryant	B/M	21
25. Lewis Allen	B/M	14
26. Bryan Sampson	B/M	19
27. Tony Brooks	B/M	21
28. David Eskridge	B/M	21
29. Phillip Theis	W/M	20
30. Sammy Ford	B/M	17
31. Anthony Hughes	B/M	19
32. Eric Hill	B/M	20
33. Edward Perkins	B/M	23
34. William Goydon III	B/M	23
35. Sederick Martin	B/M	14
36. Mark Trice	B/M	24
37. Kevin Cohen	B/M	19
38. Michael Storey	B/M	14

TRIBUTE TO J. MICHAEL HALL

Mr. HARKIN. Mr. President, I rise to pay tribute to Mike Hall, who is retiring after a distinguished career in the executive and legislative branches of the Federal Government.

Mike began his career at the White House Budget Office, now called the Office of Management and Budget, in 1971. Until 1975, he served as budget and program analyst for activities of the Department of Commerce and Small Business Administration.

His educational background prepared him well for Budget Office work, as well as for his future specialty in Congress. Mike graduated from the University of Illinois in 1967 majoring in economics and received an MBA in 1970, concentrating in finance. For the last 18 years, Mike has been a professional staff member of the Senate Appropriations Committee. During that time, he has served as staff director of four domestic subcommittees, and probably knows as much about the operations of Government, certainly the Congress, as anyone around. On behalf of all the members and staff of the committee, we wish to express our sincere appreciation for his dedicated service.

On a personal note, let me just say Mike was one of the best at putting complicated hearings together on very short notice. Since I became chairman of the Labor, Health and Human Services, and Education Appropriations Subcommittee in 1989, I tested him plenty. Mike, time and time again, exhibited a real talent for organizing complex tasks, so that hearings, mark-ups, and floor action were efficiently and effectively accomplished. This is a huge subcommittee, with annual appropriations exceeding \$260 billion, and more than 800 programs. Of course, Mike didn't do all the work alone; he managed a subcommittee staff of seven and, as a unit, they always seemed to have the right answers at the right time.

Before he came to the Labor, Health and Human Services, and Education Subcommittee, Mike was the minority staff director of the Transportation Appropriations Subcommittee from 1981 to 1987. During that time, he also served as transportation legislative assistant and Budget Committee transportation senior analyst for Senator Chiles, who is now Governor of Florida.

From 1977 to 1981, Mike was staff director of the Treasury, Postal Service, and General Government Appropriations Subcommittee. His first staff director assignment was the District of Columbia Appropriations Subcommittee from 1975 to 1977. In addition to Lawton Chiles, he worked closely with Chairman LEAHY, the senior Senator from Vermont, at this juncture.

Appropriations staff work is very demanding, requiring good judgment, the ability to function well under pressure, and great accuracy and technical skills. All these attributes will serve Mike well in his future endeavors.

Even though Mike's jobs have always been demanding, he still found time to be active in community service. He has served as a board member of the Arlington Retirement Housing Corp.,

chairman of the Arlington County Planning Commission, treasurer of the Arlington County Democratic Party, president of the South Arlington Civic Association, and on numerous county advisory committees and task forces. He has been chairman of the board of trustees of his local 600-member church with a quarter million dollar budget and previously led volunteer activities of the nine-member board. As a Peace Corps volunteer, he taught in a provincial high school in Thailand and organized and taught evening classes for adults.

Let me also express my thanks to Mike's family, his wife Natalie, and children Sarah, age 18; Kate, age 16; and Matthew, age 14. Over the years, they have tolerated the unpredictable working hours of Senate life, and this invariably imposes hardships on all family members.

I know Mike is really too young to retire for good. He's just moving from the public sector to the private sector and I wish him well. With seemingly boundless energy and enthusiasm, I have every confidence he will succeed at whatever he undertakes.

#### POLISH-AMERICAN HERITAGE MONTH

Mr. RIEGLE. Mr. President, I am proud to join with Senator SIMON and my fellow colleagues in commemorating "Polish American Heritage Month." At this time, I rise to celebrate the spirit of Polish-Americans and to recognize the outstanding accomplishments of this community throughout the history of this country.

More than 10 million Americans are proud to claim Polish ancestry. Ten percent of this total reside in my home State of Michigan and hold positions in many areas of our society.

It is only appropriate that we celebrate the contributions of Polish-Americans during the month of October because on the 11th of this month, we honor one of the great Americans of Polish descent, Count Casimir Pulaski. His heroic participation in the Revolutionary War reached an abrupt halt on that date in 1779 when he died defending Savannah, GA, from British forces. Known today as the Father of the American cavalry, Pulaski's idealism and strong belief in democracy and freedom brought him from Poland to fight for American independence.

Another famous Polish-American, Thaddeus Kosciuszko, also distinguished himself as a Revolutionary War hero by strengthening the fortifications at Saratoga, NY. He helped engineer the turning point of the War for American Independence by defeating the British forces at Saratoga.

These are only two examples of the many Polish-Americans who have had an impact on our society and have enriched our national heritage. Yet, all

Polish-Americans are living symbols of the commitment to freedom and liberty which Pulaski and Kosciuszko represented. The Polish-American community has long fought for freedom and human rights in Poland, offering their support in the form of sorely needed moral and material assistance. Now that Poland has shed its Communist rulers, Americans of Polish ancestry can rejoice and renew ties to their homeland in ways which were impossible only a few short years ago.

The Polish-American community has taken great care to safeguard cherished Polish traditions while keeping pace with the changing needs and concerns of its members in our modern society. In fact, much of Polish culture has become an important part of our own national history.

Mr. President, as we celebrate this "Polish American Heritage Month," let us acknowledge with deep appreciation the many lasting contributions of Polish-Americans to this great country, and the richness they bestow upon America's diverse cultural fabric.

#### FROM THE RELIGIOUS FREEDOM RESTORATION ACT

Mrs. FEINSTEIN. Mr. President, just the other day, the Religious Freedom Restoration Act of 1993, a bill designed to restore legal safeguards for the free exercise of religion undermined by a 1990 Supreme Court decision, passed the Senate by a nearly unanimous vote of 97 to 3. I am pleased to say that I was a cosponsor of this important legislation and that I voted for its final passage.

I wish the RECORD to clearly reflect my disappointment, however, that an amendment offered by Senator REID to expressly exempt prisons from the bill's requirements failed. Although a supporter of the fundamental aims of the bill, Mr. President, I was—and remain—concerned that prison administrators will be required by the Religious Freedom Act to accommodate inmate demands for special treatment, such as special diets and dress privileges, that will be both costly to State prison systems and potential security risks.

For example, in my own State of California, the warden of San Quentin—having noticed particular patterns in recent escape attempts—banned certain kinds of civilian clothing. That regulation was successfully challenged by inmates in State court on the grounds that the regulation was not the "least restrictive means" of achieving the prison system's objective of increased security. Rather, the court held that the prison could and should have hired more staff to meet that end.

Although reversed on appeal, this decision illustrates the special litigation burden that the least restrictive means test required by the Religious Freedom

Act can and will impose on already overburdened and financially strapped prison systems. Requests by inmates for special diets, as well, will only exacerbate the problem.

Constitutional law is by nature a matter of striking the right balance between society's needs and individual rights, Mr. President. I commend Senator REID for his attempt to recalibrate the balance in a reasonable and measured way to prevent the abuse of a necessary and well-intentioned bill. It is unfortunate that a majority of our colleagues did not join us in that effort.

Nonetheless, Mr. President, by once again making absolutely clear that Government may burden the free exercise of religion only for the most compelling of reasons and in the narrowest possible way, the Religious Freedom Restoration Act repairs serious damage done to a pillar of our democracy. That is why I, and virtually all of my colleagues in the U.S. Senate, resoundingly approved this important legislation.

Thank you, Mr. President.

#### IRRESPONSIBLE CONGRESS? HERE'S TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt stood at \$4,420,682,377,339.12 as of the close of business yesterday, October 28. Averaged out, every man, woman, and child in America owes a part of this massive debt, and that per capita share is \$17,210.54.

#### ORDER OF PROCEDURE

Mr. PRYOR. Mr. President, the following unanimous-consent requests have been cleared on the Republican side of the aisle.

#### WORLD POPULATION AWARENESS WEEK

#### NATIONAL ADOPTION WEEK

#### NATIONAL RED RIBBON WEEK FOR A DRUG FREE AMERICA

Mr. PRYOR. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from and the Senate proceed en bloc to the immediate consideration of Senate Joint Resolutions 135, 145, and 147; the joint resolutions each to be read a third time, passed, the preambles be agreed to en bloc, the motions to reconsider be laid upon the table en bloc; that the consideration of each item appear individually in the RECORD; and that any statements appear at the appropriate place in the RECORD.

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

So the joint resolution (S.J. Res. 135) designating the week beginning October 25, 1993, as "World Population Awareness Week" was deemed read the third time and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 135

Whereas the population of the world today exceeds 5.5 billion and increases at the rate of some 100 million per year;

Whereas more than 90 percent of world population growth occurs in developing countries, those least able to provide even basic services for their citizens;

Whereas rapid population growth and overconsumption are major deterrents to sustainable development;

Whereas 40 countries with 40 percent of the population of the developing world are currently unable to provide enough food for their inhabitants to meet average nutritional requirements;

Whereas the global community has for more than 25 years recognized the basic right of individuals to voluntarily and responsibly determine the number and spacing of their children;

Whereas expanded accessibility to family planning has led to a world with 400 million fewer people than there might have been;

Whereas at least one-half of the women of reproductive age in developing countries want to limit the number of their children, but lack the means or ability to gain access to modern family planning methods;

Whereas numerous studies provide compelling evidence of a strong correlation between a smaller desired family size and the elevation of the status of women, especially through opening educational and employment opportunities; and

Whereas preparations are underway for the 1994 International Conference on Population and Development (ICPD) in Cairo, Egypt, focusing world attention on the integral linkage between population, sustained economic growth and sustainable development—more specifically, the importance of family planning, the role of women, the effects of migration, the need for increased resources, and the devastation caused by AIDS: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the week beginning October 25, 1993, is designated as "World Population Awareness Week," and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such a week with appropriate programs, ceremonies, and activities.

So the joint resolution (S.J. Res. 145) to designate the period commencing on November 21, 1993, and ending on November 27, 1993, and the period commencing on November 20, 1994, and ending on November 26, 1994, each as "National Adoption Week," was deemed read the third time and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 145

Whereas Thanksgiving week has been commemorated as "National Adoption Week" for the past 15 years;

Whereas the Congress recognizes that belonging to a secure, loving, and permanent family is every child's right;

Whereas the President of the United States has actively promoted the benefits of adoption by implementing a Federal program to encourage Federal employees to consider adoption;

Whereas approximately 36,000 children who may be characterized as having special needs, such as being of school age, being members of a sibling group, being members of a minority group, or having physical, mental, or emotional disabilities are now in foster care or in institutions financed at public expense and are legally free for adoption;

Whereas public and private barriers inhibiting the placement of special needs children must be reviewed and removed where possible to assure their adoption;

Whereas the adoption of institutionalized or foster care children by capable parents into permanent homes would ensure an opportunity for their continued happiness and long-range well-being;

Whereas the public and prospective parents must be informed that there are children available for adoption;

Whereas the media, agencies, adoptive parent and advocacy groups, civic and church groups, businesses, and industries will provide publicity and information to heighten community awareness of the crucial needs of children available for adoption; and

Whereas the recognition of Thanksgiving week as "National Adoption Week" is in the best interest of adoptable children and in the best interest of the public generally: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the period commencing on November 21, 1993, and ending on November 27, 1993, and the period commencing on November 20, 1994, and ending on November 26, 1994, are each designated as "National Adoption Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe each week with appropriate ceremonies and activities.

So the joint resolution (S.J. Res. 147) designating October 23, 1993, through October 30, 1993, as "National Red Ribbon Week for a Drug-Free America," was deemed read the third time and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 147

Joint resolution designating October 23, 1993, through October 30, 1993, as "National Red Ribbon Week for a Drug-Free America".

Whereas substance abuse has reached epidemic proportions and is of major concern to all Americans;

Whereas substance abuse is a major public health threat and is one of the major causes of preventable disease, disability, and death in the United States today;

Whereas illegal drug use is not limited to persons of a particular age, gender, or socioeconomic status;

Whereas the drug problem appears to be insurmountable, but the United States has begun to lay the foundation to combat the use of illegal drugs;

Whereas the United States must continue the important strides made to combat substance abuse;

Whereas it has been demonstrated through public opinion polls that the American people consider drug abuse one of the most serious domestic problems facing the United

States and have begun to take steps against it;

Whereas the National Family Partnership has declared October 23, 1993, through October 30, 1993, as "National Red Ribbon Week", has organized the National Red Ribbon Campaign to coordinate the week's activities, has established the theme, "Neighbors—Drug Free and Proud" for the week, and has called for a comprehensive public awareness, prevention, and education program involving thousands of parent and community groups across the country;

Whereas any use of an illegal drug is unacceptable and the illegal use of a legal drug cannot be tolerated; and

Whereas substance abuse destroys lives, spawns crime, undermines our economy, and threatens our security as a Nation: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That—

(1) October 23, 1993, through October 30, 1993, is designated as "National Red Ribbon Week for a Drug-Free America";

(2) the President is authorized and directed to issue a proclamation calling on the people of the United States—

(A) to observe the week by holding conferences, meetings and other activities to support community education, and with other appropriate activities, events and educational campaigns; and

(B) both during the week and thereafter, to wear and display red ribbons to present and symbolize commitment to a healthy, drug-free life style, and to develop an attitude of intolerance concerning the use of drugs; and

(3) Congress recognizes and commends the hard work and dedication of concerned parents, youth, law enforcement officials, educators, business leaders, religious leaders, private sector organizations, and Government leaders in combating substance abuse.

#### 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. METZENBAUM (for himself, Mr. HATCH, Mr. GRASSLEY, and Mr. SPECTER):

S. 1602. A bill to amend the Sherman Act to restore fair competition in the ocean shipping industry; to the Committee on the Judiciary.

By Mr. COCHRAN:

S. 1603. A bill to amend chapters 83 and 84 of title 5, United States Code, to extend the civil service retirement provisions of such chapter which are applicable to law enforcement officers; to the Committee on Governmental Affairs.

By Mr. GLENN (for himself, Mr. LEVIN, Mr. PRYOR, Mr. AKAKA, and Mr. LIEBERMAN):

S. 1604. A bill to provide for greater regulatory flexibility for small governments, lessen compliance burdens on small governments, test innovative regulatory methods, and for other purposes; to the Committee on Governmental Affairs.

By Mr. SARBANES (for himself, Mr. MITCHELL, Mr. AKAKA, Mr. MOYNIHAN, Mr. DORGAN, Mr. INOUE, Mr. KENNEDY, Mr. METZENBAUM, Mr. ROCKEFELLER, Mr. LEVIN, Mr. JOHNSTON, Mr. WOFFORD, Ms. MIKULSKI, Mr. ROBB, Mr. PRESSLER, Mr. DURENBERGER, Mr. HATCH, and Mr. STEVENS):

S.J. Res. 150. Joint resolution to designate the week of May 2 through May 8, 1994, as "Public Service Recognition Week"; to the Committee on the Judiciary.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MCCONNELL (for himself, Mr. LOTT, Mr. ROTH, Mr. FAIRCLOTH, and Mr. WARNER):

S. Con. Res. 49. Concurrent resolution expressing the sense of the Congress that the current Canadian quota regime on chicken imports should be removed as part of the Uruguay Round multilateral trade negotiations and that Canada's imposition of quotas on United States processed chicken violates article XI of the General Agreement on Tariffs and Trade; to the Committee on Finance.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. METZENBAUM (for himself, Mr. HATCH, Mr. GRASSLEY, and Mr. SPECTER):

S. 1602. A bill to amend the Sherman Act to restore fair competition in the ocean shipping industry; to the Committee on the Judiciary.

#### ACT TO RESTORE FAIR COMPETITION IN THE OCEAN SHIPPING INDUSTRY

• Mr. METZENBAUM. Mr. President, I introduce a bill to restore fair competition in the ocean shipping industry. The time has come to repeal the ocean shipping industry's special exemption from our Nation's fair competition laws. That exemption is costing American consumers billions of dollars every year in cartel overcharges. It is also increasing the cost of our exports that move by ship, which is putting U.S. businesses at a serious competitive disadvantage abroad. A recent study commissioned by the Advisory Commission on Conferences in Ocean Shipping [ACCOS] estimated that ocean shipping cartels increase transportation costs by up to \$3 billion a year. Given the fragile state of our economy, we simply can't tolerate a cartel that makes it more costly for U.S. producers to sell overseas.

Ocean shipping conferences—which are associations of competing carriers—have enjoyed some degree of special protection from our Nation's antitrust laws since 1916. However, the situation became much worse with passage of the 1984 Shipping Act. That act gave ocean shipping conferences blanket immunity from the antitrust laws, and thereby eliminated any protection that consumers and shippers might have had from those cartels.

When that act was being debated, I warned my colleagues that giving ocean shipping conferences broad antitrust immunity would "raise costs to exporters, drive up retail prices of imported goods, and force consumers to

bear increased transportation costs." I was right then, and I am right now—we need to repeal this costly and unnecessary exemption without delay.

I am also concerned about some of the more recent abuses of the shipping cartels' blanket antitrust immunity. Specifically, shipping conferences have colluded to close selected U.S. ports and to neutralize nonconference competitors through the use of so-called discussion and stabilization agreements.

Let me explain. Last year, the members of the North Europe—USA Rate Agreement Conference [NEUSARA] agreed to eliminate services to the port in Philadelphia, PA. NEUSARA controls nearly 63 percent of the cargo in Philadelphia, therefore the boycott by NEUSARA was expected to have disastrous economic effect on Philadelphia and the entire Delaware Valley. Estimates were that \$900,000 in direct revenues, 45 jobs and \$133,470 in State and local taxes are in jeopardy because of NEUSARA's collusive agreement to eliminate services.

The fact is that antitrust immunity has allowed ocean shipping conferences to decide which U.S. ports will survive and prosper and which U.S. ports will go under. That simply is not a power that shipping conferences should have over U.S. ports.

Ocean shipping conferences are also using their antitrust immunity to neutralize their low-cost nonconference competitors through the use of so-called discussion or stabilization agreements. These collusive agreements allow conference carriers and independent carriers to form mega-conferences for the explicit purpose of increasing prices, and restricting capacity.

The July 26, 1991, *Journal of Commerce* reported that one such mega-conference, the Transpacific Stabilization Agreement [TSA] had increased eastbound prices to an average of \$400 per container above what they would have been otherwise. The article stated "that TSA alone could be costing U.S. importers and consumers anywhere from \$625 million to well over \$1 billion a year." And, the total impact on consumers of these mega-conference agreements and collateral relationships could be as much as \$5 to \$10 billion.

Although our lax antitrust policy allows TSA to operate with impunity, the European Community [EC] appears to be cracking down on its European counterpart the Trans-Atlantic Agreement [TAA]. In a May 1993 decision the EC found that TAA's collusive tactics were "directly contrary to the interests of shippers who are obliged to reflect them in their selling price or their margin without benefiting from any immediate advantage in terms of quality of service." The EC also stated that "such price agreements the purpose of which is such a considerable increase in freight rates cannot be re-

garded as allowing consumers a reasonable share of the benefits." It is absurd for the United States to condone the very same kind of ocean shipping cartel agreement that the EC has condemned as anticompetitive.

Finally, it is clear to me that antitrust immunity has not improved the financial health of the ocean shipping industry in the United States. Rather, I believe that it contributed to its demise. Specifically, on August 5, 1993, the heads of the last two major U.S. ocean shipping lines—Sea Land Services, Inc. and American President Lines—announced that they were withdrawing a sizeable number of their ships from the U.S. market, and placing them under foreign control. That leaves the U.S. firms with little or no presence in the international ocean shipping industry. It also means that we are permitting a foreign dominated cartel to exploit American shippers and consumers by continuing to give them antitrust immunity. I believe that every Member of the Senate will agree that we should not be protecting foreign dominated cartels in any industry from our Nation's fair competition laws.

I should note that repealing this special antitrust exemption for ocean shipping cartels has broad bipartisan support. Republican Senators ORRIN HATCH, CHARLES GRASSLEY, and ARLEN SPECTER are cosponsoring the bill. Likewise, James Rill, the Bush administration's antitrust chief has supported repeal. In testimony before the ACCOs Rill stated that:

Collective rate making by [ocean shipping] conferences results in higher ocean shipping rates than would exist in a competitive market. Because of higher rates, some shippers do not purchase as much shipping service as they otherwise would. Some transactions that ought to take place do not and the economic and total welfare of a nation suffers as a result [because] U.S. exporters lose sales abroad and imported goods are more costly to American consumers.

In summary, I believe that it is high time that ocean shipping conferences were subjected to the fair competition laws that govern virtually every other industry in the United States. The American people can no longer afford to give these foreign-dominated conferences unbridled discretion to raise prices, reduce capacity, neutralize low-cost competitors, and close ports at their whim. I urge my colleagues to join me in repealing special antitrust protection for the ocean shipping industry.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1602

*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 "Act To Restore Fair Competition in the Ocean Shipping Industry".

## SEC. 2. TERMINATION OF ANTITRUST EXEMPTION.

The Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (commonly known as the Sherman Act) (15 U.S.C. 1 et seq.) is amended by adding at the end the following new section:

## "OCEAN COMMON CARRIERS

"SEC. 9. (a) DEFINITIONS.—In this section, 'antitrust laws' and 'ocean common carrier' have the meanings stated in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702).

"(b) TERMINATION OF EXEMPTION.—The exemption from the antitrust laws provided by section 7 of the Shipping Act of 1984 (46 U.S.C. App. 1706), insofar as it applies to ocean common carriers, is terminated effective January 1, 1994."•

• Mr. HATCH. Mr. President, for the past 10 years, I have strenuously opposed an antitrust exemption to ocean shipping conferences put in place by the 1984 Shipping Act.

The exemption tolerates practices that the history of our antitrust legislation has condemned—practices which disarm competition.

The formation of a new super-conference, the Trans-Atlantic Agreement, promises to undermine still further the ability of our commodity shippers to compete efficiently in a rapidly globalizing market where price management can make the difference between life and death for many firms of all sizes. A coalition of 15 shipping lines will raise rates, and limit capacity. This is a classical definition of predatory practices: increase business by eliminating the competition.

## THE LAST STRAW FOR MANY

Mr. President, the continued arrogance implicit in allowing a select group of ocean carriers to remain outside the regulatory constraints that foster free and open competition has brought out the opposition.

The Alliance for Competitive Transportation [ACT], and other shipper lobbying groups, are now demanding the changes that this amendment would bring. These groups include the major trade associations representing chemicals, forest and paper products, agriculture, automobiles, rubber, and plastics, as well as dozens of other individual companies, collectively representing a great share of our overseas trade.

Before I proceed further, Mr. President, I must commend my good friend, the Senator from Ohio, for taking this type of landmark action as one of his several last acts as a member of this body. It is a fitting tribute to one who has devoted so many years to making our economic system open to all.

## DECADE-OLD WARNINGS NOW HAUNT US

Mr. President, I warned in my floor statements opposing the 1984 Shipping Act 10 years ago that "Cartels, by their very nature, promote price fixing con-

spiracy. Fixed prices discourage competition, and without competition, consumers invariably suffer."

Look what has happened since the Shipping Act was adopted. Our agriculture shippers have lost \$5.08 billion, an amount equivalent to 20 percent of all agricultural exports. The cartel premium has today added 18 percent to the cost of ocean transportation. This has reduced the value of agricultural sales by 4.6 percent. It couldn't come at a worse time as our farm communities need still bigger overseas markets just to break even.

## CONFERENCE SHIPPING ARGUMENTS WEAKEN ON CLOSE ANALYSIS

Mr. President, the ocean cartels tell us that this price-fixing scheme is needed to preserve the U.S. merchant fleet. They cite 50 percent reductions in the number of ocean-carrier vessels over the past 20 years.

The argument is beguiling. What they don't tell us is that shipping technologies, such as containerization, have actually resulted in more cargo being carried by fewer ships, a conclusion reached by a GAO study.

And they certainly don't tell us that the shipping cartels have actually hindered growth. Their higher rates and limited shipping services have increased use of airline shipping, for one thing, although cargo size and volume impose upper limits on how much can be transferred to this type of conveyance.

For those shipping lines that remain in the trade, they have threatened to seek foreign flag status rather than deal with the price-gouging cartels.

Worst of all, independent carriers can be intimidated into cooperating with the cartels since the latter can lowball even the best price of an independent shipping line, without risking the criminal sanctions of the antitrust laws that other price-fixing groups would face.

Mr. President, the Metzenbaum amendment may be the last real chance to restore our merchant marine to competitive status. At a time when Presidents Bush and Clinton have given due priority to the expansion of trade, and when Vice President GORE's own National Performance Review—the so-called reinventing government effort—has urged the elimination of the shipping conference antitrust exemptions, Congress cannot allow another decade of anticompetitive practices to be tolerated. •

• Mr. GRASSLEY. Mr. President, I welcome the opportunity to join my colleague from Ohio in introducing an important piece of legislation to fight offshore cartels. Unlike the foreign export cartels that we have been fighting since the last Congress, the cartels we seek to combat with this bill are only offshore in the sense that they operate on the oceans.

Oceans shipping conferences—a euphemism for maritime cartels—have

enjoyed statutory protection from antitrust liability since 1916. The most recent recodification of this exemption occurred with the enactment of the Shipping Act of 1984. Unfortunately, the main effect of this exemption has been to allow merchant marine carriers to fix artificially high freight rates and to control competition.

The people who suffer are American businesses dependent upon shipping as well as American consumers and workers. Our standard of living is hindered and the volume of trade is reduced.

Last year, the Advisory Commission on Conferences in Ocean Shipping reported numerous examples of the damage this antitrust exemption is causing.

One chemical company decided to build overseas instead of expanding their U.S. operations, in part, because it was unable to negotiate a long-term, confidential contract commitment for ocean transportation.

Fish processors lost market share in Europe because carriers refused to negotiate.

Lumber exporters face competitive disadvantages with Canadians who benefit from deregulated ocean transportation.

Consumers pay more at a department store because of the retailer's inability to obtain contractual commitments assuring flexible service.

The Commission found abuse after abuse, impacting all sectors and regions of our country.

Mr. President, a report prepared for the Department of Agriculture by Dr. Allen Ferguson, entitled "Maritime Policy and Agricultural Interests: Impacts of the Conference System" found that "the 'cartel premium' attributable to conference market power amounts to some 18 percent of the cost of ocean transportation." He found that with a sampling of only six commodities, the elimination of this antitrust exemption would increase revenues of agriculture anywhere from \$239 million to \$400 million per year.

In fact, Vice President GORE's National Performance Review task force on transportation recommended the elimination of this antitrust exemption for ocean conferences. The task force pointed to the fact that the Justice Department estimates these conferences increase the cost of shipping by at least 10 to 15 percent, while providing U.S. and foreign shippers a backdoor, hidden subsidy of \$2 to \$3 billion per year.

Mr. President, this practice must come to an end, and I am proud to join Senator METZENBAUM and others in taking this necessary action. •

## By Mr. COCHRAN:

S. 1603. A bill to amend chapters 83 and 84 of title 5, United States Code, to extend the civil service retirement provisions of such chapter which are applicable to law enforcement officers; to

the Committee on Governmental Affairs.

U.S. FISH AND WILDLIFE SERVICE REFUGE OFFICERS CIVIL SERVICE AMENDMENTS ACT OF 1993

• Mr. COCHRAN. Mr. President, today I am pleased to introduce a bill that will extend to the full-time law enforcement officers of the Refuge Division of the U.S. Fish and Wildlife Service the same retirement provisions that are applicable to other law enforcement officers under the civil service retirement system.

I commend my colleague from Maryland, Senator MIKULSKI, for her introduction earlier this year of similar legislation to extend these civil service retirement benefits for law enforcement officers to INS inspectors, inspectors and canine enforcement officers of the Customs Service, and revenue officers of the Internal Revenue Service.

The bill I am introducing today, will provide the same benefits under the civil service retirement system to the full-time officers who enforce the law in our National Wildlife Refuge System.

I hope Senators will support this legislation. •

By Mr. GLENN (for himself, Mr. LEVIN, Mr. PRYOR, Mr. AKAKA, and Mr. LIEBERMAN):

S. 1604. A bill to provide for greater regulatory flexibility for small governments, lessen compliance burdens on small government, test innovative regulatory methods, and for other purposes; to the Committee on Governmental Affairs.

SMALL GOVERNMENTS REGULATORY IMPROVEMENT AND INNOVATION ACT OF 1993

• Mr. GLENN. Mr. President, I rise today to introduce the Small Governments Regulatory Improvement and Innovation Act of 1993—legislation designed to lessen regulatory compliance and cost burdens on small governments.

As many of my colleagues are aware, Wednesday was National Unfunded Mandates Day, or NUMD for short. State and local officials from all over the United States gathered in Washington to send a message to the Federal Government—Stop burdening us with your responsibilities, your paperwork and administration, and your regulations, unless you give us the help to go with it. In layman's terms, they are saying—"Stop passing the buck, without the bucks."

Estimates by the Congressional Budget Office [CBO] show that the cost to State and local governments of Federal legislative and regulatory mandates rose from \$225 million in 1986 to \$2.8 billion in 1991. While the CBO data is limited in scope, it clearly shows that cost of Federal mandates has been increasing—this increase occurring during a period when we saw an overall decline in Federal aid to State and local governments. A study by the city

of Columbus showed that compliance costs of Federal environmental laws and regulations in nine Ohio metropolitan areas would rise from \$183 million in 1992 to \$301 million by 1996. This translates into an indirect tax of \$225 per household, up from \$137 in 1992.

Clearly, Federal regulatory and legislative burdens are increasing on smaller governments at a time when these governments are hard strapped for resources to pay for these mandates. That's why I'm introducing the Small Governments Regulatory Improvement and Innovation Act. The legislation seeks to lessen the burden of Federal regulatory mandates through improvements in the Federal rulemaking process to give greater regulatory flexibility to smaller governments, as well as give greater consideration to the cost impact of Federal regulation.

The legislation accomplishes these objectives through a number of ways. First, consistent with the Clinton administrations Executive orders on regulatory review and intergovernmental relations, the bill establishes a strong role for OMB in reviewing agency rules and regulations that impact small governments. Secondly, agencies must identify their most costly regulations on small governments, and then come up with more flexible, less costly alternatives. In addition, the bill sets up Small Government Coordinators in the major regulatory agencies and establishes an advisory Council on Small Governments to provide advice and analysis to OMB on regulations affecting small governments. And finally, the bill sets up pilot programs to experiment with bold, innovative regulatory approaches.

I would note that coverage of some of the provisions in this bill extend to small business as well. The pilot programs in section 7 of the bill are of particular note to small business as are provisions in section 10 which tighten agency waiver authority of the Regulatory Flexibility Act.

The theme of this bill is flexibility. Laws protecting public safety, human health, and the environment are vital and necessary. However, that doesn't mean we can't use a little more common sense, as well as pay greater attention to cost issues, in promulgating regulations to implement those laws. In many cases, I believe we can fully meet the objectives of our environmental statutes while at the same time reducing their costs and burdens on those directly affected.

The bill encourages innovation and new ways of thinking in the rule-making process. It is fully consistent with the President's initiatives in the National Performance Review of making the Federal Government more efficient, responsive, and workable.

Mr. President, in closing, I would say that my Committee on Governmental Affairs will be taking a leadership role

on this issue of Federal mandates. We will be having a kick-off hearing next Wednesday at 9:30 a.m.

I ask unanimous consent that a copy of the bill be inserted into the RECORD following my statement.

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

S. 1604

*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 "Small Governments Regulatory Improvement and Innovation Act of 1993".

SEC. 2. PURPOSES.

The purposes of this Act are to—  
 (1) better determine the cost and other impacts of regulation on small governments;  
 (2) encourage the use of more flexible regulatory approaches that lessen compliance burdens on small governments; and  
 (3) test innovative methods of regulation.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

(1) the term "small government" means a small governmental jurisdiction as defined under section 601(5) of title 5, United States Code;

(2) the term "agency" means any agency as defined under section 551(1) of title 5, United States Code;

(3) the term "Director" means the Director of the Office of Management and Budget;

(4) the term "Council" means the Council on Small Governments established under section 8;

(5) the term "small entity" means a small entity as defined under section 601(6) of title 5, United States Code; and

(6) the term "Administrator" means the Administrator of the Small Business Administration.

SEC. 4. AGENCY RESPONSIBILITIES.

(a) GUIDELINES.—The head of each agency shall, after opportunity for public comment, issue guidelines consistent with section 6(b) of this Act to ensure implementation of chapter 6 of title 5, United States Code, by the agency.

(b) PLANS.—The head of each agency shall develop a plan to inform, educate, and advise small entities on compliance with any rule that has a significant impact on small entities. Such plan shall be published in the Federal Register in the notice of proposed rule-making and the final rulemaking notice for any such rule, and shall include a listing of—

(1) local and regional workshops for the purpose of providing and receiving information about the impact of the rule;

(2) written guidance and other applicable publications and their availability; and

(3) relevant Federal, State, and local technical assistance programs.

(c) REPORTS.—The head of each agency shall report annually to the Administrator and to the Director on the agency's implementation of this Act and compliance with the provisions of chapter 6 of title 5, United States Code.

SEC. 5. SMALL GOVERNMENT COORDINATORS.

(a) ESTABLISHMENT.—There is established in each agency the position of Small Government Coordinator who shall report directly to the head of the agency. The Small Government Coordinator shall—

(1) communicate the small government perspective on agency rules and policies during the development of such rules and policies;

(2) oversee and report to the agency head on agency efforts to comply with chapter 6 of title 5, United States Code, as such chapter applies to small governmental jurisdictions, including—

(A) participation in the development of agency guidelines for the full implementation of chapter 6 of title 5, United States Code, as such chapter applies to small governmental jurisdictions; and

(B) the development of alternative regulatory proposals that accomplish the stated objectives of applicable statutes and which minimize the impact of regulations on small governments by working with—

- (i) agency regulatory policy personnel;
- (ii) national organizations representing small governments;
- (iii) local elected officials;
- (iv) public policy experts;
- (v) the Administrator;
- (vi) the Director; and
- (vii) the Council;

(3) advising the agency head on establishing electronic or other means of information collection to gather data on small governments;

(4) advising the agency head and the Director on the development and implementation of the pilot program established under section 6; and

(5) providing technical assistance to small governments on compliance with agency regulations.

(b) PERSONNEL.—To the greatest extent practicable, the head of each agency shall designate existing personnel to perform the duties described under this section.

(c) WAIVER.—(1) The head of an agency may waive the requirements of this section if such agency head—

(A) in consultation with the Council and in concurrence with the Director, certifies that the agency does not issue a significant number of rules affecting small governments; and

(B) publishes such certification in the Federal Register.

(2) Such waiver shall be reviewed annually and such certification shall be made annually, if appropriate.

**SEC. 6. REGULATORY COORDINATION.**

(a) OFFICE OF INFORMATION AND REGULATORY AFFAIRS.—The Director shall delegate responsibility for the implementation of all duties of the Director under this Act to the Administrator of the Office of Information and Regulatory Affairs.

(b) GUIDELINES.—The Director, in consultation with the Administrator of Small Business, shall issue guidelines to agencies on the identification of rules having a significant impact on small entities. In issuing the guidelines, the Director shall consider—

- (1) the number of small entities that may be impacted by a rule;
- (2) the economic cost or benefit to small entities from compliance with a rule;
- (3) the effect a rule may have on regional economies; and
- (4) the reporting and paperwork requirements imposed on small entities by a rule.

(c) COMPLIANCE.—The Director, to the extent permitted by law and in consultation with the Administrator, shall be responsible for monitoring and coordinating agency compliance with the requirements of this Act.

**SEC. 7. REGULATORY FLEXIBILITY PILOT PROGRAM.**

(a) ESTABLISHMENT.—The Director, in consultation with agencies and the Council, shall establish pilot programs in at least 2 agencies to test innovative, and more flexible regulatory approaches that—

(1) reduce reporting and compliance burdens on small entities; and

(2) meet overall statutory goals and objectives.

(b) PROGRAM CONTENTS.—The pilot programs shall focus on rules in effect or proposed rules, or a combination thereof, that have a significant impact on small entities, with equal emphasis given to rules that impact small governments, small business, and small organizations.

**SEC. 8. THE SMALL GOVERNMENTS ADVISORY COUNCIL.**

(a) ESTABLISHMENT.—(1) There is established a Small Governments Advisory Council composed of 9 representatives from small governments appointed by the President, of whom no more than 5 shall be from any one political party.

(2) No later than 6 months after the date of enactment of this Act, the President shall make the original appointments to the Council.

(b) MEMBERSHIP.—No less than 6 members of the Council shall be acting small governmental officials. Members of the Council shall—

(1) have an extensive understanding of and experience with the operations of small governments; and

(2) represent a balance with respect to the regions, the sizes of small governments, and the occupations represented on the Council.

(c) DUTIES.—The duties of the Small Governments Advisory Council shall be to—

(1) serve as a focal point for the receipt of comments concerning the regulatory policies and activities of agencies that affect small governments;

(2) advise the Small Government Coordinators as to the performance of their duties under section 5;

(3)(A) develop proposals for changes in the regulatory policies and activities of any agency which shall carry out the purposes of this Act; and

(B) communicate such proposals to the Director and appropriate agencies;

(4)(A) monitor the costs and other burdens of Federal regulation on small governments, including the cumulative effect of such regulation; and

(B) make legislative and nonlegislative proposals for eliminating excessive or unnecessary regulatory burdens placed on small governments;

(5) advise the Director on the implementation of section 6 as such section relates to small governments; and

(6) report annually to the Administrator and the Director on the actions of the Council under this Act, including—

(A) a summary of all proposals offered under subsection (c)(3);

(B) a detailed assessment, prepared in consultation with the Small Government Coordinators established under section 5, of the costs and other burdens of government regulation on small governments, including the cumulative effects of such regulation; and

(C) an assessment of the effectiveness of the pilot programs established under section 7.

(d) CHAIRMAN.—The Council shall elect a chairman and meet at the call of the chairman but no less often than every 6 months.

(e) MEETINGS.—The Director shall meet with the Council on a regular basis, but no less often than every 6 months.

(f) FEDERAL ADVISORY COMMITTEE ACT.—The Council shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such

sums as necessary to carry out the provisions of this section.

**SEC. 9. ASSISTANCE OF GOVERNMENT AGENCIES.**

Consistent with applicable law, each department, agency, and instrumentality of the Federal Government shall furnish to the Council such reports and other information as the Council determines necessary to carry out its duties under this Act.

**SEC. 10. TECHNICAL AMENDMENTS.**

Chapter 6 of title 5, United States Code, is amended—

(1) in section 601(5) by inserting "Indian tribes," after "school districts";

(2) in section 602(b) by inserting "the Director of the Office of Management and Budget and" after "transmitted"; and

(3) in section 605(b)—

(A) in the first sentence by striking out "sections 603 and 604 of this title" and inserting in lieu thereof "sections 603(c) and 604 of this title"; and

(B) in the second sentence—

(i) by striking out "or at the time of publication of the final rule"; and

(ii) by inserting "the Director of the Office of Management and Budget and" after "such certification and statement to".

● Mr. LEVIN. Mr. President, I am pleased to be an original cosponsor of the Small Governments Regulatory Improvement and Innovation Act being introduced today by my colleague, Senator GLENN. I commend him and his staff for their fine work in this important area. This bill is important in obtaining more effective and consistent application of and compliance with the Regulatory Flexibility Act of 1980.

I came to the Senate directly from local government. As a former Detroit City Council president, I am all too familiar with the difficulties local governments face in responding to the demands put on them by Federal agencies. All too often, the Federal programs we create to respond to real problems result in extensive regulations that sometimes bear little relationship to the real world. Frequently, the regulations are blind to the differences between regulated groups and this has been especially true in the case of small governments.

Federal agencies often regulate as if small communities are a small segment of our society even though that could not be further from the truth. Many here in Washington don't realize that over 70 percent of the general purpose governments in the United States have populations of less than 3,000 and half have populations under 1,000. Moreover, only 3 percent of localities in this country have more than 50,000 inhabitants. Consequently, when these small communities are faced with costly regulatory requirements, they don't have a very big tax base upon which to draw.

Small, local governments are frequently comprised of individuals who serve their communities on a volunteer, part-time or low-salary basis. Dedicated community officials oftentimes have very limited access to technical experts, legal counsel, or even computers. Given these real life conditions, Federal agencies need to pay

particular attention to the burdens our Federal regulations can place on small communities. This burden can result in exactly what we don't want—non-compliance.

That's in part why we passed the Regulatory Flexibility Act in 1980—to force Federal agencies to take the limitations of small entities like small local governments into account in issuing regulations.

In the fall of 1988, the Governmental Affairs Committee, of which I am a member, held a hearing on the effectiveness of this legislation in easing the regulatory burden on small entities. Unfortunately, we discovered that the act had not been consistently implemented and compliance by many agencies has been woefully inadequate, particularly with regard to small communities.

As a result of the problems uncovered at that hearing, Chairman GLENN and I, along with other members of the committee, introduced the Small Governments Regulatory Partnership Act to gain more effective compliance with the Regulatory Flexibility Act. Due to certain concerns raised regarding the structure of that bill, we continued to wrestle with the issue of how to sufficiently strengthen the Regulatory Flexibility Act to ensure compliance and to strengthen the voice of small communities in the regulatory process.

The legislation we are introducing today reflects the continued work that has been done to address this important issue. While the legislation has a specific focus on small governments, it includes provisions to increase compliance for small businesses and other small entities.

The bill requires increased involvement of the Office of Management and Budget's Office of Information and Regulatory Affairs in the development and oversight of agency plans for compliance with the Regulatory Flexibility Act [RFA]. Additionally, the act creates a regulatory pilot program to test new, more flexible regulatory approaches to achieve our regulatory goals. The bill also tightens the certification process which allows agencies to exempt themselves from their responsibilities under the Regulatory Flexibility Act.

With regard to small governments, it requires each agency to designate a small government coordinator, reporting directly to the agency head, who will monitor the agency's adherence to the RFA; make recommendations on less burdensome regulatory approaches; provide compliance assistance; and assist in the development of pilot programs. This position is modeled after the Environmental Protection Agency's Office of Small Community Coordinator, an office which I and other members of the Governmental Affairs Committee have fought to preserve and promote. Moreover, a new ad-

visory council would be established to give small governments and their concerns the high-level presence they currently lack in the Federal regulatory process.

Mr. President, small communities should not feel lost in the wilderness when it comes to gaining information and assistance in complying with Federal regulations. The last thing we want is to frustrate the efforts of those individuals who are trying the best they can to comply with what we ask of them. There is no doubt that regulations are complex—one need only look at the courts to see how difficult it can be to understand just what a regulation requires or means.

I am pleased that the President, in his recent Executive order on regulatory policy, included a specific reference to the concerns of small communities in recognition of their special needs. This legislation will further strengthen agency sensitivity in this area. The sooner we pass this bill, the sooner we will realize our earlier promise to this country's small communities. Once again, I thank my friend from Ohio for his work in this area and I urge my colleagues' support.●

By Mr. SARBANES (for himself, Mr. MITCHELL, Mr. AKAKA, Mr. MOYNIHAN, Mr. DORGAN, Mr. INOUE, Mr. KENNEDY, Mr. METZENBAUM, Mr. ROCKEFELLER, Mr. LEVIN, Mr. JOHNSTON, Mr. WOFFORD, Ms. MIKULSKI, Mr. ROBB, Mr. PRESSLER, Mr. DURENBERGER, Mr. HATCH, and Mr. STEVENS):

S.J. Res. 150. A joint resolution to designate the week of May 2 through May 8, 1994, as "Public Service Recognition Week"; to the Committee on the Judiciary.

#### PUBLIC SERVICE RECOGNITION WEEK

Mr. SARBANES. Mr. President, I rise today to introduce a resolution designating the week of May 2-8, 1994, as "Public Service Recognition Week." I have introduced similar resolutions in previous Congresses to honor the public servants who so diligently and faithfully serve our Nation at the State, local, and Federal level.

The 9 million city and county workers, 4 million State employees, and 5 million Federal civilian and military employees who serve the public perform some of our Nation's most critical and important tasks. These are the men and women who defend our Nation and educate our children. They keep our food and drinking water safe and come to our aid should fire, flood, or other disasters strike our homes and communities. They work to find new treatments for cancer and AIDS and to develop new technologies to improve and enhance our lives.

Their collective mission is integral to preserving our health, safety, and standard of living, yet public servants

are rarely recognized for their efforts unless there is a disruption in the level of service to which the public is accustomed. Consequently, theirs is a thankless job; and one which they have had to perform under increasingly adverse conditions.

Today, government at every level is bound by severe fiscal constraints. The lingering effects of a slack economy have exacerbated budgetary pressures and forced governments to cut back or eliminate basic services. States and municipalities have been particularly hard-hit and forced to lay off thousands of employees. Those who have not been laid-off are asked to provide the same services with fewer available resources.

I regret some in government have seized upon public employees' vulnerability in these tough economic times and attacked and denigrated them publicly. For more than a decade, public employees, especially at the Federal level, have confronted budget cuts which if not aimed at their very livelihood, targeted their pay or pensions or health benefits. Yet, despite what has been a hostile political and economic climate, public employees continue to perform their duties in an effective and efficient manner.

As we eagerly seek to engage the major challenges before us—the problems afflicting our economy, our health care system, and the safety of our streets—we must remember the millions of public servants who quietly attend to the people's work in Social Security and employment offices, in VA hospitals and health clinics, and in fire halls and police stations across our 50 States. As John F. Kennedy so succinctly put in 1961, it is they who "conduct our generation's most important business—the public's business."

Mr. President, by setting aside a week as "Public Service Recognition Week", we make a small but meaningful statement to public servants throughout the land—that their work, so often unrecognized, is vital and important and that we as individuals and as a Nation depend on it each and every day. I am most pleased to introduce this resolution and I urge my colleagues to join me in working for its swift passage and enactment.

#### ADDITIONAL COSPONSORS

S. 732

At the request of Mr. KENNEDY, the names of the Senator from California [Mrs. BOXER], the Senator from Wisconsin [Mr. KOHL], and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of S. 732, a bill to provide for the immunization of all children in the United States against vaccine-preventable diseases, and for other purposes.

S. 793

At the request of Mr. DURENBERGER, the name of the Senator from New

Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 793, a bill to amend the Federal Food, Drug, and Cosmetic Act to require that standards of identity for milk include certain minimum standards regarding milk solids, and for other purposes.

S. 993

At the request of Mr. KEMPTHORNE, the names of the Senator from Alabama [Mr. HEFLIN], the Senator from Nevada [Mr. BRYAN], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of S. 993, a bill to end the practice of imposing unfunded Federal mandates on States and local governments and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations.

S. 1082

At the request of Mr. COCHRAN, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 1082, a bill to amend the Public Health Service Act to revise and extend the program of making grants to the States for the operation of offices of rural health, and for other purposes.

S. 1116

At the request of Mr. BURNS, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1116, a bill to amend the Internal Revenue Code of 1986 to clarify the deduction for expenses of certain home offices, and for other purposes.

S. 1288

At the request of Mr. AKAKA, the names of the Senator from Hawaii [Mr. INOUE], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of S. 1288, a bill to provide for the coordination and implementation of a national aquaculture policy for the private sector by the Secretary of Agriculture, to establish an aquaculture commercialization research program, and for other purposes.

S. 1571

At the request of Mrs. FEINSTEIN, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 1571, a bill to improve immigration law enforcement.

## SENATE JOINT RESOLUTION 90

At the request of Mr. ROBB, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of Senate Joint Resolution 90, a joint resolution to recognize the achievements of radio amateurs, and to establish support for such amateurs as national policy.

## AMENDMENT NO. 1036

At the request of Mr. DORGAN his name was added as a cosponsor of amendment No. 1036 proposed to H.R. 3116, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1994, and for other purposes.

## SENATE CONCURRENT RESOLUTION 49—RELATING TO THE CANADIAN QUOTA REGIME ON CHICKEN IMPORTS

Mr. SIMPSON (for Mr. MCCONNELL for himself and Mr. LOTT, Mr. ROTH, Mr. FAIRCLOTH, and Mr. WARNER) submitted the following concurrent resolution; which was referred to the Committee on Finance:

## S. CON. RES. 49

Whereas the United States chicken industry is the most effective in the world and produced approximately \$16 billion worth of chickens in 1992;

Whereas Canada's chicken supply management system severely restricts the importation of United States chickens, resulting in \$350,000,000 to \$700,000,000 in lost sales;

Whereas Canada's chicken supply management system severely restricts the United States chicken processors and retailers from expanding into the Canadian market;

Whereas Canada's chicken supply management system protects the Canadian chicken growers while severely hurting both United States and Canadian processors and food service retailers;

Whereas Canada's chicken supply management system causes exceedingly high chicken prices and periodic supply shortages in Canada; and

Whereas Canada's chicken supply management system and the imposition of quotas on processed chicken contravenes Canada's obligations under Article XI of the General Agreement on Tariffs and Trade: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—*

(1) the United States, as part of the Uruguay Round multilateral trade negotiations, negotiate tariffication of Canada's chicken supply management system and the elimination of processed chicken from Canada's Import control List;

(2) the United States should insist under tariffication that the amount of chicken determined to be within quota be based on the total amount of chicken imported into Canada in 1993 through both global and supplemental import quotas;

(3) the United States should seek the elimination, or at the minimum, phase-out of the new duties imposed by Canada on chicken imports in accordance with the terms of the United States-Canada Free Trade Agreement; and

(4) the United States should oppose any activity on the part of Canada which results in lost sales for United States chicken exporters and restricts the United States access to Canada's chicken market.

● Mr. MCCONNELL. Mr. President, I rise today to introduce a resolution which seeks the removal of Canada's barriers to imports of United States chickens and chicken products in negotiations in the GATT round.

Since 1979, Canada has maintained a supply management system to control the Canadian chicken market through production and import quotas. Canada's regime severely limits access to the Canadian market by United States exporters and restricts expansion in Canada by United States companies in the chicken industry.

The United States has much to gain from an opening of Canada's poultry

market. Chicken growing and processing in this country is a big business. Approximately 200,000 Americans are directly and indirectly employed in the chicken industry. Chicken is produced in 28 States. Production in 1992 was valued at \$16 billion.

This issue is particularly important to me because Canada's chicken quotas restrict the ability of KFC, based in my State, to expand its Canadian operations. KFC's current sales of \$600 million in Canada could be increased to \$1 billion over the next 4 years if a larger, more secure supply of chicken were available. It would be if Canada dropped its quota system.

Currently, the United States exports roughly \$90 million of chicken to Canada—only about 8 percent of total Canadian chicken consumption. Industry officials estimate that an open Canadian market would increase United States exports annually to between \$350 to \$700 million, resulting in 7,000 to 14,000 new United States jobs.

Now that the Uruguay round negotiations are near completion, it is vitally important that agreement be reached to provide immediate and significant export opportunities for America's highly competitive chicken industry.

Canada is the only major country with which the United States has an outstanding bilateral trade agreement directly impacting the results of the Uruguay round agricultural market access negotiations.

The United States-Canada Free Trade Agreement precludes Canada from introducing any new tariffs on goods originating in the United States. This obligation extends to any new tariffs resulting from tariffications in the Uruguay round. Any executive branch effort to amend the FTA which would nullify this trade agreement obligation on the part of Canada must be accompanied by a major concession on the part of Canada to significantly open its market to United States chicken exports.

I am also troubled by the fact that Canada's import quotas as they apply to processed chicken are inconsistent with GATT Article XI. The GATT has ruled on several occasions that highly processed food products—for example, chicken sandwich patties—clearly are not a "like product" to live or fresh whole chicken. Their inclusion in Canada's supply management system is patently in violation of GATT Article XI and Canada must not be allowed—through the negotiation of the Uruguay round agreement—to maintain restrictive trade barriers on processed chicken imports.

Mr. President, I have been pursuing this issue for several years now to no avail. The Canadians have avoided removing their import restrictions on chicken long enough. By supporting this resolution, the Senate will send Canada a clear message that the time

has come for it to move its poultry supply management system into the 20th century. As part of the GATT round, we will accept nothing less than immediate and meaningful new export opportunities to the Canadian market.

#### AMENDMENTS SUBMITTED

#### INDOOR AIR QUALITY ACT OF 1993

#### BROWN AMENDMENT NO. 1092

Mr. WARNER (for Mr. BROWN) proposed an amendment to the bill (S. 656) to provide for indoor air pollution abatement, including indoor radon abatement, and for other purposes; as follows:

On page 96, strike line 1 through line 12.

#### ADDITIONAL STATEMENTS

#### FACES OF THE HEALTH CARE CRISIS

• Mr. RIEGLE. Mr. President, I rise today in my continuing effort to put a face on the health care crisis that is confronting America. Today I want to share the story of Leonard L. Ketelhut from Hazel Park, MI. Leonard, his wife Beverly, his 18-year-old daughter Patricia, and his 12-year-old daughter Kelly have been without health insurance since January 11, 1991, because Leonard's medical history has put him in what insurance companies consider a high risk category.

In 1979, Leonard was diagnosed with Hodgkin's disease, a curable form of cancer. After 6 years, several surgeries, and radiation therapy, Leonard's physician declared him cured in 1986. Since that time, Leonard has enjoyed good health.

From 1986 to 1991, Leonard worked for Modern Engineering, which provided benefits for himself and his family through Blue Cross/Blue Shield. When he was laid off in January of 1991, he could not afford to pay over \$300 each month to continue the family's health insurance through the COBRA option.

For 2 years, Leonard looked for a job and couldn't find one. During that time he developed new skills by going to truck driving school.

Leonard was able to find another job in December of 1992. Unfortunately at this job he was denied health insurance because of his fight with cancer 10 years before. Health insurance is supposed to be there for those who get sick. Yet many insurers refuse to cover people who are at risk for getting sick. In a letter denying Leonard coverage, the insurance company wrote: "if

someone with a potentially adverse health condition or history is approved for coverage, the result could be many claim dollars paid, leading to an overall increase in the cost of insurance for all participating employees in the program."

To make matters worse, Leonard was laid off from his job because the company claimed there wasn't enough work, even though Leonard had worked 56 hours the week before.

In April of this year, Leonard found another job—one that would provide health insurance through Blue Cross/Blue Shield after he had been with the company 90 days. Unfortunately, 9 days into the job Leonard shattered a bone in his wrist. He was eligible for workman's compensation which picked up the cost of his medical care for his wrist, but he lost his chance for health care coverage through his employer. He was replaced in the company and has no job to return to.

Leonard's wife, Beverly, provides day care at home, and thus has no means of obtaining health insurance through an employer. Combined with Leonard's \$115 weekly workmen's compensation payments, her income puts the Ketelhuts over the salary limit for Medicaid. They cannot afford private insurance. It is only through good fortune that Leonard, Beverly, and their children have not suffered any serious illnesses since last January, aside from Leonard's injury to his wrist.

It is crucial that people like Leonard Ketelhut and his family have a guarantee of health insurance coverage regardless of their past medical history. All Americans deserve the peace of mind that guaranteed coverage can bring. I will continue to do everything I can to work with the President and First Lady to reform our health care system and provide access to affordable health care for all Americans.●

#### FAN KANE NEUROREHABILITATION SERVICES FOR CHILDREN

• Mr. DECONCINI. Mr. President, I come before you today to speak about the wonderful work being done by the Fan Kane Neurorehabilitation Services for Children in Tucson, AZ. The Fan Kane organization is dedicated to helping brain-injured children. This is a very difficult task which they are fulfilling admirably.

Ms. Kane originally started working with children in Cleveland during the late 1920's. She moved to Tucson, AZ in 1949 expecting to work in other fields. Thanks to some persuading by a friend, she soon returned to working with children. That year she helped to create the Cerebral Palsy Foundation of Southern Arizona, an organization that is running strong to this day. In 1950, she helped to create the Fan Kane fund for brain-injured children which enabled her to greatly expand her work with children.

The Fan Kane organization is designed to help children with brain traumas reenter society and gain independence and self-reliance. They have several therapists and volunteers who assist in rehabilitation, therapy, and provide individualized help for each child. There are part-time programs for children during the school year, and full-time programs during the summer. At any given time they will have between 25 to 30 children involved in their program.

Ms. Kane passed away in 1990 but this did not reduce the fine work that this organization continues to undertake. The Fan Kane organization has become highly respected in southern Arizona, and is now affiliated with the University of Arizona Medical School. I ask that my colleagues join me in commending, and congratulating the Fan Kane organization for their dedicated work and wish them the best of luck in the future.●

#### RECORD TO REMAIN OPEN UNTIL 3 P.M.

Mr. PRYOR. Mr. President, on behalf of the majority leader, I ask unanimous consent that the RECORD remain open until 3 p.m. today for the introduction of legislation and statements.

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

#### ORDERS FOR MONDAY, NOVEMBER 1, 1993

Mr. PRYOR. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10:30 a.m., Monday, November 1; 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 there be a period for morning business, not to extend beyond 12 noon, with Senators permitted to speak therein for up to 5 minutes each, with Senator MURKOWSKI, of Alaska, recognized for up to 15 minutes following the announcement of the Chair, to be followed by Senator DORGAN for up to 10 minutes, with the time from 11 a.m. to 12 noon under the control of Senator BYRD, of West Virginia.

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

#### RECESS UNTIL MONDAY, NOVEMBER 1, 1993, AT 10:30 A.M.

Mr. PRYOR. Mr. President, if there is no further business to come before the Senate today, I ask unanimous consent that the Senate now stand in recess, as previously ordered.

There being no objection, the Senate, at 1:11 p.m., recessed until Monday, November 1, 1993, at 10:30 a.m.